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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.325 OF 2002

The State of Maharashtra & Ors.

...Petitioners

VS

General Secretary, Sarva Shramik Sangh 1,
Bhavani Peth, Satara & Anr.

...Respondents

.....
Mrs. M.S. Bane, 'B' Panel Counsel, for the State.

.....

CORAM : S.C. GUPTE, J.

DATED: AUGUST 11, 2016

P.C.:

. Heard the learned AGP. This petition filed by the State of Maharashtra and the Divisional Forest Officer, Satara, challenges an order passed by the Industrial Court, Satara on a complaint of unfair labour practice under Item Nos. 6 and 9 of Schedule IV of the MRTU & PULP Act. The Respondents are absent. The contesting Respondent, Respondent No.1, who has been espousing the cause of the concerned employee, was absent even on the last occasion. The matter was stood over as and by way of a final opportunity to Respondent No.1 to show cause. A Court notice was directed to be issued to the first Respondent. The Petitioners were also permitted to effect a private service. An affidavit of service has been duly filed by the Petitioners proving service on Respondent No.1. Respondent No.1 is absent despite such service.

2. The present complaint was filed by the first Respondent Union on behalf of two employees of the Petitioners, namely, one Prakash Hariba Bhosale and one Shankar Khashaba Bhosale, both of whom were appointed as watchmen on daily wages. It was the case of the union that the workmen worked for more than 240 days in a year with the Petitioners and as such were entitled to permanency. During the pendency of the petition, Shankar Khashaba Bhosale left the job of his own free will, as alleged by the Petitioners. He did not enter the witness box to contest this case. Considering the documentary and other evidence before the Court, the Industrial Court thought it fit not to pass any order in respect of Shankar Bhosale. As for Prakash Bhosale, the Industrial Court held that the Petitioners' case that Prakash Bhosale did not report for duty or abandoned his work with effect from 7 September 1994, was not tenable and that the Petitioners had failed to prove such failure or abandonment. The Petitioners have placed on record the number of days, during which Prakash Bhosale worked with the Forest Department. The record, as of 7 July 2000, indicates that Prakash worked with the department for 52 days during the year 1999-2000 and that he had not put in a single day's of work during the period 1 April 2000 to 7 July 2000. Learned AGP submits that after his work of 52 days during the year 1999 and 2000, Prakash Bhosale has not reported for work at any time. That position continues till date. In the premises, there is no question of the Petitioners being directed to accord permanency even to Prakash Bhosale. He clearly appears to have left the job of his own free will just as Shankar Bhosale did earlier.

3. In the premises, the petition is allowed by making the rule

absolute, quashing and setting aside the impugned order dated 15 December 2000. There shall be no order as to costs.

(S.C. GUPTE, J.)