



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.1391 OF 2022

PETITIONERS

(Orig. Respondents)
On R.A.

- :-** 1) Maharashtra State Road Transport Corporation, through it's Divisional Controller, Divisional Office, Arni Road, Yavatmal.
- 2) Maharashtra State Road Transport Corporation, through it's Depot Manager, Ner Depot, Tahsil: Ner, District: Yavatmal.

..VERSUS..

RESPONDENT

(Orig. complainant)
On R.A.

- :-** Vinod Suresh Pardhi,
Aged about 44 years, Occupation: Service
R/o Dorli, Nagpur Road, Yavatmal.

Mr. R.S. Charpe, Advocate for Petitioners.
Mr. C.V. Jagdale, Advocate for the Respondent.

CORAM : ROHIT W. JOSHI, JJ.

DATE : 01/10/2025

ORAL JUDGMENT :

1. Heard.

2. **Rule.** The Rule is made returnable forthwith. Heard finally by consent of learned counsel for the respective parties.

3. The present petition takes exception to the order dated 23.11.2017, passed by the learned Judge, Labour Court, Yavatmal, in Complaint (ULP) No.17 of 2014, holding that the disciplinary inquiry conducted against the respondent/employee is not fair and proper and that the findings recorded by the Inquiry Officer during course of inquiry are perverse. It also challenges the judgment and order dated 08.01.2018, passed by the said Court in the said complaint, setting aside the termination order dated 12.09.2014 and granting relief of reinstatement with interest @ 12% per annum and also the order passed by the learned Member, Industrial Court, Yavatmal, dismissing the Revision (ULP) No.06 of 2018, arising out of the said complaint.

4. Mr. Charpe, learned Advocate for the petitioners-Corporation contends that the respondent/employee was absent without seeking prior permission on 18.04.2014. He said that in view of the above, chargesheet dated 25.04.2014 was issued to the respondent/employee. He drawn attention to the chargesheet and the acknowledgment signed by the respondent/employee. He thereafter draws attention to the complaint and the affidavit file in view of the examination in chief by the respondent/employee to

demonstrate that it is an admitted and undisputed factual position that the chargesheet was duly served on the respondent/employee.

5. Mr. Charpe, learned Advocate thereafter draws attention to the letter dated 23.08.2014, which was issued to the respondent/employee to remain present for participation in the inquiry on 30.08.2014. He contends that this letter was sent by registered post at the address mentioned in the clause title of the complaint and despite service of this letter, the respondent/employee did not participate in the inquiry. The learned Advocate contends that despite such position, the learned Labour Court erroneously decided the preliminary issue regarding the fairness of the departmental inquiry and held the findings of the disciplinary authority to be perverse. The learned Advocate states that the said order is passed on the ground that copy of chargesheet is not filed on record and therefore, period of absence could not be ascertained. Mr Charpe, also contends that since the employee did not participate in the inquiry and the fact of his absence was matter of record, the inquiry officer rightly concluded that the absence was without justification.

6. *Per contra*, Mr. Jagdale, learned Advocate for the respondent/employee contends that, the enquiry is vitiated. He submits that, although the chargesheet is issued on 25.04.2014 alleging unauthorized absence from 18.04.2014, the order of termination is passed on the ground that the employee was unauthorizedly absent till 08.08.2014, which is inconsistent with the chargesheet. Mr. Jagdale, contends that although the chargesheet is served, it did not mention the date of the inquiry proceedings. He further contends that there is no evidence on record to demonstrate that the employee was absent without any justification and therefore, the order passed on the preliminary issue is just and proper. He further contends that although the petitioner had an opportunity to lead evidence to substantiate the charge, the said option was not exercised, as a consequence of which the learned Labour Court had no option but to allow the complaint by setting aside the order.

7. Perusal of the affidavit filed during the cross-examination in chief by the respondent/employee, certainly demonstrates that the chargesheet was served on the respondent/employee. It is undisputed that despite receiving chargesheet, the

respondent/employee did not file any reply to the chargesheet. It also appears that the letter dated 23.08.2014 was sent to the respondent/employee by registered post at the address mentioned in the complaint. The learned Labour Court passed an order on the preliminary issue, holding that the inquiry was vitiated. While holding so, the Court observed that the chargesheet was not filed on record by the respondent/employee, and as such, the period of absence mentioned in the chargesheet was not brought on record. It was also observed that copies of postal receipt and acknowledgment regarding intimation of date of hearing was also not placed on record. The learned Labour Court ought to have appreciated the fact that the chargesheet was served on the employee, who is the appellant is evident from the affidavit of the employer itself. The learned Labour Court could have directed that the employer to file chargesheet on record. The fact that the employee was marked absent is obviously be a matter of record and justification for the same will have to be offered by the employee. This aspect of the matter was also not considered by the learned Labour Court.

8. In view of the above, in the considered opinion of this Court, the order dated 23.11.2017 passed on the preliminary issue,

is required to be quashed and set aside. The subsequent order allowing the complaint is passed because the preliminary issue decided in favour of the employee. If the preliminary issue was decided in favour of the employer, then the only question of punishment would remain open for adjudication by the learned Labour Court. Since the order passed on preliminary issue is set aside the subsequent order allowing the complaint must also fall. Accordingly, I pass the following order :-

- i) The writ petition is **allowed**.
- ii) The order dated 08.01.2018 passed by the learned Judge, Labour Court, Yavatmal, in Complaint (ULP) No.17 of 2014 and order dated 26.09.2019 passed by the Member, Industrial Court, Yavatmal, in Revision (ULP) No.06 of 2018, are hereby quashed and set aside.
- iii) The matter is remitted to the learned Labour Court for deciding the preliminary issued afresh.
- iv) Parties are directed to appear before the learned Labour

Court on **03.11.2025**. Parties to note that separate notice will not be issued.

- v) Having regard to the fact that the termination pertains to the year 2014, the learned Labour Court is directed to decide the complaint as expeditiously as possible and in any case, on or before **31.03.2026**.

Rule is made absolute in above terms. No order as to costs.

(ROHIT W. JOSHI, J.)

C.L. Dhakate