

(This is the corrected copy of the order)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3716 OF 2025

Mahindra & Mahindra Ltd.
Automotive Sector, Formerly
known as the Mahindra Heavy
Engines Ltd.

....Petitioner

: Versus :

Sachin Arun Kad

....Respondent

alongwith

WRIT PETITION NO. 17500 OF 2024

Sachin Arun Kad

....Petitioner

: Versus :

Mahindra & Mahindra Ltd.
Automotive Sector, Formerly
known as the Mahindra Heavy
Engines Ltd.

....Respondent

Mr. N.B. Jalota i/by. Mr. G.K. Tripathi, for the Petitioner in WP-3716-2025
and for Respondent in WP-17500-2024.

Mr. Triveninath R. Yadav, for the Respondent in WP-3716-2025 and for
Petitioner in WP-17500-2024.

CORAM : SANDEEP V. MARNE, J.

Dated : 20 March 2025.

P.C. :

1) These are cross-petitions filed by the Workman, as well as by the employer challenging the Award dated 8 May 2024 passed by the

(This is the corrected copy of the order)

Presiding Officer, Industrial Tribunal, Pune by which Reference (IT) No.26/2016 has been answered partly in the affirmative. Though the termination of the Workman is found to be illegal and has been set aside, the Industrial Tribunal has awarded compensation of Rs.5,00,000/- to the Workman instead of awarding reinstatement and/or backwages. The employer is aggrieved by direction for payment of compensation, whereas the Workman is aggrieved by denial of relief of reinstatement and backwages.

2) I have heard Mr. Jalota, the learned counsel appearing for the employer and Mr. Yadav, the learned counsel appearing for the Workman.

3) It appears that the Workman was subjected to domestic enquiry on the following charge :

“It has been reported to us that on 31.12.2025 at about 10.00 hrs, you had telephonic conversation with Union President Mr. Vikas Thakre (Tk. No. 60003410) and for no reason you abused him, threatened him and also used filthy and unparliamentary language. By your such act of threatening union president, it has created total fearful atmosphere in and around our plant premises amongst employees.

Your aforesaid acts are serious in nature and fit in to misconducts as listed in our company's certified standing orders applicable to your category.

4) The charge was held to be proved in the domestic enquiry leading to imposition of punishment of dismissal from service on 7 March 2016. In the Part-I Award dated 25 April 2022, the Industrial Tribunal held the enquiry to be fair and proper and that findings of the Enquiry Offer are not perverse. However, in the final Award, the Industrial Tribunal found the punishment of dismissal to be shockingly

(This is the corrected copy of the order)

disproportionate and has accordingly held the punishment of dismissal to be illegal and has set it aside.

5) So far as the findings of the Industrial Tribunal relating to the issues of fairness in the enquiry and perversity in the findings of the Enquiry Officer are concerned, I do not find any valid reason to interfere in the same. The enquiry appears to have been conducted by following the principles of natural justice. The findings of guilt is well supported by the evidence on record. In that view of the matter, there is no warrant for interference in the findings recorded in Para-I Award. In that view of the matter, challenge to the Part-I Award sought to be raised by the Workman in Writ Petition No.17500/2024 deserves rejection.

6) Coming to the aspect of proportionality, it is sought to be contended on behalf of the Worker that once the penalty of dismissal was found to be disproportionate, the Industrial Tribunal ought to have awarded reinstatement with full backwages. I am unable to agree. The misconduct is ultimately proved against the Workman and therefore there is no question of penalising the employer by award of backwages. Coming to the aspect of reinstatement, the Industrial Court has thought it appropriate to direct payment of lumpsum compensation by taking into consideration the unsavoury relationship between the parties. The Industrial Tribunal has also taken into consideration the changed dynamics of the Industry during eight long years during which the litigation ensued between the parties. Considering these aspects, the Industrial Court has thought it appropriate to award lumpsum compensation instead of directing reinstatement.

(This is the corrected copy of the order)

7) Coming to the aspect of lumpsum compensation, it is contended by Mr. Yadav that the same is not sufficient considering the last drawn wages of Rs.21,500/- drawn by the Workman, as well as his age. It is contended by Mr. Yadav that the Workman is only 36 years old as of now and is left with substantial years of service and is fit to work with the employer. On the contrary, it is the contention of Mr. Jalota that no compensation could have been awarded once serious charge of using abusive language and threatening Union President got proved in the enquiry.

8) After perusal of the charge levelled in the chargesheet dated 13 January 2016, it appears that a stray incident which has occurred on 31 December 2015 during the course of telephonic conversation between the Workman and Union President is made basis for initiation of domestic enquiry. There is no allegation that the Workman was habitual in indulging in the acts of threatening or using abusive language. True it is that, use of abusive language and threatening a co-worker by a Workman cannot be taken lightly and must be dealt with sufficient seriousness with a view to instill a sense of discipline amongst the work force. At the same time, the present case involves a stray incident when the Workman apparently abused the Union President and also threatened him. Considering the gravity of misconduct, in my view, some enhancement in the compensation awarded by the Industrial Tribunal would be warranted in the present case. Considering the nature of misconduct coupled with the past record of the Workman, in my view, payment of lumpsum compensation of Rs.7,50,000/- to the workman would meet the ends of justice. I accordingly proceed to pass the following order :

(This is the corrected copy of the order)

(i) The Award dated 8 May 2024 passed by the Presiding Officer, Industrial Tribunal, Pune in Reference IT No.26/2016 shall stand modified to the extent that the employer shall pay to the workman compensation of Rs.7,50,000/- in lieu of reinstatement, backwages and all other service related benefits. The amount of compensation of Rs.7,50,000/- shall be paid to the workman within a period of 4 weeks.

(ii) Beyond the period of four weeks, the employer shall be liable to pay interest at the rate of 9% p.a. on the amount of lumpsum compensation till the date of actual payment.

9) With the above directions, both the Writ Petitions are **disposed of**.

[SANDEEP V. MARNE, J.]

Note : Corrections are carried out in the cause-title of the petitions only. The rest of the order remains undisturbed.

Digitally
signed by
NEETA
SHAILESH
SAWANT
Date:
2025.04.01
16:50:33
+0530