

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
CIVIL APPLICATION NO.11623 OF 2009 IN
LETTERS PATENT APPEAL ST.NO.2388 OF 2009 IN
WRIT PETITION NO.2051 OF 2008

The Maharashtra State Cooperative
Marketing Federation Ltd., Mumbai,
through the Factory Manager,
Bhagirath Granulated Fertilizer Factory,
Chikalthana, Aurangabad

Applicant

Versus

Nawal s/o Ramdas Patil

Respondent

Mr.P.D.Suryawanshi, advocate for the applicant.

CORAM : R.M.BORDE &

P.R.BORA, JJ.

DATE : 19th June, 2015

PER COURT:

This is an application seeking condonation of delay of 63 days occurred in presenting instant appeal.

In view of the reasons recorded in the application, application deserves to be allowed and same is accordingly allowed. Delay of 63 days occurred in presenting the Letters Patent Appeal stands condoned.

Civil Application disposed of.

**P.R.BORA
JUDGE**

adb/ca1162309

**R.M.BORDE
JUDGE**

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Appellant

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PER COURT:

1 The appellant-employer is objecting to the order dated 15.07.2009, passed by the learned Single Judge in Writ Petition No.2051 of 2008.

2 The Respondent-employee approached the Industrial Court making complaint in respect of unfair labour practice alleged to have committed by the employer, within meaning of items 5, 7 and 9 of Schedule-IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971.

3 The learned Member of the Industrial Court, while dealing with the Complaint, has recorded a finding that the Respondent-employee cannot be termed as a "workman" within the

meaning of Section 2(s) of the Industrial Disputes Act, 1947. Resultantly, the Complaint came to be dismissed.

4 The learned Single Judge, while dealing with the writ petition, noticed that the employee has not been extended proper opportunity to explain his stand in respect of actual work allotted to him at the place of working. The learned Single Judge has observed that the Industrial Court, without framing any issue in respect of status of the employee, has recorded a finding, which has caused prejudice to the employee. The learned Single Judge, as such, has remitted the matter back to the Industrial Court with further direction to extend an opportunity of hearing to the employee and to decide the issue as regards status of the employee.

5 On perusal of the judgment delivered by the learned Single Judge, we do not notice any irregularity or perversity in recording the reasons and arriving at the conclusion. There is no prejudice caused to the appellant-employer by virtue of the impugned order. Even otherwise, the employee stood retired on attaining age of superannuation. Further, instant appeal is taken up after six years from the date of order passed by the learned Single Judge. There is no merit in the appeal.

4 Letters Patent Appeal stands dismissed. Pending Civil Applications do not survive and stand disposed of.

P.R.BORA
JUDGE

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R.M.BORDE
JUDGE