



Jose

IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION NO.26 OF 2021

IN

WRIT PETITION NO.401 OF 2018

THE SARASWAT

CO-OPERATIVE BANK LTD.

... Applicant.

Versus

STATE OF GOA, THR.

SECRETARY (LABOUR),

LABOUR DEPARTMENT AND ANR.

... Respondents.

Mr M.S. Bandodkar with Mr Pulkit Bandodkar, Advocates for the Applicant.

Mr Shivraj Gaonkar, Advocate for Respondent No.2.

CORAM: VALMIKI MENEZES, J.

DATED: 24th April, 2025

ORAL ORDER:

1. Heard Mr. Bandodkar for the Applicant.
2. The challenge in Writ Petition No.401/2018 is to a Part I Award of the Labour Court-II holding that the inquiry conducted against the Respondent Workman was neither fair nor proper. In view of the impugned order, the Labour Court-II, in its Roznama dated 14.09.2017, i.e. the date on which the impugned order was passed, has recorded that Preliminary Issue Nos.1 and 2 relating to whether the inquiry was fair and proper having been held against the

Management/Petitioner/Employer, the matter was posted for filing affidavit in evidence of the Management witness. The next date for the Party-II to lead its evidence before the Labour Court-II was listed as 03.10.2017.

3. Mr Bandodkar submits that the impugned order is literally a final award where it has closed all opportunities to the Petitioner/Original Party-II before the Labour Court-II to lead any evidence on the merits of the charges levelled against the workman. He presses for a stay of the proceedings of the Labour Court-II, submitting that the Labour Court-II intends to proceed with the matter in an inquiry which is futile since the award itself practically has decided all issues before the Labour Court-II.

4. Perusal of the operative part of the impugned order and the entry in the proceedings sheet and the reference before the Labour Court-II makes it all clear that the Labour Court-II has only decided Issue Nos.1 and 2 i.e. that the inquiry held against the workman is not fair and proper and that the charges of misconduct levelled against the workman under charge-sheet dated 09.08.2011 have not been proved to the satisfaction of the Labour Court-II by acceptable evidence.

5. The Labour Court-II has listed the matter for leading of evidence of the Party-II i.e. the Management to make it clear that the Management is now required to prove the charges levelled by charge-

sheet dated 09.08.2011 by leading evidence afresh before the Labour Court-II. This is also borne out from the fact that in the written statement of the party, leave has been sought from the Labour Court-II that in the event the inquiry is set aside on the preliminary grounds, the Party-II to lead evidence afresh to prove the charges against the workman.

6. The petition was filed in the year 2007, no interim relief was pressed for at that relevant time. The present application was filed in the year 2020, and no interim relief has been pressed for during its entire pendency till date. Considering all these facts, no case has been made out for interim relief.

7. Application stands disposed of.

8. It is the apprehension of Mr. Bandodkar that the Labour Court-II would curtail the evidence to be led by Party-II i.e. the Management only of Issue No.3. It is clarified that when the inquiry has been held to be not fair and proper and the charges of misconduct have been held as not proved to the satisfaction of the Labour Court-II, based upon the leave sought in the written statement, the Labour Court-II would have to allow the Party-II to lead evidence to prove the charges levelled against the workman in charge-sheet dated 09.08.2011. It is made clear that the Labour Court-II will proceed to record evidence of Party-II to prove such charges.

9. Since passing of the impugned order on Issue Nos.1 and 2 has

been pending since 2017, the Labour Court-II is requested to decide the issue as to whether charges have been proved by the Management through fresh evidence to be led before it and to decide the reference based upon such evidence. It is also made clear that on completion of the evidence of Party-II, the Party-I would have a right to lead evidence in the matter. The Labour Court-II is requested to dispose of the issues pending before it preferably within a period of one year.

VALMIKI MENEZES, J.