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

WRIT PETITION NO.2174 OF 2025

Ashok Chimaji Navsupe,

Age 41 years, r/at Gat No.2178/2,

Baif Road, Wagholi, Pune 412 207

... **Petitioner**

Vs.

Alicon Castalloy Limited,

having its plant at Gat No.1426,

Shikrapur, Taluka Shirur,

District Pune 412 208

... **Respondent**

WITH

WRIT PETITION NO.2175 OF 2025

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Shahaji Madhukar Jadhav,

Age 42 years, r/at Sainagar, Perne Phata,

Taluka Haveli, Pune 412 216

... **Petitioner**

Vs.

Alicon Castalloy Limited,

having its plant at Gat No.1426,

Shikrapur, Taluka Shirur,

District Pune 412 208

... **Respondent**

WITH

WRIT PETITION NO.8698 OF 2023

Alicon Castalloy Limited,

a company duly incorporated under the

Companies Act, 1956, having its

plant at Gat No.1426, Shikrapur,

Taluka Shirur, District Pune 412 208

through its authorized representative

Omprakash Agnihotri, Age 61 years,
Occupation – Service, R/at: Gat No.1426,
Shikrapur, Tal., Shirur, Dist. Pune 412 208 ... **Petitioner**

Vs.

Shahaji Madhukar Jadhav,
Age Adult, Occupation Nil,
R/at Sainagar, Perne Phata,
Taluka Haveli, Pune 412 216 ... **Respondent**

**WITH
WRIT PETITION NO.8697 OF 2023**

Alicon Castalloy Limited,
a company duly incorporated under the
Companies Act, 1956, having its
plant at Gat No.1426, Shikrapur,
Taluka Shirur, District Pune 412 208
through its authorized representative
Omprakash Agnihotri, Age 61 years,
Occupation – Service, R/at: Gat No.1426,
Shikrapur, Tal., Shirur, Dist. Pune 412 208 ... **Petitioner**

Vs.

Ashok Chimaji Navsupe,
Age Adult, Occupation Nil,
R/at Gat No.2178/2, Baif Road,
Wagholi, Pune 412 207 ... **Respondent**

Mr. Kiran Bapat, Senior Advocate with Mr. T.R. Yadav
i/by Mr. Gaurav Gawande for the petitioner in
WP/2174/2025 & 2175/2025 & for the respondent in
WP/8697/2023 & 8697/2023.

Mr. Varun Joshi with Mr. Chetan A. Alai for the
petitioner in WP/8697/2023 & 8697/2023 and for the
respondent WP/2174/2025 & 2175/2025.

CORAM : AMIT BORKAR, J.

RESERVED ON : APRIL 23, 2026.

PRONOUNCED ON : APRIL 30, 2026

JUDGMENT:

1. Since all the aforesaid writ petitions arise out of a common set of facts and involve identical questions of law, it is considered appropriate to dispose of the same by this common judgment and order.

2. By Writ Petition Nos. 2174 of 2025 and 2175 of 2025, filed under Articles 226 and 227 of the Constitution of India, the respective petitioner seeks to challenge the judgment and order on preliminary issues dated 14 October 2021, as well as the final judgment and award dated 20 October 2022 passed by the 3rd Labour Court at Pune in the concerned references, whereby the references were partly allowed and the relief of back wages was declined. By Writ Petition Nos. 8697 of 2023 and 8697 of 2023, the petitioner-company has assailed the said judgment and award dated 20 October 2022.

3. The brief facts giving rise to the present writ petitions are that the petitioner was employed with the respondent-company. He initially joined as a Trainee and was thereafter confirmed to the post of Machine Operator by issuance of a confirmation letter. At the time of termination, the petitioner was working in the capacity of Staff II and was drawing total emoluments of Rs. 34,642.08 per month. The respondent-company is engaged in the business of manufacturing aluminium auto components.

4. The respondent-company issued a charge-sheet dated 31 May 2015 to the petitioner alleging that he had submitted a forged mark-sheet and passing certificate of the B.A. examination at the time of employment, which was treated as an act of serious misconduct. The petitioner submitted his reply to the said charge-sheet and denied all the allegations levelled against him.

5. Upon issuance of the charge-sheet, the respondent-company initiated a departmental enquiry into the allegations. Shri P. A. Naron, Advocate, was appointed as the Enquiry Officer and Mr. Prakash Takte (HR) was appointed as the Management Representative. On the first date of the enquiry, the petitioner was asked whether he intended to be represented by a person of his choice as his defence representative. The petitioner submitted an application seeking permission to engage Ms. Anuja Terkar, Advocate, as his defence representative, which was opposed by the Management Representative. After hearing both sides, the Enquiry Officer rejected the said application on the ground that the Management Representative was neither legally trained nor a legal practitioner, and therefore the petitioner's request could not be granted.

6. It is the case of the petitioner that the Enquiry Officer failed to afford a full and fair opportunity to him to defend the charges, particularly in view of the refusal to permit representation through a legal practitioner of his choice. It is further contended that although witnesses were examined during the enquiry, the Enquiry Officer failed to properly appreciate the material on record and rendered findings in a cursory manner, ultimately holding the

petitioner guilty of all the charges levelled against him.

7. The Enquiry Officer submitted his findings and report dated 10 March 2017, which were forwarded to the petitioner on 12 March 2017. Relying upon the said enquiry report, the respondent-company terminated the services of the petitioner by issuing an order of termination dated 30 April 2017.

8. Aggrieved by the said termination, the petitioner raised an industrial dispute before the Deputy Commissioner of Labour at Pune, which was thereafter referred for adjudication to the Labour Court at Pune. The petitioner filed his statement of claim contending that the charge-sheet was issued on an incorrect factual basis and that the termination was effected without due consideration of his defence. He accordingly sought reinstatement in service with continuity and full back wages.

9. Upon service of notice, the respondent-company filed its written statement contending, inter alia, that the duties performed by the petitioner were of a supervisory nature and, therefore, he did not fall within the definition of “workman” under Section 2(s) of the Industrial Disputes Act, 1947. It was further contended that since the Management Representative was not legally trained, the question of permitting an Advocate to represent the petitioner in the departmental enquiry did not arise. In these circumstances, the parties have approached this Court by way of the present writ petitions.

10. Mr. Kiran Bapat, learned Senior Advocate appearing for the petitioner-workman, submitted that in the absence of examination

of the handwriting expert during the enquiry proceedings, the report attributed to such expert could not have been relied upon. It is further contended that the Labour Court failed to consider the specific defence of the petitioner that he had not submitted any such documents at the time of securing employment, and that it was not a requirement for the post held by him to possess a graduation degree. According to him, it was incumbent upon the management to establish that such educational qualification was a mandatory requirement for the post in question.

11. It is further submitted that the case sought to be built by the management, namely that an audit report in the year 2011 had revealed submission of forged documents by the petitioner and other employees, remains unsubstantiated, as no such audit report was produced on record. It is contended that no action was taken by the management between 2011 and 2016, which raises serious doubt about the existence of such audit report, and indicates that the case of the management is based on conjectures and surmises. It is also submitted that the alleged B.A. certificate was never produced in accordance with law.

12. Mr. Bapat, learned Senior Advocate appearing for the petitioner-workman, further submitted that the finding of guilt recorded against the petitioner is founded upon the conclusion of the Enquiry Officer that, despite having passed the S.S.C. examination at the time of entry into service, the petitioner had subsequently submitted a false B.A. passing certificate purportedly issued by Pune University. It is contended that such a finding is not borne out by any substantive material on record, inasmuch as it is

an admitted position that no document or certificate has been produced to demonstrate that the petitioner had either appeared for or failed in the B.A. examination. In the absence of such foundational evidence, the conclusion reached by the Enquiry Officer is, according to the learned Senior Advocate, wholly perverse and unsustainable in law.

13. Per contra, Mr. Joshi, learned Advocate appearing for the respondent-employer, submitted that the Enquiry Officer has duly considered the documents submitted by the petitioner both at the time of his initial appointment and at the stage of confirmation of his services. It is his submission that the documents furnished at the time of confirmation clearly indicate that the petitioner had failed in the H.S.C. examination. He further submitted that the Courts below have rightly recorded a finding that the charges levelled against the petitioner, particularly under clauses 24(h) and 24(l), stand duly proved on the basis of the material placed before the Enquiry Officer. According to him, the Enquiry Officer has taken into account the entire material on record, including the report of the handwriting expert. It is contended that the scope of judicial review does not extend to re-examining the qualifications or credibility of the expert once such material has been considered in the enquiry. He submitted that the record indicates that the handwriting expert possessed a diploma in handwriting analysis, and therefore, the reliance placed upon such report cannot be faulted. On that basis, it is submitted that the Enquiry Officer has rightly concluded that the petitioner was guilty of misconduct involving subversion of discipline and good behaviour within the

establishment. He further submitted that in view of the documentary material produced by the petitioner at the time of confirmation, production of the audit report was not necessary.

14. Without prejudice to the aforesaid submissions, learned counsel for the respondent-employer further submitted that even assuming that the charge framed under Part I of the enquiry is not held to be proved, the matter ought to be remanded to the Labour Court so as to afford an opportunity to the employer to substantiate the charges by leading appropriate evidence before the Labour Court. On this premise, it is submitted that the present writ petitions do not merit interference and are liable to be dismissed.

REASONS AND ANALYSIS:

15. I have considered the rival submissions with care and also examined the manner in which the enquiry was conducted, and the findings have been returned by the Labour Court. The whole controversy turns around one central allegation, namely that the petitioner, though initially entered in service on one footing, had later produced a false B.A. passing certificate and thereby committed misconduct of a grave character. The matter is not a simple one of bare denial. It requires the Court to see whether the conclusion drawn by the Enquiry Officer and later accepted by the Labour Court is supported by acceptable material, and whether the process by which such conclusion was reached can be said to be fair, just, and proper in law.

16. The learned Senior Advocate for the petitioner has urged that the finding of guilt proceeds more on assumption than on proved fact, and this Court finds that such submission carries substance. The case as projected against the petitioner is that though he entered service on the basis of passing S.S.C., he projected himself as a graduate by submitting a B.A. passing certificate of Pune University which is alleged to be false. Now, when such allegation goes to the root of integrity of an employee, there must be some material showing first that such a certificate was in fact submitted, and second that the same was not genuine. In the present matter, what appears from record is that there is no document produced to demonstrate that the petitioner had either appeared for B.A. examination or had failed in it. In absence of such material, the conclusion that the certificate must be false becomes unsupported. A disciplinary finding can indeed be based on probability, but even such probability must arise from surrounding evidence. Therefore, the argument that the finding suffers from lack of foundational basis does carry weight.

17. The petitioner has made grievance regarding reliance on the handwriting expert's report without examination of such expert. This Court finds that this aspect assumes importance because the report of handwriting expert has been treated as one of the key materials against the petitioner. In ordinary course, when an expert opinion is used, its reliability comes not merely from its existence but from the manner in which it is proved and tested. If the expert is not examined, then the petitioner is deprived of opportunity to question the basis of opinion. This affects fairness of

enquiry. It is correct that strict rules of evidence do not apply to domestic enquiries, but even then minimum fairness is required. The document on which the expert gives opinion must itself be proved in some manner, and the opinion must have some assurance of correctness. This Court is conscious that it cannot re-appreciate evidence like an appellate forum, but where the material itself is not shown to be established, scrutiny becomes necessary. Therefore, the contention that the expert report was relied upon without proof cannot be ignored and raises a doubt on the finding recorded.

18. Another limb of submission on behalf of the petitioner is regarding non-production of the audit report which is stated to be the starting point of the entire disciplinary action. The management has taken a stand that in the year 2011 an audit revealed that certain employees, including the petitioner, had submitted forged documents. However, such audit report has not been placed on record. If the entire action is initiated on the basis of such audit discovery, then the report assumes significance as a primary document. Further, the time gap between the alleged audit year and the issuance of charge sheet is also not explained. If a irregularity was detected in 2011, then a reasonable expectation would be that action follows within a reasonable time. Delay by itself may not vitiate proceedings, but when coupled with absence of primary document, it creates a situation where the story of management appears less convincing. It is not that the case of the employer fails due to non-production of audit report, but the strength of its case reduces.

19. On the other hand, the learned Advocate for the respondent has drawn attention to the documents submitted by the petitioner at the time of appointment and later at the time of confirmation. It is urged that these documents themselves disclose inconsistency in the educational qualification of the petitioner and indicate that he had failed in H.S.C. This submission has some merit to the extent that documentary record maintained in ordinary course can be relied upon in disciplinary proceedings. It is not necessary for the employer to prove matters with precision as in criminal trial. However, the Court must still examine whether such documents establish the charge framed. The charge is of submitting a false B.A. certificate. Therefore, the documents must lead to a clear inference that such false certificate existed and was used by the petitioner. If the documents only show some inconsistency or doubt regarding earlier qualification, that may create suspicion, but suspicion cannot take the place of proof of a misconduct. The connection between the documents and the charge must be reasonably clear. Hence, while the documents relied upon by the employer cannot be discarded, they do not fully establish the allegation made.

20. The respondent has also submitted that the handwriting expert was qualified, having a diploma, and therefore the Court should not question the adequacy of his expertise. This argument is partly acceptable, because domestic enquiry is not expected to follow rigours of trial. Yet, the issue here is not of qualification. The issue is whether the report of such expert was brought on record and whether it is sufficient to sustain the finding. Even a

qualified expert's opinion must be tested in some reasonable manner. If the document is not proved, and if the expert is not examined, then the opinion remains untested. In such situation, the Court is not questioning the qualification of the expert, but the evidentiary value of the report. Therefore, the submission of the management is accepted to the extent that the Court will not enter into evaluation of qualification, but the Court cannot refrain from examining whether the report was properly proved. On that count, the material appears insufficient.

21. There is also the submission of the respondent that even if the charge under Part I of the enquiry is held not proved, the matter should be remanded to the Labour Court so that the employer may get an opportunity to prove the charge by leading evidence. This alternative plea deserves serious consideration. It is well settled that where a domestic enquiry is found defective or where the findings are not sufficient to sustain the order, the employer may seek an opportunity before the Labour Court to lead evidence in support of the charge.

22. Having said so, the Court must also keep in mind that remand is not to be ordered as a matter of routine. The Court has to see whether the material already shows a basis to sustain the award or whether the award has been built upon a conclusion which cannot stand. Here, the balance tilts in favour of interference because the finding of false B.A. certificate does not appear to rest on material. At the same time, the management's case cannot be ignored because it has pointed to certain documents and to the conduct of the petitioner at the stage of

service confirmation. It is a case where the materials are incomplete, the proof is not satisfactory, and yet the dispute requires an examination before a conclusion is drawn.

23. On an overall assessment, therefore, the finding of guilt cannot be sustained. The enquiry report and the award do not inspire full confidence on the aspect of proof of false certificate. However, having regard to the plea of the respondent-employer and the nature of the dispute, fairness also demands that an opportunity be given to the employer to establish the charge before the Labour Court. The ends of justice would be met by setting aside the impugned award to the extent challenged and remitting the matter for fresh consideration on the limited question of proof of misconduct, with liberty to both sides to lead such evidence as is permissible.

24. In view of the foregoing discussion and on an overall assessment of the material placed on record, the following order is passed:

- (i) The Writ Petition Nos. 2174 of 2025 and 2175 of 2025 filed by the petitioner-workman are partly allowed;
- (ii) The Writ Petition Nos. 8697 of 2023 filed by the respondent-employer stand partly allowed to the limited extent indicated herein;
- (iii) The judgment and award dated 20 October 2022 passed by the 3rd Labour Court, Pune, as well as the findings recorded on preliminary issues dated 14 October 2021, are hereby quashed and set aside;

- (iv) The Reference is remanded back to the Labour Court, Pune for fresh adjudication on merits, limited to the issue of proof of misconduct alleged against the petitioner;
- (v) The respondent-employer is granted liberty to adduce evidence before the Labour Court to substantiate the charges levelled against the petitioner, in accordance with law;
- (vi) The petitioner-workman shall also be entitled to lead evidence in rebuttal and to raise all permissible contentions before the Labour Court;
- (vii) The Labour Court shall decide the Reference afresh, uninfluenced by any observations made in the present judgment, and shall endeavor to dispose of the same expeditiously, preferably within a period of six months from the date of receipt of this order;
- (viii) All contentions of the parties on merits are kept open;
- (ix) Rule is made partly absolute in the above terms. No order as to costs.

(AMIT BORKAR, J.)