

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 4893/2021

Indoco Remedies Ltd and ors ..Versus... Rajesh Sureshchandra Deshmukh

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. P.K.Mohta, Advocate for petitioner

CORAM : AVINASH G. GHAROTE, J.

DATE : 02/12/2021

Heard Mr. Mohta, learned counsel for the petitioner, who challenges the order of the learned Labour Court, dated 20.03.2018 and that of the learned Industrial Court, dated 27.01.2021, who on the preliminary issue of whether the enquiry was fair and proper, rendered a concurrent finding that after the evidence was completed before the Enquiry Officer, no opportunity of being heard was granted to the delinquent-employee. Such findings are recorded in paras 21 and 22 of the order of learned Labour Court and para 13 of the judgment of the learned Industrial Court. Though Mr. Mohta, learned counsel for the petitioner relies upon the proceedings of the enquiry dated 23.1.2015, which prescribes the procedure in which the enquiry has to be held and submits that both the employer as well as the employee had given up their right to make oral arguments consequent to the evidence being recorded and therefore the finding recorded by Courts below is non-est, in my considered opinion, this argument

cannot be accepted. The principle of natural justice necessarily enjoins a reasonable and fair opportunity in the matter of conducting the enquiry to be afforded which would include an opportunity to orally address the Enquiry Officer after the evidence is recorded, which cannot be shut off even by the volition of the party, for the reason that an oral argument/address after completion of the recording of evidence, would be considered to be an inbuilt right in the delinquent- employee to point out that even on the basis of the evidence recorded and the material on record, there was nothing to bring home the charge.

Reliance placed by Mr. Mohta, learned counsel for the petitioner on **Union of India and another vrs. Jeju Sales Corporation; (1996) 4 SCC 69** is of no assistance for the reason that the Hon'ble Apex Court in that matter was considering an application whereby a request was made to dispense with the requirement of pre-deposit of amount of penalty unconditionally or with certain conditions, whereas in the present case the enquiry relates to the issue whether the charge is brought home to the delinquent-employee or not.

In view of what has been said above, I do not see any infirmity in the impugned order of the learned Labour Court as well as the impugned judgment of the learned Industrial Court. The petition therefore is without

any merits and is dismissed. No costs.

JUDGE

rvjalit