

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

WRIT PETITION NO.1015 OF 2015

Mr. Anupam Pinakinbhai Padaya Petitioner

V/s

Air India Limited & Ors. Respondents

Mr. Taranath G. Vartak, Advocate for the Petitioner.
Ms. Kanchan i/by M.V. Kini & Co. for Respondent no.1.
Ms. Shehnaz Bharucha, Advocate for Respondent no.2.

Coram : Smt. R.P. SondurBaldota, J.
Date : 08th June, 2015

P.C.

1 Considering the short question involved in the petition, the same is being disposed off finally at the stage of admission. Hence, admit. By consent, the petition is taken on board for final hearing. Heard the parties.

2 The short question involved in the petition is about, maintainability of the application filed by Respondent no.1-

employer seeking approval of dismissal of the employee. The application has been kept pending for the last more than 11 years for want of Notification under Section 7-B read with Sub-Section 1-A of Section 10 of the Industrial Disputes Act. The petitioner-employee desired that the application be heard and disposed off in accordance with law. He filed an application making a request for the purpose. But, the Tribunal rejected the application on the ground that, it cannot proceed with the hearing of the approval application in the absence of Notification.

3 Ms. Kanchan, the learned advocate appearing for Respondent No.1 submits that there are several identical applications filed by the other companies pending for want of the Notification. According to her, respondent no.1 is helpless in the matter.

4 The Tribunal clearly erred in refusing to hear the

application on the ground that it cannot proceed in the absence of the Notification. It lost the sight of legal position that, hearing of the application would also involve the question of its maintainability in the absence of the Notification. The Tribunal ought to have dismissed the application on this ground instead of avoiding to decide the same because undisputedly the application as filed is not maintainable.

5 In the circumstances, the petition is allowed. The impugned order is set aside. The application for approval being the Approval Application No. NTB-10 of 2004 is dismissed as not maintainable.

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