

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 16360 OF 2024

Rajaram Chandrarao Auti

....Petitioner

: Versus :

Vanaz Engineers Ltd.

...Respondent

Mr. Kishor R. Madke, *for the Petitioner.*

Mr. Kiran S. Bapat, **Senior Advocate** *a/w. Mr. Gaurav S. Gawande for the Respondent.*

CORAM: SANDEEP V. MARNE, J.

Dated: 4 DECEMBER 2024.

P.C. :

1) The petition challenges the judgment and order dated 22 March 2024 passed by the Industrial Court, Pune allowing Revision Application ULP No.24/2023 filed by the Respondent-employer and setting aside the judgment and order dated 24 March 2023 passed by the Labour Court in Complaint ULP No.222/2018. The Labour Court had directed reinstatement of the Petitioner with continuity of service with liberty to the employer to inflict appropriate punishment for the proved charges, than that of dismissal.

2) I have heard Mr. Madke, the learned counsel appearing for the Petitioner and Mr. Bapat, the learned senior advocate appearing for the Respondent-employer.

3) Petitioner was issued chargesheet dated 5 June 2018 alleging that on 25 May 2018, he picked up a quarrel with his co-employee and twisted his hand at 8.39 am. while he was in inebriated state. At about 8.43 a.m., Petitioner assaulted Shri. Kamble and thereafter raised a heavy hammer at Shri. Kamble with intention of assaulting him. He was stopped by shift supervisor, Mr. Shirsath and it was observed that the Petitioner was in drunken state. In the domestic enquiry, the charges were held to be proved and after grant of opportunity to the Petitioner to submit his response to the enquiry report, order dated 21 November 2018 was passed dismissing the Petitioner from service.

4) Petitioner instituted Complaint ULP No.222/2018 challenging his dismissal order. The Part-I Award was rendered on 12 May 2022 holding that the enquiry conducted against the Petitioner was fair, proper and in accordance with the principles of natural justice. So far as the issue of perversity in the findings of the Enquiry Officer is concerned, the Labour Court held in Part-I Award that though there was no evidence to prove that Complainant was under the influence of liquor, the charge of twisting the hand of Mr. Kamble, assaulting him and raising a heavy hammer towards him was proved. Petitioner did not question Part-I Award dated 12 May 2022 and took calculated chance of further proceeding in the complaint on the issue of proportionality of penalty.

5) The Labour Court rendered final judgment and order dated 24 March 2023 holding that the punishment of

dismissal from service was disproportionate and directed Petitioner's reinstatement in service with continuity and consequential benefits with liberty to the Respondent-employer to inflict appropriate punishment other than that of dismissal. In my view, the Labour Court committed patent error in holding that the penalty of dismissal inflicted upon the Petitioner was shockingly disproportionate. Though it is true that the allegation of consumption of liquor is not proved against the Petitioner, the charge of assaulting the co-worker on 24 May 2018 has been held to be proved. It appears that the past record of the Petitioner is also not free from blemish. He has been punished in the past on several occasions. In the light of this position, the Labour Court ought not to have interfered in the quantum of punishment by holding the same to be shockingly disproportionate. The Industrial Court has rightly reversed the erroneous order passed by the Labour Court by allowing Revision Application No.24/2023. It appears that the Petitioner had also filed Revision Application No.26/2023 challenging the final order of the Labour Court which has been dismissed by the Industrial Court.

6) Assaulting a co-worker is a serious charge which has been held to be proved against the Petitioner. The past record of the Petitioner is also riddled with several punishments. It does appear that the Petitioner had become habitual in committing misconducts throughout his service career. This is not a first or stray incident of committing assault on a fellow employee. In my view therefore inflicting the punishment of

dismissal from service on the Petitioner is commensurate with the misconduct proved against him.

7) Though Mr. Madke has attempted to point out several infirmities in the findings of the enquiry on the merits of the charges, Petitioner did not question the order on preliminary issues dated 12 May 2022. The order on preliminary issues dated 12 May 2022 is not even challenged in the present petition. Therefore, Petitioner cannot now question the correctness of the findings recorded by the Labour Court that the findings of the Enquiry Officer do not suffer from the vice of perversity. I am therefore not inclined to interfere in the impugned order passed by the Industrial Court. The petition is devoid of merits. It is accordingly **dismissed** with no order as to costs.

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[SANDEEP V. MARNE, J.]