

**BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, MAH.,  
AT PUNE**

**Ref (IT) No. 40 Of 2023**

Pravin Namdev Gogawane	..Complainant
V/s	
Emuge. Frmaken India (P). Ltd	..Respondent

**Order Below Ex. C-7**

(Date : 04<sup>th</sup> December 2025)

This application is filed by the second party for discarding Affidavit in lieu of examination-in-chief filed by the First Party workman at Exh.U-4.

02. According to second party it had dismissed the First Party workman from its services after conducting enquiry. This tribunal framed issues at Exh.O-2 and by order dt.12/06/2025 this tribunal directed to decide issue No 2 and 3 as preliminary issues. The First Party has filed his affidavit at Exh.U-4. However in the light of law laid down by the Hon'ble High Court the aspect of enquiry and findings are to decided on the basis of record on enquiry. Hence it is prayed to discard the affidavit filed by First Party at Exh-U-4.

3. This application is resisted by the First Party by reply **Exh.U-5** and it is contended therein that the application is not legal and bonafide. According to First Party this Tribunal has treated issue no 2 and 3 as preliminary issues and the affidavit of evidence of First Party has been given about issues no 1, 2 and 3. The reliance by the

Second Party on the judgment of Hon'ble High Court in the case of MSRTC Vs Bulbule is misplaced and the said judgment is contrary the judgments of Hon'ble Supreme Court. It is therefore prayed to dismiss the application with cost.

4. Heard both the learned advocates representing the parties. The Second Party has relied upon the judgment of Hon'ble High Court in the case of MSRTC vs Bhushan J. Bulbule (W.P No. 2730 of 2004, judgment dt. 07/05/2018). Whereas the First Party has relied upon following judgments of Hon'ble Supreme Court -

1) *Workmen of M/s. Firestone Tyre and Rubber Co. of India vs Management of M/s Firestone Tyre and Rubber Co. of India and (1973 AIR 1227 (SC)*

2) *LIC of India Vs Rampal Singh Bisen (CA No. 893/2007 dt 16/03/2010.*

5. In so far as the judgments of Hon'ble Supreme Court relied upon by the First Party the judgments are delivered on the general principles of law. It is material to note that in the case of Bhushan Bulbule (supra) the Hon'ble Bombay High Court has taken in to consideration most of the judgments delivered by Hon'ble Supreme Court right from Mottipur Sugar Factory, Firestone, Delhi cloth and General mills as well as KSRTC vs Laxmideavmma and held that when the enquiry and findings are under challenge the said issues should be decided strictly on basis of record and proceedings of enquiry. It is the further held that even absence of evidence can not be supplanted by leading fresh evidence before the court.

06. Therefore in the light of clear verdict of Hon'ble High Court the law is now settled that first two preliminary issues are to be decided only on the basis of record of enquiry and proceeding and it cannot be supplanted by leading fresh evidence before the court. Therefore there is no requirement of leading oral evidence before the court on these two preliminary issues. The issue No. 1 is pertaining to applicability of Standing Orders which can be decided at later point of time. The First Party would be at liberty to file his evidence after deciding preliminary issues. In the result I'm inclined to accept to prayer made in this application. Hence I proceed to pass following order -

### Order

1. *Application at Exh.C-7 stands allowed.*
2. *The affidavit in lieu of examination-in-chief filed by the first party at Exh.U-4 stands discarded.*
3. *Parties are directed to advance their respective arguments on the preliminary issues No. 2 and 3.*
4. *The right of first party for leading evidence on remaining issues is kept reserved.*
5. *S.O. to 22/12/2025.*

Pune.

Date : 04/12/ 2025.



Sd/  
(D.M. Patil)  
Presiding Officer,  
Industrial Tribunal, Pune.

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