

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6936 OF 2022

Nandkumar S/o Dondopant Ratnaparkhi,
Age : 57 years, Occu : Nil,
R/o Wahadne Galli,
Puntamba, Tq. Rahata,
District – Ahmednagar

.. Petitioner

Versus

Community Development Trust,
Asha Kendra, Puntamba, Tq. Rahata,
District – Ahmednagar, through its
Managing Director

.. Respondent

...
Mr. Avinash M. Nagarkar, Advocate for petitioner
...

CORAM : MANGESH S. PATIL, J.

DATE : 6 JULY 2022

PC :

The petitioner who was once upon working as a Helper with the respondent-trust is aggrieved by the dismissal of his Revision preferred under section 44 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (**“the Act”**), thereby confirming the dismissal of his compliant filed by him under section 28, Schedule IV read with various items of the Act.

2. I have heard learned advocate Mr. Nagarkar for the petitioner.

3. The respondent was served with a chargesheet for variety of misconducts allegedly committed by him. He replied the charges. The departmental enquiry was concluded after extending an opportunity of being heard to him and by an order dated 19-01-2015 he was terminated.

4. Alleging that the enquiry was not conducted properly and complaining about bias, victimization, not extending an opportunity of being heard, he filed the complaint under section 28(1) of the Act before the Labour Court.

5. As is mandated by law, the issues were framed and couple of issues which were framed and which are required to be answered before entertaining the other issues in the complaint, regarding fairness of the enquiry were framed. Those were answered in favour of the respondent. The decision on the preliminary issues reached finality inasmuch as those findings were not challenged by the petitioner. Consequently, the remaining issues touching merely proportionality of the punishment remained to be answered. Both the Courts below have recorded their conclusion with reasons as to how the punishment imposed of termination from service is not shockingly dis-proportionate and have dismissed the complaint.

6. In view of the afore-mentioned state-of-affairs, the fate of the matter hinges on the only issue as to if the punishment is

shockingly dis-proportionate and the Courts below are justified in dismissing the complaint.

7. The charges against the petitioner were as under :-

- i) Using unparliamentary and defamatory language against the superior office bearers of the respondent;
- ii) Loitering at the work place during working hours;
- iii) Making false complaints against the respondent employer to lower down its image in the eyes of third person by referring the officer bearers as thieves ('चोर', 'भामटे' in vernacular).

A bare look at the charges clearly demonstrates that the misconduct alleged was not merely of some minor or technical character. In spite of several witnesses having been examined, the petitioner even did not cross-examine them and even avoided to enter into the witness box himself.

8. It is trite that it is only if the punishment is shockingly dis-proportionate that the Courts can interfere. The nature of the allegations clearly indicate that those are indeed grave and un-pardonable.

9. As has been rightly pointed out by the learned Judge of the Labour Court, the misconduct has the tendency of shaking the trust between the employer and the employee which is so essential for any establishment to function smoothly. Using foul language to the office bearers of the trust, putting up various complaints with the Government authorities against the employer which were not found to be true and

genuine are so serious that the punishment of termination from service cannot be said to be shockingly dis-proportionate.

10. Both the Courts below have given sound reasons which in my view, are sufficient and do not call for any interference by this Court in exercise of the writ jurisdiction.

11. Writ petition is dismissed.

[MANGESH S. PATIL]
JUDGE

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