

ORDER BELOW EXH.C-2 IN REFERENCE (IDA)
NO.11/2023 :-

1. This is an application taken out by first party for direction against second party to join or resume his duties. It is stated that first party never terminated orally service of the second party. Therefore, in view of the present application first party seeking directions against second party to resume or direct to join duties. Second party has filed reply at Exh.U-3. The oral termination at the hands of first party is continuously disputed by second party. However, in the last Para he shown willingness to resume duties provided that first party shall have to observe 8 hours working, attendance card, back-wages. Most important condition is that second party having apprehension about his personal life and life of family members. He and his family members are feeling insecure regarding the behaviour of first party. Therefore, first party shall undertake that any untoward incident happened he will be held responsible.

2. Perused application. Heard both sides at length. The following judgment will help to resolve the instant question raised by the second party. In *Sonal Garments V/s. Trimbak Shankar Karve, reported MANU/MH/1303/2002*. In which Hon'ble Bombay High Court held that, "petitioner to reinstate the Respondent was not accepted, he was not entitled to relief of reinstatement and any back wages at all, his conduct lends support to the version of employer that he had abandoned employment

and that he never came back to report for duty and that it was not a case of termination by petitioner”.

3. It is settled principle of law that court cannot go beyond the reference made by the appropriate Government. The reference and record shows that there is a serious dispute about oral termination. The reference is also to that respect and reinstatement with full back wages. Second party in his reply shows apprehension and life threats against first party. Such kind of threading never pleaded in the statement of claim. Therefore, this is a one kind of unwillingness on the part of the second party to resume or to response first party. Now, at this stage second party if permitted to resume work, it will cause prejudice to the first party without being adjudication of reference. If application is allowed ultimately it amounts to final adjudication. Application filed by first party is not maintainable at this juncture. Hence, following order is passed.

ORDER

Application stands rejected.

Sd/-

(K. B. Kamgauda)

Presiding Officer & Judge

Second Labour Court, Kolhapur.

Date : 07/12/2023
Kolhapur.