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

WRIT PETITION NO. 3222 OF 2015

Kisan Sakharam Ghaytidak,
Age : 57 years, Occ : Nil,
R/o At. Post. Umbri, Tq.Majalgaon,
District Beed.

...PETITIONER

-VERSUS-

The State of Maharashtra.
Through : Executive Engineer,
Command Area and Road Division,
Hingoli, At Post Taluka and
District Hingoli.

...RESPONDENT

...
Advocate for Petitioner : Shri P.L.Shahane h/f Shahane Parag P.
AGP for Respondents: Shri S.J.Salgare.
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 23rd October, 2015

Oral Judgment:

1 Rule. Rule made returnable forthwith and heard finally by the
consent of the parties.

2 The Petitioner has assailed the judgment and award dated
02.12.2013 delivered by the Labour Court, Nanded in Reference (IDA)
No.2/1989 by which the reference was answered in the Negative.

3 The contention of the Petitioner was that he had worked with the Respondent from 05.07.1986 till 13.07.1988 when he was orally terminated. He was working on the project of repairing the road from Longaon to Jivnapur as a Labourer. He was drawing Rs.15/- per day as daily-wages. Sections 25F, 25G and 25N of the Industrial Disputes Act, 1947 have not been followed. The seniority list is not maintained by the Respondent. The juniors have been retained in service. Rule 81 of the Industrial Disputes (Bombay) Rules, 1957 has also been violated.

4 Shri Shahane, learned Advocate for the Petitioner, submits that the Respondent filed it's Written Statement below Exhibit C/10. It was contended that the Petitioner had never worked with the Respondent at any time. He was never deployed as a daily-wager on the road project from Longaon to Jivnapur. There is no record available to indicate that the Petitioner was ever given the work in the command area and the road division of the Public Works Department.

5 The grievance of the Petitioner is that despite having completed 240 days in the continuous and uninterrupted service of the Respondent in each calendar year prior to the date of reference, the Labour Court has failed to take cognizance of the said fact. The notice for

production of documents was issued on 03.09.1996 and 07.12.2012. The Respondent did not produce any document. The application filed under the Right to Information Act, 2005 dated 23.09.2013 is still pending. The impugned award is perverse and erroneous.

6 The learned AGP appearing on behalf of the Respondent/ Department submits that the project on the road from Longaon to Jivnapur was undertaken. However, the Respondent has no record whatsoever which could even indicate that the Petitioner had worked even for a single day with the Respondent. It is unknown whether, the Petitioner was deployed by any person unconnected with the Respondent/ Department.

7 He submits that the Respondent had taken the stand in the Written Statement that they do not know the Petitioner and have no record which could evidence his working on the said road project. He, therefore, submits that in the absence of any evidence, the Labour Court has rightly answered the reference in the negative.

8 I have considered the submissions of the learned Advocates as have been recorded herein above.

9 It is apparent that the Petitioner could not produce any record to indicate his tenure of employment from 05.07.1986 to 13.07.1988. Neither was he appointed by the Respondent, nor was he terminated. The Labour Court has concluded that there is nothing to indicate that he had ever worked with the Respondent. Besides mere contention in the statement of claim, there has been no evidence before the Labour Court.

10 In the light of the above, I do not find that the impugned award could be termed as being perverse or erroneous. This Writ Petition is devoid of merit and is, therefore, dismissed. Rule is discharged.

(RAVINDRA V. GHUGE, J.)