

THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 233 OF 2014

Mr. Sameer M. Kundaikar,
R/o Sao Mathias, Diwar,
Tiswadi-Goa. Petitioner

V e r s u s

Village Panchayat of Sao Mathias,
Diwar,
Through its Secretary,
Tiswadi-Goa. Respondent.

Mr. G. Teles, Advocate for the Petitioner.
Mr. V. A. Lawande, Advocate for the Respondent.

CORAM: N. M. JAMDAR, J.

DATE: 17TH FEBRUARY, 2015.

ORAL ORDER:

By this petition, the petitioner challenges the judgment and award dated 10 April 2013 passed by the Presiding Officer, Industrial Tribunal and Labour Court, Panaji, answering the reference made to it under section 10 of the Industrial Disputes Act, 1947, against the petitioner.

2. A reference was made to the Industrial

Tribunal in respect of the action of the respondent-panchayat in refusing employment to the petitioner with effect from 7 March, 2001.

3. It is the case of the petitioner that he was employed as a Clerk with the respondent -panchayat since the year 2001, however, when he reported to work on 7 March 2001, he was refused employment. On the other hand, it is the case of the respondent-panchayat that the petitioner was not employed as a clerk but his brother who was earlier working with the panchayat left the work and since the petitioner started visiting the panchayat on account of pending work, he was casually allowed to work by the Sarpanch without approval. The Industrial Tribunal came to the conclusion that there was no sanction to the appointment of the petitioner. He had not made any application and he was permitted to work in place of his brother and therefore, he is not entitle to claim any relief. Accordingly the Industrial Tribunal disposed of the reference by the impugned award.

4. Mr. G. Teles, learned counsel for the petitioner submitted that the finding of the Industrial Tribunal that the petitioner is not a workman, is incorrect. He submitted that the document which is now obtained by the petitioner would clearly show that there was some sanction to the appointment of the petitioner. He submitted that the petitioner had completed stipulated number of days and therefore, he would be entitled to claim appointment in the service of the Panchayat as a clerk.

5. Though the Tribunal has come to the conclusion that the petitioner is not a workman, the preceding discussion would show that it is primarily as regards the claim of the petitioner on merits. The Tribunal has observed that the petitioner has not produced any appointment letter. He had not made any application pursuant to any advertisement or through employment exchange. No sanction has been given by the Chief Executing Officer, as required under section 115 of the Goa, Daman and Diu Panchayat Raj Act. The document which is now sought to be relied upon by the petitioner is not a permission under section 115 of the Act. The petitioner himself has admitted that he had started work in place of his brother. This was purely a casual arrangement, in view of the fact that no procedure laid under the Act was followed. Neither there was any appointment order or any application on behalf of the petitioner. The learned counsel for the petitioner has not been able to show that the procedure as required has been followed. The conclusion reached by the Industrial Tribunal that the petitioner was not entitled to the relief prayed for cannot be faulted with. In the circumstances, there is no merit in this petition. The petition is accordingly dismissed.

N. M. JAMDAR, J.

Ap/-