

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

WRIT PETITION NO.8271 OF 2013

Ambica Light Paints Pvt. Ltd. Petitioner

Vs.

Shri. Sandeep Kundlik Shelke & Ors. Respondents

Mrs. Anjali S. Ranade, Advocate for the Petitioner.

Mr. A.S. Rao, Advocate for Respondent No.1.

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

Date : 23rd March, 2015.

P.C.

1 The petitioner, employer has preferred this Writ Petition to challenge the judgment and order dtd.20th October, 2012, by which the Labour Court, Pune partly allowed the Reference made at the instance of respondent no.1- employee under Sections 10(1) and 12(5) of the Industrial Disputes Act. The Labour Court, by the impugned order partly allowed the Reference and directed the petitioner to reinstate respondent no.1 on his original post with continuity of service. It, however, denied him the backwages.

2 The petitioner-Company is in the business of production, manufacture and sale of various colours. The business was initially started at Kharadi and later expanded to the godown at Post Asthapur. Respondent no.1 claimed to be working with the petitioner as a “Driver” for more than four years on the monthly salary of Rs.4,000/-. He was also supplying the colour boxes to the contractor and recovering price of it from the contractor and the shop owner. Respondent no.1 demanded raise in his wages and also other benefits like Provident Fund, E.S.I. facilities, bonus and issuance of regular salary slips. He also gathered other workers for demand of bonus. The petitioner then orally terminated his services from 3rd November, 2005, after which the Reference herein came to be filed.

3 The petitioner filed it's written statement to contest the Reference. In the written statement, it baldly denied the entire case of respondent no. 1 including his employment with it. Consequently, one of the issues framed by the Labour Court was of existence of employer and employee relationship between the petitioner and respondent no.1. The other material issue framed, related to termination of respondent no.1 from service. The Labour Court found that the petitioner despite ample opportunity, led no evidence whatsoever. The advocate for the petitioner had proposed to file written arguments, but even that was not filed. Considering the fact of absence of any evidence and the necessary pleadings and the evidence of respondent no.1, the Labour Court accepted his word and allowed the Reference

holding that there was relationship of employer and employee between the petitioner and respondent no.1 and that there was illegal termination of the services of respondent no.1. It thereafter proceeded to grant reinstatement in service with continuity. Respondent no.1 was however denied back-wages on the ground that he has not adduced cogent, oral or documentary evidence for being entitled to back-wages. Respondent no.1 has not challenged this part of the order.

4. The findings of the Labour Court are seen to be supported by the material on record. Besides the denials by the petitioner in the written statement are bald denials and as a consequence must be treated as no denial at all. Hence, the petition is dismissed.

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