

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

**REVIEW PETITION NO. 17 OF 2016
IN
WRIT PETITION NO. 1618 OF 2014**

Shri. Tatyasaheb Kore Warna SSK Ltd.

... Petitioner
(Ori.Petitioner)

vs.

Shri. Ananda Mahadev Ingawale

... Respondent
(Ori.Respondent)

Mr. Suresh Pakale i/by Avinash Ram Balge, Applicant for the petitioner.

Mr. M. Topkar, Advocate for the respondent.

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

Date : 8th March, 2016.

P. C. :

1. This petition is for review of the order dated 10th December, 2014 by which Writ Petition No.1618 of 2014 was dismissed. The short issue raised by the petitioner in his petition was that it was incumbent upon the respondent to plead and establish prejudice caused to him by failure to furnish copies of the report of the Enquiry Officer. The order under review records that the prejudice caused to the respondent is self-evident in the facts

of the case. The real prejudice caused to the respondent was discussed in the impugned order of the Industrial Court and a portion of that order is quoted at para 4 of the order under review. Mr. Pakale submits that according to him the observation at para 5 of the order under review that in view of the self-evident facts there was no need for the respondent to plead any specific prejudice caused to him by non-furnish of the enquiry report is contrary to view expressed by the Apex Court in various decision. If the view taken by this Court is contrary to the view taken by the Apex Court, the same would be a ground for challenge to the order. It cannot be said to be an error of law apparent on the face of the record.

2. The application for review at para 6 also alleges that there are mistakes of fact which are apparent on the face of the record. Mr. Pakale, however, concedes that there is no error of fact apparent on the face of the record.

3. The other ground raised by Mr. Pakale is at para 2 of the petition wherein the petitioner contends that while passing the order under review this Court has omitted to appreciate the glaring mistake committed by the lower Courts. This objection can be available to the petitioner only by way of challenge to the order and not for review of the order.

4. Para 8 of the review petition refers to yet another ground wherein the petitioner states that it has now become impossible for the petitioner to lead evidence before the lower Court as most of the witnesses have either left the job or they are no more. According to Mr. Pakale, this is a genuine difficulty, which is required to be considered. This difficulty cannot be a ground for the review of the order. Hence, the review petition is dismissed.

5. Mr. Topkar, the learned advocate appearing for the respondent rightly points out that by filing the present petition as late as on 30th January, 2015 the petitioner had successfully dragged and delayed the proceedings in the trial Court. In the circumstances, the petitioner is directed to pay costs quantified at Rs.10,000/- to the respondent within a period of three weeks from today. The Labour Court is directed to dispose off Complaint No.131 of 2006 within a period of six months from today.

[Smt. R. P. SondurBaldota, J.]