

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

WRIT PETITION NO. 460 OF 2025

Ganesh Dnyanoba Sartale

... Petitioner

Versus

The Vita Merchant Co-Op Bank

Ltd Throu. Chief Executive Officer

... Respondent

Ms. Kalyani Mangave *a/w Mr. Akash M. Murudkar for the
Petitioner.*

CORAM : SANDEEP V. MARNE, J.

DATE : 3 MARCH 2025.

P.C. :

1) The Petition challenges judgment and order dated 10 July 2024 passed by the Member Industrial Court, Sangli dismissing Revision (ULP) No. 14 of 2023 and confirming the judgment and order dated 17 July 2023 passed by the Judge, Labour Court, Sangli by which his Complaint (ULP) No. 24 of 2019 came to be dismissed. In his complaint the Petitioner had challenged show cause notice dated 20 May 2019 proposing to impose penalty of dismissal from service on him.

2) I have heard Ms. Mangave, the learned counsel appearing for Petitioner and have considered the submissions canvassed by her. She would submit that the Petitioner did not

proceed on unauthorized absence and that he had admittedly submitted application for leave. That it was the duty of the Respondent-Bank to inform the Petitioner as to whether his leave was sanctioned or refused. That Petitioner submitted several applications for leave during the period he was absent from duties owing to his sickness. That he otherwise had credit of 180 days leave in his account and therefore the said leave ought to have been adjusted by sanctioning the same. She would therefore pray for setting aside the impugned orders.

3) It appears that the Petitioner rushed before the Labour Court merely against the show cause notice dated 20 May 2019 by which penalty of dismissal from service was proposed against him. The show cause notice was issued after the charges leveled against the Petitioner vide chargesheet dated 16 December 2017 were proved. In the chargesheet it was alleged that Petitioner remained unauthorisedly absent continuously from 12 May 2016 till the chargesheet was issued to him on 16 December 2017. It is also a matter of record that the Petitioner did not report for duties till the final show cause notice was issued to him on 20 May 2019. Thus as on the date of issuance of the chargesheet, the period of his absence was in excess of one and half years. By the time final show cause notice was issued, he was absent for over three long years. In the order passed by the Labour Court on preliminary issues on 11 December 2019, the enquiry was held to be fair and proper and the findings of the Enquiry Officer were not held to be perverse. The Petitioner unsuccessfully challenged the order dated 11 December 2019 before the Industrial Court but his Revision came to be dismissed on 30 November 2022. Therefore the order on preliminary issues has attained finality. The only issue left to be determined

before the Labour Court while deciding the remaining issues was about proportionality of the penalty. The Labour Court has considered the misconduct proved against the Petitioner and has held that the punishment is not disproportionate. The final order passed by the Labour Court has been upheld by the Revisional Court on 17 July 2023.

4) Considering the fact that the Petitioner remained unauthorizedly absent for one and half years as on the date of the chargesheet and for over three years on the date of issuance of the show cause notice, it cannot be contended, by any stretch of imagination, that the misconduct committed by him is of trivial nature. Remaining unauthorizedly absent without sanction of leave for one and half years by a staff working in the bank undoubtedly constitutes gross misconduct. To add gravity to the misconduct, Petitioner did not report for duties even during pendency of the disciplinary enquiry. I am therefore not inclined to interfere in the concurrent findings recorded by the Labour Court and the Industrial Court.

5) At this stage, Ms. Mangave would submit that an order dismissing the Petitioner from service has been passed on 28 November 2024 and that liberty be granted to the Petitioner to challenge the said order. While Petitioner would be at liberty to challenge order dated 28 November 2024, he cannot expect that the findings recorded by the Labour and Industrial Courts both on preliminary as well as final issues would not come in the way of decision of fresh complaint challenging order dated 28 November 2024. Petitioner has invited the orders of the Labour and the Industrial Court and now of this Court by merely challenging show

cause notice dated 20 May 2019. He cannot be permitted to have another bite at the cherry by setting up an independent challenge to the termination order dated 28 November 2024. Therefore, though a fresh complaint may be maintainable against order dated 28 November 2024, whatever observed by the Labour and the Industrial Court as well as by this Court would definitely come in the way of the Petitioner in decision of such fresh complaint.

6) I therefore do not find any valid reason to interfere in the impugned orders passed by the Labour and the Industrial Courts. Writ Petition is accordingly **rejected**.

[SANDEEP V. MARNE, J.]