



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 2742 OF 2019

(Rajesh s/o Nandalal Shukla Vs. Shri Laxmi Narayan Deostan Trust)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri D.S. Lambat, Counsel for the petitioner.
Shri Shreyas Zinzarde, Counsel for the respondent.

CORAM : ANIL L. PANSARE, J.
SEPTEMBER 2, 2024

The petitioner – employee is aggrieved by the judgment and order dated 24/1/2019 passed by the Member, Industrial Court No.2, Nagpur, in Revision (ULP) No. 18/2012, thereby setting aside the judgment and order dated 2/2/2012 passed by the Judge, Labour Court, Wardha, in Complaint No. 21/2008. The Labour Court has held that enquiry against the petitioner was not fair and proper and not as per the principles of natural justice. This finding has been rendered on the basis of evidence led before the Labour Court.

2] The employer carried the matter before the Industrial Court. The Industrial Court found that while deciding preliminary issue as to whether the departmental enquiry was legal and proper, the Labour Court was expected to peruse the enquiry papers, gravity of charges and procedure followed.

The Industrial Court then noted that the Labour Court travelled beyond the enquiry and appreciated the evidence led before it. The Industrial Court was of the view that the Labour Court could not have examined the charges on the basis of evidence led before it and cannot come to the conclusion that findings of Enquiry Officer are perverse on the basis of such evidence. This view finds support of the judgment passed by the Co-ordinate Bench of this Court in the case of *Maharashtra State Co-operative Cotton Growers Marketing Federation Ltd. and another Vs. Vasant Ambadas Deshpande [2014(3) Mh.L.J. 339]*, wherein the Court has held as under :

“21. Perversity in the findings of an Enquiry Officer is to be pointed out on the basis of the evidence placed before the Enquiry Officer. It, therefore, necessarily needs the consideration of the evidence before the Enquiry Officer and analyzing the findings of the Enquiry Officer. Material which was not before the Enquiry Officer cannot be brought on record before the Labour Court to brand the findings as being perverse. In fact, normally there is no requirement of leading fresh evidence before the Labour Court on such preliminary issues like fairness of an enquiry and the findings of an Enquiry Officer. In both these situations, what has transpired in the domestic enquiry is to be looked into to find out, firstly, whether principles of natural justice were adhered to in conducting the enquiry and secondly, whether there was any evidence on record to support the findings or as to

whether the findings are based on no evidence.”

3] Thus, the finding rendered by the Industrial Court is in tune with the law laid down by this Court. The Industrial Court has, accordingly, allowed the revision and set aside the judgment and order passed by the Labour Court. The Industrial Court has further set aside the finding of the Labour Court on preliminary issue. The enquiry conducted was held to be legal, fair, proper and in accordance with the principles of natural justice. The matter has been remanded back to the Labour Court with a direction to proceed on the point of proportionality of punishment on the basis of charges proved.

4] Having found the order passed by the Industrial Court in tune with the law laid down by this Court, I do not find any reason to interfere with the said finding in writ jurisdiction. There is, thus, no merit in the petition. The petition is accordingly dismissed.

5] At this stage, the learned Counsel for the petitioner submits that the petitioner has retired on superannuation, and if proved otherwise, he will be entitled for compensation in terms of the judgment passed by the Hon’ble Supreme Court in the case of *Allahabad Bank and Others Vs. Krishan Pal Singh*

[2021 SCC OnLine SC 751]. He made a request to pass order of compensation.

6] This request ought to be made before the Labour Court. If the request is in tune with the provisions of law, the Labour Court shall examine the same and pass appropriate order. However, considering the fact that the matter has been remanded back to the Labour Court on the point of proportionality of punishment, I find it difficult as to how the Labour Court, by taking aid of the aforesaid judgment, could award compensation. Nonetheless, the Labour Court shall examine the issue on its own merits.

JUDGE

Sumit