

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6541 OF 2025

Sachin Balasaheb Gade

.. Petitioner

Versus

M/s. J.M.D. Engineering Perforations and
Automobile Filter

.. Respondent

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- Mr. Vishal N. Jadhav, Advocate for Petitioner.
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CORAM : MILIND N. JADHAV, J.

DATE : JUNE 17, 2025.

P.C.:

- 1.** Heard Mr. Jadhav, learned Advocate for Petitioner.
- 2.** Perused the impugned Award dated 01.10.2024 appended at page No.18 of the Petition. Challenge to the Award is on the ground that the Labour Court has come to the erroneous conclusion that Petitioner had abandoned his services of the Company on his own by not reporting to duty. Learned Advocate has drawn my attention to the findings and observations stated in paragraph Nos.16 and 17 of the impugned Award which when *prima facie* read would enure to the benefit of the Petitioner.
- 3.** It is seen that services of the Petitioner were terminated orally by the Company without due compliance of the provisions of Section 25-F of the Industrial Disputes Act, 1947. It is seen that the termination of services happened immediately after lifting of the

partial lockdown during the first Covid wave which is the contentious period. Learned Advocate has drawn my attention to the fact that substantial evidence was placed on record to prove the case of Petitioner that though the Petitioner desired to continue his services with the Company, due to complete lockdown during the months of April, May and June, 2020 since there were no orders received by the Company, the Company informed its employees that they will be called only when they received orders but in effect in so far as Petitioner is concerned, the Company did not call him to join work.

4. The reconciliation proceedings and paper of the Company with the Government Labour Office, Pune were part of record before the Court. Case of Petitioner has been rejected solely on the ground that after lifting of the partial lockdown, Petitioner did not approach the Company for work and that has been held against him to arrive at the conclusion that he abandoned the services of the Company.

5. On the issue of leading evidence, learned Advocate has drawn Court's attention to the fact that the Company did not step into the witness box neither led any evidence whatsoever to justify its dismissal of the Petitioner on the ground of abandonment of service. On the contrary Petitioner deposed and relied upon cogent documentary evidence in support of his case.

6. Learned Advocate would persuade the Court to consider the

fact that if abandonment of the service is required to be proved, it needs to be established by conducting an appropriate enquiry which is absent in the present case, neither the Company has issued notices nor show-cause-notices to Petitioner to justify its stand and ground of abandonment of service of the Company.

7. *Prima facie*, an arguable case has been made out by the learned Advocate for Petitioner for issuance of notice.

8. Hence, issue notice to the Respondent. Humdast permitted.

9. In addition to Court notice, Petitioner is permitted to serve a copy of the Writ Petition and this order on the Respondent and inform it about the next date of hearing by any permissible mode of service and file appropriate Affidavit of service with tangible proof thereof on or before the next date.

10. After receiving notice, Respondent is directed to take cognizance of this order and file its Affidavit-in-Reply on or before the next date, if so desired.

11. Respondent is directed to remain present in Court on the next adjourned date either by themselves or through Advocate.

12. Stand over to **1st July 2025**.

[MILIND N. JADHAV, J.]

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