

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11465 OF 2014

Mr. Shri Dev Narayan Prajapati

.....Petitioner

: V/S :

The State of Maharashtra and Ors.

.....Respondents

* * * * *

Mr. Anand Mishra, Advocate for the petitioner.

Mr. Vishal Talsania i/by. Mr. Sagar Sheth, Advocate for respondent no.3.

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

* * * * *

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

15th JUNE, 2015.

P.C. :-

1). This petition is directed against the order dated 24th April, 2014 by which the Labour Court dismissed the application at Reference (IDA) No. 17 of 2012 filed by the petitioner for reinstatement in service with complete backwages. By the impugned order, the Labour Court dismissed the petitioner's complaint on the ground that the same is not maintainable. In this petition, the petitioner seeks to enlarge his Reference into payment of compensation to him by respondents no.2

and 3 for the alleged permanent disability caused to him on account of negligence on the part of respondents no.2 and 3.

2). The brief facts alleged in the Reference by the petitioner are that, he was an employee of respondent no.3, Contractor and had been working with respondent no.2, Company. The complaint does not disclose the date of his employment with respondent no.3 and the date from which he started working with respondent no.2. It is his allegation that on 29th June, 2011 respondent no.2 without providing any safety measures or the necessary training, directed him to work on press machine alongwith the other press operators. While, he was working with the press machine, accidentally his left hand got caught in the machine causing serious injuries to the left hand. Injuries were caused to the middle finger, ring finger, little finger and palm of the left hand. The Company then shifted him to hospital for treatment. On completion of treatment, when he sought to resume duty, he was informed that his services had been terminated w.e.f. 29th June, 2011. According to the petitioner, his termination from service was illegal because it was without following the procedure under Section 25-F of the Industrial Disputes Act. Therefore, at his instance a Reference came to be made regarding his termination from service and reinstatement with continuity of service with full backwages. The Labour Court, on the basis

of the evidence led by the parties held that the petitioner was a contract labourer working with respondent no.2 and was an employee of respondent no.3, Contractor and he had failed to establish that his services had been illegally terminated by respondents no.2 and 3 on 29th June, 2011.

3). Admittedly, the petitioner was an employee of respondent no.3, the Contractor working with respondent no.2. Therefore, there was no relationship of employer and employee between the petitioner and respondent no.2. The Reference as such could not have been maintained against respondent no.2. As regards respondent no.3, the Court has found that the petitioner had barely worked with respondent no.3 for 15 days and therefore there was no question of he being entitled to the benefit of the procedure under Section 25-F of the I.D. Act. It was the petitioner's own evidence before the Labour Court that he was employed on 19th November, 2011 and the accident took place on 29th November, 2011. The Labour Court, therefore, has correctly dismissed the complaint of the petitioner. There can be no interference with the order. Hence, the petition is dismissed.

(SMT. R.P. SONDURBALDOTA, J)