

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.10142 OF 2024****Aniket Anil Shinde*****...Petitioner*****V/s.****Armaseel India Pvt. Ltd.*****...Respondent***

Mr. Mayuresh Modagi *for the Petitioner.***Mr. Varun Joshi** *with Mr. Chetan A. Alai with Mr. Bhushan Bhadgale for the Respondent.*

CORAM : SANDEEP V. MARNE, J.**DATED : 12 December 2024.****P.C. :**

1) Challenge in the present Petition is to the order dated 6 December 2022 passed by the Labour Court -3, Pune rejecting the Application at U-2 denying interim relief to the Petitioner by restraining the employer from imposing the penalty which is proposed on the basis of the report of the Enquiry Officer. The order passed by the Labour Court has been upheld by the Industrial Court by order dated 2 September 2023, which is also subject matter of challenge in the present Petition.

2) I have heard Mr. Modagi, the learned counsel appearing for the Petitioner-employee and Mr. Joshi, the learned counsel appearing for the Respondent-employer.

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3) After having considered the submissions canvassed by the learned counsel appearing for the parties, in my view it is too premature at this stage to undertake an enquiry whether there is any violation of principles of natural justice or an element of perversity in the findings of the Enquiry Officer. As of now, the Enquiry Officer has submitted his report and employer is yet to act on the same. At this stage, it would be impermissible for the Labour Court to institute an enquiry into the aspect of the perversity in the findings of the Enquiry Officer. The domestic enquiry instituted by the employer must be permitted to be taken to its logical end. The employer cannot be restrained from passing an appropriate order on the basis of the report of the Enquiry Officer. In case the order of punishment ultimately turns out to be illegal, necessary order can be passed for reinstatement and backwages. However to prevent the employer from exercising the right of conducting disciplinary proceedings and punishing his employee is something which cannot be countenanced.

4) Mr. Modgi relied upon judgment of this Court in ***P.V. Pujai and others V/s. Municipal Corporation of Greater Bombay and others***¹ in support of his contention that every misconduct committed outside the premises of the Company having no linkage with the working of the workmen cannot be comprehended to be a misconduct within the meaning of standing

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order. In ***P.V. Pujari*** (supra) Petitioners therein were alleged to have committed an assault on another bus driver outside the place of their work during nighttime when none of them were on duty. In the present case, the allegation of assault is during the course of travel of all the employees in company's vehicle. Since the travel arrangement is made by the company, any conduct of the employees travelling in such vehicles would ordinarily have linkage with the service of the workmen with the employer. This is more so because in the event of any mishap during the course of such travel in a vehicle provided by company, the workmen would hold the company responsible and seek damages. Applying same logic, when worker commits misconduct during the course of travel in a vehicle provided for by the company, it cannot be contended that such an act has absolutely no linkage to the service with the employer.

5) In my view, therefore, the employer must be permitted to take the enquiry to its logical end by passing final penalty order. In the event any adverse order is passed against the Petitioner, he would be at liberty to file appropriate proceedings challenging the penalty order. Such proceedings shall be decided uninfluenced by the observations made by this Court in the order. I therefore, do not find any fault in the impugned orders passed by the Labour and the Industrial Courts.

6) Writ Petition is accordingly rejected.

[SANDEEP V. MARNE, J.]