

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

WRIT PETITION NO.19505 OF 2024

Ramesh Vishnu Jadhav

....Petitioner

V/S

Trambak Rubber Industries Ltd.

....Respondent

Mr. Gaurav Kalekar *for the Petitioner.*

CORAM: SANDEEP V. MARNE, J.
DATE : 20 FEBRUARY 2025.

P.C.:

1. The Petition challenges award dated 18 July 2024 passed by the learned Presiding Officer, First Labour Court, Nashik, answering the Reference in the negative.

2. Petitioner faced three domestic enquiries alleging absence for period of 24 days, 33 days and 56 days. The charges were held to be proved in the domestic enquiries. The enquiries were held to be fair and proper and the findings were held to be not perverse in the Part-1 Award. Coming to the issue of proportionality of penalty, the Labour Court has upheld the order of punishment.

3. The learned counsel appearing for the Petitioner has relied upon order dated 15 March 2023 of the Supreme Court in ***Eastern Coalfields Limited and others vs. Ajit Mondal and***

others, (in Civil Appeal No.10604 of 2010) in which it is held as under:

“The test of proportionality has to be seen in a larger context. The larger context in the present case is that admittedly from 1975 the respondent no.1 had an unblemished record of service. Therefore, we are of the view that the Division Bench of the High Court was correct in its approach in applying the rest of proportionality. Hence, in normal circumstances, we must dismiss the appeal and confirm the impugned order. But then the same may give rise to one more round of litigation with the disciplinary authority passing a fresh order and the same coming under challenge in another round of litigation.

The respondent was a poor line mazdoor and superannuated more than a decade ago. Therefore, we would like to exercise our power conferred under Article 142 of the Constitution and substitute the penalty of dismissal of service by a lesser penalty.”

4. In my view, the Labour Court cannot substitute itself with that of the employer and routinely interfere in the matter of punishment. It is for the employer to decide as to which punishment would actually suit the nature of misconduct committed by the delinquent employee. It is only in very rare cases where a Court or Tribunal finds the punishment to be shockingly disproportionate to the proved misconduct that imposition of lesser penalty can be suggested. In the present case, Petitioner was apparently habitual absentee. He faced three charge-sheets for absence of 24 days, 33 days and 56 days.

5. When an employee does not report for duty for almost two months in a private establishment engaged in manufacturing

activities, it cannot be stated that punishment of dismissal would be shockingly disproportionate to the misconduct proved. I therefore do not find any valid reason to interfere in the impugned award. The Petition is accordingly **rejected**.

(SANDEEP V. MARNE, J.)

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