

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

WRIT PETITION NO.18895 OF 2024

The Poona Club Ltd.

....Petitioner

V/S

Javed Maniyar

....Respondent

Mr. Varun Joshi a/w Mr. Bhushan Bhadgale i/b Mr. Chetan A. Alai *for the Petitioners.*

**CORAM: SANDEEP V. MARNE, J.
DATE : 02 JANUARY 2025.**

P.C.:

1. The Petition challenges Part-I Award dated 13 September 2024 passed by Presiding Officer, Labour Court No.4, Pune, holding that the enquiry conducted against the Respondent workman is legal, fair and proper but the findings recorded by the Enquiry Officer are perverse and not based on evidence and material placed before him. The Petitioner is aggrieved by answering of issue No.2 relating to perversity in the enquiry in favour of the Respondent-workman.

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2. I have heard Mr. Joshi, the learned counsel appearing for the Petitioner and have considered the submissions canvassed by him.

3. The Labour Court has considered the fact that the witness Shri Victor Mhankale was absent from duties on 25 February 2023 but claims to have submitted a written report about the incidents which allegedly took place on 7, 15 and 18 February 2013. In the cross-examination the witness maintained the position that he was present on duties on 25 February 2013 which assertion is conclusively proved to be wrong as the attendance muster shows absence of the witness on 25 February 2013. Therefore it cannot be believed that the witness would submit written report/complaint on 25 February 2013 when he was not even present on duties. Also the conduct of the witness in waiting for substantial period of time in making a written report also makes his story relating to the incidents of 7, 15 and 18 February 2013 highly unbelievable. If the witness had indeed personally witnessed pocketing of monies by the Respondent on 7 February 2013, why he would wait for a period of 18 long days for making a report in respect of incident of 7 February 2013 is incomprehensible. There is no explanation as to why the witness permitted Respondent to pocket the money on 7 February 2013 and again permitted him to do the same misconduct on 15 February 2013 and waited for next 10 days for making of written report/complaint. The said written report/complaint is also found to have been submitted on the day when the witness was not even present for duties. In my view therefore, the Industrial Court has rightly refused to believe the testimony of the witness, who has falsely testified during the course of cross-examination that he was present for duties on 25 February 2013. The witness

has deposed presence of another persons when the alleged misconduct of 18 February 2013 took place. Therefore, answering of issue of perversity against the Petitioner would enable it to lead evidence of all possible witnesses to justify the action of termination.

4. Considering the overall conspectus of the case, I am not inclined to interfere in the order dated 13 September 2024 passed by the Labour Court. Writ Petition is accordingly **rejected**.

(SANDEEP V. MARNE, J.)