

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.10958 OF 2014

Mr. Arjun Bhimrao Kamble

.... Petitioner
(Second party)

Vs.

The Executive Engineer,
Nira Ujawa, Kalwa

..... Respondent
(First party)

Mr. Amey Tamhane h/for Ms. Seema Sarnaik, Advocate for the
Petitioner.

None for the respondent.

Coram : Smt. R.P. SondurBaldota, J.

Date : 31st March, 2015.

P.C.

1 The challenge in this petition is to the order dtd. 1st March, 2014 passed by the Labour Court, Solapur dismissing the Reference (IDA) No.58 of 1998 made at the instance of the petitioner, by which, the petitioner had sought reinstatement in service contending that since he had worked for more than 240 days continuously, his dismissal from the service ought to have been in accordance with Section 25(f) of the Industrial Disputes Act.

2 The Labour Court has found that the petitioner has failed to establish that he had worked continuously for a period of 240 days for being entitled to the benefits of Section 25(f) of the Industrial

Disputes Act. Mr. Tamhane, the learned advocate for the petitioner submits that the Labour Court ought to have drawn adverse inference against the respondent for non-production of the documents, pursuant to the order dtd. 16th January, 2014. It appears that on 8th January, 2014, the petitioner filed an application for production of documents in the custody of the respondent. The documents consisted of the attendance sheets, salary sheet and cash book for payment of wages during the period 1st February, 1980 to 20th January, 1983, 21st April, 1983 to 3rd May, 1983, 21st September, 1983 to 31st December, 1983 and January 1984 to 31st December, 1987. The respondents, on 20th February, 2014 filed an application expressing their inability to produce the documents on the ground that the same being old documents have been destroyed. Thereafter Labour Court took note of the claim of the respondents, considered the evidence brought on record and dismissed the Reference.

3 Adverse inference as desired by the petitioner could have been drawn only in the event of the documents being shown to have been in custody of the respondents and not when the respondent states that the documents are not available. Therefore, there is no substance in the argument advanced. The order of the Labour Court being an appropriate order in the facts of the case, it does not require any interference by this court in exercise of its extra-ordinary jurisdiction. Hence, the petition is dismissed.

(Smt. R.P. SondurBaldota, J.)