

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR**

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10234 OF 2024

Kolhapur Mahanagarपालिका Parivahan
Upakram Thr. Transport Manager

...Petitioner

Versus

Shri Dhairyashil Keshav Mane
since dead thr. Lrs.

...Respondents

...

Shri Abhijit Adagale a/w Ms Ketaki Patil, Advocate for the petitioner

...

CORAM : PRAVIN S. PATIL, J.

DATE : 24th APRIL, 2026.

P.C. :

1. Heard.
2. On perusal of the petition demonstrate the fact that the respondent employee has challenged his termination before the Labour Court by filing the complaint. The Labour Court after hearing both the parties by judgment and order dated 30.01.2020 held that though the inquiry conducted against the respondent employee was in consonance

with the principles of natural justice, the findings recorded by inquiry officer are perverse.

3. The said judgment and order of the Labour Court was challenged before the Member, Industrial Court, Kolhapur by the present petitioner. Learned Member of the Industrial Court by its judgment dated 15.11.2022 rejected the revision application filed by the petitioner and sent back the matter before the Labour Court by recording the findings particularly in paragraph No.15 of the judgment that though the Labour Court has declared that the findings recorded by the Enquiry Officer are perverse, respondent can prove the misconduct before the Labour Court.

4. In light of this factual position, in my opinion, the view taken by the Industrial Court is proper and justified in the matter. It would be relevant to refer the judgment of the Hon'ble Supreme Court of India in case of *Workmen of M/S Firestone Tyre and Rubber Co. of India (P) Ltd. Vs. Management and others reported in (1973) 1 SCC 813*, wherein the Hon'ble Supreme Court in paragraph No.37 observed as under:

“37. If there has been no enquiry held by the employer or if the enquiry is held to be defective, it is open to the employer even now to adduce evidence for the first time before the Tribunal justifying the order of discharge or dismissal. We are not inclined to accept the contention on behalf of the workmen that the right of the employer to adduce evidence before the Tribunal for the first time recognised by this Court

in its various decisions, has been taken away. There is no indication in the section that the said right has been abrogated. If the intention of the legislature was to do away with such a right, which has been recognised over a long period of years, as will be noticed by the decisions referred to earlier, the section would have been differently worded. Admittedly, there are no express words to that effect, and there is no indication that the section has impliedly changed the law in that respect. Therefore, the position is that even now the employer is entitled to adduce evidence for the first time before the Tribunal even if he had held no enquiry or the enquiry held by him is found to be defective. Of course, an opportunity will have to be given to the workman to lead evidence contra. The stage at which the employer has to ask for such an opportunity, has been pointed out by this Court in Delhi Cloth and General Mills Co. Ltd. case. No doubt, this procedure may be time consuming, elaborate and cumbersome. As pointed out by this Court in the decision just referred to above, it is open to the Tribunal to deal with the validity of the domestic enquiry, if one has been held as a preliminary issue. If its finding on the subject is in favour of the management, then there will be no occasion for additional evidence being cited by the management. But if the finding on this issue is against the management, the Tribunal will have to give the employer an opportunity to cite additional evidence justifying his action. This right in the management to sustain its order by adducing independent evidence before the Tribunal, if no enquiry has been held or if the enquiry is held to be defective, has been given judicial recognition over a long period of years.”

5. In view of these settled principles of law, I do not find any merit in the petition. In my opinion, since the Industrial Court has already granted liberty to the petitioner to prove the charges before the Labour Court, the present petition stands dismissed.

6. It is further made clear that any findings recorded by the Industrial Court or by this Court will not come in the way of the Lower Court, Kolhapur, while deciding the complaint.
7. With this direction, the petition stands disposed of.

[PRAVIN S. PATIL, J.]