

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 427 OF 2017**

Hindustan Platinum Pvt. Ltd.

.. Petitioner

Vs.

Ashok Ramchandra Solkar

.. Respondent

**WITH
CIVIL APPLICATION NO. 2524 OF 2017
IN
WRIT PETITION NO. 427 OF 2017**

Ashok Ramchandra Solkar

.. Applicant

vs.

Hindustan Platinum Pvt.Ltd.

.. Respondent

Mr. R. S. Pai a/w. Mr. Anand Pai, Ms. Parthvi Golecha i/b. Mr. Haresh Mehta
for the Petitioner.

Ms. Bhavna Mhatre i/b. Kranti L. C. for Respondent no. 1.

CORAM : A.K. MENON, J.

DATED : 9th JANUARY, 2019.

P.C. .

1. The challenge in this matter is to an award dated 28th April, 2016 passed by the Third Labour Court, Thane in Reference (IDA) 89 of 2010. The impugned order answers the reference in the affirmative and directs reinstatement of the respondent with full back wages and continuity of service with effect from 17th November, 2018.

2. It is the petitioner's contention that the Target Department where the respondent was employed had closed as a result of which all employees in

that department had accepted their dues in full and final settlement in lieu of notice and had left petitioner's organisation. The petitioner employs about 360 persons and it is their express case in their written statement (Exhibit B to the petition) that Target Department had been closed as a result, all persons employed there had left and shown as retrenched. In the affidavit in reply filed in this petition also the respondent has stated that the petitioner company had taken such a stand in the written statement. The record indicates that in view of the company's express averments an amendment application was made by the respondent in January, 2012 wherein he denies the fact of closure. The amendment was allowed yet the issue was not framed. In my view issue of closure was most germane. Issues framed on 21st December, 2011 did not consider this basic defence. In view of the fact that the issue has not been framed it will be appropriate that the reference be remanded.

3. Considering the fact that the reference was of the year 2010 it will be appropriate that the Labour Court gives some preference in disposal. In the circumstances, I pass the following order :

- (i) The impugned award dated 28th April, 2016 is hereby set aside.
- (ii) The Labour Court shall hear the Reference (IDA) No. 89 of 2010 afresh.
- (iii) The issue of closure shall be framed and decided.

(iv) Considering the original reference was of the year 2010 the Court is requested to expeditiously dispose without granting unnecessary adjournments.

(v) Petition disposed of in the above terms.

(vi) In view of the disposal of this Writ Petition, Civil Application No. 2524 of 2017 will not survive. The same is also disposed.

(A.K. MENON,J.)