

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11896 OF 2022

Sunil Shankarrao Jawale

Petitioner

Versus

1. The M S R T Corporation
Beed Division, Beed.
2. Depot Manager (Jr)
M.S.R.T., Corporation,
Ashti Depot, Beed Division
Beed.
3. Dy. General Manager,
M.S.R.T. Corporation
Maharashtra Wahtuk Bhavan
Mumbai.
4. Dy. General Manager
M.S.R.T, Corporation,
Maharashtra Wahtuk Bhavan,
Mumbai...

Mr. M.S. Bhosale, Advocate for the petitioner.

Mr. A.B. Dhongade, Advocate for the respondents.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 27th JUNE, 2023

ORDER :

1. This petition filed under Article 227 of Constitution of India, takes exception to the order passed by learned Judge, Labour Court, Aurangabad in Complaint (ULP) No. 64/2012 and

the order passed by learned Member, Industrial Court, Aurangabad in Revision (ULP) No. 50/2018.

2. Petitioner was working as clerk in cash department with the respondent/corporation. One colleague of the petitioner namely Mr. S.M. Gore, failed to deposit cash of Rs. 10,000/-, hence, departmental enquiry was initiated against him and he was suspended. During the enquiry of Mr. Gore, petitioner on 28.01.2009 submitted a letter accepting the guilt that he is responsible for misappropriation of Rs. 10,000/-, for which Mr. Gore is charged. Petitioner categorically stated that Mr. Gore has no concern with the said misappropriation and at the time of handing over the charge to Mr. Gore, petitioner paid Rs. 10,000/- less. Upon said communication of the petitioner, Mr. Gore was discharged and departmental enquiry was initiated against the petitioner. In the departmental enquiry, petitioner was found guilty and hence, ultimately he was dismissed by order dated 16.05.2009.

3. Petitioner challenged the dismissal order by filing Complaint (ULP) No. 64/2012. Labour Court after recording evidence and hearing the parties, dismissed the complaint. Said dismissal was unsuccessfully challenged by the petitioner by

filing Revision (ULP) No. 50/2018.

4. Heard the learned advocate for the petitioner and learned advocate for the respondents. Perused the memo of petition, annexures thereto and the impugned orders.

5. Admittedly, petitioner has filed letter dated 28.01.2009, thereby accepting his guilt of misappropriation of Rs. 10,000/- and that he has paid Rs. 10,000/- less to Mr. Gore while handing over the charge. In the departmental enquiry respondent/corporation has proved the charges levelled against the petitioner. After enquiry officer submitted report holding petitioner guilty of the charges levelled against him, a show cause notice was given to the petitioner to which he has replied. Thereafter, dismissal order was passed on 16.05.2009. Fair and reasonable opportunity of hearing was given to the petitioner in the departmental enquiry and the principles of natural justice are followed.

6. The Labour Court decided preliminary issues against the petitioner thereby holding that he has failed to prove that enquiry conducted against him is not conducted fairly, properly and by following principles of natural justice and that the finding

of enquiry officer are perverse.

7. The petitioner has argued that he was not at fault and misappropriation was committed by Mr. Gore and misappropriated amount of Rs. 10,000/- was repaid within two to three days and there was no economic loss to the respondents. No complaint of misappropriation was filed in the police station, therefore, it was argued that dismissal order is shockingly disproportionate punishment and therefore, dismissal order is liable to be quashed and set aside.

8. The Labour Court has concluded that the petitioner in writing has accepted his guilt. Therefore, said contention of the petitioner cannot be accepted. From the admitted facts on record, it is clear that the petitioner has admitted his guilt. Since serious charge of misappropriation was levelled against the petitioner, which is proved during the course of enquiry, punishment of dismissal imposed on the petitioner cannot be said to be harsh and excessive. In the revision, after going through record, Industrial Court has confirmed the finding of fact recorded by the Labour Court.

9. The Labour Court and the Industrial Court have

recorded concurrent finding of fact which are supported by the record. This Court under Article 227 of the Constitution of India, would not interfere in the concurrent findings recorded by both the Courts. No case is made out by the petitioner to interfere in the extra ordinary writ jurisdiction. Writ petition being devoid of merit is dismissed. No costs.

[NITIN B. SURYAWANSHI, J.]