

Sayali

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

WRIT PETITION NO.11408 OF 2025

Baljinder Kaur Nangal Chopra,

Age 55 years, Park View Apartment,

Society No.129/130, Flat No.11,

Near Sadhu Vaswani Garden,

Pimpri, Pune 411 017

... Petitioner

Vs.

**SAYALI
DEEPAK
UPASANI**

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SAYALI DEEPAK
UPASANI
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Alfa Laval India Private Limited,

Pune-Mumbai Road, Dapodi,

Pune 411 012

... Respondent

Mr. Nitin Kulkarni for the petitioner.

Mr. Nitin Khare with Mr. Akhil Kupade i/by Mr. Akhil
Kupade for respondent for the respondent.

CORAM : AMIT BORKAR, J.

RESERVED ON : APRIL 16, 2026.

PRONOUNCED ON : APRIL 18, 2026

JUDGMENT:

1. By the present petition instituted under Articles 226 and 227 of the Constitution of India, the petitioner calls in question the legality and correctness of the judgment and order dated 4 August 2025, rendered by the Industrial Court in Revision Application

(ULP) No. 37 of 2025.

2. The facts leading to the filing of the present petition, briefly stated, are as follows. The petitioner came to be appointed as a Stenographer by an order dated 27 June 1994, with effect from 4 July 1994. In terms of the said appointment order and in accordance with the administrative requirements of the respondent company, the petitioner was transferred to different departments from time to time. It is further the case that, by direction dated 9 July 2019, the petitioner was assigned to work as “Impex Support”, and at the relevant time, he was discharging duties of feeding data into the system. It is the petitioner’s case that his services came to be terminated by an order dated 19 June 2020, purportedly in terms of the conditions of employment contained in the appointment order dated 27 June 1994. The termination order, however, did not disclose any reasons whatsoever, nor did it attribute any misconduct to the petitioner. Being aggrieved by such termination, the petitioner instituted Complaint (ULP) No. 53 of 2020 on 26 June 2020 before the Labour Court at Pune under the provisions of the MRTU and PULP Act, 1971.

3. The respondent company resisted the said complaint by filing its written statement dated 6 October 2020. The principal defence raised by the respondent was that the petitioner does not fall within the definition of a “workman” under the Industrial Disputes Act, 1947, and therefore, the complaint itself was not maintainable. On this basis, a request was made to frame a preliminary issue regarding maintainability and to dismiss the complaint on the ground of lack of jurisdiction. Notably, the

respondent did not assign any reasons for termination of the petitioner's services and confined its defence to the plea that the petitioner is not a workman within the meaning of Section 2(s) of the Industrial Disputes Act, 1947, and that the termination was in accordance with the contract of employment.

4. The Labour Court, by its order dated 24 February 2021, rejected the respondent's application for framing a preliminary issue. The said order was carried in revision by the respondent by filing Revision Application (ULP) No. 20 of 2021 before the Industrial Court. The Industrial Court, by order dated 25 August 2021, allowed the said revision application and directed that a preliminary issue be framed and that the parties lead evidence thereon. Pursuant thereto, both parties adduced evidence before the Labour Court on the preliminary issue so framed. Upon appreciation of the material on record, the Labour Court, by its order dated 20 May 2022, held that the petitioner is a "workman" and also an "employee" within the meaning of Section 3(5) of the MRTU and PULP Act.

5. Being dissatisfied with the said finding, the respondent preferred Revision Application (ULP) No. 52 of 2022, which came to be dismissed by judgment and order dated 22 January 2024. After the said adjudication on the preliminary issue, the petitioner filed his affidavit in lieu of examination-in-chief before the Labour Court on 14 March 2024. It is significant that, until this stage, the respondent adhered to the defence as originally taken in the written statement. However, on 13 August 2024, the respondent moved an application seeking amendment of the written statement

by introducing additional pleadings in paragraphs 20(A) to 20(M). The petitioner opposed the said application, contending that the proposed amendment seeks to fundamentally alter the nature of the complaint from one of simpliciter termination to one of punitive termination based on alleged misconduct. It was further contended that the attempt to introduce such a case after a lapse of about four years is an afterthought, particularly when no allegation of misconduct was made in the termination order dated 19 June 2020. The petitioner pointed out that, by way of the proposed amendment, especially in paragraph 20(J), the respondent sought to allege serious misconduct on the part of the petitioner, which would materially change the nature of the dispute and cause serious prejudice.

6. The Labour Court, by order dated 1 April 2025, rejected the respondent's application for amendment. The Labour Court recorded a finding that the proposed amendment would alter the entire nature of the proceedings and would effectively change the cause of action, thereby causing prejudice to the petitioner. Aggrieved thereby, the respondent preferred Revision Application (ULP) No. 37 of 2025 under Section 44 of the MRTU and PULP Act, 1971 before the Industrial Court at Pune. The petitioner opposed the said revision by filing a detailed reply, contending that the order passed by the Labour Court is well-reasoned and does not suffer from any error apparent on the face of the record. It was further contended that the revisional jurisdiction of the Industrial Court under Section 44 is limited and akin to supervisory jurisdiction under Article 227 of the Constitution of India, and

therefore, no interference was warranted. The petitioner also pointed out that evidence on the preliminary issue had already commenced on 30 October 2021, followed by recording of evidence of the respondent's witnesses on 24 March 2022 and 19 April 2022, and that the preliminary issue was decided on 20 May 2022. It was urged that, in view of the proviso to Order VI Rule 17 of the Code of Civil Procedure, once the trial has commenced, an amendment can be allowed only upon due diligence being demonstrated. According to the petitioner, in the present case, the facts sought to be introduced by amendment were within the knowledge of the respondent since 2020, and yet, no steps were taken till 2024. Hence, the requirement of due diligence was not satisfied, and the amendment application was liable to be rejected.

7. The Industrial Court, however, by its judgment and final order dated 4 August 2025, allowed Revision Application (ULP) No. 37 of 2025 and set aside the order passed by the Labour Court in Complaint (ULP) No. 53 of 2020. Being aggrieved by the said decision, the petitioner has approached this Court by way of the present writ petition.

8. Mr. Nitin Kulkarni, learned Advocate appearing on behalf of the petitioner, submitted that the proposed amendment to the written statement, which travels beyond the scope of the termination order dated 19 June 2020, could not have been permitted in law. According to him, such permission reflects clear non-application of mind and an erroneous understanding of settled legal principles. He placed reliance upon the judgment of this Court in *Prakash Mahadev Nigampurkar v. Premier Automobiles*

Ltd., (1995) 2 LLN 373, wherein it has been observed that it is not permissible for the Labour Court to go into any allegation or charge other than that which forms the very foundation of the order of dismissal. He, therefore, submitted that the Labour Court lacks jurisdiction to permit either party to lead evidence beyond the contents of the termination order, and equally, such a case cannot be introduced by way of amendment. It was thus contended that the Industrial Court has misread the binding precedent and has failed to apply the correct position of law laid down by this Court.

9. Learned counsel further submitted that the respondent, at the time of issuing the termination order, had consciously chosen to terminate the petitioner's services without assigning any reasons and without alleging any misconduct. According to him, the respondent deliberately proceeded on the footing that the petitioner was not a "workman" within the meaning of Section 2(s) of the Industrial Disputes Act read with Section 3(5) of the MRTU and PULP Act, and effected termination by way of a simpliciter discharge, without casting any stigma upon the petitioner. It was further submitted that the Industrial Court ought to have taken into consideration that, as on the date of termination, the stand of the respondent itself was that no misconduct had been committed by the petitioner, which is evident from the fact that notice pay was tendered to him. In such circumstances, the respondent is precluded from taking a contrary stand by way of amendment, so as to now contend that the termination was on account of misconduct. According to the

petitioner, such a course is barred by principles akin to estoppel and cannot be permitted.

10. Learned counsel also submitted that the application for amendment, filed after a lapse of four years from the date of filing of the written statement, is clearly an afterthought. It was urged that, by way of the proposed amendment, the respondent seeks to introduce an entirely new defence by alleging serious misconduct on the part of the petitioner, which was never the subject matter of any charge sheet. He submitted that, in the absence of a charge sheet and a domestic enquiry, such allegations cannot be permitted to be introduced or adjudicated upon. He relied upon the judgment in *Wai Taluka Sahakari Kharedi Vikri Sangh vs. Shri Bajirao Mahadeo*, 1992 (1) CLR 637, to contend that it is impermissible for an employer to justify termination by leading evidence when no enquiry has been conducted. It was further contended that the Labour Court cannot assume the role of framing charges suo motu in the absence of a charge sheet and thereafter permit parties to lead evidence on such charges. According to him, despite this settled legal position, the Industrial Court has erroneously allowed the amendment merely on the ground that amendments can be permitted at any stage, without appreciating the legal constraints, thereby unnecessarily widening the scope of adjudication before the Labour Court.

11. He further submitted that the Industrial Court has wrongly relied upon the judgment in *Maruti Krushna Naik vs. Advani Oerlikon Ltd.*, 2024 SCC OnLine Bom 3418. It was contended that, in the said case, the termination order itself was stigmatic in

nature, and the employer had sought to justify the allegations forming part of that order by leading evidence. According to him, the said judgment cannot be read to mean that, in a case of simpliciter termination, the employer can subsequently introduce reasons or allegations of misconduct by way of amendment. He submitted that the Industrial Court has incorrectly extended the ratio of the said judgment to a situation where the termination order is *ex facie* non-stigmatic and silent as to reasons. On this basis, it was urged that the impugned order deserves to be quashed and set aside.

12. Per contra, Mr. Nitin Khare, learned Advocate appearing for the respondent, submitted that the written statement filed by the respondent primarily addressed the issue of the petitioner's status as a workman, as well as the interim reliefs sought. He submitted that, in the said written statement, the respondent had denied the allegations of the petitioner, including the contention that the termination was without reasons. He further submitted that the respondent is not seeking to reiterate its contention that the petitioner is not a workman, but is only attempting to place on record the reasons which led to the termination. It was contended that even where a termination order does not disclose reasons, the employer is entitled in law to justify the action by leading evidence before the Labour Court. According to him, the proposed amendment does not alter the nature of the complaint, nor does it cause any prejudice to the petitioner.

13. Learned counsel for the respondent also submitted that, although the petitioner has filed his affidavit in lieu of

examination-in-chief, the stage of cross-examination has not yet commenced. In such circumstances, it cannot be said that the trial has effectively commenced. He submitted that the respondent merely seeks to introduce additional pleas in the written statement, and the correctness or otherwise of such pleas can be adjudicated at the stage of final hearing. According to him, no conclusive findings ought to be rendered at an interlocutory stage while considering an application for amendment. In support of his submissions, learned counsel placed reliance upon the judgment in *Maruti Krishna Naik and others vs. Advani Oerlikon Ltd. and Another*, reported in 2024 SCC OnLine Bom 3418.

REASONS AND ANALYSIS:

14. Having heard the learned advocates for the parties and having gone through the record, this Court finds that the controversy is whether, in the facts of this case, the respondent could be permitted to bring in by amendment a new and different case, after the termination order dated 19 June 2020 had already stood on the record for years, and after the proceedings before the Labour Court had moved beyond the stage of mere pleading.

15. The petitioner was terminated by a plain order. The record placed before this Court indicates that such order dated 19 June 2020 does not contain any reason. It also does not contain allegation of misconduct. It is therefore not possible to read into that order anything beyond what is stated. The order appears to be a conscious choice taken by the respondent at the relevant time. When an employer issues such an unreasoned termination, it must

be presumed that the employer was aware of the consequences of issuing an order. In such situation, the respondent had elected its course of action. It chose to rely only upon the terms of appointment and proceeded on the footing that the petitioner was not a workman. That stand is reflected in the written statement also. Therefore, the defence was specific. Once such a position is adopted, it is not open for the respondent, after passage of considerable time, to alter the very basis of the action and contend that the termination was in fact on account of misconduct. Such a contention is a substitution of an entirely different case. Law does permit explanation or clarification. However, law does not permit a party to rewrite its original stand in a manner which changes the entire nature of the dispute. If such liberty is granted, then the sanctity of original action itself will lose meaning.

16. The submission of the petitioner that the amendment travels beyond the termination order deserves acceptance. The termination order dated 19 June 2020 must be treated as the foundational document. It defines the scope of dispute. If the employer had intention to terminate on account of alleged misconduct, then indication ought to have been reflected either in the termination order or in contemporaneous material such as charge sheet or internal record. However, no such material is shown. The record is silent on this aspect. In that background, the attempt of the respondent to introduce detailed allegations of misconduct through amendment paragraphs 20(A) to 20(M) cannot be treated as an elaboration. It is creating a new case. The nature of termination, which was originally non-stigmatic, is

sought to be converted into a punitive termination. This change affects the framework of adjudication. A simpliciter termination stands on a different footing. A termination based on misconduct requires proof, enquiry, fairness and compliance with principles of natural justice. Therefore, by permitting such amendment, the Court would be allowing a complete shift in the character of proceedings.

17. The reliance placed by the petitioner on the judgment in *Prakash Mahadev Nigampurkar* is well placed. The principle emerging from that decision is that the Labour Court cannot travel beyond the foundation of the termination or dismissal order. The order itself sets the limits of enquiry. If the order does not contain any allegation, then the Court cannot permit parties to travel outside it and create new grounds. The termination order is the basis of employer's action. If that basis is absent, the employer must stand or fall on that silence. It cannot be permitted to later supplement the order by introducing new allegations through pleadings. Such exercise would amount to validating an order on grounds which never existed at the time of its issuance. The Industrial Court appears to have overlooked this position. It has treated the amendment as if it is a procedural step, without appreciating that the amendment strikes at the root of the original cause of action.

18. The aspect of delay supports the case of the petitioner. The amendment application was filed on 13 August 2024. The written statement was of the year 2020. There is thus a gap of about four years. During this period, the proceedings had substantially

progressed. The preliminary issue was framed and decided. Evidence on that issue commenced as early as 30 October 2021. Witnesses were examined and cross-examined. Thereafter, the petitioner also filed affidavit in lieu of examination-in-chief on 14 March 2024. Therefore, it cannot be said that the matter was at an initial stage. Once trial has commenced, the proviso to Order VI Rule 17 becomes applicable. It imposes a restriction. It requires the party seeking amendment to show due diligence. That means the party must show that despite reasonable care, the matter could not have been raised earlier. In the present case, no such explanation is forthcoming. The alleged facts of misconduct, now sought to be introduced, were always within the knowledge of the respondent. They existed at the time of termination. There is no case of discovery of new material. Therefore, the condition of due diligence is clearly not satisfied. On this ground alone, the amendment is liable to be rejected.

19. The reliance placed on *Wai Taluka Sahakari Kharedi Vikri Sangh* also supports the petitioner's case. The principle laid down is that where no enquiry is conducted, and no charge sheet is issued, the employer cannot later attempt to justify the termination by leading evidence on alleged misconduct. The Labour Court is not expected to assume the role of employer and frame charges on its own. Such a course would defeat the procedural safeguards available to an employee. In the present case no charge sheet was issued, and no enquiry was conducted. The termination order is silent. Despite this, the respondent now seeks to allege serious misconduct. If such amendment is permitted, it would indirectly

allow the respondent to bypass the requirement of enquiry and to build a case which was never initiated in accordance with law. This would place an unfair burden on the petitioner and would distort the adjudicatory process. The Labour Court, therefore, was justified in refusing such amendment.

20. The submission of the respondent that it has a right to justify the termination by leading evidence cannot be accepted in the present factual situation. It is true that in certain cases, the employer may be permitted to justify its action. However, such principle is not without limitation. In the present case, the employer did not disclose any reason in the termination order. It did not initiate any disciplinary process. It did not frame any charge. Therefore, the foundation for such justification is itself absent. What is now sought is not mere justification. It is a reconstruction of the case by introducing a new basis. Law does not permit such reconstruction at a belated stage. If such course is allowed, then any employer can issue a blank termination order and later build any case according to convenience.

21. The reliance placed on the judgment in *Maruti Krushna Naik* is also misplaced. In that matter, the termination order itself contained allegations which were stigmatic in nature. The evidence was led to support what was already present in the order. The Court, in that context, permitted justification. The facts here are entirely different. The present termination order is completely silent. It does not contain any stigma. It does not refer to misconduct. Therefore, the ratio of that judgment cannot be extended to a case where the very basis of misconduct is sought to

be introduced for the first time by amendment. The Industrial Court has failed to notice this basic distinction.

22. The contention that cross-examination has not yet commenced does not materially assist the respondent. The stage of trial cannot be seen only in terms of whether cross-examination has begun or not. The proceedings have already advanced beyond the initial stage. Evidence has been led on the preliminary issue. Affidavit of examination-in-chief has been filed on merits. Therefore, the trial has effectively commenced. Even otherwise, the issue is not merely the stage of trial. The issue is whether the amendment changes the nature of defence and whether due diligence is shown. On both counts, the respondent fails. The prejudice to the petitioner is also clear and real. The petitioner challenged a simple termination. If the amendment is allowed, he will be forced to meet allegations of misconduct, without any prior notice or enquiry. This would place him in a disadvantageous position. Such prejudice cannot be ignored.

23. For all these reasons, this Court finds that the amendment sought by the respondent is not permissible in law. The Labour Court rightly rejected it. The Industrial Court erred in interfering with that order.

24. In view of the foregoing discussion and reasons recorded hereinabove, the following order is passed:

- (i) The writ petition is allowed;
- (ii) The judgment and order dated 4 August 2025 passed by the Industrial Court, Pune in Revision Application (ULP)

No. 37 of 2025 is quashed and set aside;

(iii) The order dated 1 April 2025 passed by the Labour Court, Pune below the amendment application in Complaint (ULP) No. 53 of 2020 is restored;

(iv) The application for amendment of the written statement filed by the respondent stands rejected;

(v) The Labour Court shall proceed with Complaint (ULP) No. 53 of 2020 in accordance with law and on the basis of the pleadings as they originally stand, without permitting introduction of any new case of alleged misconduct by way of amendment;

(vi) The Labour Court is requested to decide the complaint as expeditiously as possible;

(vii) Rule is made absolute in the above terms. No order as to costs.

(AMIT BORKAR, J.)