

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1877 OF 2016

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.A.S.Rao for the petitioner

Mr.Kiran S. Bapat i/b Mr.Avinash H. Fatangare for the respondent no.1

CORAM : K. K. TATED, J.

DATE : DECEMBER 15, 2016

P.C.:

- 1 Heard the learned counsel for the parties.
- 2 By this petition under Article 226 and 227 of the Constitution of India, the Petitioner challenges the order dated 15.6.2006 passed by 3rd Labour court, Pune on preliminary point under section 3(13) of the Bombay Industrial Relations Act, 1946 and order dated 19.9.2013 by which the Industrial Court confirmed the order passed by Labour Court holding that the petitioner cannot be termed as a employee under section 3(13) of the Bombay Industrial Relations Act, 1946.
- 3 In the present proceedings, petitioner was working with the respondent bank as a Special Recovery Officer. Because of fraud committed by

the petitioner, respondent terminated the petitioner's service on 27.10.2003. Hence, petitioner filed application under Bombay Industrial Relations Act, 1946 before the Labour Court for reinstatement with full back wages and continuity of service.

4 The Labour Court framed preliminary issue “whether opponent proves that the applicat is not a workman/employee u/s 3(13) of the B.I.R. Act”. That issue was decided by the Labour Court on 15.6.2006 in favour of the respondent bank holding that the petitioner is not a workman as per section 3(13) of the Bombay Industrial Relations Act, 1946.

5 Being aggrieved by the order of the Labour Court on preliminary issue, the petitioner preferred Appeal (IC) No.3/2006 before the Industrial Court Maharashtra at Pune. The Industrial Court by oral judgment dated 19.9.2013 dismissed the petitioner's appeal. Hence, the petitioner preferred present Writ Petition challenging both the orders.

6 The Labour Court as well as Industrial Court specifically recorded that petitioner failed to produce on record any document and or place on record any evidence to show that he was working as a employee in the respondent's establishment. Apart from that, there is no dispute that on the date of termination petitioner was drawing basic salary of Rs.1890/- in 2003. The definition of

employee under section 3(13) of the said Act clearly shows that if a person was drawing salary of more than Rs.1,000/- then it cannot be termed as employee under section 3(13) of the said Act.

7 Considering these admitted facts, I do not find any reason to entertain the present Writ Petition. Hence, Writ Petition stands rejected.

JUDGE