

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1193 OF 2016

DASHARATH SOMINATH BHALERAO
VERSUS
THE MANAGING DIRECTOR RAKSHAK INDUSTRIAL
SECURITY AGENCY PVT. LTD.

...
Advocate for Petitioner : Ms. Nidhi Loya i/by. Talekar & Associates.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 7th APRIL, 2022

ORDER :

1. The petitioner is aggrieved by the award passed by the Labour Court, Aurangabad, in Reference (IDA) No. 3/2013. At the instance of the petitioner, the Deputy Commissioner, Aurangabad, forwarded a reference under Section 10(1)(C) read with Section 125 of the Industrial Disputes Act, 1947.

2. The respondent appointed the petitioner as a gunman in Oriental Bank of Commerce at Aurangabad from 01.07.2010 to 03.10.2012. According to the petitioner, on 04.10.2012, the respondent

orally terminated his services, without issuing notice, which is in contravention of section 25F, 25G and 25H of the Industrial Disputes Act.

3. During the conciliation proceedings, the respondent appeared and filed documents that the petitioner had tendered resignation. The petitioner disputed his signature on the resignation letter. The respondent thereafter had shown willingness to engage the petitioner at another district, however, the petitioner refused to go to another district and demanded that he should be engaged at Oriental Bank of Commerce at Aurangabad only. After recording the evidence and hearing the parties, the Labour Court held that the petitioner is not entitled to reinstatement with full back wages and continuity of service and answered the reference in negative. The petitioner is aggrieved by the same.

4. The learned advocate for the petitioner assailed the impugned award contending that the respondent has failed to prove that the petitioner had tendered resignation. The services of the

petitioner were orally terminated without following procedure under Section 25F, 25G and 25H of the Industrial Disputes Act. Further submission is that the Labour Court has committed an error in coming to the conclusion that the dispute filed by the petitioner is not under Section 13(1)(j) of the Private Security Agencies (Regulation) Act, 2005. Therefore, she submits that the Labour Court has misread and misconstrued the evidence placed on record and has erroneously come to a conclusion that the petitioner is not entitled for reinstatement with full back wages.

5. The respondent, though, served has not appeared.

6. I have gone through the documents placed on record by the petitioner in the present petition. The record indicates that the petitioner worked at Oriental Bank of Commerce at Aurangabad, as a gunman. It also appears from the conciliation proceeding that the petitioner was offered appointment at a transferred place, however, the petitioner has refused to accept the same and insisted that he must be continued at Oriental Bank of Commerce at Aurangabad. The Labour

Court has observed that another gunman in the place of the petitioner was appointed by the respondent at Oriental Bank of Commerce at Aurangabad. Thus, the respondent had changed the gunman at the said bank. The Labour has observed that the contract between the respondent and the bank was only to provide a gunman and not a specific person or gunman. Though, the stand of the respondent that the petitioner tendered resignation letter is rejected by the Labour Court holding that the respondent has failed to prove that the petitioner has tendered resignation. However, after taking into consideration the fact that during the conciliation proceedings the respondent offered employment to the petitioner in another district, however, since the petitioner refused to take that offer, the Labour held that the petitioner wants employment at a particular place and there was continuous offer from the respondent to the petitioner, but same is not accepted by the petitioner. The terms and conditions of the employment of the petitioner speaks that his was a transferable job. The Labour Court also observed that the bank has not extended the contract with the respondent. Taking into consideration these facts, the Labour Court rejected the reference.

7. The Labour Court has given cogent reasons to the findings recorded by it. There is no illegality or perversity in the findings recorded by the Labour Court. Since no case is made out to warrant interference in the extra ordinary writ jurisdiction, the writ petition is dismissed. No costs.

[NITIN B. SURYAWANSHI]
JUDGE