

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

13 WRIT PETITION NO.11983 OF 2014

VISWANATH BABASAHEB SHIRSAT
VERSUS
M/S. BAJAJ AUTO LTD., AURANGABAD

...

Advocate for Petitioner : Mr. Nangare Prashant R.
Mr. SN Boiwar, Adv. h/for Mr. Dankh Sachin V.
Adv. For R/sole.

CORAM : P.R.BORA, J.

DATE : 24th April, 2017.

PER COURT :

1) Learned Counsel for respondent seeks time for filing affidavit in reply on behalf of the respondent. The record shows that though the matter pertains to the year 2014 and on similar grounds, adjournment was sought by the respondent earlier, affidavit in reply has not been filed.

2) I have perused the impugned order. It appears to me that it may not be necessary for the respondent to submit any reply. The learned Labour Court has rejected the Reference

Application on the ground that the present petitioner failed to adduce any evidence. The learned Labour Court has observed that the second party, i.e. the workman has failed to adduce any evidence and it has to be therefor presumed that he has lost interest in prosecuting the matter further.

3) The learned Counsel for the petitioner submits that on the given date, the petitioner could not attend the matter for some personal difficulties, however, he was always ready and willing to adduce the evidence in support of his claim.

4) It appears to me that opportunity needs to be given to the petitioner to put forth his case and also to adduce necessary evidence in support of his claim. Since the Reference has not been decided on merits and has been dismissed on technical ground, the impugned order deserves to be quashed and set aside and the petitioner

needs to be given an opportunity to adduce his evidence. Order accordingly. No prejudice is likely to be caused to the respondent since it would be open for the respondent to rebut the contentions raised by the petitioner by cross-examining the petitioner as well as by adducing necessary evidence in support of its defence.

5) The parties to appear before the Labour court on **3rd of May, 2017**. Without asking for any adjournment, the petitioner to proceed with the Reference Application. The Labour Court to decide the Reference Application expeditiously by giving due opportunity of hearing to both the parties.

6) The writ petition stands allowed in the aforesaid terms.

(P.R.BORA,J.)

bdv/