

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

**WRIT PETITION NO.3650 OF 2013
WITH
CIVIL APPLICATION NO.1524 OF 2013
AND
WRIT PETITION NO.3649 OF 2013**

M/s. Yogesh Precision

...Petitioner

v/s.

Presiding Officer, First Labour Court,
Pune & Ors.

...Respondents

Mr. Nitesh Bhutekar a/w Manoj Kandekar for the petitioners in WP No.3650/2013 and WP No.3649/2013.

Ms.Pratibha Borade i/b Mr. Prashant for respondent No.2 in WP No.3650/2013 and WP No.3649/2013.

CORAM: N.M. JAMDAR, J.

DATED : 2 MARCH 2016

PC.:

. Both these petitions challenge the awards of the Labour Court, Pune wherein the Labour Court has answered the references in the affirmative and has directed the petitioner to reinstate the respondents with full back wages.

2. Writ Petition No.3650/2013 arises from award dated 25 July 2012 in Reference No.7/2008 and Writ Petition 3649/2013 arises from award dated 25 July 2012 in Reference No.8/2008. Since the facts in both the petitions are similar, the petitions have been argued together and are being disposed of by this common

order.

3. The References were made in respect of termination of the respondents by the petitioner from service. It was the case of the respondents that they were working with the petitioner M/s. Yogesh Precision and only on paper two different companies are shown by the same owners viz., Maruti Dhondiba Kandhare and Yogesh Dhondiba Kandhare. It was their case that they were illegally terminated from service by Maruti Dhondiba Kandhare without any notice or retrenchment compensation. It was from this termination that the industrial dispute was raised. Conciliation Officer tried to settle the dispute, however he was not successful and reference was made. The petitioner did not appear in the proceeding and the Labour Court proceeded to answer the reference in the affirmative.

4. Mr. Bhutekar, the learned counsel for the petitioner submitted that the notice was not served on the petitioner. The learned Labour Court has categorically observed that the notice was duly served and the petitioner was having knowledge have appeared before the Conciliation Officer. Nothing is shown as to how this finding is incorrect except stating that the notice was not served.

5. Learned Counsel for the petitioner then submitted that the respondents were never in service of the petitioner M/s. Yogesh

Precision. The Labour Court has observed that the two entities are one and the same and are entities run by Maruti Dhondiba Kandhare. Again nothing is shown as to how they are different and if this was so, why Maruti Kandhare made a statement before the Conciliation Officer. The Labour Court has therefore rightly accepted the version that the respondents were in service of the petitioner and were wrongfully terminated. The petitioner having full knowledge of the proceeding before the Labour Court had avoided to participate in the legal process and cannot now complain that petitioner was not given an opportunity. Even otherwise, on merits of the case there is nothing to show that the conclusion arrived at by the Labour Court is perverse.

6. There is no merit in these petitions. Both the petitions are rejected. The respondent in Writ Petition No.3650/2013 will be entitled to withdraw the amount deposited by the petitioner in the Court.

(N. M. JAMDAR, J.)