

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6114 OF 2016

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.Ravindran B. Nair for the petitioner

CORAM : K. K. TATED, J.
DATE : NOVEMBER 15, 2016

P.C.:

1 Heard the learned counsel for the petitioner.

2 By this petition under Article 227 of the Constitution of India the Petitioner challenges the order dated 31.8.2015 passed by Labour Court at Thane in Condonation of Delay Misc. Application (ULP) No.35 of 2014 and order dated 30.1.2016 passed by Member, Industrial Court, Thane in Revision Application (ULP) No.80 of 2015 dismissing petitioner's application for condonation of more than 7 years delay in filing complaint of Unfair Labour Practices under section 28 read with item 1(a), (b), (d), (e), (f) and (g) of Schedule IV of the MRTU and PULP Act, 1971.

3 The learned counsel for the petitioner submits that the Labour Court as well as Industrial Court failed to give any finding about the date of

termination done by the respondent. He submits that though the respondent made contention that they terminated the petitioner by letter dated 25.9.2007, they failed and neglected to place on record any documentary evidence to show that the said termination letter was duly served on the petitioner. He submits that because of unavoidable circumstances, the petitioner was not attending her job since 2007. He submits that as soon as the petitioner learnt about the respondent Company introduced VRS Scheme for the workers, she immediately approached the Labour Court. But the Company failed and neglected to consider her application. Hence, petitioner filed the complaint of Unfair Labour Practices before the Labour Court, Thane on 10.9.2014. As there was delay on her part, she preferred application for condonation of delay under section 28(2) of the MRTU and PULP Act, 1971.

4 The learned counsel for the petitioner submits that both the courts below failed to consider the fact that burden was on respondent Company to place on record documentary evidence to show that the termination letter dated 25.9.2007 was duly served on the petitioner. Without giving any finding to that effect, both the courts held that petitioner failed to disclose sufficient cause for condonation of more than 7 years delay in filing complaint of Unfair Labour

Practices. He submits that impugned orders passed by both the courts below i.e. Labour Court as well as Industrial Court is required to be set aside on this ground only. He submits that if petition is not allowed, irreparable loss will be caused to the petitioner. He submits that petitioner has good chance of success on its own merits. He submits that if delay is condoned, same is not going to affect the respondent Company. He submits that if delay is condoned both the parties will get chance to argue the matter on its own merits.

5 On the basis of this submissions the learned counsel for the petitioner submits that impugned order passed by both the courts below is required to be set aside and allow the petitioner's application for condonation of delay.

6 It is to be noted that in the present proceedings, petitioner stopped attending the work of respondent Company since 2007. Hence, the respondent terminated her services by letter dated 25.9.2007. When the respondent declared the Voluntary Retirement Scheme in 2010 petitioner made application for Voluntary Retirement in the year 2013. This itself shows that petitioner was not interested in her job. On her own she abandoned the same. In any case respondent placed on record termination letter dated 25.9.2007. Petitioner failed to make out sufficient cause for condonation of more than 7 years in filing the complaint of

Unfair Labour Practices. The explanation given by the petitioner in her application for condonation of delay does not make out any sufficient cause to consider her application.

7 Considering the concurrent finding of facts given by both the courts below and the reason disclosed by the petitioner in her application for condonation of delay under section 28(2) of the said Act, I do not find any reason to entertain the present Writ Petition.

8 Hence, Writ Petition stands rejected.

JUDGE