

IN THE LABOUR COURT AT ALIBAG, DIST – RAIGAD
COMPLAINT (ULP) NO. 7/2024
(CNR No. MHLC040000362024)

Shri. Vikas Vijay Teli
Arihant Tower, D-Wing,
3rd Floor, Flat No. 316,
Khopoli Bajar Peth Road,
Khopoli-410203.

Complainant

V/s.

1. M/s. Parle Biscuits Pvt. Ltd.,
At. Village- Khairkandi,
Po. Donvat, Tal. Khalapur,
Dist. Raigad. 410202

2. Mr. Sanjay Gahlawat
Deputy General Manager
village- Khirkandi,
Po. Donvat, Tal. Khalapur,
Dist. Raigad. 410202.

Respondent(s)

CORAM : G. S. Hange, Judge

Appearances :

1] For the Complainant :- Adv. K. D. Patil.

2] For the Respondents :- Adv. C. P. Brahmankar.

ORDER PART I

(Passed on 10/02/2026)

This is a complaint under item 1(a),1(b), 1(d), 1(f) and 1(g) of Schedule IV of the MRTU and PULP Act 1971.

Facts in brief

2. The respondent no. 1 is a private limited company

engaged in the business of manufacturing biscuits and confectionery. Respondent no. 2 is the factory manager. The complainant works in the respondent no. 1 company as an assistant technician in engineering department from 01/11/2010. His record in the company is clean and spotless. On 28/05/2022 he was suspended and on 30/06/2022 he was served with the chargesheet and the departmental enquiry was conducted against him on the basis of charges leveled in chargesheet. The respondents made allegations against the complainant in the chargesheet which were denied by him.

3. According to the complainant the respondents allegedly contended in the chargesheet that on 13/05/2022 he was found sleeping without work in working hours. The senior officer Mr. Kishor Sarode sent an incident report to the management. Further, on 26/05/2022 when the complainant and his colleague Sudam Jadhav were on duty, Mr. Kishor Sarode came over there and asked them about moisture in the air. The complainant without replying to him started arguing with Mr. Sarode. When he was leaving the department the complainant and his colleague Sudam Jadhav blocked him near biscuit chilling plant and beat him on his head and legs with the PVC pipe. The complainant threatened him to teach a lesson. The assault on him was premeditated conspiracy as the wooden planks and PVC pipes were already brought there. On 27/05/2022 Mr. Sarode gave statement to the police and on that basis an FIR bearing no. 153/2022 came to be registered against the

complainant and Sudam Jadhav.

4. According to the complainant the allegations made against him in the chargesheet are totally false and baseless. According to him he replied to the chargesheet promptly and stated that on 26/05/2022 when he and Sudam Jadhav were on duty Mr. Sarode came there in drunken state and started abusing the complainant and Sudam Jadhav in filthy language. According to him Mr. Sarode threatened him that he and other workers would be laid off and also threatened to deduct their wages as well. According to complainant there are inconsistencies and contradictions in the written complaint dtd. 29/05/2022 submitted by Mr. Sarode and the chargesheet dtd. 30/06/2022 issued by the respondents. The complainant states that the Rule 24(a), 24(k) and 24(l) of the Industrial Employment Rules 1959 invoked by the company against him are not applicable in his case as he never misbehaved and committed any act of insubordination of the senior officer. He maintained good behaviour in the company premises and all the allegations made against him are made only to victimise him.

5. According to the complainant he never indulged in commission of any subversive of discipline or good behaviour on the premises of the establishment. According to him the enquiry conducted against him in a biased manner and the report and findings are not fair and proper and those are perverse. The enquiry officer was totally biased and has given report without understanding

the nature of the charges and evidence led. The enquiry officer did not give him fair and proper opportunity and was favouring the management with the intention of declaring him guilty of the alleged charges. The complainant states that the respondents have indulged in unfair labour practices as defined under Item 1(a) and 1(b) of the Schedule IV of the Act.

6. According to the complainant the enquiry officer relied upon the statements made by persons who were not eye witnesses to the incident. The evidence led in the enquiry was so vague that the misconduct could not be proved against him. The entire enquiry is prejudicial to the interest of the complainant. The enquiry officer has not taken into consideration the admissions of the management witnesses in favour of the complainant. Considering all these aspects the complainant submitted that the enquiry conducted against him by the respondent management is against the principles of natural justice and is not fair and proper. The findings of the enquiry officer are against the evidence on record, and therefore, need to be held as perverse.

7. The respondents filed a reply at Exh. C-5 and strongly objected the claims made in the complaint. They contended that the complainant has committed serious misconduct while on duty, therefore, he was suspended pending enquiry on 28/05/2022. The domestic enquiry was initiated against him after the complainant receiving the chargesheet. He was given full opportunity to file his

explanation as per the principles of natural justice. The enquiry officer conducted the enquiry by providing every opportunity to the complainant to defend his case.

8. The respondents contended that the complainant on 26/05/2022 assaulted the senior officer Mr. Kishor Sarode when he was taking round in the night shift. The conduct of the complainant was so serious that the police complaint was filed against him at Khalapur Police Station. Thereafter, he was suspended from the service and on 30/06/2022 the chargesheet was issued to him. Thereafter, in the enquiry the enquiry officer gave full opportunity to him to defend his case. The enquiry officer conducted fair, proper and legal enquiry in accordance with the Principles Of Natural Justice. After the enquiry the Enquiry Officer held him guilty for the alleged misconduct. On 01/03/2024 the management issued dismissal order upon him by virtue of which his service was terminated. It is submitted that by terminating his services the respondents have not committed any kind of unfair labour practice against him. The respondents contended that the enquiry officer considered the available material on record and gave proper findings. Therefore, the enquiry conducted by him is fair and proper and findings are not perverse.

9. The issues on Part I has been framed at Exh. O-1. I have recorded my findings thereon for the reasons stated below.

| <u>ISSUES</u> | <u>FINDINGS</u> |
|---------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| 1. Whether the enquiry conducted against the complainant is fair and proper and in accordance with the principles of natural justice? | “Yes” |
| 2. Whether the findings of the enquiry officer are perverse ? | “No” |
| 3. What order ? | As per final order |

REASONS

ISUUE NOS. 1 TO 3

10. The Id. Advocate for the complainant filed the notes of written argument at Exh. U-13. It is argued therein that the charges leveled against the complainant under Rule 24(a), 24(k) and 24(l) of the Industrial Employment Rules 1959 are false and not proper. It is argued therein that the enquiry officer favoured the respondent management and gave the findings against the complainant without considering the evidence on record. It is argued therein that the complainant did not indulge in any kind of misconduct as alleged in chargesheet. It is argued therein that the enquiry officer deliberately gave a report against the complainant in order to victimise him. It is argued therein that the conclusions drawn by the enquiry officer are vague and without considering the material on record. The respondent terminated the complainant on the false grounds

mentioned in the enquiry.

11. On the other hand the Id. Advocate for the respondent filed the written notes of argument at Exh. C-9. It is argued therein that the enquiry conducted against the complainant is fair, legal and proper. It is argued that the complainant was provided with every opportunity to defend his case. He was granted permission to appoint a defence representative of his choice and all the documents produced by the management were supplied to him. He was given opportunity to examine himself as a defence witness. There is no flaw in the enquiry process. The findings of the enquiry officer are based upon the available evidence on record. It is also argued that the evidence on record proved all the charges against the complainant. The enquiry officer has discussed in detail the documentary as well as oral evidence and on the basis of the same he gave findings against the complainant. Therefore, the findings of the enquiry officer are not perverse and are fair and proper.

12. Before appreciating the contentions on merit it is necessary to refer the principles as to when findings of the enquiry officer in domestic enquiry can be termed as perverse. In the case of *Kuldeep Singh Vs. The Commissioner of Police & Others* decided on 17/12/1998, the Hon'ble Supreme Court has dealt with the aspect when the findings of the enquiry officer can be said to be perverse. The Court has considered its earlier decisions & held that "*In Nand Kishore vs. State of Bihar, cited in AIR 1978 SC 1277*" it was held that

the disciplinary proceedings before a domestic Tribunal are of quasi-judicial character and, therefore, it is necessary that the Tribunal should arrive at its conclusions on the basis of some evidence, that is to say, such evidence which, and that too, with some degree of definiteness, points to the guilt of the delinquent and does not leave the matter in a suspicious state as mere suspicion cannot take the place of proof even in domestic enquiries. If, therefore, there is no evidence to sustain the charges framed against the delinquent, he cannot be held to be guilty as in that event, the findings recorded by the Enquiry Officer would be perverse. The findings, recorded in a domestic enquiry, can be characterised as perverse if it is shown that such a finding is not supported by any evidence on record or is not based on the evidence adduced by the parties or no reasonable person could have come to those findings on the basis of the that evidence. It is then held that whether the evidence are opposed on the conclusion is where to which is no reasonable man could come. The evidence can be rejected as perverse. It was laid down that where the findings of misconduct are based on no legal evidence and the conclusion is one to which no reasonable man could come, the findings can be rejected as perverse. It was also laid down that where a quasi-judicial tribunal records findings based on no legal evidence and the findings are his mere ipse dixit or based on conjectures and surmises, the enquiry suffers from the additional infirmity of non-application of mind and stands vitiated.

13. In *Association Of Engineering v/s Hindustan Motor*

Manufacturing reported in 2004 (102) FLR 154, the Hon'ble Bombay High Court has held that the ruling of the Apex Court therefore clearly discloses the necessity for analysis of the evidence by the Enquiry Officer before arriving at the finding regarding the misconduct of the workmen. It is necessary for the Enquiry Officer to analyse the evidence and to disclose from such analysis as to how the allegations against the workmen are established by the evidence led by the employer. It is not a mere formality on the Enquiry Officer to conclude that allegations are proved by the evidence on record would suffice the requirement of law in that regard but the exercise of analysis of evidence should be disclosed from the application of mind by the Enquiry Officer to the facts brought on record vis-a-vis the allegation of misconduct by the workman and such an exercise should be revealed on the face of the record of the report of the Enquiry officer itself. In the absence thereof, as rightly submitted by the advocate for the petitioner, it cannot be said that the Enquiry Officer has applied his mind to the matter in issue nor it can be said that the findings by the Enquiry Officer are borne out from the record. On the contrary in the absence of analysis it would have to be concluded that the findings are perverse.

14. I have carefully gone through the documents of departmental enquiry produced on record. It appears that during the whole enquiry the complainant was actively involved and participated with his defense representative. He was given the opportunity to appoint DR on his own choice. He was also given the

opportunity to cross examine the witnesses of the respondent company. It also appears that he was given an opportunity to lead his evidence after the evidence of management was over. The Enquiry Officer concluded the enquiry with full opportunity to the complainant to putforth his case. It appears that the Principles Of Natural Justice were observed during the enquiry. Therefore, in my opinion the enquiry conducted was fair and proper.

15. On careful perusal of the proceedings of the DE papers it can be inferred that the chargesheet was issued to the complainant on 30/06/2022 which shows that the complainant was found sleeping on duty on 13/05/2022 and in the night between 26/05/2022 to 27/05/2022 the complainant and other workman assaulted Mr. Kishor Sarode who was taking round in the night shift. The chargesheet incorporates Clause 24(a), 24(k) of Industrial Employment Standing Orders Act 1946 and Model Standing Orders. The enquiry against the complainant started on 06/08/2022 and completed on 16/09/2023. The respondent company examined the victim Mr. Kishor Sarode who was allegedly assaulted by the complainant and other workman.

16. On perusal of the enquiry papers and statements given in evidence by Mr. Kishor Sarode it appears that he has stated the fact that on 27/05/2022 the complainant and Mr. Sudam Jadhav assaulted him when he was taking round on night shift. He also stated that he was admitted to the hospital and was discharged on

28/05/2022. He also stated that the complainant and other workman had already brought PVC pipe and wooden planks to beat him. He stated that he gave information of the incident to the security employee and HOD Harshal Raut. It appears that Mr. Sarode deposed everything about the incident took place on that day. The enquiry officer appears to have rightly considered his statements, in proper manner.

17. The complainant has taken a defence that there is a difference in the statements made by Kishor Sarode before the police and statement to the management. However, there appears some difference in respect of statement made by him showing his purpose to visit the utility department. But, those cannot be considered major in order to discard his entire version. The enquiry officer rightly appreciated this fact in his findings. Further, the complainant raised objection that Kishor Sarode was not his superior and he was not entitled to issue any orders to him and for that reason he cannot be made responsible for disobeying the orders of superiors. However, the enquiry proceedings show that Kishor Sarode was incharge of the night shift and was given task to see the proper functioning of the plant and, accordingly he was taking rounds of the plant on that night. It appears that the management had empowered him as shift incharge, therefore, the complainant was under obligation to follow the lawful instructions issued by Kishor Sarode.

18. The complainant also raised objection that when he was

on duty Mr Kishor Sarode was drunk and was abusing and threatening him. However, the complainant did not bring any evidence on record regarding the alleged behaviour of Mr. Kishor Sarode. He also did not file any complainant to the management against the unruly behaviour of Mr Kishor Sarode. This itself shows that the complainant is making false claims against him. When the representative of the complainant asked Mr. Kishor Sarode whether he was beaten by the complainant on the date of incident he answered in affirmative which itself shows that the incident had taken place as alleged in the chargesheet. The enquiry officer has properly considered these facts before coming to the conclusion of misconduct on the part of the complainant.

19. The complainant raised objection that the enquiry officer gave importance to the statement of Mr. Kishor Sarode who was nothing but interested witness and the enquiry officer should not have believed his version. However, though Mr Kishor Sarode was himself interested witness it cannot be ignored that he himself was the victim of the incident, and merely because he is interested that does not mean that his evidence should be completely discarded. The enquiry officer has considered this fact as well in the enquiry. The other witnesses examined by him also corroborate the version of Mr. Kishor Sarode. The evidence brought before the enquiry officer shows that the complainant indulged in serious misconduct along with his co- workman.

20. The respondents placed their reliance upon the authority

of Hon'ble Supreme Court *State of Tamil Nadu and Another V/s S Subramaniam, Civil Appeal No. 2864/1996, decided on 24/01/1996.*

It was held therein that in judicial review it is settled law that the court or the tribunal has no power to trench on the jurisdiction to appreciate the evidence and to arrive at its own conclusion. It is also held that when the conclusion is reached by the authority is based on evidence tribunal is devoid of power to reappraise the evidence and would come to its own conclusion on the proof of the charge. The only consideration the court or tribunal has in its judicial review is to consider whether the conclusion is based on evidence and supports the findings or whether the conclusion is based on no evidence. In the present case the findings of the enquiry officer are based on evidence brought on record and those findings are in consistent with the evidence led by the management. Therefore, there is no reason to reappraise the said evidence and come to different conclusion apart from the conclusion drawn by the enquiry officer. The principles laid down in above cited authority are followed while deciding the fairness of the present proceedings.

21. The respondents also relied upon the authority of Hon'ble Supreme Court in *B C Chaturvedi V/s Union Of India and Others cited in 1996 I CLR 389.* It was held therein that it is the domain of disciplinary authority of appreciation of evidence and the court or tribunal has no power to appreciate the evidence and reach its own contra conclusions. It was held that neither technical rules of evidence nor proof of fact or evidence as defined therein apply to

disciplinary proceedings and adequacy or reliability of evidence cannot be permitted to be canvassed before the High Court or Tribunal. In the present case as I said earlier the findings of the enquiry officer are based on evidence brought on record in the enquiry and there is no reason to depart from the conclusions drawn by him.

22. The respondents also relied upon the authority of Hon'ble Supreme Court in *Union of India V/s Dalbir Singh cited in AIR 2021 Supreme Court 4504*. It was held therein that the burden of proof in the departmental proceedings is not of beyond reasonable doubt as is the principal in the criminal trial but probabilities of the misconduct. In the present case this principal has been properly appreciated and the proceeding was conducted in consonance with it. The complainant was given proper opportunity to defend his case by producing evidence or by giving an opportunity to cross examine the witnesses of management.

23. On bare perusal of the findings recorded by the enquiry officer it appears that he has taken into consideration oral as well as documentary evidence in order to arrive at findings. In domestic enquiry the provisions of Indian Evidence Act are not strictly applicable. Therefore, on the basis of evidence brought before the Enquiry Officer by the respondents and the statement in defense given by the complainant, the findings recorded by the Enquiry Officer appears to be not perverse. On these grounds, if the findings

recorded by Enquiry Officer is looked into then it can be said that those are proper. Therefore, I hold that the findings recorded by enquiry officer are not perverse. Consequently, I answer these issues accordingly and pass the following order.

ORDER

- 1) It is hereby held and declared that the enquiry conducted against the complainant is fair and proper and in accordance with the principles of natural justice.
- 2) The findings of enquiry officer are not perverse.
- 3) In the circumstances no order as to costs.

Alibag.
Date. 10/02/2026

(G. S. Hange)
Judge
Labour Court, Alibag