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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO. 10614 OF 2014

Shashikant Kautik Khairnar,
Age : 54 years, Occu. Service,
R/o. Ganraj Sambhappa Colony,
Chitod Road, Dhule,
Taluka and District Dhule.

...Petitioner...

Versus

1 United India Insurance Co. Ltd.
Through its Chief Regional Manager,
Regional Office, Nagpur.

2 The Chairman-cum-Managing Director,
United India Insurance Co. Ltd.
24, Whites Road, Chennai.
(Tamil Nadu)

...Respondents...

.....

Shri. Parag V. Barde h/f Shri. Santosh S. Jadhavar, Adv.
for petitioner.

Shri. S. G. Chapalgaonkar, Adv. for respondent nos.1 & 2.

.....

CORAM: RAVINDRA V. GHUGE, J.

DATE: 07.12.2015

ORAL JUDGMENT :

1] Rule. Rule made returnable forthwith and heard
finally by the consent of the parties.

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2] The petitioner is aggrieved by the judgment and order dated 27.6.2014, by which Complaint (ULP) No.4/2008 preferred by the petitioner has been dismissed.

3] I have heard Shri P.V. Barde, learned Advocate for the petitioner and Shri S.G. Chapalgaonkar, learned Advocate appearing on behalf of the respondent nos.1 & 2, at length.

4] Shri P.V. Barde submits that in the event liberty is granted to the petitioner to resort to appropriate proceedings under the Industrial Disputes Act, 1947, by raising an industrial dispute, the time spent before the Industrial Court as well as this Court may be considered as a good ground for condonation, in the event there is any issue of delay.

5] He, however, submits that once the Industrial Court had come to a conclusion that the complaint was not maintainable under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, considering the respondent no.1 being an establishment with its head office at Chennai, the Industrial Court should not have gone into the merits of the cause of action.

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6] Shri S.G. Chapalgaonkar has strenuously supported the impugned judgment.

7] Having considered the submissions of the learned Advocates, I am of the view that when the Industrial Court came to a conclusion that the complaint was not maintainable under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, it had no reason to go into the merits of the cause of action and deal with every contention and issue involved therein as if it was exercising jurisdiction under the Act of 1971.

8] As such, in the light of the statement made by the learned Advocate for the petitioner, as recorded above, the impugned judgment and order dated 27.6.2014 is set aside only to the extent of the conclusions and observations of the Industrial Court on the merits of the matter. Since the petitioner is agreeable to prefer an appropriate proceeding under the Industrial Disputes Act, 1947, the conclusion of the Industrial Court that it has no jurisdiction, is left untouched. However, it may be noted that this Court has not dealt with merits of the said conclusion.

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9] In the light of the above, this petition is partly allowed and the impugned judgment of the Industrial Court dated 27.6.2014 is set aside to the extent of the findings of the Industrial Court as regards the merits of the cause of action.

10] The petitioner is at liberty to raise an appropriate proceeding under the Industrial Disputes Act, 1947, and in the event such a proceeding is initiated within twelve weeks from today, the time spent before the Industrial Court in Complaint (ULP) No.4/2008 and before this Court, shall be a good ground for condonation of delay in the event any issue of limitation arises.

11] Rule is made partly absolute in the above terms.
No order as to costs.

(RAVINDRA V. GHUGE, J.)