

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****WRIT PETITION NO. 498 OF 2016**

Prabhakar Shridhar Joshi

...Petitioner

VS.

M/s.Indian Tolols Manufacturers

....Respondent

Mr.Shailesh K. More for Petitioner.

Mr.Piyush U. Raje for Respondent.

CORAM : S.C. GUPTE, J.**29 MARCH 2016****P.C. :**

The writ petition challenges an order passed by 10th Labour Court, Mumbai on an application under Section 33-C(2) of the Industrial Disputes Act. The application was for closure compensation, bonus, gratuity, pension, encashment of leave and earned wages. The application was heard ex parte against the Respondent herein. Despite there being no rebuttal of the evidence produced by the Applicant to claim closure compensation, the application was dismissed by the Labour Court on the ground that the closure was challenged in a complaint filed in 1988 and that a copy of the complaint was not produced by the Petitioner to show that he was a party to the complaint. The complaint of 1988 was in respect of lock-out declared by the company in 1988. The closure order was passed on 27 May 1992. Pursuant to the closure order, a memorandum of settlement was entered into between the Respondent company and General Kamgar Union, being the registered union of workmen. The closure order together with the memorandum of settlement was produced by the Petitioner and yet the Labour Court came to the conclusion that since there was absence of evidence pertaining to the Petitioner being the beneficiary of the order passed in the complaint of 1988, he was not entitled to claim closure compensation. The conclusion is clearly perverse. The impugned order of the

Labour Court is set aside and the matter is remanded to the Labour Court for a fresh hearing on merits of the application in accordance with law.

2 The petition is disposed of accordingly.

(S.C. Gupte, J.)