

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

903 REVIEW APPLICATION (CIVIL) NO.17 OF 2022
IN WP/9888/2017

RAJU AUDUMBAR LOKHANDE
VERSUS
M/S RUBICON FORMULATIONS PVT. LTD.

...
Advocate for Applicants : Mr. Dhobale Nitin L.
Advocate for the respondent : Mr. S.S. Vidwauns
...

CORAM : MANGESH S. PATIL, J.

DATE : 14 OCTOBER 2022

PC :

Heard.

2. The employee who was a respondent in writ petition preferred by the employer being aggrieved and dis-satisfied by the findings recorded by the Labour Court on the usual two preliminary issues regarding fairness of the domestic enquiry and the perversity in the findings recorded by the Enquiry Officer, is before this Court. The Labour Court had answered both these issues in favour of the employee and the decision was challenged before this Court.

3. By the judgment and order dated 01-10-2021, which is the order under review, the writ petition was allowed.

4. Learned advocate for the employee Mr. Dhobale vehemently submits that the Labour Court having answered the first issue regarding the fairness of the enquiry in favour of the employee had not gone into and examined the findings of the Enquiry Officer on its own merits. Even this Court while allowing the writ petition has merely set aside the findings of the Labour Court on the first issue regarding fairness of the enquiry. He submits that the employee is facing difficulties in convincing the Labour Court which is now proceeding with the further hearing in the original proceeding without extending any opportunity to the employee to assail the findings of the Enquiry Officer on its own merits to demonstrate the perversity.

5. Obviously, since the Labour Court had answered the first issue regarding fairness of the enquiry in the affirmative and had expressly stated that merely because of that finding even the second issue regarding perversity was required to be answered in the affirmative. Pertinently, it had not gone into and examined if really the findings were perverse.

6. Simiarly, even this Court by the order under review, has merely demonstrated as to how the findings of the Labour Court regarding the first issue and consequently even the second issue was unsustainable in law.

7. In view of such state-of-affairs, when neither the Labour Court at the first instance nor even this Court in the writ petition, has examined the legality of the findings recorded by the Enquiry Officer, it would always be open for the Labour Court to undertake that scrutiny regarding perversity or otherwise of the findings in the domestic enquiry during the further hearing of the matter which is going on before it.

8. With this clarification, review application is disposed of.

[MANGESH S. PATIL]
JUDGE

arp/