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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.4090 OF 2003

1 Godavari Marathwada Irrigation Development Corporation.
Through Superintending Engineer,
Administrative CADA, Beed,
District Beed.

2 The Secretary,
Government of Maharashtra,
Irrigation Department, Mumbai-32.

...PETITIONER

-VERSUS-

Prakash Shamrao Bhagat,
Age : 38 years, Occ : Agri,
R/o Lohara, Tq.Omerga,
Dist.Osmanabad.

...RESPONDENT

....
Mr.S.K.Adikine, Advocate for the Petitioner.
None for the Respondent, though served.

....

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 07th August, 2015

Oral Judgment:

1 This matter was admitted by this Court vide order dated
21.01.2004.

2 The Petitioner submits that the date of termination admittedly is 13.07.1986. Similarly, Complaint (ULP) No.7/1999 has been filed before the Labour Court on 25.01.1999 after about 12 years and 06 months. An application Exhibit U/4 for condonation of delay has been allowed by the Labour Court by the order dated 27.03.2003. Revision (ULP) No.18/2003 filed by the Petitioner has been dismissed by the order dated 23.07.2003 by the Industrial Court.

3 The only reason cited by the Respondent for the delay of 12 years and 06 months is that the Union of which the Respondent is a member, assured him that they would take up his cause. The Labour Court has considered this aspect and has concluded that because the Respondent does not have adequate knowledge of law, delay is neither deliberate nor mala fide. The application Exhibit U/4 has, therefore, been allowed. The revision petition filed by the Petitioner has been rejected for similar reasons.

4 It is stated that the Respondent was working as a labourer with the Petitioner. He has no knowledge of law. He was working from 17.11.1982 to 30.11.1984 and 31.01.1986 to 13.07.1986 when he was orally terminated.

5 I have considered the submissions of the learned Advocate for the Petitioner. Rule 60 r/w Rule 61 of the Labour Courts (Practice and Procedure) Rules, 1975 mandates the filing of a complaint within 90 days. The cause of action needs to be explained with necessary details. In the event the complaint is barred by limitation, an application for condonation of delay has to be filed supported with an affidavit. The delay has to be properly explained.

6 Considering the provisions of law and the pleadings set out in the application Exhibit U/4, I do not find that the delay of 12 years and 06 months, excluding the period of limitation, has been properly explained by the Respondent/ Employee. The Labour Court as well as the Industrial Court have concluded that the Employee has no knowledge of law and no prejudice would be caused to the Employer if the delay is condoned.

7 I cannot concur with these findings which are based on misplaced sympathy. Ignorance of law can be no excuse. The Respondent/ Employee can surely raise a grievance in the form of an industrial dispute under Section 2(A) of the Industrial Disputes Act, 1947 since the limitation period is not prescribed under the Industrial Disputes Act, 1947. Nevertheless, the pendency of the complaint from the date of its institution till the passing of this order today in this petition, shall be a

ground in support of the industrial dispute if raised under Section 2(A) of the Industrial Disputes Act, 1947.

8 In the light of the above, the Writ Petition is partly allowed. The impugned order of the Labour Court dated 27.03.2003 and the judgment of the Industrial Court dated 23.07.2003 are set aside. Application Exhibit U/4 filed by the Respondent/ Employee for condonation of delay is rejected. Complaint (ULP) No.7/1999, which has been registered before the Labour Court even before condonation of delay, is dismissed.

9 The Respondent/ Employee is granted liberty to raise an industrial dispute under Section 2(A) of the Industrial Disputes Act, 1947 within a period of EIGHT WEEKS from today.

10 Rule is accordingly, made partly absolute.

(RAVINDRA V. GHUGE, J.)