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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12118 OF 2018

Narendra Narayan Navgire,
B-2, Kukhwai Woods, Ganeshnagar,
Near Wini Yard Church, Dapodi,
Pune – 411 012 ... **Petitioner**

Vs.

Atlas Copco (India) Limited,
Seva Nagar, Pune-Mumbai Road,
Dapodi, Pune 411 012 ... **respondent**

Mr. Nitin Kulkarni for the petitioner.

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

CORAM : AMIT BORKAR, J.

RESERVED ON : APRIL 9, 2026.

PRONOUNCED ON : APRIL 10, 2026

JUDGMENT:

1. The present writ petition is instituted under Articles 226 and 227 of the Constitution of India, whereby the petitioner has invoked the supervisory and extraordinary jurisdiction of this Court for the purpose of assailing the Judgment and Awards dated 12 July 2016 and 3 November 2016 rendered by the Labour Court at Pune in Reference (IDA) No. 215 of 2010.

2. The factual matrix giving rise to the present writ petition, as set out by the petitioner, is that the petitioner came to be appointed in the capacity of a driller on 11 April 1981, and in due course was transferred to the purchase department. It is the case of the petitioner that two charge-sheets dated 25 April 2006 and 21 June 2006 were issued against him, alleging commission of misconduct under the Certified Standing Orders, including allegations pertaining to fraud and acceptance of illegal gratification. It is further stated that, upon conclusion of the domestic enquiry and on the basis of the findings recorded by the Enquiry Officer, the services of the petitioner came to be terminated by order dated 2 November 2009.

3. The record further indicates that the petitioner instituted proceedings by filing a Statement of Claim on 15 July 2010, to which the respondent-company filed its written statement in the year 2011. Upon completion of pleadings, the Labour Court framed issues on 9 September 2011, which included, inter alia, a preliminary issue with regard to the legality and propriety of the domestic enquiry and the sustainability of the findings recorded by the Enquiry Officer. The Labour Court thereafter proceeded to pass Part I Award dated 12 July 2016, holding that the enquiry conducted was fair and proper and that the findings recorded therein were justified. Subsequently, on 28 September 2016, the petitioner entered the witness box and led evidence on the aspects of past service record and alleged absence of gainful employment.

4. Thereafter, the Labour Court proceeded to deliver the Final Award on 3 November 2016, whereby the reference came to be

dismissed. The said Award was thereafter published in the Official Gazette on 4 February 2017. Being aggrieved by both the Part I Award as well as the Final Award, the petitioner has approached this Court by way of the present writ petition.

5. Mr. Kulkarni, learned Advocate appearing on behalf of the petitioner, submitted that the Labour Court, while rendering its Part I Award, has proceeded on an erroneous premise in holding that the findings recorded by the Enquiry Officer cannot be termed as perverse on the ground that the Labour Court has no jurisdiction to re-appreciate or review the evidence on record, and that it cannot assume the role of an Appellate Authority over the decision of the Enquiry Officer. It is submitted that the Labour Court placed reliance upon the judgment of this Court in *Kuldeep Kumar Sethee vs. R.S. Sharma, CMD, ONGC & Others*, 2011 (3) Mh.L.J. 215, and on that basis concluded that re-appreciation of evidence is impermissible. According to the learned counsel, such reliance is wholly misplaced, inasmuch as in the said case the writ petition was directly filed under Article 226 of the Constitution challenging disciplinary action taken under service rules, where an appellate remedy had already been exhausted before the Chairman and Managing Director. In that context, this Court held that it would not re-appreciate evidence as an appellate forum. It is therefore contended that application of the said principle to proceedings arising under the Industrial Disputes Act is manifestly erroneous, since in such matters the statutory scheme itself confers wider powers upon the adjudicatory authority, unlike the limited scope of judicial review under Article 226.

6. It is further submitted that in the present case the proceedings arise under the Industrial Disputes Act, 1947, and by virtue of the amendment introducing Section 11-A, wide powers have been conferred upon the Labour Court and Tribunal. Reliance is placed on the judgment of this Court in *E. Merck (India) Limited, Bombay vs. V.N. Parulekar & Others*, 1991 Mh.L.J. 540, wherein the distinction between the legal position prior to and subsequent to 15 December 1971 has been considered. It is submitted that this Court has categorically held that after incorporation of Section 11-A, the Tribunal is under an obligation to re-appraise the evidence and independently satisfy itself whether the alleged misconduct is proved. It has also been observed that framing of an issue limited to perversity of findings of the Enquiry Officer is erroneous and contrary to the intent of Section 11-A, which is a beneficial provision conferring substantive powers upon the Tribunal.

7. On the basis of the aforesaid statutory framework, it is submitted that after the amendment to Section 11-A, it is not merely permissible but obligatory for the Labour Court to re-appreciate the evidence adduced in the domestic enquiry and arrive at its own independent conclusion as to whether the charge of misconduct stands proved to its satisfaction. Learned counsel further submitted that in the present case, the Labour Court, while passing the Part I Award, proceeded to decide the preliminary issues framed below Exhibit 0-5 by order dated 9 September 2011, and confined its consideration to the fairness of the enquiry. The Labour Court held that the enquiry was fair and proper on the

ground that adequate opportunity was afforded to the petitioner to defend himself. It is contended that mere compliance with procedural requirements does not validate the conclusions drawn in the enquiry. The Labour Court was required to examine whether there existed substantive and reliable evidence to establish misconduct. According to the petitioner, though the enquiry may be procedurally valid, the evidentiary basis for sustaining serious charges is wholly inadequate. It is further submitted that while dealing with Issue No. 3(1), the Labour Court, in paragraphs 15 to 25, has merely reproduced the charge-sheet and the evidence led by both sides, without recording any reasons as to how such material establishes misconduct. The conclusion that findings are proper and supported by evidence has been reached without analysis or application of mind. It is therefore contended that the said findings are unreasoned and unsustainable in law.

8. Without prejudice to the aforesaid submissions, learned counsel invited attention to the evidence recorded in the enquiry and submitted that Witness No. 1, Mr. Samir Marathe, though examined, was not made available for cross-examination. Consequently, his evidence was rightly discarded by the Enquiry Officer and could not have been relied upon. Insofar as Witness No. 2, Mr. Shripad Khire, is concerned, it is submitted that his testimony merely refers to the existence of multiple copies of purchase orders and the fact that Mr. Samir Marathe had access to the system. It is contended that in his examination-in-chief, there is no allegation that the petitioner had manipulated any purchase order. In cross-examination, the witness admits lack of knowledge

regarding the petitioner's duties and also states that the Accounts Department issued cheques to vendors. He further admits ignorance of the charge-sheet. It is therefore submitted that his evidence does not establish any misconduct attributable to the petitioner. With regard to Witness No. 3, Shri Vishwas Deshpande, it is submitted that he relies upon an investigation report marked at Exhibit 40. However, in cross-examination, he admits that he did not verify whether any purchase order was altered, and that there is no independent evidence apart from his assertions regarding alleged manipulation. He further admits that his conclusions are based on circumstantial material and that the relevant electronic evidence was neither shown to the petitioner nor produced on record. It is thus contended that his testimony fails to establish the alleged misconduct. As regards Witness No. 4, Mr. Pratik Raut, it is submitted that his evidence is confined to the existence of a password-protected system and the fact that users have access thereto. In cross-examination, he admits that no documentary evidence or printouts demonstrating alleged manipulation were produced. It is therefore submitted that his evidence does not advance the case of the management.

9. In relation to Witness No. 5, Mr. Murli Nair, the vendor, it is submitted that though he deposed in examination-in-chief and was cross-examined, his testimony suffers from material inconsistencies. He admits existence of a rate contract but fails to produce it. He also admits discrepancies in dates, indicating that material was received prior to issuance of purchase orders. The documentary evidence produced, including invoices and exhibits,

indicates that purchase orders were issued subsequently. He further admits absence of proof regarding alteration of base rates and absence of any evidence showing payment of illegal gratification to the petitioner. It is thus submitted that the evidence on record does not establish manipulation by the petitioner, and yet the Enquiry Officer has relied upon discarded evidence and drawn adverse conclusions merely on the basis that the petitioner had access to the system.

10. It is further submitted that the Labour Court has failed to analyse the aforesaid evidence, despite specific contentions being raised. Instead, by relying upon a judgment rendered in the context of Article 226, it has concluded that misconduct is proved without undertaking independent evaluation of evidence. This approach, it is submitted, is contrary to the law laid down in *E. Merck (India) Ltd.* (supra), which mandates re-appreciation of evidence under Section 11-A. The Labour Court has neither discussed the cross-examination nor recorded reasons, and has reached a conclusion which is perverse.

11. It is lastly submitted that once the Part I Award was decided against the petitioner, the Labour Court proceeded to pass the Final Award on the premise that the misconduct stood proved, and consequently held that the punishment imposed cannot be said to be disproportionate. It is therefore submitted that both the Awards are liable to be set aside, and the writ petition deserves to be allowed.

12. Per contra, Mr. Bapat, learned Senior Advocate appearing for the respondent, submitted that the report submitted by Mr. Vishwas Deshpande clearly explains the modus operandi adopted by the petitioner in collusion with Mr. Murli Nair of M/s Shrikrishna Packaging Industries. It is submitted that the petitioner facilitated raising of inflated invoices, altered purchase order rates during the relevant accounting period, and thereafter restored the original rates to conceal the manipulation. The back-up data of the purchase order system is stated to support this conclusion. It is contended that though the investigation involved technical aspects, it is not necessary that every detail be personally verified by the reporting officer, and the essence of the findings remains valid.

13. It is further submitted that Mr. Murli Nair, in his evidence, has deposed regarding payment of illegal gratification and the manner in which inflated billing was carried out. Though withdrawal of cash from bank may not conclusively establish payment, it lends corroboration to his testimony. It is submitted that documentary evidence, including exhibits 26(1), 26(2) and 26(3), clearly demonstrates that while the purchase order reflected a lower amount, the invoices were raised for substantially higher sums, resulting in excess payment received by the vendor.

14. Learned Senior Counsel further submitted that the instances detailed in the report of Mr. Vishwas Deshpande, supported by documentary exhibits, clearly establish inflation of invoice amounts in multiple transactions. It is contended that the original purchase order values were altered and inflated invoices were

submitted, resulting in wrongful gain to the vendor.

15. It is also submitted that Mr. Murli Nair has admitted in his evidence that inflated bills were submitted in respect of various transactions, including those under purchase order dated 19 April 2006, and that he has received such excess amounts.

16. On the basis of the cumulative evidence, it is submitted that there is no dispute that inflated billing has occurred, as admitted by the vendor himself and supported by documentary material. The evidence of Mr. Vishwas Deshpande explains the manner in which such manipulation was carried out, and the access of the petitioner to the system further supports the conclusion of his involvement. It is therefore submitted that the findings recorded in the enquiry are justified and no interference is warranted. The learned Senior Counsel accordingly prayed for dismissal of the writ petition.

REASONS AND ANALYSIS:

17. I have given anxious consideration to the rival submissions. The petitioner has attacked both the Part I Award and the Final Award passed by the Labour Court. The main grievance is that the Labour Court has wrongly understood its power under Section 11-A of the Industrial Disputes Act and has treated itself as if it has no authority to look into the evidence again. The respondent, on the other hand, says that the enquiry record itself is full with material against the petitioner and that the misconduct is proved by documents, admissions and the report of investigation. On this issue, one thing must be kept clear. The power under Section 11-A

is not a small power. After the amendment, the Labour Court is not expected to sit idle and only see whether the enquiry officer has followed procedure. It has to look into the evidence and see whether the charge is really proved. So the submission of the petitioner that the Labour Court could not reappreciate the evidence cannot be accepted in that broad form. The law does permit such examination. The reliance placed by the Labour Court on a judgment rendered in the background of Article 226 proceedings was not the correct approach for a case arising under the Industrial Disputes Act.

18. At the same time, merely because the Labour Court used a wrong expression or cited a case from a different context, the whole matter does not end there. The record has still to be seen on its own strength. The question is whether the material before the Enquiry Officer and the Labour Court was enough to sustain the charge. The charge was not a light one. It was of manipulation of purchase orders, inflated bills and wrongful gain in connivance with a vendor. In such matters, direct eye-witness proof is not always available. The case often rests on documents, system access, chain of events and conduct of persons involved. That is why the evidence has to be seen with care and in a practical manner, not with too much technical narrowness.

19. So far as Witness No. 1, Mr. Samir Marathe, is concerned, the petitioner is right in saying that his evidence could not be safely used if he was not available for cross-examination. Such evidence by itself cannot be treated as full proof against the delinquent. But that does not carry the petitioner's case to the full extent, because

the management did not rely only on this witness. The enquiry record shows other witnesses and documents also. Witness No. 2, Mr. Shripad Khire, may not have directly stated that the petitioner altered the purchase order, yet his evidence is not without meaning. He speaks about the existence of copies of purchase orders, access to the system and the role of the Accounts Department. His evidence may not be sufficient alone to fasten guilt, but it does show the internal working of the system and the manner in which purchase orders moved. In disciplinary matters, one piece of evidence may not complete the whole chain, but many pieces taken together may do so. This witness gives one part of that chain.

20. The more important evidence is that of Mr. Vishwas Deshpande. He relied upon the investigation report and he was cross-examined. It is true that in his cross-examination he admitted that he did not himself verify every technical act of manipulation. Yet his evidence cannot be rejected only on that ground. He stated that the purchase department issued purchase orders, that the changes in rates were not verified by him personally in each instance, and that the conclusion was drawn from the record and system material. The petitioner stresses that he admitted there was no evidence except his words about the alleged manipulation. That part of the cross-examination is not to be read in isolation. The report and the supporting documents are also part of the record. When a witness gives a report on the basis of technical backup and system entries, the court has to see the whole material. The petitioner cannot succeed only by saying that the witness did not

himself sit and operate the system. In a case like this, one may take help of technical persons and still speak to the result of investigation. The real question is whether the conclusion is supported by surrounding material. On this aspect, the respondent has some strong support.

21. The evidence of Mr. Pratik Raut also cannot be dismissed as wholly useless. He spoke about password protection and user access. True, he did not produce printouts of each alleged manipulation. Still, his evidence goes to show that the system was not open to everyone and that access was controlled. That fact, when read along with the report and the vendor's evidence, becomes relevant. It shows how the purchase orders could have been changed by a person having access. The petitioner tried to say that nothing was proved because no printout was produced. That argument looks attractive at first sight, but in service law and industrial adjudication the court must see the total picture. Exact forensic proof is not always necessary if the surrounding evidence is strong. Here, the system access evidence is one such surrounding circumstance.

22. The evidence of Mr. Murli Nair, the vendor, is most material. He is not an outsider having no concern with the transaction. He is the person who supplied the material and raised bills. He admitted that there was a rate contract, though he did not produce it. He also admitted that the purchase order was dated later than the date on which the material was received. That is a significant circumstance. The documents at the exhibits referred to by the respondent show that the amounts in the purchase requisitions

and purchase orders were much lower than the bills finally raised. The difference is not small. It runs into substantial amounts. The witness also admitted receiving the inflated amounts. This is not a weak piece of evidence. It directly supports the case that the bills were inflated. Once the vendor admits the excess payment and the documentary exhibits show that the original purchase values were much lower, the defence that nothing happened becomes difficult to accept. The petitioner says there is no proof that any money was passed on to him personally. That may be so in a narrow sense, but in a case of collusion, direct proof of cash passing is rare. The court can draw inference from the pattern of inflated bills, system access, report of investigation and admissions of the vendor. The law does not insist on impossible proof.

23. The petitioner is right in saying that the Labour Court should not have merely reproduced the charge-sheet and the evidence and then stopped there. An adjudicatory authority must show that it has applied its mind. The reasoning should be visible. Here, the Part I Award is not a model of proper analysis. It does appear to be brief and somewhat mechanical. Still, when I examine the record as a whole, I find that the management had enough material to sustain the findings of misconduct. The Labour Court may have given less reasons than what was desirable, but the final conclusion is not shown to be wholly without basis. The petitioner's main plea was that there was no evidence and the Labour Court committed grave error in not reappreciating the material. That plea cannot be accepted in full, because once the material on record is looked into, there are admissions, documents

and investigation findings which do support the management case.

24. I also do not find merit in the submission that the findings of the Enquiry Officer are only based on discarded evidence. It is true that the evidence of Mr. Samir Marathe was not fit to be relied upon in isolation. But the case of the management did not stand only on that witness. The rest of the evidence, taken together, gives a coherent picture. The petitioner had access to the BPCS system. Purchase orders were allegedly changed in the relevant period. Bills were raised for higher amounts. The vendor has admitted receipt of inflated payments. The investigation report explains the method adopted. These are not stray facts. They fit into one pattern. In disciplinary proceedings, the court is not to search for proof with the standard of a criminal trial. The test is preponderance of probabilities and reasonable satisfaction on the evidence. On that standard, the charge cannot be said to be unproved.

25. For these reasons, I am unable to accept the writ petition. The Labour Court did make some error in its approach when it said that it had no power to reappreciate evidence merely because it was not sitting as an appellate authority. That part of the reasoning is not fully correct in the context of Section 11-A. Yet the evidence on record is sufficient to uphold the ultimate finding that the misconduct stood proved. Once the misconduct is held proved, the Final Award dismissing the reference and the conclusion on punishment do not call for interference. The writ petition, therefore, fails and is liable to be dismissed.

26. In the result, the following order is passed:

(i) The writ petition stands dismissed;

(ii) The Judgment and Part I Award dated 12 July 2016 and the Final Award dated 3 November 2016 passed by the Labour Court, Pune in Reference (IDA) No. 215 of 2010 are hereby upheld;

(iii) Rule is discharged;

(iv) In the facts and circumstances of the case, there shall be no order as to costs;

(v) Pending applications, if any, stand disposed of.

(AMIT BORKAR, J.)