

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12436 OF 2024

Sushil Satyanarayan Thakur

....Petitioner

: Versus :

Bombay Intelligence Security
India Ltd. and anr.

....Respondents

Mr. Sushan N. Mhatre, for the Petitioner.

CORAM : SANDEEP V. MARNE, J.

Dated : 9 September 2024.

P.C. :

1) By this petition, Petitioner challenges judgment and order dated 23 November 2017 passed by the 11th Labour Court, Mumbai rejecting Application (IDA) No.175/2011 which was filed by the Petitioner under the provisions of Section 33-C(2) of the Industrial Disputes Act, 1947 for recovery of amount of Rs.85,200/-.

2) I have heard Mr. Mhatre, the learned counsel appearing for the Petitioner who is appointed through the legal aid panel.

3) It appears that Petitioner has been discontinued from services by the Respondent from 24 July 2010. He had already raised grievance with regard to his termination in Complaint (ULP) No.61 of 2012 which is dismissed by order dated 18 November 2017. Mr. Mhatre, would submit that the said order dated 18 November 2017 is subject matter of challenge in Revision

filed under the provisions of Section 44 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act (**MRTU & PULP Act**) before the Industrial Court. So far as Application (IDA) No.175 of 2011 is concerned, the same was filed with regard to non-payment of amounts under various heads prior to the discontinuation of services of the Respondent. I have gone through the Annexure to the Application (IDA) No.175/2011. It appears that most of the amounts claimed in the said Annexures are vague without any reference to the dates. It is also seen that some of the amounts are pertaining to the year 2002 when the application is filed in the year 2011. Though Mr. Mhatre has contended that the records relating to overtime allowance is bound to be with the Respondents, it is seen that an amount of Rs.1,300+400+400= Rs.2,100/- was claimed towards overtime. In my view, whether the Petitioner performed overtime or not, is a question of fact which needs to be decided and the same cannot be decided in application under Section 33-C(2) of the I.D. Act. In my view, none of the claims raised by the Petitioner in Application (IDA) No.175/2011 were capable of being decided under the provisions of Section 33-C(2) of the I.D. Act. The Labour Court has rightly rejected Application (IDA) No.175/2011. The Writ Petition is accordingly **rejected**.

[SANDEEP V. MARNE, J.]

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