

was illegal and in colourable exercise of the power of the employer and also in breach of provisions of Section 25F of the Industrial Disputes Act. The reference was made sometime in the year 2000. Before that, a complaint of unfair labour practice in respect of the then proposed termination of the Petitioner was instituted before the Labour Court at Mumbai, alleging unfair labour practice under Item 9 of Schedule IV of MRTU & PULP Act. The reference was filed after termination was actually effected. After the order of termination and filing of the reference, the complaint was withdrawn by the Petitioner, by a withdrawal simplicitor in the light of the pending reference. Under the law declared by the Full Bench of our Court in the case of **C.S. Dixit Vs. Bajaj Tempo Ltd**¹, such withdrawal does not attract the bar of Section 59. Mere filing of a complaint under MRTU & PULP Act without anything done in the matter is not covered under Section 59. That is the case here. The complaint was not prosecuted, but withdrawn simplicitor. The impugned award of the Labour Court, in the premises, cannot hold good.

4 Rule is accordingly made absolute by quashing and setting aside the impugned order dated 29 October 2003 and remanding Reference (IDA) No.651 of 1999 to the the Labour Court at Mumbai for a fresh hearing on merits in accordance with law. Considering the fact that this is an old matter, where we are dealing with a termination which occurred as far back as in 1998, the reference deserves to be expedited. The parties shall, accordingly, appear before the Labour Court at Mumbai on 27 July 2018 at 11.00 a.m. and produce an authenticated copy of this order; the Labour Court shall thereupon issue directions for hearing of the reference and

1 2000 II CLR 719

dispose of the reference as expeditiously as possible, and preferably within a period of six months from today.

Rajesh
Vasant
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(S.C. GUPTE, J.)