

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.1118 OF 2020**

Ram Avadh Yadav

...Petitioner

vs

M/s. B. Sorabji And Ors.

...Respondents

.....

Mr. Pankaj M. Patel, for the Petitioner.

Ms. Seema K. Chopda, for Respondent Nos. 1 and 2.

.....

CORAM : S.C. GUPTE, J.**DATED: 12 FEBRUARY, 2020****P.C. :**

. Heard learned Counsel for the parties.

2. This writ petition challenges an order of dismissal passed by the Labour Court at Mumbai on a complaint of unfair labour practice filed by the Petitioner herein. The order of the Labour Court was carried by the Petitioner before the Industrial Court in a revision. The revisional court, by its order dated 21 December 2018, dismissed the revision application.

3. The controversy in the present petition mainly concerns the alleged employer-employee relationship between the Petitioner on the one hand (original complainant) and Respondent Nos. 1 and 2 herein (original respondent nos. 3 and 4). The complainant's case before the courts below that he was actually in employment of Respondent Nos. 1

and 2 herein, was not countenanced by the courts below.

4. The Labour Court found that the appointment letter as also salary slips produced by the complainant-workman showed that the appointment, as also payment of salary, was by Respondent Nos. 3 and 4 herein. The court noted that Respondent Nos. 1 and 2 herein had produced a copy of licence granted to Respondent Nos. 3 and 4 and that it was, accordingly, clear that Respondent Nos. 3 and 4 herein were contractors of Respondent Nos. 1 and 2, registered as such with the authority under the Contract Labour (Regulation and Abolition) Act, 1970, who had engaged the services of the complainant. The Labour Court also noted that Respondent No.4, who was the proprietor of Respondent No.3 herein, had also deposed in the witness box that the complainant used to work under his supervision as a sample maker and that it was Respondent No.3, who had appointed the complainant. The court also noted that the complainant himself in his cross-examination had admitted that he had joined employment with Respondent No.3 and lastly worked with it on the date of his termination. On these facts, and after taking into account settled law on the subject, the Labour Court came to a conclusion that whenever there was a dispute about employer-employee relationship between the parties, a complaint under MRTU & PULP Act was not maintainable. The court noted that the argument that the purported contract was a camouflage could not be countenanced on the basis of the law laid down in the case of **Cipla Ltd. vs. Maharashtra General Kamager Union**¹. The court, in the premises, held that no unfair labour practice could be claimed against Respondent Nos. 1 and 2 herein.

¹ 2001 I CLR 754

5. The Industrial Court, by its well-reasoned order, held that it was conclusively proved that Respondent Nos. 3 and 4 herein (original respondent nos. 1 and 2) were the employers of the complainant and not Respondent Nos. 1 and 2 herein (original respondent nos. 3 and 4). The court also applied its mind to all factual and legal contentions addressed to it by the parties and did not find any merit in the revision application and dismissed the same.

6. The impugned orders of the courts below are clearly warranted by law; they are supported by some evidence; they take into account all relevant and germane materials and circumstances; and they do not consider any irrelevant or non-germane material or circumstance. The impugned orders do not, in the premises, warrant any interference in the writ jurisdiction of this Court.

7. Accordingly, there is no merit in the writ petition. The writ petition is dismissed.

Smita
Gonsalves

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Smita Gonsalves
Date: 2020.02.17
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(S.C. GUPTE, J.)