

Sequeira

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

WRIT PETITION NO. 10882 OF 2015

Shri Ramsarikha Katwaru Rajbhar.

.. Petitioner

Vs.

Shri.Somchand Lalji Gudkha & anr.

.. Respondents

Mr.M.A.Shaikh, for the Petitioner.

Mr.Y.M.Pendse, for Respondents.

***CORAM: N.M. JAMDAR, J.
Monday, 25 January 2016.***

P.C. :

The Petitioner challenges the order dated 12 January 2015 of the Labour Court, Thane, answering the Reference (IDA) No.350 of 2006 in negative. The reference was made regarding termination of the Petitioner from the services of the Respondents.

2. According to the Petitioner, he was working with the Respondents from 1 January 2001 to 20 December 2005, wherein his services were terminated without following due process of law such as Section 25-F and 25-G of the Industrial Disputes Act, 1947 thus the Petitioner was entitled reinstatement with full back wages. According to the Respondents, the Petitioner worked for 35 days from 16 November 2005 to 28 December 2005 and thereafter he

voluntarily abandoned the services. The case of the Respondents has been accepted by the Labour Court.

3. The learned counsel for the Petitioner submitted that the Labour Court has erroneously framed an issue regarding employer-employee relationship where it is the stand of the Respondents themselves that the Petitioner worked for 35 days. I have considered this submission. Though the Labour Court has erred in framing and considering this issue in view of the stand of the Respondents themselves, it will not take the case of the Petitioner any further for grant of any relief.

4. The Petitioner had stated in his statement of claim that the Respondents maintained no documents regarding the attendance, wages, etc. Thereafter the Petitioner filed an application calling upon for direction to the Respondents to produce the relevant muster rolls. Pursuant to the direction, the Respondents produced the roll. The Petitioner thereafter questioned the veracity of these documents. The Labour Court sent the documents to the Indian Security Press Nasik, for exemption of revenue stamps. The report was in favour of the Respondents. The Petitioner was confronted with the muster rolls which he admitted by stating that his name does not figure there.

5. Considering these facts the Labour Court held that the Petitioner failed to prove that he worked from 2001 to 2005 except for 35 days from 16 November 2005 to 28 December 2005. This

finding of fact rendered by the Labour Court and the appreciation of material tendered before it cannot be termed as perverse. That being the position, there is no question of breach of Section 25-F and 25-G of the Industrial Disputes Act, 1947. No error or perversity is found in the impugned order. The Writ petition is accordingly **rejected**.

(N.M.Jamdar, J.)