IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13984 OF 2023

Sandip Sukhdev Hambir ...Petitioner

V/s.

ELANTAS Beck India Ltd. ...Respondent

WITH

WRIT PETITION NO.13986 OF 2023

Sanjay Ananda Mahajan ...Petitioner

V/s.

ELANTAS Beck India Ltd. ...Respondent

WITH

WRIT PETITION NO.2252 OF 2024

Sachin Balkrushna Vadgave ...Petitioner

V/s.

ELANTAS Beck India Ltd. ...Respondent

Mr. Rahul Patil *(through vc) for the Petitioners.*

Mr. Kiran S. Bapat, *Senior Advocate with Mr. Gaurav S. Gawande i/b. M/s. Desai & Desai Associates for the Respondent.*

CORAM: SANDEEP V. MARNE, J.

Judgment reserved on : 23 JUNE 2026.

Judgment pronounced on : 1 JULY 2026.

JUDGMENT:

2026:BHC-AS:26799

1) These Petitions are filed by the Petitioners-Workmen challenging the judgments and orders dated 18 July 2023 passed by the Member, Industrial Court, Pune, allowing the Revision Applications filed by the Respondent-employer and setting aside the judgments and orders dated 30 March 2022 passed by the Labour Court No.3, Pune in the Complaints of unfair labour practices filed by the Petitioners-employees and remanding the Complaints for deciding the issue of illegality of punishment. The Labour Court had allowed Complaints of unfair labour practices filed by the Petitioners and had directed reinstatement of the Petitioners alongwith 50% backwages from the date of termination i.e. 16 December 2014. The Petitioners are aggrieved by the orders of the Industrial Court withdrawing the relief of reinstatement with 50% backwages granted by the Labour Court and remanding the Complaints and have accordingly filed the present Petitions.

2) Briefly stated, facts of the case are that the Respondent is a corporate entity engaged in the business of manufacturing chemicals. The Petitioners were appointed as Plant Operators in the manufacturing department of the Respondent-Company. While so working, domestic enquiries were initiated against the Petitioners by issuance of charge-sheets dated 1 August 2012. In those charge-sheets, the *first charge* against the Petitioners was that the Petitioners fought with the colleagues and abused the officers in filthy manner during the course of annual picnic of the Respondent-Company on 14 January 2012. In the *second charge*, it was alleged that an official (Mr. Mulla) of Pimpri Chinchwad Municipal Corporation (**PCMC**) visited the factory on 7 May 2012 on complaint of release of untreated polluted water and the said official revealed that four employees of the company had visited him in

2026:BHC-AS:26799

April-2012 with the complaint. It was further alleged that the said official of the PCMC identified the Petitioners as the complainants. It was also alleged that the official of the PCMC forwarded the complaint to Maharashtra Pollution Control Board, Pune (**MPCB**) and that an official of the MPCB visited the factory on 19 May 2012 and conducted inspections. It was alleged that the image and repute of the Respondent - Company was tarnished on account of the complaints made by the Petitioner-employees. Domestic enquiries were conducted against the Petitioners in pursuance of the charge-sheets. Upon the charges being held as proved, the services of the Petitioners were terminated from 16 December 2014 vide order dated 15 December 2014.

3) The Petitioners filed Complaints of unfair labour practices under Section 28(1) read with items 1(a),(b),(d),(f) and (g) of Schedule-IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (**MRTU & PULP Act**) before the Labour Court, Pune. The Complaints were resisted by the Respondent-Company by filing written statements. The Petitioners filed purshis and admitted the procedure approving the enquiry conducted against them. Accordingly, issue relating to fairness in the enquiry was not framed by the Labour Court. However, the issue relating to perversity in the findings of the Enquiry Officer was framed and by order dated 23 May 2018, the Labour Court passed order on preliminary issues holding that the findings of the Enquiry Officer are not based on evidence and hence perverse. The Respondent-Company filed Revision Applications before the Industrial Court challenging the orders passed by the Labour Court on preliminary issues. The Revisions preferred by the Respondent-Company were

2026:BHC-AS:26799

however, rejected by the Industrial Court by orders dated 24 January 2020.

4) The Respondent-Company thereafter led evidence to justify its action before the Labour Court. It examined Mr. Milind Prabhune, Mr. Narendra Rumale and Mr. Hasan Mulla to prove the misconduct alleged against the Petitioners. In rebuttal, Petitioners examined themselves as witnesses. After considering the pleadings, documentary and oral evidence, the Labour Court proceeded to pass judgment and order dated 30 March 2022 holding that the Respondent-Company has committed unfair labour practices. The Labour Court directed reinstatement of the Petitioners alongwith continuity of service w.e.f. 16 December 2014. The Labour Court also granted 50% backwages to the Petitioners w.e.f. 16 December 2014 till the date of their reinstatement.

5) Aggrieved by the decision of the Labour Court, the Respondent-Company filed Revision Applications before the Industrial Court, Pune, under Section 44 of the MRTU & PULP Act. By judgment and order dated 18 July 2023, the Industrial Court has allowed the Revisions preferred by the Respondent-Company and has set aside the orders passed by the Labour Court on 30 March 2022 in Complaints filed by the Petitioners-employees. The Industrial Court has held that the Respondent-Company has successfully proved the misconduct alleged against the Petitioners by leading satisfactory evidence. The Industrial Court has accordingly remanded the Complaints before the Labour Court for deciding the issue of proportionality of punishment. Aggrieved by the remand orders passed by the Industrial Court on 18 July 2023, the Petitioners have filed the present Petitions.

2026:BHC-AS:26799

6) Mr. Patil, the learned counsel appearing for the Petitioner-employees would submit that the Industrial Court has erroneously exercised revisional powers against well considered decisions of the Labour Court. That the Petitioners had successfully demonstrated before the Labour Court that the findings of the Enquiry Officer were perverse. That even before the Labour Court the evidence produced by the Respondent-Company does not prove commission of any misconduct by the Petitioners. That the Labour Court had rightly held that there was an admission by the witness Mr. Mulla (an official of the PCMC) about non-lodging of any complaint by the Petitioners against the Respondent-Company. That therefore the visit of Mr. Mulla to the Respondent-Company cannot be attributed to the conduct of the Petitioners. That the said findings recorded by the Labour Court, after appreciating evidence on record, are erroneously set aside by the Industrial Court.

7) Mr. Patil submits that so far as incident of picnic dated 14 January 2012 is concerned, the charge was rightly held to be disproved after appreciation of evidence by both the management witnesses. That there is absolutely no evidence of consumption of alcohol by the Petitioners or in respect of picking up fights with the colleagues or abusing the officer of the company. That in absence of evidence to prove the charges, the Labour Court had rightly set aside the terminations of the Petitioners. That the Industrial Court has erroneously entered the realm of re-appreciation of evidence, which is impermissible while exercising revisional jurisdiction under Section 44 of the MRTU & PULP Act. That the Industrial Court has virtually sat in appeal over the findings recorded by the Labour Court. He would therefore pray for setting aside the orders

2026:BHC-AS:26799

passed by the Industrial Court and for confirming the orders of the Labour Court.

8) *Per contra*, Mr. Bapat, the learned Senior Advocate appearing for the Respondent-Company would oppose the Petitions and support the orders passed by the Industrial Court. He would submit that the Labour Court had completely ignored the vital evidence on record while recording perverse findings in respect of proof of the charges levelled by the Respondent-Company against the Petitioners. That the Respondent-Company has produced ample evidence in the form of witnesses - Mr. Milind Prabhune, Mr. Narendra Rumale and Mr. Hasan Mulla to prove both the charges. That the person, who was abused, was examined before the Labour Court. Similarly, the person, who had witnessed misbehaviour of the Petitioners during picnic incident was also examined in the enquiry. That Mr. Mulla, an official of PCMC gave specific evidence of Petitioners complaining about release of untreated chemicals by the Respondent-Company. That all these vital pieces of evidence were erroneously ignored by the Labour Court, which are rightly taken into consideration by the Industrial Court. He submits that since there is some evidence on record, findings recorded by the Industrial Court need not be interfered by this Court in exercise of jurisdiction under Article 227 of the Constitution of India. He would accordingly pray for dismissal of the Petitions.

9) Rival contentions urged on behalf of the parties now fall for my consideration.

10) The Petitioners are aggrieved by orders of remand passed by the Industrial Court on 18 July 2023 whereby the Industrial Court has set

2026:BHC-AS:26799

aside the orders of the Labour Court and has remanded the Complaints for deciding the issue of proportionality of punishment after holding that charges against the Petitioners are proved on the basis of evidence on record. Complaints are thus still pending before the Labour Court for deciding the issue of proportionality of punishment. However, the relief of reinstatement with 50% backwages granted by the Labour Court is withdrawn by the Industrial Court. Petitioners have filed the present Petitions aggrieved by the remand orders. By order dated 7 November 2023, this Court has deferred the proceedings remanded before the Labour Court.

11) The short issue that arises for consideration in the present Petitions is whether the Respondent-Company has proved the charges levelled against the Petitioners in charge-sheets issued to them. In charge-sheets dated 1 October 2012, two charges were levelled against the Petitioners as under:-

> It is reported against you as under-
>
> The Annual Picnic of the Company was organized at Diamond Water Park, Lohegaon, Pune on 14th January 2012.
>
> It is reported that on 14th January 2012, during picnic, you consumed alcohol and were under influence of the same. The employees reached the place of picnic at about 0915 hrs. and there were approx. 85 no. of workers and officers who participated in the same. You consumed the liquor along with your colleagues and at about 1630 hrs. You started fights with colleagues and abused the officers in a very filthy manner. Your act maligned the image of the Company and the Management of Diamond Park informed Mr. Milind Prabhune who was in charge of the picnic that they will not allow our Company to use their premises in future
>
> It is further reported against you that -
>
> You are working in manufacturing department of the Company. The Company is engaged in manufacturing of chemicals and hence the subject matter of Environment and Pollution is very sensitive.

> Mr Mulla, Officer of Pimpri-Chinchwad Municipal Corporation (PCMC). Environment Cell, visited the factory on 7th May 2012 on a complaint of Pollution and inspected the factory. It was reported to him that Company is draining out polluted water out of the company without any treatment. Mr. R.S. Zaware, Manager- EHS, Mr. Prabhune- Sr Manager- Engg & Maint., Mr.S.G. Moghe - Sr Manager-Manufacturing attended Mr. Mulla. When the officers of the company asked Mr.Mulla as to who had made this complaint, then Mr. Mulla told that four employees of the company visited him in April 2012 and made such a complaint. Mr. Mulla agreed to visit the company and accordingly he visited on 7th May 2012 at 1210 hrs. Mr. Mulla visited the canteen along with these officers and he identified you as one of the complainant.
>
> Thereafter Mr. Mulla inspected the entire factory and it was revealed that there was no such polluted water drained out of the company.
>
> Before this, Mr Mulla, Officer of PCMC had also forwarded your complaint to MPCB, Pune. Accordingly, Mr. Gandhe, one of the higher ranked authority of MPCB, Pune, visited the factory along with Mr. Deshmukh, Mr. Kardile officers of MPCB on 19th May 2012. They also thoroughly inspected the company. Again on three more occasions i.e. on 22nd May 2012, 23rd May 2012 and 14th June 2012 the officers to the MPCB visited the factory for further inspection. The image and repute of the company is very high among the Government Officers, but because of your complaint it was tarnished and they became prejudiced against the Company.
>
> After all such visits it was revealed that your complaint was false. The visits of the officers continued at higher frequency as you had made false complaints. These frequent unplanned visits of Govt. Officials had caused lot of inconvenience to the Company Officials as they had to spend time from their busy schedule to explain them the entire system respectively all over again and again. You have maligned, tarnished & damaged the image of the Company in the eyes of Govt. Office and in Public.

12) Petitioners thus faced two charges relating to picnic incident of 14 January 2012 and in respect of the allegation of making complaints to PCMC about the Respondent-Company draining out polluted water without any treatment. As observed above, the charges were held to be proved in the domestic enquiry leading to punishment of termination of

2026:BHC-AS:26799

services of the Petitioners. The Petitioners did not dispute fairness in the enquiry by filing purshis. However, preliminary issue relating to perversity in the findings of the Enquiry Officer was decided against the Respondent-Company and in favour of the Petitioners by order dated 23 May 2018. The said order of preliminary issue has attained finality on account of dismissal of revisions preferred by the Respondent-Company. The Respondent-Company therefore examined three witnesses-Mr. Milind Prabhune, Mr. Narendra Rumale and Mr. Hasan Mulla to prove the misconduct alleged against the Petitioners in the charge-sheets. The Labour Court has reproduced the evidence of three witness of the Respondent-Company and of the Petitioners. However, so far as the first allegation of incident of fighting with the colleagues, abusing the officers of the Respondent-Company in filthy language and maligning the image of the Company are concerned, the Labour Court apparently did not record detailed findings as to why the misconduct alleged in the first charge cannot be held to be proved. After discussing the evidence of the witnesses in paragraph 8(Mr. Milind Prabhune), paragraph 9 (Mr. Hasan Mulla), paragraph 10 (Mr. Narendra Rumale) and paragraph 11 (the Petitioners-employees), after enumerating the documents and charges in paragraph 12 and after recording submissions of the counsel appearing for rival parties in paragraph 13, the Labour Court has recorded following cursory findings in paragraph 14 of its order for holding that the Respondent-Company has failed to prove the charges against the Petitioners with oral and documentary evidence:

> 14) After considering above discussion, documentary and oral evidences it shows that the charge-sheet was issued to the complainant for the misconduct under Standing Order's clause 24(a), 24(k) and 24(l). The (Exh. C-19), (Exh. C-20) shows that Mr. Mulla visited the respondent company, but the purpose of the said visit did not mention on a said document. (Exh. C-26) and (Exh. C-27) also failed to show whether any

2026:BHC-AS:26799

complaint made by the complainant and his colleague against the respondent company. As far as oral evidences are concerned Mr. Mulla in his cross-examination admitted that Mr. Hambir, Mr. Mahajan, Mr. Vadgave and Mr. Adsul never made any complaint against the respondent company. (Exh. C-21) is the copy of agreement along with terms and conditions. But, the respondent failed to show how the said terms are violated by the complainant with documentary and oral evidence. Furthermore, there is no documentary or oral evidences which show that complainant consumed alcohol and under the influence of the same fights with colleagues and abused the officers in filthy manner. There is nothing on record to show that complainant made complaint against the respondent company regarding draining out polluted water out of the company without any treatment and complainant violated any terms of the agreement.

All above discussion shows that Mr. Prabhune admitted in the cross-examination that someone made complaint to the MPCB against respondent company. Mr. Mulla admitted in the cross-examination that complainant and his colleague did not lodge any complaint against the respondent company. Mr. Mulla came to the respondent company for investigation. But, the said fact can't prove that complainant and his colleague made any complaint against the respondent company. Furthermore, in the cross-examination of the complainant nothing incriminating submissions came out from the mouth of the complainant. All these aspects shows that the respondent was engaged in unfair labour practices. The learned Advocate of the respondent has impressively and nicely presented the principle of preponderance of probability, concept of alibi, concept of victimization, concept of patently false reasons. But, the oral evidences, documentary evidences, admissions came out from the mouth of the witnesses of the respondent are not corroborated and guarded by the said principles. In the present matter the respondent failed to prove the charges leveled against the complainant for the misconduct under standing orders 24(a), 24(k) and 24(l).

The present complaint is filed under Section 28 (1) read with Item 1 (a), (b), (d), (f) and (g) of the Sch. IV of the MRTU & PULP Act, 1971. After vitiating the enquiry the opportunity was given to the respondent. But, the respondent failed to prove the charges against the complainant with oral and documentary evidence. Therefore, the said termination amounts to an unfair labour practices under item 1 of the Sch. IV of the MRTU & PULP Act, 1971 and the punishment of dismissal inflicted on the complainant is shockingly disproportionate. Therefore, he is entitled to reinstate in his original post with continuity of service.

13) Thus, there are absolutely no findings of the Labour Court as to why the first charge relating to the picnic incident cannot be held to be

2026:BHC-AS:26799

proved against the Petitioners. It appears that the two witnesses of the Respondent-employer viz., Mr. Milind Prabhune and Mr. Narendra Rumale have clearly gave evidence about picnic incidents. The witness-Mr. Narendra Rumale also gave account of behaviour of Petitioners during picnic on 14 January 2012. The Labour Court has discussed evidence in paragraph 10 of the order as under:

> 10) The respondent filed evidence affidavit of Shri Narendra Rumale at (Exh. C24) wherein he stated that the respondent company had organized annual picnic of workers and officers of the company at Diamond Water Park Lohagaon on 14.1.2012. I had attended the said picnic. I state that there were about 85 participants in the said picnic. The transport arrangement was made by the respondent company. There were various programmes organized at the picnic and all were enjoying the same. The complainant was one of the participant in the said picnic. I sate that during the after noon at about 3 to 4 PM, the complainant was found under the influence of alcohol and started abusing. Thereafter there started a fight among the workman which I tried to intervene. The said abusing was culminated in the physical assault and the complainant started assaulting me. I state that Mr. Prabhune separated the complainant from the said fighting. I state that the complainant was totally under the influence of alcohol and his mouth was smelling alcohol very strongly and he was abusing the officers of the company in very filthy language. I state that the participants started feeling very un-occurred. I state that due to the said incidence Mr. Prabhune pack-up the picnic early and to return back. I state that due to the said incidence the image of the company got maligned. I state that the image of the company was badly spoiled among the public.
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> In the cross-examination Mr. Rumale admitted that there was a fight among the workers where he intervened and at that time he was assaulted by the workers. He further admitted that the name of the workers who assaulted are complainant, Sanjay Mahajan, Vadgave, Sardar Patil, Kirdak and Datta Mahajan. He further admitted that he can not give the details of the fight among the workers. Due to the said fight Mr. Rumale was bruised. But, he did not take any medical treatment for that. He further admitted that he made the complaint orally and did not follow up his complaint. He further admitted that workers were not medically examined but, it was his doubt that they were consumed alcohol. He further admitted that he did not make complaint against Mr. Kapadnis and Mr. Shete and he did not know if Diamond Water Park Management communicated to the company regarding said incident.

2026:BHC-AS:26799

14) In my view, there is sufficient evidence on record in respect of the allegations levelled against the Petitioners in respect of the picnic incident of 14 January 2012. Mr. Rumale has deposed about Petitioners being under influence of alcohol. He has personally witnessed the act of abusing as well as assaulting. Witness-Mr. Rumale was victim of abusing and assault by the Petitioners and there is thus direct evidence to prove charge No.1.

15) So far as Charge No.2 is concerned, the Labour Court has proceeded to hold the same as disproved on the basis of alleged admission by witness-Mr. Mulla that the Petitioners did not lodge any complaints against the Respondent -Company. However, this finding of the Labour Court is contrary to evidence of Mr. Mulla. Evidence of Mr. Mulla is discussed by the Labour Court in paragraph No.9 of the order, which reads thus:-

> 9) The respondent also examined Mr. Hasan Mulla at (Exh. C-24A). Wherein he stated that he was officer of Pimpri Chinchwad Municipal Corporation Environment Cell. To resolve the complaint regarding pollution against the respondent factory within the PCMC, the Corporator had verbally complained to him. Employees of the respondent factory i.e. Mr. Hambir, Mr. Mahajan and Mr. Vadgave, Mr. Adsul went to the Corporation and made complaint. Thereafter, they visited Mr. Mulla various times and enquired about their complaint. Thereafter, Mr. Mulla went to the corporation and he accompanied with one person to visit the respondent factory. Mr. Mulla inspected all the spots in the respondent company / factory. He further stated that, he visited to the respondent factory on oral complaint of pollution. He entered in the respondent company after making gate pass. He further stated that the respondent company was following all the norms of the pollution and environment. He further stated that he inspected all the area of the respondent company along with Mr. Prabhune. He further stated that during the said visit, he identified one Mr. Mahajan, Mr. Hambir and two other persons. He further stated that his signature is on the gate pass and the text in it is true and correct. He further stated that Mr. Prabhune took him inside the respondent company. He gave them the idea that dirty water from the respondent company is being discharged from the company's outlet and it causes inconvenience to the citizens of Gandhinagar slums. Thereafter, he went with Mr.

2026:BHC-AS:26799

> Prabhune to see the sewage treatment project. After investigation he did not find any objectionable thing. During the said visit he recognized the employees of the respondent company i.e. Mr. Mahajan, Mr. Hambir and Mr. two other persons. The said persons made oral complaint and therefore, he visited the respondent company.
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> In the cross-examination he admitted that, except his words there is no any other evidence to show that his superior officer ordered him to visit the respondent company / factory. He further admitted that Corporator made complaint. The employees of the respondent company have not made any complaint. He further admitted that Corporator Shri Kailas Kadam has not given name of the persons who made complaint against the respondent.
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> In the cross-examination Mr. Mulla submitted that on 7.5.2012 he visited the respondent company. He further admitted that he has no documentary evidence to show that complainant came to him. He further admitted that the said complaint had no connection with the three workers / employees of the respondent. He further admitted that when he visited the company he did not find anything objectionable. The report of the said visit submitted to his senior. He further admitted that the said complaint was lodged by Mr. Kailas Kadam. The said complaint was signed by Mr. Kailas Kadam only.

16) Thus, there is direct evidence of the Petitioners visiting the office of the PCMC and making complaints against the Respondent -Company. There is evidence on record to indicate that Petitioners had approached Corporator, who had in turn complained to Mr. Mulla about allegation of the Respondent-Company releasing untreated polluted water. Instead of taking into consideration direct evidence of Mr. Mulla about Petitioners complaining to the Corporator and Corporator making verbal complaint to him, the Labour Court has given a clean chit to the Petitioners by recording a perverse finding that no complaints were lodged by the Petitioners against the Respondent-Company. Thus, the act of the Petitioners in approaching the Corporator to complain about activities of the Respondent-Company is clearly proved by cogent evidence on record. Under the Agreement at Exhibit C-3, the employees were prohibited from disclosing any information relating to the Company. Clause 1 of the said Agreement reads thus:

> 1. The employee shall not at any time either during the continuance of the employment or after he ceased to be the employee of the company for any reason whatsoever, except with the prior consent or direction of the Company in writing, divulge or disclose in any way, any information relating to the company or associate company or relating to the business, trade, manufacturing process, formulae, methods, machines, compositions, business secrets, manufacturing secrets dealings, transactions or affairs of the Company.

17) If Petitioners had any grievance against the activities of the Respondent, it was not open for them to directly approach a municipal corporator and put political pressure for ensuring that action is initiated against it. Petitioners thus acted against the interest of their own employer. Action of the Petitioners in approaching municipal corporator complaining about draining of polluted water without treatment resulted in inspections and visits of officers of PCMC and MPCB. The Respondent-Company was required to defend itself in respect of the allegations alleged by its own employees. Such an act on the part of the employees clearly amounts to misconduct. An employee is employed for working in the interest of the employer. The moment it is noticed that employee indulges into activities contrary to the interest of the company by approaching external authorities, the employer is justified in punishing the employee. What would be the appropriate punishment for such misconduct is something which the Labour Court would decide by adjudicating the remanded complaint. As of now, it cannot be contended that the act of the Petitioners in approaching the municipal corporator for conduct of investigations against the Respondent would not amount to misconduct.

18) In a domestic enquiry, the test for proving the misconduct is preponderance of probabilities. The misconduct alleged need not be

2026:BHC-AS:26799

proved beyond reasonable doubt. So long as there is some evidence on record, Courts and Tribunals are precluded from branding findings of guilt as perverse. It is only in cases where there is total absence of evidence that the findings of perversity can be recorded. The law in this regard is well settled. Reference in this regard can be made to the judgment of the Apex Court in ***Kuldeep Singh V/s. The Commissioner of Police and Ors.***[1]. The Hon'ble Apex Court held in paragraph 10 as under:

> 10. A broad distinction has, therefore, to be maintained between the decisions which are perverse and those which are not. If a decision is arrived at on no evidence or evidence which is thoroughly unreliable and no reasonable person would act upon it, the order would be perverse. But if there is some evidence on record which is acceptable and which could be relied upon, howsoever compendious it may be, the conclusions would not be treated as perverse and the findings would not be interfered with.

19) In ***State of Haryana and Another V/s. Rattan Singh*** [2] the Apex Court has held in paragraph 4 of the judgment as under:

> 4. It is well settled that in domestic enquiry the strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. It is true that departmental authorities and Administrative Tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the Indian Evidence Act. For this proposition it is not necessary to cite decisions nor text books, although we have been taken through case-law and other authorities by counsel on both sides. The essence of judicial approach is objectivity, exclusion of extraneous materials or considerations and observance of rules of natural justice. Of course, fairplay is the basis and if perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached, such finding, even though of a domestic tribunal, cannot be held good. However, the courts below misdirected themselves, perhaps, in insisting that passengers who had come in and gone out should be chased and brought before the tribunal before a valid finding could be recorded.

1 1999 2 SCC 10

2 1977 2 SCC 491

2026:BHC-AS:26799

> The 'residuum' rule to which counsel for the respondent referred, based upon certain passages from American Jurisprudence does not go to that extent nor does the passage from Halsbury insist on such rigid requirement. The simple point is, was there some evidence or was there no evidence not in the sense of the technical rules governing regular court proceedings but in fair commonsense way as men of understanding and worldly wisdom will accept. Viewed in this way, sufficiency of evidence in proof of the finding by a domestic tribunal is beyond scrutiny. Absence of any evidence in support of a finding is certainly available for the court to look into because it amounts to an error of law apparent on the record. We find, in this case, that the evidence of Chamanlal, Inspector of the Flying Squad, is some evidence which has relevance to the charge levelled against the respondent. Therefore, we are unable to hold that the order is invalid on that ground.

20) In ***Abhyudaya Co-operative Bank Ltd. V/s. Smita Virendra Patil***[3] this Court has considered the misconduct of approaching police complaining about the transfer effected by the employer and bringing police to the bank to question the Officer about transfer of the employee. This Court has held in paragraph 24 of the judgment as under:

> 24. In the present case, it is difficult to conclude that the act of the Respondent in addressing complaints to various authorities relating to functioning of the Bank cannot amount to misconduct particularly in the light of the fact that the Bank was required to respond to various authorities. The degree of misconduct and nature of punishment warranted for the same is an altogether different issue, which can be considered and decided at the time of final disposal of the complaint. In every case it is not necessary to prove cause of defamation or tarnishing of image of the employer. When allegations are levelled by an employee about functioning of the employer with regulatory and other authorities and when employer is required to give explanation and defend himself in respect of those allegations, it cannot be held that the act of employee would never amount to misconduct. The nature of allegations and the authorities before whom the same are levelled may determine the gravity of misconduct. As of now, this Court is not going into the issue of seriousness of misconduct. Suffice it to observe that the allegations levelled in the second charge amount to some misconduct on the part of the Respondent.

21) In my view, there is ample evidence on record in the present case to prove both the allegations against the Petitioners. The Labour Court had egregiously erred in holding that charges levelled against the

3 WRIT PETITION NO.10929 OF 2024, decided on 18 June 2026

2026:BHC-AS:26799

Petitioners were not proved on the basis of evidence led by the Respondent-Company before it. In my view, therefore, the Industrial Court has rightly set aside the orders passed by the Labour Court. As observed above, the Industrial Court has not dismissed the Complaints filed by the Petitioners while setting aside the orders of the Labour Court. It has merely remanded the proceedings for fresh adjudication on issue of legality of punishment. Both the charges are found to have been proved against the Petitioners. Whether the punishment of termination is proportionate to misconduct proved or not is something which the Labour Court would determine after considering the gravity of misconduct. In that view of the matter, I am not inclined to interfere in the orders passed by the Industrial Court.

22) Writ Petitions are devoid of merits. They are accordingly **dismissed** with no orders as to costs. The Labour Court shall decide the remanded Complaints uninfluenced by the observations made in the judgment.

[SANDEEP V. MARNE, J.]