

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 82/2010

Mrs. Homai S. Irani, Age : 49
years, 18/11, Rustom Baug,
Victoria Road, Byculla, Mumbai-
400 027.

....PETITIONER

V/S.

M/s. Bombay Oxygen
Corporation Ltd., L.B.S. Marg,
Mulund (West), Mumbai-400
080, having latest address at 22-
B, Mittal Tower, 210 Nariman
Point, Mumbai-400 021.

...RESPONDENT

Mr. Surendra Kumar Choudhari, for the Petitioner.

Mr. M.V. Joglekar, for Respondent No.1.

CORAM : SANDEEP V. MARNE, J.

Dated : 6 October 2023.

P.C :

1. By this petition, Petitioner challenges Judgment and Award dated 24 November 2008 passed by the Presiding Officer, 4th Labour Court, Mumbai in Reference (IDA) No. 389/2004. In reference, Petitioner's termination was under challenge.

2. Petitioner was appointed as Personal Secretary with the Respondent since the year 1986. Three show cause notices were issued to her on 8 December 2001, 31 July 2002 and 16 August 2002. Domestic enquiry was initiated by issuance of chargesheet dated 16 August 2002 for the charge of reporting late for duties,. After the charge was held to be proved in the enquiry, her services were terminated vide order dated 24 October 2002. She submitted demand letter dated 30 October 2002 seeking reinstatement. The dispute was referred to the Labour Court by the Deputy Commissioner of Labour. The Tribunal by impugned Award dated 24 November 2008 has dismissed the reference.

3. I have heard Mr. Choudhari, the learned counsel appearing for Petitioner and Mr. Joglekar, the learned counsel appearing for Respondent No.1.

4. Perusal of the impugned Award as well as the documents attached to the petition would indicate that Petitioner was accused of reporting late for duties on several occasions. She has not disputed the fact that she used to report late for duty. The Labour Court has gone through the enquiry proceedings and the daily attendance sheet. Findings of the Labour Court would show that the reporting time was 10.00 a.m. The Petitioner did not attend the duties at specified time continuously from 1 June 2002 to 30 July 2002. She

has reported on duties at various times between 10.10 a.m to 11.20 a.m. Though the charge may not appear to be very serious in nature, it appears that Petitioner has been penalized twice on earlier occasions by stopping her increments for reporting late for duties. She was also suspended once. Therefore, though the learned counsel for the Petitioner made a strenuous attempt to canvass before me that penalty imposed is disproportionate, considering the fact that the Petitioner did not improve the conduct despite being punished twice on previous occasions, the punishment of discharge from service effected by the Respondent cannot be treated as disproportionate. From the evidence recorded in the enquiry, it appears that the Petitioner had become an incalcitrant employee who failed to improve upon her conduct despite being repeatedly punished. In these circumstances, the punishment of discharge from service does not shock the conscience of this Court. No infirmity therefore can be traced in the view taken by the Labour Court.

5. The Writ Petition, being devoid of merits, is **dismissed** without any orders as to costs.

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SHAILESH
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SANDEEP V. MARNE, J.