

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

WRIT PETITION NO.1922 OF 2025

Suresh Ramchandra Sankpal

....Petitioner

V/S

Bharati Sahakari Bank Ltd., Pune

....Respondent

Mr. Nitin Kulkarni with Mr. Avinash Belge *for the Petitioners.*
Ms. Madhavi M. Tavanandi *for Respondent.*

CORAM: SANDEEP V. MARNE, J.
DATE : 27 FEBRUARY 2025.

P.C.:

1. **Rule.** Rule is made returnable forthwith. With the consent of the learned counsel appearing for parties the Petition is taken up for final hearing and disposal.

2. The Petition challenges judgment and order dated 6 December 2024 passed by the learned Member, Industrial Court, Pune dismissing Complaint (ULP) No.173 of 2019 filed by the Petitioner in which he had challenged punishment order dated 23 May 2019. By punishment order dated 23 May 2019 the Respondent-Bank reverted the Petitioner from the post of Branch Manager to the post of Accountant and further reduced his pay by three stages by denial of three increments. He was also transferred by the impugned punishment order to Solapur.

3. I have heard Mr. Kulkarni, the learned counsel appearing for the Petitioner and Ms. Tavanandi, the learned counsel appearing for the Respondent-Bank.

4. It appears that the Industrial Court framed the issue as to whether Petitioner is an 'employee' under provisions of Section 3(5) of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (**MRTU & PULP Act**). The Industrial Court however committed a fundamental flaw in considering as if the Petitioner was working on the post of Branch Manager on the date of filing of the Complaint. By virtue of implementation of the punishment order dated 23 May 2019, the Petitioner was already brought down to the status of Accountant. Therefore duties and responsibilities of the Petitioner on the post of Accountant ought to have been considered while determining his status as employee under provisions of Section 3(5) of the MRTU & PULP Act. Thus the finding recorded by the Industrial Court on issue No.1A about status of Petitioner as employee suffers from a fundamental flaw. Even otherwise the domestic enquiry was admittedly conducted under the provisions of Model Standing Orders and this Court has repeatedly taken a view that once the employer conducts enquiry under the Model Standing Orders, the employer is subsequently estopped from questioning the status of a person as workman. Reliance by Mr. Kulkarni on judgment of co-ordinate

Bench of this Court in ***S.A. Sarang vs. W.G. Forge & Allied Industries Ltd., Thane & Ors.***, 1995 I CLR 837 in this regard is apposite. Therefore both on the count of his reversion on the post of Accountant as well as conduct of domestic enquiry under provisions of the Model Standing Orders, the status of the Petitioner as employee could not have been questioned by the Respondent-Bank.

5. Coming to the merits of the punishment order dated 23 May 2019, the same had three elements viz. i) reversion from the post of Branch Manager to the post of Accountant, ii) transfer from Pune to Solapur, and iii) reduction of pay by three stages. It is well settled position of law that transfer is not a punishment and therefore though the aspect of transfer and posting from Pune to Solapur is reflected in the order dated 23 May 2019, the direction for transfer of the Petitioner to Solapur would not constitute a punishment. Thus two punishments are imposed on the Petitioner viz. reversion to the post of Accountant and reduction of pay by three stages. In my view, it is impermissible in law to impose two punishments on an employee based on a single domestic enquiry. Under the Model Standing Orders, reversion and reduction of pay are two distinct penalties and the same cannot be clubbed together in respect of a single domestic enquiry. In my view therefore, after reverting the Petitioner from the post of Branch Manager to that of Accountant, it was impermissible for the Respondent-Bank to impose further

penalty of reduction of pay by three stages. Consequently the second penalty of reduction of pay by three stages is clearly illegal and liable to be set aside. The Industrial Court has erred in not setting aside the second part of the penalty.

6. The Petition succeeds partly and I proceed to pass the following order:

i) The judgment and order dated 6 December 2024 passed by Industrial Court, Pune, in Complaint (ULP) No.173 of 2019 is set aside.

ii) The second part of penalty in the order dated 23 May 2019 of reduction of pay by three stages imposed on the Petitioner is set aside. However the penalty of reversion from the post of Branch Manager to the post of Accountant is retained.

iii) Complaint (ULP) No.173 of 2019 is allowed only to the above limited extent.

iv) Respondent-Bank shall pay all consequential benefits to the Petitioner arising out of setting aside second part of penalty of reduction of wages by three stages within a period of three months.

7. With the above directions, the Petition is partly **allowed**.
Rule is made partly absolute. There shall be no order as to costs.

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signed by
SUDARSHAN
RAJALINGAM
KATKAM
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(SANDEEP V. MARNE, J.)