

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 69 OF 2020

Prabhakar Chandralal Patel

... Petitioner

Versus

Rai Plating Works & Ors.

...Respondents

Ms. Seema K. Chopda for the petitioner.

Mr. Mahesh Shukla a/w. Mr. Niraj Prajapati for respondent nos. 1 & 3.

CORAM: G. S. KULKARNI, J.
DATED: 23 January 2023

P.C.

1. Heard Ms. Chopda, learned counsel for the petitioner and Mr. Shukla, learned counsel for respondent nos. 1 and 3.

2. This petition challenges an order dated 29 January, 2018 passed by the 11th Labour Court at Mumbai in Reference (ID) No. 287 of 2007. By the said order, the learned Labour Judge has rejected the case of the petitioner/workman by declaring that the enquiry held against the petitioner by the respondent/employer was fair, proper and legal and that the finding which was arrived at by the Enquiry Officer was not perverse. The second order which is assailed by the petitioner is the final award dated 21 April, 2018 passed by the learned Labour Judge whereby the said Reference has been answered in the negative thereby declaring that the petitioner was not entitled to a relief of reinstatement with full backwages, continuity of service with all

other consequential benefits with effect from 25 August, 2006, by holding that the punishment of dismissal of petitioner was legal and by following due process of law.

3. It is stated by the learned counsel for the petitioner that the amount of gratuity has already been released in favour of the petitioner.

4. Perusal of the record indicates that the petitioner was employed as Plating Operator by the respondent/employer from January, 1991. He was issued a charge-sheet on 4 April, 2005 in regard to his misconduct of willful insubordination and misbehaviour on the premises of the respondent establishment. The petitioner replied to the said charge sheet and denied the allegations. An enquiry was conducted by the Enquiry Officer wherein proper opportunity was made available to the petitioner to lead his evidence. The respondent/employer also lead its evidence by examining its witnesses. The petitioner, however, failed to examine any witness. Perusal of the impugned order indicates that the learned Labour Judge has delved into the entire material in regard to the enquiry in question on the record of the Labour Court, to observe that the findings of fact as recorded by the Enquiry Officer were not perverse and illegal, as also, that there was nothing in the cross-examination of the Management witness that the charges levelled against the petitioner/charge-sheeted employee were false or not tenable.

5. Also in the adjudication of the Reference, the learned Labour Judge while answering issue nos. 1 and 2 in paragraph 6 has referred to a very serious conduct of the petitioner/employee on the abuse/offensive language used by him during the course of his employment, which was proved as observed by the learned Labour Judge. It was hence observed that the services of the petitioner were appropriately terminated and in accordance with law.

6. Considering the nature of the charges as also the clear evidence which has come on record in reference and more particularly considering the fact that the charge of abusive language used by the petitioner during the discharge of his duties, certainly was of a nature unbecoming of an employee. I, therefore, see no perversity in the finding recorded by the learned Labour Judge in not accepting the only contention as urged on behalf of the petitioner, that the enquiry was not conducted in accordance with law and/or there was any breach of principles of natural justice.

7. The petition is devoid of merits. It is accordingly rejected. No costs.

(G. S. KULKARNI, J)