

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4674 OF 1999

Shri. Uttam Sadaba Dalvi
205, Shaniwar Peth
Paraj Apts., FL.1, Near
Ahilya Devi School,
Pune-411 030

....Petitioner

: V/S :

Jijamata Mahila Sahkari Bank
Ltd, Savarkar Udyog Bhavan
1st Floor, 'C' Block
Shivaji Nagar, Pune-5

.....Respondent

* * * * *

Mr. Prashant Kamble h/f. Mr. A.S. Rao, Advocate for the petitioner.

Meena Doshi, Advocate for the respondent.

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

3rd July, 2015.

P.C. :-

1). This petition challenges concurrent findings of the Labour Court and the Revision Court that the petitioner is not a “workman” within the definition of Section 3(30) of the Bombay Industrial Relations Act (“BIR Act” for short) and therefore the complaint filed by him challenging his termination from service was not maintainable. The petitioner was working as a Branch Manager with the respondent bank and he was holding independent charge of Shivaji Nagar Branch from 22nd December, 1993. The branch had 12,000 Accounts. The petitioner

was looking after the day-to-day affairs of the bank. He had powers to sanction the loan upto Rs.20,000/-. For the loan proposals above Rs.20,000/-, the petitioner was to investigate the financial position and status of the borrower and after detailed verification, forward the proposal to the Committee for sanction. He also had the authority to sanction short leave of the employees working under him. By the letter dated 29th July, 1995 the petitioner's services were terminated by the respondent on as many as, 11 serious charges made against it in connection with the manner in which the loans had been got sanctioned by him and the disbursement of the loan to various parties and also to himself. The petitioner challenged the same by preferring Application BIR No. 17 of 1995. The respondent challenged the maintainability of the application by contending that the petitioner is not the employee within the definition given at Section 3(13) of the BIR Act. On the basis of the evidence produced before the Court, the Labour Court held that the petitioner is not the "workman" within the meaning of Section 3(13) of the BIR Act and dismissed the complaint. The petitioner then preferred Revision Application No. 7 of 1997 to the Industrial Court, Pune. By its order dated 30th March, 1998 the Industrial Court confirmed the order of the Labour Court and dismissed the revision.

2). The Labour Court observes that the petitioner's own evidence in cross-examination establishes that he had managerial and

administrative powers which takes him outside the definition of “workman” under Section 3(13) of the BIR Act. The observations read as follows :-

“8.....The applicant has admitted in para 5 in his cross-examination that as a branch manager I had to expand the business of the branch. He also admitted that daily transaction were under the control of branch manager. He admitted that as a branch manager he was controlling and looking after day to day transactions of the bank. He admitted that as per Ex 28 the instructions were given to him to sanction loan upto Rs.20,000/-. He admitted that, as a branch manager he used to recommend loan applications for sanction and Board of Directors were not sanctioning the loan without his recommendations. He admitted that, the administrative responsibilities of all the statement is on the branch manager.”

“9. The above admissions given by the applicant above that he has managerial and administrative powers. Therefore, he is not a workman within the meaning of sec 3(13) of the BIR Act.”

3). In addition to the above, the duty list of the petitioner tendered in evidence, makes it sufficiently clear and confirms the finding of the Courts below that the petitioner had managerial functions. Considering the material before the Court, there is no infirmity whatsoever in the concurrent findings of the Courts below. Hence, the petition is dismissed.

(SMT. R.P. SONDURBALDOTA, J)