

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION***

WRIT PETITION NO. 314 OF 2015

Dilip Mudgalrao Joshi. ... Petitioner.
V/s.
The Superintendent Engineer, PWD and Ors. ... Respondents.

Mr. Suhas Inamdar for the Petitioner.
None for the Respondents.

***CORAM : N.M. JAMDAR, J.
DATE : 09 DECEMBER, 2015.***

P.C. :-

The Petitioner challenges the order passed by the Labour Court, Solapur rejecting the claim of the Petitioner answering the Reference in negative and disposing off the Reference accordingly.

2. The Petitioner raised an industrial dispute as regard his termination dated 1 September 1993. According to him, he worked from 1.4.1987 till 1.9.1993. He completed 240 days and his services were terminated without following the due process such as Section 25 F, G, H, rule 80 and 81 of the Industrial Disputes Act. He contended that he made representations which were not accepted and therefore, he raised an industrial dispute. The Labour Court noted that the Petitioner last worked in

September 1993 and raised the industrial dispute 17 years thereafter in the year 2010. The Labour Court also held that he had not completed 240 days preceding 12 months and accordingly was pleased to hold against the Petitioner by disposing off the Reference.

3. The learned Counsel for the Petitioner relying on the decision of the Apex Court in the case of *Ajaib Singh v/s. Sirhind Co-op. Marketing-cum-Processing Service Society Ltd. & Anr.* [1999(1) CLR 1068], contended that there is no limitation provided and therefore, the fact that the Petitioner has approached 17 years late should not be held against the Petitioner. This submission cannot be accepted. In the case before the Apex Court, the services of the workmen were terminated in July 1974 and he raised a demand in 1981. Plea of delay was not taken by the management before the Labour Court. The Labour Court had directed re-instatement of the concerned workmen and the High Court reversed the reinstatement on the ground that the workmen had approached the Court after a delay. This order was challenged by the workmen before the Apex Court. It is in this context that the Apex Court held that only on the question of delay ought not to be hold against the workman and deprive him of the relief granted.

4. In the present case, the Petitioner has approached the Court after 17 years. Point of delay was taken by the Respondent.

The Labour Court has not granted any relief to the Petitioner and it is by invoking the writ jurisdiction of this Court that the Petitioner seeks re-instatement in services of the Respondent – State. The Petitioner on his own showing was last given work in the year 1993. The only explanation given is that in the year 2001 and 2007, the Petitioner made some representations. Making some representations with gap of 7 years does not mean that the Petitioner was prosecuting his claim diligently. Having not granted any relief by the Labour Court, if the Petitioner is invoking writ jurisdiction of this Court, his conduct of seeking redressal of his grievance 17 years cannot be ignored. If the Petitioner wanted reinstatement in the services of the State, he ought to have acted with diligence.

5. Even on merits there is no case. It was the contention of the Respondent that the Petitioner himself stopped reporting to work and had started his traditional work as a Priest. The Labour Court has rightly observed that the fact that the Petitioner did not even bother to assert his claim for 17 years lends credence to the stand of the Respondent – State that the Petitioner himself left the services of the Respondent – State. This finding of the Labour Court cannot be termed as perverse.

6. The Writ Petition therefore cannot be entertained and is rejected.

(N.M. JAMDAR, J.)