

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9362 OF 2015

NAMDEO TUKARAM MOKASE
VERSUS
THE DIVISIONAL CONTROLLER, MSRTC, AURANGABAD

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Advocate for Petitioner : Shri B.N. Magar
Advocate for Respondent : Shri R.N.Jain h/f Shri D.S.Bagul

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CORAM : RAVINDRA V. GHUGE, J.
Dated: September 14, 2015
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PER COURT :-

1. The petitioner is aggrieved by the impugned order of the Labour Court dated 13.8.2013 passed in Misc. Application (Delay) No. 15 of 2011 and the judgment of the Industrial Court dated 30.1.2015, delivered in Revision (ULP) No.66 of 2013.
2. The petitioner submits that he was dismissed on 20.2.2007 from service as a Bus-Conductor on grounds of mis-appropriation. He preferred Complaint (ULP) No. 27 of 2007, which was withdrawn on 28.8.2008 so as to prefer a First Appeal before the respondent authority.
3. The First Appeal filed by the petitioner was rejected on 7.11.2008 by the respondent. So also, his Second Appeal was rejected by order dated 31.10.2009.
4. The petitioner preferred a Complaint (ULP) before the Labour Court and filed a Misc. Application No.15 of 2011, praying for condonation of delay of 483 days. By the impugned order dated 30.8.2013, the Misc. Application was rejected. His Revision (ULP) No. 66 of 2013 was dismissed on 30.1.2015.
5. The petitioner contends that he was suffering from chronic ligamentus sprain with radiculitis and was advised physio-therapy. His wife had some health issues. Therefore, he could not approach the Labour Court and a delay of 483 days was caused. It is further submitted that the petitioner's child was

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2
WRIT PETITION NO. 9362 OF 2015

also unwell. These reasons were not found to be sufficient cause for condonation of delay.

6. Learned Advocate for the respondent has supported the impugned orders. It is contended that unless the reasons are found to be satisfactory, delay cannot be condoned on the ground of sympathy.

7. I have considered the impugned orders, the submissions of the petitioner and the health issues cited by him. The delay of 483 days, coupled with the limitation period of 90 days, does not appear to be satisfactorily explained. Nevertheless, the petitioner is not rendered remediless since he can avail of a remedy by raising an industrial dispute under Section 2A of the Industrial Disputes Act, 1947 which does not prescribe limitation.

8. In the light of the above, learned counsel for the petitioner prays that the petitioner be granted liberty.

9. Learned Advocate for the respondent submits that an appropriate order be passed.

10. This petition is, therefore, disposed off.

11. Since the Industrial Disputes Act, 1947 provides for a remedy to the petitioner with regard to which the limitation is not prescribed, the petitioner may avail of the said remedy under the Act of 1947, if he deems it fit and proper.

(RAVINDRA V. GHUGE, J.)

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