

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH, NAGPUR

Civil Application (CAO) No.1607 of 2015

In

Misc. Civil Application Stamp No.11312 of 2015 (for Review)

And

Misc. Civil Application Stamp No.11312 of 2015 (for Review)

In

Writ Petition No.205 of 2009 (D)

(The Manager, S.G.S. India Ltd., Nagpur v. Shri Ramsunder s/o Loknath Tiwari)

---

Office Notes, Memoranda of Coram,  
appearances, Court's orders or directions  
and Registrar's order

Court's or Judge's orders

---

Shri A.R. Patil, Advocate for Applicant.

**Coram : R.K. Deshpande, J.**

**Date : 11<sup>th</sup> September, 2015**

Civil Application (CAO) No.1607 of 2015 :

For the reasons stated in the application, the application is allowed. The delay caused is condoned. The civil application is disposed of.

Misc. Civil Application Stamp No.11312 of 2015 :

Heard Shri Patil, the learned counsel appearing for the applicant/respondent.

This Court had allowed Writ Petition No.205 of 2009 by the judgment and order dated 23-4-2015 by setting aside the award passed by the Reference Court, answering the reference in the negative. This Court has held that the termination of the petitioner-employee with effect from 2-11-1999 was in violation of the mandatory provision of Section 25F of the Industrial Disputes Act,

1947 and, therefore, it was quashed and set aside and the review respondent-employer was directed to reinstate the petitioner-employee in service. The employee was denied the back wages.

The learned counsel for the respondent-employer seeks review of the judgment and order delivered by this Court on the ground that the fact that the petitioner-employee had continuously worked from 2-2-1998 to 2-11-1999, was disputed. He submits that the reference was sought by the petitioner-employee on the basis that he was terminated from service from 2-12-1999 and this Court, therefore, could not have held that the termination was from 2-11-1999. He, therefore, submits that the matter requires reconsideration by this Court.

Undisputedly, the respondent-employer was not represented by any one when the matter was finally decided. This Court has noted the statement appearing in the written statement filed by the respondent-employer to the effect that the work of a Driver was not available with the employer and the services of the petitioner-employee were not required from 1-11-1999 onwards. On the basis of such statement appearing in the written statement filed by the respondent-employer, the Court has assumed the termination with effect from 2-11-1999. To permit the respondent-employer to urge the point that the reference was sought on the basis of the termination on 2-12-1999, would amount to reopening of the matter without there being any error apparent on the face of the record.

In the result, the Misc. Civil Application for review is dismissed.

Judge.

Lanjewar