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Bharat
D. Pandit

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.13492 OF 2017**

Shri Bhanudas Nana Hargude

.... Petitioner.

V/s

M/s. Z.P. Steering Gear India Ltd.

..... Respondent.

Mr. Uday Nighot alongwith Mr. Kaustubh Dube for the Petitioner.

Mr. Kiran Bapat i/b Ms. Desai & Desai Associates for the Petitioner.

CORAM: NITIN W. SAMBRE, J.

DATE: 3rd July, 2019

P.C.:-

1] Having heard the respective Counsel, what is noticed from the arguments and record is, the claim of the Petitioner is, against his appointment on 01/06/1993, he was orally terminated from service on 08/02/1997. Though the Petitioner has put into more than 240 days of service, Respondent, without following the provisions of Section 25-F of the Industrial Disputes Act, terminated his services, which is bad in law.

2] A Reference under sub-section (2) of Section 10 and sub-section (5) of Section 12 of the Industrial Disputes Act, 1947, after failure of conciliation proceedings, was made before the learned Labour Court, which dismissed the Reference. As such, this Petition.

3] The submission of Mr. Nighot, the learned Counsel for the Petitioner is, the evidence on record, particularly of the contractor, in voluminous terms establishes the fact that the Petitioner was working with the employer from 01/06/1993. He would draw support from the Muster Rolls, which are produced at Exhibit-23 and oral testimony of the Petitioner and one Mr. Shinde, who was examined in support of the defense.

4] Per contra, Mr. Bapat, the learned Counsel for Respondent-employer, would urge that the Petitioner has failed to establish that he was working with the Respondent since 01/06/1993, as claimed by him.

5] With the assistance of respective Counsel, I have perused oral evidence led by the parties and also analysis of the pleadings and

evidence by the learned Labour Court while rejecting the Reference. What can be noticed is, it was incumbent on the part of the Petitioner to prove that he was appointed on 01/06/1993 in the employment of the Respondent. The Petitioner has failed to establish the said fact through any documentary and oral evidence that he was working as helper on daily wages @ rate of Rs 72/- with the Respondent pursuant to an appointment order in his favour.

6] Apart from above, the claim of the Petitioner that Muster Rolls-Exhibit-23 supports his case is also hardly of any consequences, as the said Muster Rolls are not maintained by the Respondent-employer but by some different Society. Apart from that, in the evidence of witness of Respondent-employer, it has come on record that the Petitioner was working with the said contractor for quite a long time and that being so, the evidence relied upon of the said witness of the Respondent will be hardly of any assistance so as to establish the case by the Petitioner.

7] It has also been brought on record by Respondent-employer that the Petitioner was appointed on 05/02/1997 and he worked only

for a period of three days. The Petitioner is claimed to have abandoned his service and in such an eventuality, the learned Labour Court has held that the Petitioner has failed to satisfy that he has worked with the Respondent for a period of 240 days in the last preceding year so as to claim protection pursuant to provisions of Section 25-F of the Industrial Disputes Act.

8] In the aforesaid background, the view expressed by the learned Labour Court, thereby dismissing the Reference, as the Petitioner failed to establish the compliance of Section 25-F of the Industrial Disputes Act, appears to be just and proper. No case for interference is made out. Petition fails and the same is dismissed.

(NITIN W. SAMBRE, J.)