

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

WRIT PETITION NO.12296 OF 2015

Sou. Asha Tushar Ghadge

... Petitioner

vs.

The Managing Director,
Walchannagar Industries Ltd. & Ors.

... Respondents

Mr. Atul P. Vanarse for the Petitioner.

Mr. Rahul Nerlekar for the Respondent No.1.

Coram : **A.A.Sayed, J.**

Date : 7 December 2016

P.C. :

1 The challenge in this Petition under Articles 226 and 227 of the Constitution, is to the order dated 30 October 2014 passed by the School Tribunal, Pune, whereby the Application of the Petitioner for condonation of delay in filing the Appeal came to be rejected.

2 On perusal of the Application MCA No.3 of 2014 for condonation of delay, it is seen that though the Petitioner alleges that she has been orally terminated on 15 June 2009, the Appeal has been filed only on 29 October 2012. Thus, there is a delay of about three years and four months in filing the Appeal, which otherwise ought to have been filed within the statutory period of 30 days. The School Tribunal had earlier

dismissed a similar Application MCA No.17 of 2012 of the Petitioner for condonation of delay by an order dated 21 March 2011 which was challenged in this Court by filing Writ Petition No.10813 of 2013. Since it was argued on behalf of the Petitioner in that Writ Petition before this Court that inadvertently some relevant documents remained to be placed on record before the School Tribunal, the said Writ Petition No.10813 of 2013 was disposed of on 6 January 2014 by passing the following order:

“4 Liberty granted. Hence, following order:

- a) Permission granted to the petitioner to withdraw the application dated 1.11.2012 filed before the School Tribunal for condonation of delay.*
- b) Liberty granted to the petitioner to file a fresh application for condonation of delay along with additional documents on affidavit.*
- c) Writ Petition is dismissed as withdrawn.*
- d) No order as to costs.”*

3 Despite the liberty granted to the Petitioner to file fresh Application for condonation of delay, there is not a single averment made by the Petitioner in the new Application MCA No.3 of 2014 explaining the delay in filing the Appeal for the period even from 15 June 2009 till 10 December 2011 (on which date the Petitioner is alleged to have made a representation to the Education Officer even assuming that such representation can be considered for the purpose

of condoning the delay as sought to be suggested by the learned Counsel for the Petitioner). Though much capital is being sought to be made by the Petitioner as regards the incorrect date mentioned on her representation (which date is wrongly written as 10 December 2012 instead of 10 December 2011 by the Petitioner herself) and the School Tribunal has gone on the basis that the Petitioner has tried to take advantage and mislead the Court by giving a wrong dates, the fact remains that the impugned order does record that even from June 2009 to December 2011 there is total silence on the part of the Applicant in the Application as regards explanation for the delay. Even if the date of her representation is taken as 10 December 2011, it is seen that despite the opportunity granted by this Court to file a fresh Application there is no averment explaining the delay even from 15 June 2009 (date of the oral termination) till 10 December 2011 (which is stated to be the correct date of representation made by the Petitioner) even assuming that the representation can be taken cognizance of for reckoning the delay in filing Appeal. The Tribunal was right in concluding that no sufficient cause is made out to condone the delay. As a matter of fact the alleged representation cannot be taken cognizance of for the purpose of reckoning the delay which is of about 3 years and 4 months viz. from 15 June 2009 (the date of oral termination) to 29 October 2012 (date of filing of the Appeal).

4 In the circumstances, this is not a fit case to warrant interference with the impugned order in the exercise of writ jurisdiction of this Court. The Petition is accordingly dismissed with no order as to costs.

(A.A.Sayed, J.)

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