

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

WRIT PETITION NO.7488 OF 2016

**Mr. Deepak Sharad Pawale
Versus**

..Petitioner

Birla Shloka Edutech Ltd.

..Respondent

Ms. Geetha G. i/by H. Kumar Vaidyanathan for the Petitioner.

CORAM : R. M. SAVANT, J.

DATE : 19th OCTOBER, 2016

PC.

1 The order dated 07.08.2015 rejecting the application for condonation of delay in filing a Complaint under the provisions of the MRTU & PULP Act, 1971 is taken exception to by way of the above Petition. The Petitioner herein was working with the Respondent as a Hardware Engineer. It seems that by letter dated 02.03.2009 he came to be suspended pending enquiry. Thereafter by another letter issued on the same day i.e. on 02.03.2009 his services came to be terminated on account of loss of confidence on the ground that the Petitioner was holding a sensitive post in the Respondent Company. It is long thereafter in the year 2014 that the Petitioner ventured to file a Complaint under the provisions of the MRTU & PULP Act, 1971. In view of the stipulation regarding limitation, namely that a Complaint has to be filed within 90 days of the cause of action, the Petitioner filed an application for

(4) -WP- 7488 -16.doc.

condonation of delay. The said application was founded on the fact that the Petitioner does not have the financial wherewithal to approach the Court. The said application was also founded on the fact that non payment of subsistence allowance to the Petitioner was a continuous cause of action and therefore in fact there was no delay. Both the reasons did not commend acceptance to the Learned Member of the Industrial Court in view of the fact that the application for condonation of delay was bereft of any reasons. In so far as the case of the cause of action being continuous is concerned, the Learned Member held that since the Petitioner's services were terminated by a letter issued on 02.03.2009, the cause of action was not continuous and arose on account of the said letter of termination. The Learned Member of the Industrial Court accordingly has rejected the application by the impugned order dated 07.08.2015 having regard to the fact that the Petitioner was working as Hardware Engineer with the Respondent it is questionable whether he would qualify to be a workman within the meaning of Section 2(s) of the Industrial Disputes Act, 1947. In my view therefore no interference is called for with the impugned order. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]