

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.3730 OF 2024**

Sharadashram Vidyamandir Trust

.....Petitioner

: Versus :

Neena B. Rangnekar and Ors.

....Respondent

Mr. S. C. Naidu with Mr. Manoj Gujar, Mr. T. R. Yadav, Mr. Abhishek Ingale and Mr. Pradeep Kumar i/b C.R. Naidu & Co. for the Petitioner.

Mr. R. D. Bhat for Respondent No.1.

CORAM : SANDEEP V. MARNE, J.

DATED : 16 DECEMBER 2025.

P.C :

1) This is a classic case where the Petitioner-employer has masqueraded the termination/retrenchment of the First Respondent-employee by giving it a flavour of discharge simplicitor due to loss of confidence.

2) Petitioner-Management has challenged the order dated 11 October 2023 passed by the Learned Member of the Industrial Court, Mumbai partly allowing the Complaint (ULP) No. 181 of 2015 by which it has been directed to pay full backwages to the First

Respondent till the date of attaining the age of retirement i.e. 31 October 2020.

3) I have heard Mr. Naidu, the learned counsel appearing for the Petitioner-Management and Mr. Bhat, the learned counsel appearing for Respondent No.1. I have gone through the reasonings adopted by the Industrial Court while passing the impugned judgment and order dated 11 October 2023. I have also perused the records of the case.

4) Petitioner's termination is effected by letter dated 20 April 2015, which reads thus :

Sub: Termination of Services

Madam,

This has reference to your appointment letter no. 215 dtd. 30.01.1989 and subsequent appointment order dtd. 14.08.2001

The Management has issued you various letters for the lapses in performing your regular duties. However there is no improvement in performance of your job so far.

The Governing Council meeting held on 07.03.2015 has authorized Office Bearer's to take appropriate action in case of Miss. Neena B. Rangnekar and accordingly in the Office Bearer's meeting held on 16.04.2015 has unanimously decided to terminate your services w.e.f. 20.04.2015.

As per clause no. 16 of your appointment letter dtd. 14.08.2001 your services are hereby terminated w.e.f. 20.04.2015 a.n. You are hereby paid Notice Pay of Rs. 34,414/- (Rupees Thirty Four Thousand Four Hundred Fourteen Only) as one month's salary.

You are requested to hand over all your work to Mrs. Shubhangi Amare, Accounts Officer, Mrs. Supriya Sawant, Spl. Assistant and Mrs. Shraddha Walawalkar, Sr. Clerk immediately.

You are hereby relieved from your services w.e.f. 20.04.2015.

5) It appears that there is a background under which termination of Respondent No.1 was effected. On 30 January 2015, Petitioner issued following communication to Respondent No.1 :

Sub: Completion of Assigned Work

We refer to your two letters dtd. 17.01.2015 and 26.01.2015, giving explanation to the Management letters. But surprised to note that only excuses have been mentioned instead of trying to complete the work in time, assigned to you.

It is also surprising even after serving for 25 years, as confirmed by you, you still require assistance to complete the work.

Secondly, there is lot of work pending, which is to be completed on priority, but you are running away from your responsibilities and proceeded on leave without prior approval. You are well aware that the pending work is to be completed on priority without any delay.

Why disciplinary action should not be taken against you for running away from your responsibilities of the work and not completing the assigned work well in time? Under these circumstances, the Management is hereby demoting you to the post of Jr. Clerk w.e.f. 1st February 2015 and an Enquiry Committee will be constituted to enquire into about the facts findings and lapses on your part.

(emphasis added)

6) Thus, Petitioner specifically contemplated initiation of disciplinary proceedings against Respondent No.1 in respect of the alleged lapses highlighted in the earlier correspondence. However, the Petitioner-Management arbitrarily demoted Respondent No.1 from the position of Senior Clerk to Junior Clerk by communication dated 30 January 2015. Admittedly, no domestic enquiry was initiated before imposing the penalty of demotion. Be that as it may. The Petitioner-Management also proposed constitution of Enquiry Committee to probe into the alleged lapses committed by Respondent No.1. Admittedly, no Enquiry Committee was constituted nor any disciplinary proceedings against Respondent

No.1 were initiated. Instead, Petitioner straightaway proceeded to terminate the services of Respondent No.1 by letter dated 20 April 2015. It appears that termination was resorted to as a reaction to the Respondent No.1 filing Complaint (ULP) No. 181 of 2015 in the Industrial Court challenging the punishment of demotion and effecting of recoveries from her salary.

7) Thus, there is a clear precursor to the termination action dated 20 April 2015 where specific allegations of misconduct were levelled against Respondent No.1. Additionally, the very termination letter dated 20 April 2015 also specifically alleges lapses on the part of Respondent No.1. It therefore cannot be contended that by any stretch of imagination that what is effected on 20 April 2015 is a simplicitor discharge on account of loss of confidence by the employer. Reliance by Mr. Naidu on judgment of the Apex Court in **L. Michael and Anr. vs. Johnson Pumps Ltd.**¹, far from assisting the case of the Petitioner, actually militates against him. The Apex Court has held in para-19 and 22 as under :

19. The above study of the chain of rulings brings out the futility of the contention that subsequent to Murugan Mills' case [AIR 1965 SC 1496] colourable exercise of power has lost validity and loss of confidence has gained ground. The law is simply this: The Tribunal has the power and, indeed, the duty to X-ray the order and discover its true nature, if the object and effect, if the attendant circumstances and the ulterior purpose be to dismiss the employee because he is an evil to be eliminated. But if the management, to cover up the inability to establish by an enquiry, illegitimately but ingeniously passes an innocent-looking order of termination simpliciter, such action is bad and is liable to be set aside. Loss of confidence is no new armour for the management; otherwise security of tenure, ensured by the new industrial jurisprudence and authenticated by a catena of cases of this Court, can be subverted by this neo-formula. Loss of confidence in the law will be the consequence of the Loss of Confidence doctrine.

...

1 (1975) 1 SCC 574

22. Before we conclude we would like to add that an employer who believes or suspects that his employee, particularly one holding a position of confidence, has betrayed that confidence, can, if the conditions and terms of the employment permit, terminate his employment and discharge him without any stigma attaching to the discharge. But such belief or suspicion of the employer should not be a mere whim or fancy. It should be bona fide and reasonable. It must rest on some tangible basis and the power has to be exercised by the employer objectively, in good faith, which means honestly with due care and prudence. If the exercise of such power is challenged on the ground of being colourable or mala fide or an act of victimisation or unfair labour practice, the employer must disclose to the Court the grounds of his impugned action so that the same may be tested judicially. In the instant case this has not been done. There is only the ipse dixit of the employer that he was suspecting since 1968 that the appellant was divulging secrets relating to his business. The employer has not disclosed the grounds on which this suspicion arose in 1968. Further, after 1968, the appellant was given two extra increments, in addition to his normal increments, as stated already, in appreciation of his hard work. This circumstance completely demolishes even the whimsical and tenuous stand taken by the employer. It was manifest therefore that the impugned action was not bona fide.

8) In the present case, it cannot be contended by any stretch of imagination that the letter dated 20 April 2015 is a discharge simplicitor in terms of conditions of employment without attaching any stigma on Respondent No.1. Apart from specific allegations of misconduct in series of communications preceding termination action, the termination order itself refers to lapses allegedly committed by Respondent No.1. The termination order is clearly stigmatic. In my view therefore, what is effected on 20 April 2015 is termination for misconduct and not a discharge simplicitor on account of loss of confidence. Petitioner, who had rendered over 25 years of service, is unceremoniously thrown out of service without any inquiry.

9) Contention of Mr. Naidu that the Industrial Court has ignored the evidence in proof of misconduct of Respondent No.1,

apart from being misplaced, actually proves that the termination is stigmatic. In my view, the employer has to make an informed choice when it chooses to couch the order of cessation from service as a discharge simplicitor of the employee. Once it takes the risk of describing the act of cessation from service as a mere discharge simplicitor without involving any element of misconduct and once the industrial adjudicator arrives at the conclusion that the case does not involve discharge simplicitor, the employer cannot turn around and say that it would prove the misconduct by leading evidence. This estoppel would apply against the employer since it has already adopted the position that the discharge is simplicitor without involving any element of misconduct. In short, the employer cannot terminate services of an employee by giving it a flavour of discharge not involving the element of misconduct, take the risk of supporting the said order before industrial adjudicator and upon failure in its endeavour, turn around and seek to prove misconduct against the employee. Discharge simplicitor due to loss of confidence is antithesis of termination for misconduct. Employer cannot effect the former and then justify the same by leading evidence to prove the latter.

10) In my view, the Industrial Court has rightly appreciated the above position. There can be no doubt to the position that the Petitioner has acted in an arbitrary manner in the present case. While threatening Respondent No.1 with the initiation of disciplinary proceedings, it simultaneously proceeded to demote her from the position of Senior Clerk to Junior clerk. While she approached the Industrial Court challenging such arbitrary action, Petitioner went ahead and terminated her services without holding any enquiry and without following the mandatory provisions of the

Industrial Disputes Act. The termination is egregiously arbitrary and illegal, and has rightly been set aside. Luckily for the Petitioner, Respondent No.1 attained the age of retirement on 31 October 2020 during pendency of the Complaint.

11) No interference is therefore warranted in the impugned order which merely contemplates payment of wages for the period from 20 April 2015 till 31 October 2020 when Respondent No.1 attained the age of superannuation. The Writ Petition is accordingly **dismissed**. There shall be no order as to costs. The amounts arising out of the order of the Industrial Court shall be paid to the Respondent No.1 along with interest @ 8% p.a. from the date of the order of the Industrial Court within two months.

[SANDEEP V. MARNE, J.]

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