

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 1511/2019

Ramesh K. Tumsare
..VS..
Mahima Offset Works Pvt. Ltd.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri R.N. Deshpande, Advocate for the petitioner
Shri J.L. Bhoot, Advocate for the respondent

CORAM : Z.A.HAQ, J.
DATED : 18/06/2019

Heard.

The petitioner – employee had approached the Additional Commissioner of Labour who initiated the conciliation proceedings, and as the conciliation could not succeed, referred the dispute for adjudication to the Labour Court by making reference under Section 10 (1) (c) and Section 12 (5) of the Industrial Disputes Act, 1947 (for short “the Act of 1947”) before the Labour Court.

The learned advocate for the respondent – employer has pointed out that before the Conciliation Officer as well as the Labour Court, the respondent – employer submitted that the services of the petitioner – employee were not terminated. Accepting the submission made on behalf of the respondent – employer, the Labour Court has disposed the reference recording its answer in the negative. The reference Court has observed that as the employer has stated

that the services of the petitioner – employee are not terminated, there is no cause of action for the reference.

The learned advocate for the petitioner – employee, relying on the judgment given by the Calcutta High Court in the case of Sinclairs Hotels and Transportation Ltd. vs. State of West Bengal reported in 2004 (1) LLJ at page 1033, argued that the reference Court has committed an error by disposing the reference accepting the submission made by the respondent – employer. It is submitted that the Labour Court cannot go beyond the terms of reference and has to decide the reference made to it under Section 10 (1) (c) and Section 12 (5) of the Act of 1947. It is prayed that the impugned order be set aside and the matter be remitted to the Labour Court for deciding the reference.

Considering the specific submission made on behalf of the respondent - employer that the services of the petitioner – employee are not terminated and the employer is willing to permit the petitioner – employee to join his duties, in my view, the grievance as made by the petitioner does not require any consideration. Without examining the technicalities and accepting the submission made on behalf of the respondent – employer and treating it as an undertaking given to this Court, the writ petition is **disposed**. In the circumstances, the parties to bear their own costs.

JUDGE