

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**First Appeal No.1191 of 2010
With
Civil Application No.6608 of 2003**

Shaikh Dilawar Begabhai Tamboli. .. **Appellant.**

Versus

Shaheen Shaikh Iqbal
And Others.

.. **Respondents.**

Shri. Uday S. Malte, Advocate, for appellant.

Shri. V.R. Mundada, Advocate, for respondent No.4.

CORAM: T.V. NALAWADE, J.

DATE : 14th JULY 2015

ORDER:

1) The office note shows that cost imposed by this Court by order dated 10-10-2011 is not deposited. Subject to payment of cost as against respondent Nos.1 to 3 the matter was restored. In the past it was dismissed for want of prosecution. As the cost is not deposited the matter needs to be treated as dismissed as against respondent Nos.1 to 3.

2) Learned counsel for the appellant submits that the procedure which needs to be followed for imposing penalty on the employer was not followed. He has placed reliance on one case of this Court reported as **2009 (5) Bom. C.R. 523 (Udhav Rangnathrao Pawar v. Sheshrao Ramji Jogdand)**. This Court has already observed that the appeal itself is dismissed as against respondent Nos.1 to 3 who are original claimants. As the appeal itself is dismissed as against the original claimants there is no need to hear the appeal on the point raised or to remand the matter to the Commissioner for consideration of the contention that opportunity needs to be given to the employer to show as to why penalty should not be imposed. There is no reason to hear the appeal on merits. The appeal stands dismissed. Civil application stands dismissed.

Sd/-
(**T.V. NALAWADE, J.)**

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