

Sayali

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

WRIT PETITION No. 17432 OF 2025

**SAYALI
DEEPAK
UPASANI**

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Bramha Dhanraj Kushwaha

Age- 60 years, DOB-01.01.1965

Aadhar Card No.499856580753

Presently having address at Gat No.62,

Plot No. 24, Mauli Ambad A. S.

Nashik, Maharashtra 422010.

... Petitioner

V/s.

1. Delta Manufacturing Ltd

Prior to 20.02.2020 known as

‘Delta Magnets Ltd’ having address

at B-87, MIDC Ambad,

Nashik, Maharashtra

2. Yuva Adarsh Kamgar Union,

having its address at Plot No.6,

Gat No.632, Near Krishna Kirana,

Mauli Chowk, Datta Nagar,

Ambad, Nashik

... Respondents

Mr. Bhavesh Parmar with Rajesh Sahani i/b Devmani Shukla, for petitioner.

Mr. Sandeep Dilip Shinde with Mr. Mrunal Pandya and Umesh Iyer, for respondent No.1.

CORAM : AMIT BORKAR, J.

RESERVED ON : APRIL 30, 2026

PRONOUNCED ON : MAY 7, 2026

JUDGMENT:

1. By the present writ petition instituted under Articles 226 and 227 of the Constitution of India, the petitioner has invoked the supervisory as well as extraordinary jurisdiction of this Court, thereby assailing the legality, propriety, and correctness of the judgment and order dated 10 March 2021, rendered by the Labour Court at Nashik in Reference (IDA) No. 28 of 2019. The said reference came to be adjudicated in exercise of powers under Section 10(1) read with Section 12(5) and Section 2-A of the Industrial Disputes Act, 1947. The petitioner, by raising the industrial dispute, had sought reliefs of reinstatement in service, continuity of employment, and full back wages. It is the grievance of the petitioner that the findings recorded by the Labour Court on the issues framed, particularly the preliminary issues, are unsustainable both in law and on facts, and therefore call for interference in the writ jurisdiction of this Court.

2. The factual matrix giving rise to the present petition, when stated in a concise manner, would indicate that the petitioner came to be employed as a permanent workman with respondent No.1 company with effect from 1 December 1990. It is not in dispute that after rendering long years of service, the petitioner was served with a charge sheet dated 15 January 2018 by respondent No.1 alleging certain acts of misconduct. Pursuant thereto, a domestic enquiry was instituted, and the Enquiry Officer, namely Advocate Geeta Bharat Pandya, conducted the enquiry proceedings in accordance with the said charge sheet. Upon conclusion of the enquiry, a report dated 20 July 2018 came to be submitted holding

the petitioner responsible for the charges levelled against him. Based upon the said enquiry report, a show cause notice dated 25 July 2018 was issued to the petitioner by respondent No.1, calling upon him to explain as to why appropriate disciplinary action should not be taken. The petitioner, in response thereto, submitted his reply, though the sequence of dates indicates certain inconsistencies, as the reply is stated to have been furnished on 27 June 2018 to a notice dated 25 July 2018, which aspect may require scrutiny in the course of adjudication.

3. Thereafter, it appears that the disciplinary authority, upon consideration of the enquiry report and the reply submitted by the petitioner, proceeded to impose the penalty of dismissal from service by order dated 30 September 2018. Being aggrieved by the said termination, the petitioner raised an industrial dispute, which culminated in a reference dated 23 May 2019 being made by the appropriate Government for adjudication of the dispute between the parties. In pursuance of the said reference, the petitioner filed his Statement of Claim on 19 December 2019, setting out the grounds of challenge to the dismissal. The respondent No.1 company contested the reference by filing its Written Statement on 11 March 2020. The Labour Court thereafter framed preliminary issues and by order dated 10 March 2021 decided the said issues. Subsequently, both parties adduced their respective evidence, with the petitioner entering the witness box on 6 May 2024 and the respondent leading its evidence on 11 December 2024. Upon appreciation of the material on record, the Labour Court proceeded to pass the consequential final order dated 14 April

2025. It is on the basis of these proceedings and the findings recorded therein that the petitioner contends that the impugned orders are vitiated and liable to be quashed and set aside.

4. Mr. Bhavesh Parmar, learned Advocate appearing on behalf of the petitioner, has assailed the impugned order on the ground that the Labour Court has failed to properly appreciate a material aspect pertaining to the conduct of the domestic enquiry. It is his submission that the Enquiry Officer, namely Advocate Geeta Bharat Pandya, who conducted the enquiry and submitted the enquiry report, was, at the relevant time in the year 2018, professionally engaged in representing respondent No.1 company, both independently and along with her husband Advocate Bharat Pandya, in various proceedings before different judicial forums. According to the learned counsel, this circumstance raises a serious issue touching upon the impartiality and independence of the enquiry proceedings, which has not been duly considered by the Labour Court. It is further contended that the Labour Court, while passing the consequential final order, has failed to examine the merits of the dispute independently and has proceeded solely on the premise that the preliminary issue had already been decided in favour of the employer by holding that the enquiry was fair and proper and that the findings recorded by the Enquiry Officer were not perverse. Such an approach, according to the petitioner, has resulted in a miscarriage of justice.

5. Inviting attention to the impugned orders as well as the evidence on record, learned counsel for the petitioner submitted that the material brought before the Labour Court unmistakably

demonstrates that the dismissal of the petitioner workman was illegal and unsustainable in law. He has particularly relied upon the cross-examination of the management witness, wherein it has been admitted that subsequent to her joining the establishment, no incident of riotous or disorderly conduct had taken place within the premises of the employer. This admission, according to the petitioner, goes to the root of the allegations levelled against him and renders the charges doubtful. It is, therefore, urged that the Labour Court ought to have appreciated this evidence in its proper perspective and ought to have granted the relief of reinstatement with continuity of service and full back wages, as the charges were not proved. On these premises, it is submitted that the impugned judgment and orders cannot be sustained and deserve to be quashed and set aside.

6. Per contra, Mr. Sandeep Shinde, learned counsel appearing on behalf of the respondent employer, has supported the impugned orders and contended that the domestic enquiry was conducted in a fair and proper manner in compliance with the principles of natural justice. It is submitted that the findings recorded by the Enquiry Officer are based on cogent evidence adduced during the enquiry proceedings and cannot be said to be either arbitrary or perverse. Learned counsel has drawn attention to the evidence of Management Witness No.1, namely Hitesh Jadhav, who was serving as Supervisor in the Production Department. It is pointed out that the Enquiry Officer has duly considered the report submitted by the said witness, wherein it is stated that on the date of the incident, while he was inspecting the factory premises, he

noticed that the workmen had abandoned their respective workstations and that the production activity had come to a halt for a period of about 25 to 30 minutes, thereby causing financial loss to the company. It is further noted that the witness observed that nine workers, along with the petitioner workman, had left their designated place of work and had proceeded towards the office premises.

7. It is further submitted on behalf of the respondent that the Enquiry Officer has also taken into account the examination-in-chief of the said witness, wherein it is deposed that on the date of the incident, the petitioner approached him and demanded issuance of a bonus slip. The witness informed the petitioner that the concerned senior officer, namely, Shri Shinde, was on leave and advised him to return on the following day. However, it is stated that the petitioner began to converse in a raised tone and subsequently started shouting, which led to other workmen of the second shift assembling at the spot under his leadership, thereby creating a tense and disturbed atmosphere. It is further deposed that the said workmen had surrounded the witness, amounting to a gherao, compelling him to submit a report regarding the incident. Learned counsel has also referred to the evidence of the third management witness, namely Shri Sanjay Bhaskarrao Khalkar, Deputy General Manager (Commercial), whose report was considered by the Enquiry Officer and whose cross-examination was also taken into account. In his report, the said witness has stated that on 11 January 2018, the petitioner, along with seven other workmen, approached him and indulged in shouting,

thereby disturbing the office environment. It is further stated that certain guests were present in the company at that time and the occurrence of such an incident in their presence adversely affected the reputation of the establishment. On the basis of this material, it is submitted that no interference is warranted and that the present petition deserves to be rejected.

REASONS AND ANALYSIS:

8. I have given anxious consideration to the rival submissions placed before this Court.

9. The first issue which needs examination is whether allegation of bias of Enquiry Officer, is proved from record in proper legal manner. The petitioner has made strong emphasis on one circumstance. It is stated that Advocate Geeta Bharat Pandya, who acted as Enquiry Officer and prepared report, was at same time appearing for respondent company in other matters, along with her husband. In law, enquiry must not only be fair but must also appear fair. Confidence of workman in process is important. However, it is equally settled that mere professional connection does not automatically invalidate enquiry. The Court has to see whether such connection has caused actual prejudice. The question is not only who conducted enquiry, but how enquiry was conducted. If petitioner was given full opportunity, if cross-examination was allowed, if defence was considered, then mere apprehension may not be sufficient. On perusal of record, no specific instance is pointed out where petitioner was denied opportunity or where Enquiry Officer acted in clearly biased

manner during proceedings. The argument of petitioner remains more in nature of suspicion. Suspicion, however strong, cannot take place of proof. Law requires some material to show real likelihood of bias. In absence of such material, it becomes difficult to set aside entire enquiry only on this ground.

10. The next contention relates to approach of Labour Court after deciding preliminary issue. It is argued that once Labour Court held enquiry to be fair and proper, it stopped further independent consideration and mechanically confirmed dismissal. The record shows that after deciding preliminary issue, proceedings continued. Both parties were given opportunity to lead evidence. Petitioner also entered witness box. Respondent also examined witnesses. Only thereafter final order was passed. It is true that reasoning of Labour Court in final order may not be very elaborate or detailed, but absence of elaborate reasoning does not always mean absence of application of mind. Court must see substance of decision. On overall reading, it cannot be said that Labour Court ignored merits. Therefore, this contention of petitioner does not fully convince.

11. Coming to the evidence, the statements of management witnesses carry importance. Witness Hitesh Jadhav has clearly stated that on the date of incident, workmen had left their workplace and work had stopped for around 25 to 30 minutes. He further stated that petitioner along with other workers went to office. It is also stated that petitioner demanded bonus slip, was told to come next day, but then started speaking loudly and then shouting. Because of this, other workers gathered and atmosphere

became tense. This version is supported by another witness, Sanjay Bhaskarrao Khalkar, who has stated that petitioner along with other workers came to office, raised voices, disturbed working atmosphere, and this happened in presence of guests, affecting reputation of company. These statements are not vague or imaginary. They form basis of disciplinary action. The enquiry officer has considered these statements. Therefore, it cannot be said that findings are without evidence.

12. The petitioner has relied upon one statement in cross-examination of management witness, where it is said that after her joining, no riotous incident had taken place. This statement needs careful reading. It may show that such incidents were not regular. But it does not deny occurrence of present incident. The charge is about one particular date. Direct evidence about that date is available on record. One general statement cannot override specific testimony. Court cannot pick one sentence and ignore rest of evidence. Entire material has to be seen together. When seen like this, employer's version still stands supported by evidence.

13. It is also necessary to consider nature of misconduct alleged. The charge relates to stoppage of work, gathering of workers, raising voices, and creating tense situation inside establishment. In industrial environment, discipline is important for smooth functioning. Workman has right to raise grievance, but not in manner which disturbs working system. If evidence shows that work was interrupted and petitioner was part of group causing such disturbance, employer cannot be blamed for taking action. Question of punishment being harsh or otherwise may arise, but

before that it must be shown that charge is not proved. In present case, material on record does not support such argument of petitioner.

14. Therefore, on cumulative assessment of all material and submissions, the petition does not deserve to be allowed. The impugned judgment and order dated 10 March 2021 passed by Labour Court, Nashik in Reference (IDA) No. 28 of 2019, along with final order dated 14 April 2025, are upheld. No ground for interference is made out.

15. The writ petition stands dismissed. There shall be no order as to costs.

(AMIT BORKAR, J.)