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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7906 OF 2015

Shri Dilipkumar Dhanappa Bone ...Petitioner

vs

Pimpri Chinchwad Municipal Corporation ...Respondent

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Mr. Uday Warunjikar, a/w. Mr. Satyajeet Shirke, for the Petitioner.

Mr. G.H. Keluskar, for the Respondent.

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CORAM : S.C. GUPTE, J.

DATED: JUNE 19, 2018

P.C.:

. Heard learned Counsel for the parties.

2. This petition challenges the judgment and award passed by the Labour Court at Pune in a reference filed under Section 10 of the Industrial Disputes Act. The Petitioner herein claims to be in the employment of the Respondent Municipal Corporation from December, 1990. He was working as a watchman. He was terminated with effect from 10 October 1994. It was his contention before the Labour Court that there was no enquiry conducted before terminating him. So also, no notice pay in lieu of notice was given to him. It was the grievance of the Petitioner that the Petitioner had completed 240 days of continuous service in one year preceding the reference and he was at present working and was entitled to be treated as a permanent employee and

could be terminated only after a duly conducted departmental enquiry.

3. The Petitioner was appointed by the Respondent on 11 December 1990 and by a further order on 21 December 1990 in a probationary capacity. Since his probation period was not satisfactory, his probation was extended upto 1995. During the period of his probation, he remained continuously absent from duty since 13 October 1994. In the premises, a final order of termination was issued on 20 May 1999. It appears that the Petitioner's absence without leave for a long period whilst on probation was the cause of his termination. He was served with show cause notices on at least two occasions, i.e. on 8 February 1993 and 16 August 1996. The absence of the Petitioner is staggered. All throughout he did not respond to the notices of the Respondent. The Petitioner's case is that he was assaulted by unknown persons during his night shift on 12 October 1994. He submitted that he was asked to take treatment and report for work thereafter. It is his case that he reported for work on 12 January 1995 with medical certificate but was not allowed to resume duties on the ground that he had not applied for leave. The Labour Court did not find favour with the story of attack and assault. The Court was of the view that the story was fully concocted. The Court observed that there was nothing to indicate that there was any assault. There was no police investigation; No documents. The Court noticed that earlier show cause notices were unanswered and a final show cause notice was even published in local newspapers inviting response of the Petitioner. Since the Petitioner did not satisfactorily complete his probationary period, there was no question of granting permanency to him. Also no fault could be found with

termination of his service which was for long absentism. The medical certificate produced by the Petitioner before the Court also did not support his case. The certificate shows that he was intermittently attending the O.P.D. of a hospital. There was no advice of rest during any particular period. There was accordingly no question of leave on medical grounds between 13 October 1994 till 21 January 1995. Apart from that, there was no oral or documentary evidence or explanation about his further absence from 22 January 1995 till 20 May 1999. Considering these circumstances, the Court held that his absence from 13 October 1994 till 20 May 1999 without sanction of leave was proved. In the premises, the Court answered the reference in the negative.

4. No infirmity can be found with the impugned judgment and order. The order of the Court is supported by evidence. There is no irrelevant or non-germane material considered by the Court and there is no disregard of any relevant material or circumstance.

5. Accordingly, there is no merit in the petition. The petition is dismissed. No order as to costs.

(S.C. GUPTE, J.)