

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8990 OF 2013
WITH
CIVIL APPLICATION NOS. 46 OF 2015 AND 48 OF 2015

Smt. Ujwala w/o. Shridhar Shelke .. Petitioner
vs.
The State of Maharashtra & Ors. .. Respondents

Mr. S. P. Munghate for Petitioner and Applicants in CAs.
Ms Vaishali Nimbalkar - AGP for Respondent Nos. 1 and 2.

CORAM : M. S. SONAK, J.
DATE : 18 FEBRUARY, 2015

P.C. :-

1] This petition is directed against the order dated 17 April 2009 made by the Presiding Officer of the School Tribunal refusing to condone the delay in instituting the appeal. It is the case of the petitioner that her services were terminated some time in the year 1997. The appeal before the School Tribunal came to be preferred only in the year 2008 i.e. after delay of almost eleven years.

2] In the application seeking condonation of delay, the explanation furnished is that within three years from the date of termination, the petitioner approached the Head Master who assured the petitioner that she would be reinstated. On 27 June 2000, when the Head Master failed to live up to her assurances,

the petitioner in writing made a demand for reinstatement with full back-wages.

3] Thereafter, there is no explanation as to what transpired between the years 2000 and 2003. There is a vague statement that the Education Officer advised the Head Master to reinstate the petitioner. In the year 2003, it appears that the petitioner raised a dispute before the State Labour Commissioner but the same was withdrawn on 14 July 2005, upon realising that the Labour Court did not have jurisdiction in the matter.

4] From the years 2005 to 2007, there is again no explanation as to why the petitioner did not approach the School Tribunal. In the year 2007 however, the petitioner preferred writ petition before this Court, and soon thereafter withdrew the same on 17 July 2007. After the period of over one year from the withdrawal of writ petition, the petitioner preferred an appeal before the School Tribunal along with an application for condonation of delay.

5] From the aforesaid circumstances, it is apparent that the petitioner was not at all diligent in pursuing the matter. There is no explanation whatsoever for the delay between the year 1997 – 2000, which is the first point of time when the petitioner appears to

have reacted against her termination. Even thereafter, it took almost eight years for the petitioner to approach the School Tribunal.

6] The learned counsel for the petitioner relies upon the decision of the Supreme Court in the cases of *Collector, Land Acquisition, Ananias & Anr. vs. Mst. Katiji & Ors.*¹ and *Deputy Collector, Northern Sub-Division, Panaji vs. Comunidade of Bambolim*².

7] In the first decision, the Hon'ble Apex Court has held that a justice oriented approach is necessary in the matter of consideration of applications for condonation of delay. In the second decision, it is held that time spent bonafide in pursuing the incorrect remedy can be excluded by resort to the provisions contained in Section 14 of the Limitation Act.

8] In the present case, even if an extremely liberal approach is adopted, even then the delay of eleven years is too large and for which there is hardly any explanation offered by the petitioner. At this point of time the record indicates that some other person has already been appointed in the place of the petitioner. The petitioner was aware of her termination. The petitioner has only sporadically resorted to some remedies, other than the correct remedies. Even

1 (1987) 2 SCC 107

2 (1995) 5 SCC 333

if the period spent by the petitioner before the Labour Commissioner or this Court is excluded, still there is no explanation for the resultant delay of over nine years.

9] In the aforesaid circumstances, it is not possible to interfere with the impugned order. This petition is accordingly dismissed. There shall be no order as to costs.

10] In view of the dismissal of the petition, civil application nos. 46 of 2015 and 48 of 2015 do not survive and are disposed of accordingly.

(M. S. SONAK, J.)

Chandka