

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.3452 OF 2002

Shri Nemchand Gutka And Others	...	Petitioners
Versus		
Shri Abdul Aziz A. Rehaman Ansari		
And Another	...	Respondents

Mr. Shankar Katkar i/b Mr. S.S. Pakale for the Petitioners.
Mr. I.R. Kulkarni a/w Mr. Jayesh Gawade for Respondent No.1.

CORAM : S.C.GUPTE, J.

DATE : 12 AUGUST 2016.

P.C. :

. Heard learned Counsel for the parties.

2 The Petition challenges an award passed by the Labour Court at Thane in a reference under the Industrial Disputes Act, 1947. The reference concerns termination of the first Respondent's services by the Petitioners. The impugned award directs the Petitioners to reinstate the first Respondent-workman with full back wages with effect from 11 March 1999.

3 It is the case of the first Respondent that the Petitioners carried on manufacturing activities at Agrawal Compound, Gala No.4, Karivali Road, Bhiwandi, Dist. Thane; that the first Respondent worked with the Petitioners at this establishment for seven years without any break as a warpar, his last drawn salary being Rs.5,400/- per month; the Petitioners

had not maintained any record relating to the first Respondent's service; that on 11 March 1999, though the first Respondent had gone to report for his duties as usual, he was not allowed to work; and that this amounted to an oral termination of service of the first Respondent in breach of law. The only defence of the Petitioners was that they did not have any establishment at the address indicated by the first Respondent and that the latter was not employed by them at this address.

4 By the impugned order, the Labour Court rejected the Petitioners' contention that the Petitioners did not carry any business at the address of their establishment mentioned in their reference. Relying on the documentary and oral evidence on record, the Court came to the conclusion that the Petitioners did carry on business at the subject address. The Labour Court also noted that the Petitioners' own witness had deposed that the Petitioners had not kept any records, such as attendance registers, wage registers, leave registers, etc. and they were unable to produce any material which could have raised a doubt on the first Respondent's case of an employer and employee relationship between the parties. The award cannot be said to be either perverse or illegal. It is based on appreciation of evidence before the Court. It cannot be demonstrated that the conclusion is such as no prudent person would have arrived at on the basis of material before him.

5 There is accordingly no merit in the Petition and the same is dismissed. No order as to costs.

(S.C.GUPTE, J.)