

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 84 OF 2015

Rajendra Mahendra Tanawade

....Petitioner

V/s.

The Municipal Corporation of

Greater Bombay and Others.

.....Respondents

* * * * *

Mr. N.M. Ganguli, Advocate for the petitioner.

Mr. S.S. Pakale a/w. Ms. K.H. Martakar, Advocate for the respondents.

CORAM :-

SMT. R.P. SONDURBALDOTA, J.

9th JUNE, 2015.

P.C. :-

1). This petition is directed against the order dated 9th July, 2014 passed by the Industrial Court allowing Revision Application (ULP) No. 59 of 2014 and dismissing complaint (ULP) No.117 of 2013 filed by the petitioner as barred by limitation.

2). The petitioner filed complaint under Section 28 read with Items No. 1(a), (b), (c), (d), (e) and (f) of Schedule-IV of the Maharashtra

Recognition of Trade Union & Prevention of Unfair Labour Practices Act, 1971 ("MRTU & PULP Act" for short) alleging that his oral termination from service on 8th July, 1999 was *per-se* illegal. The complaint was filed in the year 2013. The respondent had objected to the complaint on the ground of bar of limitation. Therefore, the Labour Court framed preliminary issue as regards the bar of limitation. By the order dated 26th March, 2014 it answered the preliminary issue in favour of the petitioner and held that the complaint was within limitation. The respondent then preferred revision to the Industrial Court, Mumbai. By the impugned order, the Revision was allowed. It was held that, the complaint filed more than 14 years after the date of termination was clearly barred by limitation.

3). There is no dispute that the complaint had been filed 14 years after the alleged termination of the petitioner. In the complaint, he however claimed that after the termination in the year 1999, he had, time and again requested the respondent to allow him to resume his duties. He had also made several representations to the Labour Officer and then filed a mercy petition in this Court. The correspondence, according to the petitioner, shows that he had pursued the matter continuously from the year 1999 till filing of the complaint. The Labour Court held that the correspondence relied upon by the petitioner showed that he had been pursuing the matter which by itself was sufficient to hold that he was

diligent and had not slept over his rights.

4). The representations relied upon by the petitioner referred to in the complaint are dated 7th February, 2005, 27th November, 2006, 8th March, 2007 and 26th February, 2009. The mercy petition filed by him was on 8th December, 2011. The representations made with such long gaps of time can hardly amount to pursuing the matter. The Revisional Court noted that the Labour Court had failed to take note of the starting point of limitation to challenge the order of termination and the date on which the period of 90 days provided therefor ended. It held that the period of limitation started running from the date of termination in the year 1999. The correspondence entered into by the petitioner with the respondent, Corporation cannot explain the period of limitation to such an extent as to permit him to file a complaint after lapse of 14 years. It can also not be said that the cause of action was a recurring cause for the petitioner since the year 1999. Therefore, the complaint filed was clearly barred by limitation.

5). Mr. Ganguly, the learned Advocate appearing for the petitioner seeks to submit that, the Revisional Court ought to have, instead of dismissing the complaint, directed the petitioner to file an application for condonation of delay before the Labour Court. This argument needs to be only stated to be rejected because it is not for the Industrial Court to give any directions to the petitioner to file an

application for condonation of delay. It was for the petitioner to consider that option and make a request to the Industrial Court for its consideration.

6). In the circumstances, there is no infirmity whatsoever in the impugned order. The petition is dismissed.

(SMT. R.P. SONDURBALDOTA, J)