

BEFORE SHRI R.U.NAGARGOJE, JUDGE,
THIRD LABOUR COURT AT THANE.
REFERENCE (IDA)NO. 30 OF 2016

Deepak Fertilizers & Petrochemicals
Corpn. Ltd.

...The first party.

And

Prvin Ganpat Patil

...The Second party

ORDER BELOW EXH.U-4
(Date:19-10-2018)

1) This is an application for framing additional issues. It is contended on behalf of the second party that in pursuance of chargesheet dated 12-2-2013 the enquiry was conducted by enquiry officer Mr. Sunil Surana. The second party received finding and report of the enquiry officer dated 5-11-2014. On the basis of evidence before the enquiry officer, the second party is exonerated. However, the first party appointed a new enquiry officer with a view to held the second party guilty. This court has framed issues pertaining to fairness of enquiry and findings. However, no issue is framed regarding alleged report and findings submitted by enquiry officer Mr. Surana.

2) The second party moved the present application for recasting/framing additional issues as under:-

1) Whether the chargesheet dated 12-2-2013 got merged into the enquiry report and findings dated 5-11-2014 given by enquiry officer Mr. Sunil Surana?

2) If issue no. 1 is held in the positive whether the findings of the second enquiry officer are valid?

3) If the findings of the second enquiry officer are valid then:

Whether the enquiry is fair and proper?

Whether the findings of the enquiry officer are perverse?

What order on part-I?

3) This application is strongly resisted on behalf of the first party by filing reply which is below Exh.C-7. It is admitted that the enquiry officer Mr. Surana was appointed. It is contended on behalf of the first party that there was a dispute between the enquiry officer and management over quantum of bills. The enquiry officer failed to submit report and findings. The enquiry officer returned original enquiry proceeding without report and finding. Thereafter, the management appointed new enquiry officer to conduct the enquiry. The first party denied that the enquiry officer Mr. Surana submitted report and findings and exonerated the second party workman.

4) Heard Advocate for the respective parties. It is admitted fact that this court has not framed issue regarding alleged report and findings submitted by enquiry officer Surana. The second party pleaded in statement of claim in detail regarding allegedly submission of findings and report by Mr. Surana and allegedly exonerated the second party. The first

party in written statement specifically denied the fact that Mr. Surana submitted findings and report thereby exonerated the second party workman from the charges levelled against him. Issue arises when material proposition of fact or law is affirmed by one party and denied by the other. The framing of issues in a civil proceeding is an important aspect. It narrows the controversy between the parties. Inadvertently, this court has not framed issues pertaining to alleged submission of findings and report by enquiry officer Mr. Surana. Order 14 Rule 5 of the Code of Civil Procedure 1908 empowers the court to frame additional issues or strike out issues at any stage prior to passing of a decree. In view of this matter, issue no. 1 is required to be recast. It is not necessary to frame additional issues as suggested by the second party. Hence, the following order.

ORDER

- 1) The application stands partly allowed.
- 2) Issue no. 1 recast as whether the second party proves that in view of alleged findings and report of Mr. Surana conducting of further enquiry is not fair and proper?

Date: 19/10/2018.

Sd/-
(R.U. Nagargoje)
The Presiding Officer,
Third Labour Court, Thane.