

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

WRIT PETITION NO.4256 OF 2015

Shri Tukaram G. Malkar, age 54 years
167/41, Ujwala Co-operative Society,
Sector 1, Charkop, Kandivli (West), Mumbai-67 Petitioner
Versus

M/s Burroughs Welcome (India) Ltd
91, L.B.S. Marg, Mulund (West),
Mumbai-400 080. Respondent

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Mr. Mahesh Thorat i/b Mr. C.G. Jadhav for the Petitioner.
Ms. Nutan Patankar a/w V.P. Sawant and Mr. Prabhakar Jadhav for the
Respondent.

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CORAM : S.C.GUPTE, J.

DATE : 6 APRIL 2016.

P.C. :

. Heard Learned Counsel for the parties.

2 This petition challenges an order dated 5 May 2014 passed by the 4th Industrial Court, Thane on a reference under the Industrial Disputes Act, 1947. The case of the Petitioner is that he was in the employment of the Respondent between 25 May 1981 and 30 April 1986 as Packer/Helper cum Pharmaceutical Process Operator in Sterile Department. It is his grievance that his services were terminated orally since 30 April 1986 without serving any legal notice upon him or offering any pay in lieu of the notice. The Petitioner, after his purported termination on 30 April 1986, raised a demand for the first time on 23 August 2004 and thereafter approached the Labour Commissioner. The present

reference thereupon was submitted to the 4th Labour Court, Thane. Both parties filed documents and led oral evidence and after hearing both parties, by its order dated 5 May 2014, the Labour Court dismissed the reference. That order of dismissal is challenged in the present petition. Learned Counsel appearing for the Petitioner mainly submitted before this Court that the impugned order passed by the Labour Court is contrary to the evidence on record.

3 Perusal of the record shows that the conclusion drawn by the Labour Court for dismissal of the reference, namely, that the Petitioner never completed 240 days of service in any year prior to his termination and that he was a casual and temporary worker, can be sustained upon the evidence on record. This Court is not sitting in appeal so as to interfere with that conclusion by reassessing evidence. The conclusion drawn by the Labour Court is supported by evidence; there is no relevant material which is disregarded by the Labour Court; and no irrelevant material is considered by the Labour court. The Labour Court has also noted the delay of about 19 years in filing the Reference. It has also noted that since the date of termination of service of the Petitioner, he has been working on a salary. All these are matters of fact and supported by evidence. Accordingly, there is no merit in the writ petition and the same is dismissed.

(S.C.GUPTE, J.)