

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8807 OF 2014

Pandurang D. Sawra

.....Petitioner

: V/S :

Project Officer, Ekatmik Adivasi

Vikas Prkalp

.....Respondents

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Mr. A.K. Jalisatgi i/by. Mr. Robin Fernandes, Advocate for the petitioner.

Ms. Vaishali Nimbalkar, AGP for respondent no.1.

Coram :-

Smt. R.P. SondurBaldota, J.

1st July, 2015.

P.C. :-

1). This petition is directed against the order dated 10th December, 2013 by which the Labour Court dismissed Reference (IDA) No. 93 of 2010 made at the instance of the petitioner for grant of permanency in service. The Labour Court, on the basis of the evidence before it, held that the petitioner had failed to establish that he was in continuous service of 240 days in the year preceding to the date of his termination. It also held that the petitioner had failed to prove that his termination was illegal and as a consequence, he was not entitled to the relief of reinstatement and backwages.

2). Mr. Jalisatgi, the learned Advocate appearing for the petitioner, submits that subsequent to the Award, document dated 29th

April, 2014 of attendance by the petitioner has been made available to him. Copy of the document is annexed at page-62 of the petition. This document is an extract from the attendance register prepared by the Head Master of the School, where the petitioner had worked. Thus, this document is not the original attendance register and hence cannot be said to be a document that could have been produced by the petitioner during the course of hearing of the reference. Perusal of the cross-examination on behalf of the petitioner, of the witness of the respondent, shows that the witness had specifically stated that the petitioner used to sign the attendance register maintained by concerned Ashram school. This would mean that, the relevant document of attendance register was not even in the custody of the respondent and it was entirely for the petitioner to have it produced from the concerned Ashram school to establish his case of continuous service of 240 days in each year. It is now well established position in law that, it is for the claimant to establish that he had completed continuous service of 240 days in the preceding year. Since there is no material whatsoever produced and even the document today sought to be relied upon is not really a document which could have been produced, there can be no infirmity in the impugned order. Hence, the petition is dismissed.