

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12738 OF 2024

Ravindra K Shinde and Anr. **... PETITIONERS**

V/S.

L.D. Member Industrial Court and Ors. **... RESPONDENTS**

Ms. Jane Cox *i/b. Rahil Fazalbhoj for the Petitioners.*

Mr. P. C. Pawaskar, *for Respondent Nos.2 & 3.*

CORAM : SANDEEP V. MARNE, J.

Dated : 7 February 2025.

P.C. :

1. The Petitioner challenges order dated 19th December 2023 passed by the Member, Industrial Court, Thane rejecting Application at Exhibit-U-11 for amendment of the Complaint.

2. I have heard Ms. Cox the learned counsel appearing for Petitioner and Mr. Pawaskar learned counsel appearing for Respondent-Employer.

3. After having heard the learned counsel appearing for the parties it appears that the Petitioner was subjected to Disciplinary Proceedings on the charge of sleeping on duty on 17th June 2014. After the charge was held to be proved, punishment of suspension for four days from 21st July 2016 to 24 July 2016 was imposed on him. The punishment order dated 19th July 2016 is subject matter of challenge in Complaint (ULP) No.230 of 2016.

4. Apart from the fact that the Petitioner has chosen to initiate litigation in respect of punishment of only suspension of four days before the Industrial Court, the said complaint has remained pending for the last nine long years. Ms. Cox would submit that initially the issues with regard to fairness in the inquiry and perversity in the findings of the Inquiry Officer report were not framed on 25th October 2018 and that the issues have been recast on 18th July 2023 and the said two issues have now been framed. She would therefore attribute the amendment Application essentially to the recast issues vide order dated 18th July 2023.

5. Perusal of the schedule of amendment would indicate that the length of amended pleadings which the Petitioner proposes to

incorporate in the complaint almost match the length of the original pleadings in the complaint. The amendment application is moved after a period of eight long years of filing of the complaint. True it is that filing of amendment application at such a belated stage would delay decision of Petitioner's own complaint, which is pending for the last nine long years. At the same time, the employer is also required to attend dates of hearing in respect of delayed complaint pending before the Industrial Court. Petitioner appears to be in no hurry in getting his own complaint decided in which he has challenged the punishment of only suspension for four days.

6. So far as the averments in the proposed amendment are concerned, it appears that the Petitioner now wants to add several averments relating to the fairness of inquiry and perversity in the findings of Inquiry Officer report. The amendment appears to be necessary for the purpose of determining the real question of controversy between the parties. At the same time, Petitioner is required to be mulct with costs for having filed the amendment

application after a period of eight long years and for failure to show due diligence.

7. The petition accordingly succeeds. The order dated 19th December 2023 passed by Member, Industrial Court, Thane is set aside. Petitioner's application for amendment at Exhibit-U-11 is allowed in terms of prayers made therein. Petitioner shall pay costs of Rs.25,000/- (Twenty Five Thousand) to Respondent No.2 within a period of eight weeks from today. Payment of costs shall be condition precedent to the incorporation of the amended pleading in the complaint.

8. With the above directions, petition is partly allowed and disposed of.

[SANDEEP V. MARNE, J.]

KISHOR
VISHNU
KAMBLE

Digitally signed
by KISHOR
VISHNU
KAMBLE
Date:
2025.02.12
11:01:29 +0530