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

WRIT PETITION NO. 2796 OF 2000

Mr. Prakash Chandra Varma.

... Petitioner.

V/s.

M/s. Bharat Commerce and Industries Ltd. & Ors. ... Respondents.

None for the Petitioner.

None for the Respondents.

CORAM : N.M. JAMDAR, J.

DATE : 04 JANUARY, 2016.

P.C. :-

Rule was issued in this Petition on 26 June 2000. On 9 December 2015 when the Petition was called out, none appeared for the Petitioner and the matter was adjourned. Today also none appears.

2. The Petitioner filed a Complaint (ULP) No. 372 of 1991 in the Industrial Court, Thane in respect of his termination of services. According to the Petitioner he was appointed on 21 April 1983 as a Spinning Master and his services were terminated on 16 January 1984. He filed a complaint under the provisions of

M.R.T.U. & P.U.L.P. Act, 1971. The Industrial Court examined the evidence on record and came to the conclusion that the Petitioner is not an employee/workman and that the complaint was not filed within period of limitation and no unfair labour practice was committed by the Respondents.

3. I have gone through the record and the order passed by the Industrial Court. The Industrial Court has considered the entire evidence on record to come to the conclusion that the Petitioner was not a workman but was working in managerial capacity. The Industrial Court examined the hierarchy in the spinning department where the Petitioner was working and held that the Petitioner was above the level of shift incharge and supervisor. There were 600 workers and only 3 spinning masters and the Petitioner exercised managerial functions. The Industrial Court also took into account that the Petitioner was given a self-contained flat at Dhiraj Apartment, Mulund, admeasuring around 780 sq.ft. The Industrial Court noted that none of the workmen engaged by the Respondent – Company were given this privilege. Therefore, considering the totality of evidence, the Industrial Court came to the conclusion that the Petitioner was not a workman. The factors mentioned by the Industrial Court are sufficient enough to take a view that the Petitioner was not workman. According to the Petitioner, his services came to an end on 16 January 1984 and the complaint was filed in the year 1991. The Industrial Court has rightly taken into account the cases filed

by the Respondent – Compay for eviction of the Petitioner based on his termination in the year 1988 for the purpose of holding that the complaint was beyond limitation. The Respondent had also taken a stand that after the termination of the Petitioner in the year 1984, he joined one Super Syncotx, Bhilwada, Rajasthan. The Industrial Court has also held that restarting of the company 5 years after its closure had nothing to do with the order of termination.

4. The manner in which the present Petition is being prosecuted by absence of the Petitioner or his Advocate, it appears that the Petitioner who left the services in the year 1984 and who is held not to be a workman, is no longer interested in prosecuting this cause.

5. Even otherwise the view taken by the Industrial Court appears to be a possible view of the matter. The Writ Petition is accordingly dismissed. Rule discharged.

(N.M. JAMDAR, J.)