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

WRIT PETITION NO. 4969 OF 2013

Chandrika Manohar Yadav.

... Petitioner.

V/s.

Shalimar Wire Industries Ltd. and Anr.

... Respondents.

Ms. Pranita Hingmire i/b. Ushajee Peri for the Petitioner.

Mr. A.K. Jalisatgi for the Respondents.

CORAM : N.M. JAMDAR, J.

DATE : 09 DECEMBER, 2015.

P.C. :-

In this Petition notice was issued on 10 July 2013. Thereafter, none appeared on behalf of the Petitioner on 31 August 2013. None appeared before the Registrar (Judicial) on 7 January 2014. Time was sought on behalf of the Counsel for the Petitioner. Against time was sought on 10 June 2014. None appeared on behalf of the Petitioner on 25 August 2014. The Petition was shown for dismissal yet none appeared for the Petitioner and it was dismissed for default on 1 September 2014. Civil Application taken out for restoration was also dismissed by order dated 2

September 2015. The Petition was restored subject to cost of Rs.1,000/- which was also not paid in time. By order dated 18 November 2014, parties were put to notice that the Court will proceed with the matter on merits irrespective appearance of the parties.

2. None appears for the Petitioner. The Petitioner challenges the concurrent orders of the Labour Court and the Industrial Court dismissing his complaint filed for challenging his termination dated 8 June 2002. Both the Courts have found that the Petitioner failed to produce any appointment letter to show that he was previously not specifically employed for manufacturing activities. The Respondents had specifically contended that they had discontinued manufacturing activities and who have been retrenched and the Fine Wire Mesh Department was a separate division.

3. The evidence of the Respondent that the work of Fine Wire Mesh Department was given on contract basis because it was not viable, has been accepted by both the Courts below and both the Courts came to the conclusion that no unfair labour practice has been committed by the Respondent. Both the Labour Court and the Industrial Court upon assessment of evidence before it has rendered a categorical finding that the Fine Wire Mesh Department is a separate and independent department and there was no functional integrity.

4. At this stage of dictation, the learned Counsel appeared and requested that her submissions may be considered. She submitted that the Fine Wire Mesh Department was the integral part of the union and the findings recorded are incorrect. She submitted that there is an admission of the witness of the Respondent to that effect. But she has not placed the cross-examination on record. She relied on solely the paragraph 15 of the impugned order which is reproduced below :-

“15. Mr. R.S. Pande, the learned Repr. for the complainant submitted that the respondents' witness admitted in cross examination in para 16 that the said department is still functioning and the work of the said department is given on contract, therefore the termination of the complainant and other 11 workmen is apparently on false grounds.”

There is no such admission regarding functional integrity.

5. The learned Counsel then submitted that it is practically not possible that there was no functional integrity as work was over on contract thereafter. The Courts have considered this aspect as well. Both the Courts have held that the work was given on contractual basis but it is not viable to continue in the same department. Nothing is shown as to how this finding of fact is perverse except by criticizing that it is practically not possible.

6. It is not possible to reverse the findings of fact rendered by both the Courts on mere speculations. In the circumstances, there is no merit in this Petition. The Petition is rejected.

(N.M. JAMDAR, J.)