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

WRIT PETITION NO. 1865 OF 2015

RAMDAS DAULAT SADARAO
VERSUS
THE DIVISIONAL CONTROLLER, MAHARASHTRA STATE ROAD
TRANSPORT CORPORATION, DHULE

...

Advocate for Petitioner : Ms.Suryawanshi Nima R.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 19th October, 2015

Per Court:

1 The Petitioner is aggrieved by the order dated 05.08.2013 delivered by the Industrial Court in Miscellaneous (ULP) No.16/2013.

2 The Petitioner submits that he had applied for leave from 01.01.2004 upto 28.08.2004 over a period of 241 days in view of the Petitioner suffering from Tuberculosis. By the order dated 15.09.2004, the Respondent/ Employer declined to grant the said leave and has passed the order which was challenged before the Industrial Court.

3 It is further submitted that the Petitioner was always orally requesting the Respondent/ Employer to grant special leave for 241 days

for the last 8 to 9 years. Finally, he obtained certain documents under the Right to Information Act, 2005 and lodged the complaint on 03.05.2013 which is about 09 years post the impugned order.

4 It is submitted that the legal notice was issued on 20.03.2013 and since the Petitioner did not get a satisfactory reply, the complaint was filed. The application for condonation of delay contained the reasons mentioned as above and the Industrial Court has turned down the application by the impugned order.

5 The Petitioner relies upon the judgment of the Apex Court in the matter of *Collector, Land Acquisition, Anantnag v/s Mst.Katiji*, **AIR 1987 SC 1353**.

6 I have considered the submissions of the learned Advocate for the Petitioner.

7 It is not in dispute that the condonation of delay is to be dealt with liberally. A pragmatic approach is to be adopted by the Court. A pedantic view is not to be taken. However, it cannot be overlooked that the reasons cited should be such that the Court would be convinced of the explanation for the delay caused. It should find the reasons to be

reasonable and acceptable. The Apex Court, in a recent judgment in the case of *Esha Bhattacharjee v/s Managing Committee of Raghunathpur Nafar Academy*, (2013) 12 SCC 649, has laid down certain contingencies which are to be fulfilled if the delay is to be condoned in the matter.

8 In the instant case, the order dated 15.09.2004 is challenged in 2013, which is delayed by 09 years. The challenge to the impugned order cannot be said to be a continuous cause of action. Nevertheless, the Petitioner is not rendered remedy-less as he can resort to the remedy available under the Industrial Disputes Act, 1947 by raising an industrial dispute under Section 2(k). In the event, such an industrial dispute is raised by the Petitioner, the appropriate Government under the Industrial Disputes Act, 1947 will have to deal with the said issue since limitation is not prescribed under the Industrial Disputes Act, 1947.

9 In the light of the above, I do not find that the Industrial Court has committed any error in passing the impugned order. As such, by granting liberty for raising an industrial dispute to the Petitioner, this Writ Petition being devoid of merit, is dismissed.

(RAVINDRA V. GHUGE, J.)