

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1)

LPA ST NO.9338 OF 2010

937 LETTERS PATENT APPEAL STAMP NO.9338 OF 2010
in
WRIT PETITION NO.5283 OF 1996

RAMABAI KISHANLAL DAYAMA.
VERSUS
SHRI RAMPRASAD WAMANRAO KADAM AND OTHERS.

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Advocate for Applicant : Mr.Sawaji Ulhas S.
Mr.Nikam Anup R., Adv., for R-1,3

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CORAM : R. M. BORDE & P.R. BORA, JJ.
Dated: September 11, 2015

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PER COURT :-

1. The appellant is objecting to the order passed by the learned Single Judge in Writ Petition No.5283 of 1996 decided on 16th October, 2009, confirming the order passed by the Labour Court on 29.9.1995.

2. An application tendered by the petitioner, claiming the amount of gratuity, leave wages and retrenchment compensation came to be allowed partly and the petitioner was held entitled to receive the amount of gratuity and leave with wages for three years. The claim made by the petitioner towards retrenchment compensation has not been granted.

3. The Courts below, while dealing with the matter has surveyed the relevant provisions of Section 33-C (2) of the

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Industrial Disputes Act in the context of the claim of the petitioner. It has been observed by the learned Single Judge in the order that the deceased Kishanlal Dayama was claimed to be an employee with respondent no.1 in his capacity as a Manager and was not a 'workman' within the meaning of Section 2(s) of the Industrial Disputes Act. It is further observed that, 'no evidence whatsoever was led before the Labour Court on that point, nor issue to that effect was raised'. It is further observed that the issue which is raised in the application under Section 33-C (2) of the Industrial Disputes Act, does not come within the purview of determination under the relevant provisions, and is outside the scope of consideration of application under Section 33-C (2) of the Industrial Disputes Act.

4. We do not find any infirmity or irregularity in the order passed by the learned Single Judge. There is no merit in the Letters Patent Appeal and, as such, the appeal stands dismissed.

(P.R. BORA, J.)

(R. M. BORDE, J.)

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