



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 354 OF 2020

SHRI DEVIDAS RANGNATH LANDE
VERSUS
THE MANAGER, BALKRISHNA INDUSTRIES, LIMITED

Mr. U. V. Khonde, Advocate for the Petitioner

CORAM : R. M. JOSHI, J.

DATE : 8th OCTOBER, 2025

P.C. :-

1. This Petition takes exception to the judgment and award dated 09/08/2018 passed by the Labour Court, Aurangabad in Reference (IDA) No. 200/2010.

2. This Court had issued notice to the Respondent on 24/08/2023 for final disposal of the Petition. The said notice is duly served upon the Respondent.

3. Heard learned Counsel for the Petitioner. None appeared for the Respondent.

4. The facts which led to the filing of this Petition can be narrated in brief as under:-

(i) The Petitioner claimed to have joined the services with Respondent-Company on 09/08/1988. He was confirmed in the year 1991 and since then till the date of his termination he continuously worked with the Respondent. It is his claim that rendered blotless

service. It is further claimed that the Petitioner was working in the Production Department in Chemical Mixing Section and on account of the work, he used to suffer from drowsiness and eye problems. It is alleged that the safety measures were not provided by the Respondent. It is claimed that he was member of CITU and Panther Power Union. Union and the workman demanded for safety equipments such as hand gloves and goggles for protection, but the Respondent-Company instead accepting the said demand, started victimizing the Petitioner. It is claimed that on account of the illness contracted out of and during course of the work, he was required to take leave and was absent on some days. It is further claimed that the charge-sheet came to be issued against him on 03/01/2005 and inquiry was conducted. It is his case that along with the Petitioner number of other workers also issued with charge-sheet for conducting of the inquiry against them, however no action was taken against any other employee except the Petitioner and the said action is malafide and discriminatory. It is claimed that the punishment of dismissal has been imposed against him for the misconduct of absenteeism which according to him shockingly disproportionate to charge proved. The Petitioner being aggrieved by the order of dismissal from service raised dispute before the Deputy Commissioner of Labour who referred the same under Section 10(1)(c) of the Industrial Disputes Act for adjudication to the Labour Court. This proceedings came to be numbered as Reference (IDA) No. 200/2010.

(ii) The Petitioner filed statement of claim which came to be resisted by the Respondent by filing written statement. The Labour Court framed issues with regard to the fairness of the inquiry and decided the same in favour of the Respondent-Company by order dated 31/01/2018. The Petitioner did not take exception to the said order. The Labour Court thereafter held further hearing and finally dismissed the reference. During the pendency of the reference, an Application was moved by the Petitioner for seeking direction to the Respondent to place before the Labour Court the action taken against the co-workers. Though order was passed by the Labour Court directing Respondent-Company to produce the record, the said order was not complied with.

5. Learned Counsel for the Petitioner submits that the Labour Court has committed serious error in not taking into consideration the order passed by it directing the Respondent-Company to produce on record the documents in respect of the action taken against co-workers. It is his submission that there was evidence placed before the Labour Court in the form of public notice issued for initiating action against the workman including the Petitioner. It is his submission that the Labour Court ought to have drawn adverse inference against the Respondent-Company for not producing the document on record and on the contrary committed error in holding that the Petitioner has not substantiated his case of discrimination. It is further contended that even if it is accepted

for the sake of argument that the Petitioner was absent for about 149 days, considering 17 years long service rendered by the Petitioner to the Respondent-Company and also in view of the fact that no prejudice is shown to have been caused to the Respondent by the said absenteeism, the order of dismissal for the said charge becomes shockingly disproportionate. It is his submission that this is a fit case to cause interference in the impugned order. To support his submission, he placed reliance on the following judgment;

(i) Iron and Metal Traders Pvt. Ltd. Bombay Versus M. S. Haskiel and another etc., 1984 AIR (SC) 629;

(ii) Tata Engineering & Locomotive Co.Ltd. Versus Jitendra Pd. Singh & Anr., 2001(10) SCC 530.

. Admittedly, issue of fairness of inquiry has already been decided by Labour Court and the said decision has become final.

6. Perusal of the record indicates that the employee had filed an Application before the Labour Court calling upon the employer to produce the record in respect of action taken against the co-employee. An order came to be passed by the Labour Court directing the employer to produce the said record. Admittedly, the said record is not taken into consideration by the Labour Court. This Court therefore, finds substance in the contention of the learned Counsel for the Petitioner that the adverse inference ought to have been drawn by the Labour Court in respect of the non production of the said document in spite of directions

to that effect and the case of discrimination sought to be made out by Petitioner would have been accepted. This finding is inevitable in view of the fact there was material on record in form of public notice indicating action proposed against number of employees including Petitioner.

7. The employee has come out to the specific case that there are other employees against whom same allegation was made of remaining absent. He claims that no action was taken against those employees and that the present Petitioner is discriminated. Once such specific case is made out and there is failure on the part of employer to place on record the relevant document in respect of action taken against the other employees, Labour Court ought to have held that this is a case of undue discrimination caused by employer.

8. Even if it is accepted for the sake of argument that the Petitioner has remained absent for 66 days, the punishment of dismissal from service is on the face of it shockingly disproportionate. The Labour Court has failed to take into consideration the said aspect. The Labour Court ought to have held that the punishment is disproportionate and after hearing both sides should have decided the nature of punishment to be imposed upon the employee on the basis of proved misconduct.

9. It is sought to be argued on the behalf of the Petitioner that this Court also can pass appropriate order of imposing punishment which is consistent with the charge levelled against the Petitioner.

Herein this case, it is pertinent to note that the consequence of setting aside the order passed by the Labour Court would be that the issues such as the appropriate punishment to be imposed so also the issue of reinstatement with or without back wages would be required to be determined. This Court finds no reason to record the findings on these aspects for the first time in this Petition. In such case, the only course remains open for this Court to set aside the order passed by the Labour Court and relegate the matter back to the Labour Court for deciding the aspect of punishment to be imposed upon the Petitioner of course except any punishment which results in termination of employment, having regard to the nature of misconduct proved against him.

10. Hence, impugned order is set aside. The Reference (IDA) No. 200/2010 is relegated back to the Labour Court only for the purpose of deciding the issue with regard to the punishment to be imposed upon the employee and to decide the issue of reinstatement with or without back wages. It is expected that the Labour Court hears both parties before dismissing the said issue. Since the Reference is of year 2010, it be decided finally in any case within a period of six months from today.

(R. M. JOSHI, J.)

ssp