

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

WRIT PETITION NO.4255 OF 2015

Shri Dinesh S. Patole, age 50 years
8, Maleshwar Co-operative Housing
Society, Konkan Nagar, J.M. Road,
Bhandup (West), Mumbai-78

.... Petitioner

Versus

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

.... Respondent

.....

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 11 May 1983 and 20 October 1988 as
Packer/Helper cum Pharmaceutical Process Operator in Sterile
Department. It is his grievance that his services were terminated orally
since 20 October 1988 without serving any legal notice upon him or
offering any pay in lieu of the notice. The Petitioner, after his purported
termination on 20 October 1988, raised a demand for the first time on

19 October 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 17 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.)