

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

WRIT PETITION NO.5948 OF 2015

Mr. Manik Gaman Baviskar

...Petitioner

vs

Maharashtra State Board for Secondary
& Higher Secondary Board,

Through Divisional Secretary.

...Respondent

.....

Mr.Avinash Jalisatgi i/b Mr. C.M. Lokeshappa for the Petitioner.

Mr.Nirav Shah with Mr.Anuj Jaiswal i/b Little & Co. for the Respondent.

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CORAM : S.C. GUPTE, J.

DATE : AUGUST 8, 2016.

P.C. :

1. Heard learned Counsel for the parties.
2. The petition challenges an Award passed by the Labour Court at Nashik on 16th December, 2013, in a reference made to it by the State Government under the Industrial Dispute Act, 1947. By the impugned Award the Labour Court answered the reference in the negative. The Labour Court held that admittedly the Petitioner workman had not produced his appointment letter to show that he had joined the Respondent Board as Peon from 20th September, 1993, and it was not disputed that he was working on daily wages of Rs.25/- per day. The Court held that even his oral statement that he has worked continuously for more than 240 days in each year, was not supported by any documentary evidence. The Court considered the evidence of muster roll produced by the Respondent Board as also other documentary evidence to show that there was no vacant post in which the Petitioner workman could have been regularly appointed; that the

Petitioner was actually employed through a contractor; and that he was on daily wages for different periods, namely, 51 days, for the period from 16th September, 1994 to 30th November, 1994, 14 days for the period between 1st September, 1995 to 15th September, 1995, 20 days from the period between 5th January, 1996 to 15th February, 1996 and 25 days for the period from 2nd September, 1996 to 30th September, 1996. This shows that the Petitioner never put in continuous service of 240 days in any calendar year. In any event, considering the record produced by the Board which shows that between 1996 and 1999, the Petitioner actually worked through a contractor and that after 4th August, 1999, he did not work for any day, the Labour Court has drawn a legal inference that the Petitioner worked on daily wages as a Peon through a contractor and never put in service of 240 days or more. Accordingly the provisions of section 25-F of the Industrial Disputes Act were not attracted. These are matters of appreciation of evidence. The impugned Award of the Labour Court on appreciation of evidence, as reflected in the Award, cannot be termed either as perverse or impossible. This is not a case where the award is based on no evidence or any irrelevant matter is considered by the Labour Court or relevant or genuine material is disregarded by the Court, for arriving at the award.

3. In the result, there is no infirmity in the Award. The Petition is dismissed. No order as to costs.

(S.C.GUPTA J.)