

MPBalekar

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

WRIT PETITION NO. 16322 OF 2024

Maharashtra Aoudougik Vikas	
Mahamandal and Ors.	... Petitioners
V/s.	
Sanjay Shankarrao Ban	... Respondents

Mr. K. Damla a/w Ashish G. i/by Jay and Co. for the petitioners.

Mr. Nitin Kulkarni for the respondent.

CORAM : AMIT BORKAR, J.

DATED : MARCH 26, 2026

P.C.:

1. The challenge in the present writ petition arises from an order dated 10 June 2024 passed by the Labour Court. The record shows that the matter had already reached an advanced stage. The parties had completed their evidence. Arguments were also concluded. The matter was then kept for pronouncement of judgment. At this stage, instead of proceeding to decide the case on the basis of issues already framed, the Labour Court chose to recast the issues. On careful comparison of the earlier issues and the recast issues, it becomes clear that the material change is in issue No. 1. By this change, the burden to prove misconduct has now been placed upon the employer. This alteration affects the manner in which the entire case is to be appreciated.

2. In my considered view, such a course adopted by the Labour

Court is not proper in the facts of the present case. The pleadings of both sides were already complete. The original issues framed by the Court were sufficient to cover the real dispute between the parties. Those issues were understood by both sides. Evidence was led accordingly. Arguments were advanced on that basis. Once the trial has reached the stage of judgment, the Court is expected to decide the matter on the existing record. Recasting of issues at such a late stage disturbs the settled position. It has the effect of reopening the case in an indirect manner. When the burden of proof is shifted, it changes the responsibility of the parties. A party who had earlier led evidence keeping a particular burden in mind may be prejudiced. This results in delay.

3. It is true that a Court has power to frame or amend issues at any stage if it is necessary for deciding the real controversy. However, such power is required to be exercised with caution. It cannot be used in a routine manner, especially after the conclusion of arguments. Only in exceptional situations, where the Court finds that without such recasting the dispute cannot be properly decided, such power can be exercised. No such exceptional circumstance is shown in the present case. The order of the Labour Court does not record any convincing reason why the earlier issues were insufficient or incorrect.

4. In these circumstances, the impugned order dated 10 June 2024 cannot be sustained. The proper course would be to restore the matter to the stage of arguments so that no party is prejudiced. Both sides must be given a fair opportunity to address the Court in light of the issues that will now govern the case. At the same time,

it is necessary to ensure that the proceedings do not get prolonged any further.

5. Accordingly, the Labour Court shall grant fresh opportunity to both sides to advance their arguments. Thereafter, the Labour Court shall proceed to decide the matter and deliver judgment within a period of three months from the date of receipt of this order.

6. The writ petition is disposed of in the above terms.

(AMIT BORKAR, J.)