



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

955 WRIT PETITION NO. 3989 OF 2023

**THE DIVISIONAL TRAFFIC SUPERINTENDENT AND ANOTHER
VERSUS
RUKHIYA BEGUM MOHD JAVED SHAIKH**

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Advocate for the Petitioner : Mr. Shinde Manoj Dharmaraj
Advocate for Respondent No. : Mr. P.P. Shahane a/w. Mr. Deshmukh S.K.

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**CORAM : SIDDHESHWAR S. THOMBRE, J.
DATE : 11.12.2025**

PER COURT :

. Heard learned counsel for respective parties.

2. By way of present petition, the petitioners are assailing the order dated 07.01.2023 passed below Exh.O-3 by learned Member Industrial Court, Jalna in Revision (ULP) No.50 of 2019 thereby setting aside the order dated 29.04.2019 passed by the learned labour court, Jalna below Exh.03 in Complaint (ULP) No.09 of 2018 whereby the learned industrial court allowed the revision filed by the respondent herein.

3. The facts of the present case in nutshell are that the respondent/employee who was dismissed from the services filed a Complaint (ULP) No.09 of 2018 before the Learned labour court, Jalna. The preliminary issue was framed in the said complaint that whether the enquiry conducted by the respondent against the complainant in respect of misconduct was fair and proper. The Learned labour court

vide its order dated 29.04.2019 recorded a finding in paragraph no.11 of its order that the enquiry conducted against the respondent was fair and proper. The said order was assailed by the respondent by filing Revision No.50 of 2019. The learned industrial court while considering the revision has recorded the finding that proper inquiry was not conducted as the contentions raised by the complainant that E.T.I. machine was faulty was not considered.

4. Learned counsel for the petitioner submits that as inquiry report points out that the employee was guilty of misconduct and she has specifically answered the question No.5 of the inquiry report in affirmative thereby admitting the charges levelled against her. The said admission is in her own handwriting. He further submits that once the employee herself has admitted the guilt, then it is not proper on the part of learned Industrial Court to interfere with the findings recorded by the Labour Court.

5. He invited my attention to the law laid down by the Hon'ble Apex Court in the case of **Motor Industries Co.Ltd. vs. Popat Murlidhar Patil & Anr.** and more particularly to paragraph No.8 and 11 which reads thus :

“8. Now the next question which requires consideration is whether the Revisional Court was Justified in interfering with the order of the Labour Court by appreciating the evidence on record. Mr. Jalisatqi has submitted that it cannot be said that the Revisional Court has appreciated the evidence but according to him since the Labour Court has not analysed the evidence in its proper perspective, then that error has been corrected by the revisional Court. In order to substantiate the same, he has relied upon the decision of the learned Single Judge of this Court in the case of

(Hotel Oberoi Towers Vs. Gopal Naidu)3,2002(4) Bom.C.R. 58 (O.S.): 2002(94) FL.R. 779. In the aforesaid case, as per the enquiry report, the employee was found guilty of theft of the property of the Company. The Labour Court upheld the same. The Revisional Court found that the order of the Labour Court was perverse and contrary to evidence on record and under these circumstances the Industrial Court exercised its powers under section 44 and interfered with the order of the Labour Court and set aside the finding of the Labour Court. On going through the said judgment it is clear that as per the evidence on record, it was not possible to hold that the concerned employee was guilty of committing theft. It was found that the Labour Court had not examined the evidence on record and has merely accepted the finding of the Enquiry Officer in the domestic enquiry. It was found that the order being perverse, the Industrial Court was entitled to interfere with in the revision.

11. Since evidence is already on record, the Labour Court can now decide the matter within the stipulated time. It is assured by both the sides that they will co-operate with the Labour Court in early disposal of the said matter so that the Labour Court can decide the matter within the stipulate time.”

. In view of the law laid down by Hon’ble Apex Court, under Section 44 of the Industrial Disputes Act,1947, the learned Industrial Court is not supposed to go into deciding all the issues as the case is arising out of preliminary issue and the main complaint is yet to be decided.

6. Learned counsel for the respondent supports the order passed by Industrial Court.

7. I have gone through the findings recorded by the Labour Court and the Industrial Court. The learned Labour court only on the ground that the employee has admitted the guilt and report stated that no fault was found in the E.T.I. machine, held that the enquiry was legal and

proper.

8. But fact remains that substantive complaint is pending before the learned Labour Court and both the parties are yet to lead the evidence and it is for the learned Labour Court to decide the matter on its own merits including the findings recorded by the enquiry officer that whether the enquiry was fair and proper. Therefore, as findings is recorded on the preliminary issue, at this stage I am not inclined to entertain the present Writ Petition.

9. In view thereof, the Writ Petition is dismissed. No order as to costs.

(SIDDHESHWAR S. THOMBRE, J.)

vsj..