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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7478 OF 2000

Vilas Vithal Takale	...Petitioner
vs	
M/s. Jay-Hind Industries Ltd. & Ors.	...Respondents

WITH
WRIT PETITION NO.3511 OF 2004

Shri Vaman Mahadeo Rondhal & Ors.	...Petitioners
vs	
M/s. Jay-Hind Industries Ltd. & Ors.	...Respondents

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Smt. Neeta Karnik, for the Petitioner in both petitions.

Mr. S.K. Talsania, Senior Counsel, a/w. Mr. Sagar Sheth and Ms. Radha Ved, i/b. M/s. Sanjay Udeshi & Co., for Respondent Nos. 1 and 2 in both petitions.

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CORAM : S.C. GUPTE, J.

DATED: JULY 28, 2016

P.C. :

. Heard learned Counsel for the parties. The petition challenges an order of dismissal of a complaint under the MRTU & PULP Act as also dismissal of a review application seeking review of the dismissal order. The complaint was dismissed on the ground of the bar of limitation.

2. The Petitioner was working with the first Respondent Company between 13 January 1972 and 24 July 1992. Nearly six years

after his dismissal from the service, he filed a complaint under Items 9 and 10 of Schedule IV of the MRTU & PULP Act. His grievance in the complaint was that there were settlements between the first Respondent Company and its workmen from the year 1983 onwards and that he was not given benefit of these settlements.

3. The complaint makes a curious reading. It narrates the complainant's correspondence with the first Respondent Company and the various authorities under the labour laws in connection with settlements between the company and its workmen from the year 1983 onwards. The first letter referred to in this behalf is the complainant's letter of 10 November 1991 addressed to the first Respondent Company, where he asks for a copy of the settlement agreement of January 1987. The correspondence indicates that finally, on 9 December 1996, the complainant received from the office of the Deputy Commissioner of Labour various documents. These documents include a certified copy of settlement dated 15 July 1985. Apparently, the settlement of 15 July 1985 refers to an earlier settlement of 13 July 1983. Based on these two settlements, i.e. settlements of 15 July 1985 and 13 July 1983, the complainant seeks various benefits. The complaint does not indicate which particular benefit under the settlements of 13 July 1983 and 15 July 1985 was not extended to the complainant. The complainant simply asks for issuance of certified copies of various settlements between 1983 and 1997 and asks for extending of the benefits of the two particular settlements referred to above. Apart from the fact that such a complaint is decidedly vague and cannot be entertained by the Industrial Court, there is no adequate explanation as to why the

complainant approached the Court in 1998, i.e. nearly six years after his dismissal of 1992 for benefits of settlements arrived at as far back as in 1983 and 1985.

4. In the first place, the complaint does not make out any ground for condonation of delay. Later on, a separate application for condonation of delay appears to have been filed by the complainant. That application indicates that the complainant was informed by the Additional Commissioner of Labour by his letter dated 21 October 1997 to approach the Labour Court with a complaint if he was aggrieved. On that basis, it is claimed that the complaint filed on 20 January 1998 is within time. In other words, there is no application for condonation of delay but the averment is that the complaint is within time and does not call for any condonation of delay. The impugned order of the Labour Court rightly notes that there is no cause of action accruing in favour of the complainant on 21 October 1997. No unfair labour practice occurred on that date. Unfair labour practice, if any, occurred on 13 July 1983 and 15 July 1985 when the settlements were made and the benefits of the settlements were presumably not extended to the complainant (though there is no case, as I have noted above, that any particular benefit of these settlements was actually not extended to the complainant). Be that as it may, the Industrial Court in the impugned order has found that there was no case made out for condonation of delay. As rightly observed by the Industrial Court, it is imperative that any application of condonation of delay must at least bonafide indicate the date when the cause of action accrued to the Applicant; he must then explain the reasons why he could not approach the Court within

the period of limitation. There is absence of any pleading either of the date of accrual of cause of action or of reasons for not approaching the Court within time.

5. Ms. Karnik, learned Counsel for the Petitioner, submits that the Petitioner did not have notice of the various settlements, which are referred to in the complaint. She submits that in any event the settlements were not published. It is, however, borne out from the record that the Petitioner was aware of the settlements at least on 9 December 1996, when the Additional Commissioner of Labour, Pune forwarded a copy of the settlement of 15 July 1985 to the Petitioner. (This settlement, in turn, referred to the earlier settlement of 13 July 1983.) There is no adequate explanation on record as to why, even after receipt of the copy of the settlement from the Additional Commissioner of Labour on 9 December 1996, the Petitioner did not approach the Court with his complaint any time before 20 January 1998.

6. From the record placed before this Court, it appears that after his dismissal on 24 July 1992, the Petitioner had filed a complaint, which was dismissed. A revision from that order was also dismissed. Not only was there no complaint before termination of his services regarding non-availability of the benefits of the settlements, but the subject of the purported omission of the Respondent company to extend the benefits of the settlements of 1983 and 1985 was not brought up even in this complaint.

7. In the premises, the minimum that can be said about the

impugned order is that the rejection of the Petitioner's complaint therein on the ground of the bar of limitation, is not perverse or impossible.

8. Ms. Karnik, learned Counsel for the Petitioner, cites the Supreme Court judgment in the case of **Collector Land acquisition, Anantnag vs. Mst. Katiji**¹, to contend that limitation, which is a matter of technical consideration, should not come in the way of substantial justice. There are cases and cases, and one cannot apply legal principles mechanically or pedantically. Wherever possible, a court would, as it should, lean in favour of advancing justice and not lay undue emphasis on technical pleas or delays. But considering that we have laws of limitation, which are themselves based on matters of sound public policy, in an appropriate case, where the delay is not shown to be arising bonafide or is shown to be culpable and deliberate, a court would be duty-bound to apply the bar of limitation and non-suit the party guilty of delay. No fault can be found, thus, with the impugned order, considering the gross facts of the present case.

9. The complaints in the other companion petition, namely, Writ Petition No.3511 of 2004, are filed by nine other workmen, who had similarly ceased to be in the employment of the first Respondent Company long time back. They also claim to have learnt of the settlements after the Petitioner in Writ Petition No.7478 of 2000 received a copy of the settlement of 15 July 1985 from the Additional Commissioner Labour on 9 December 1996. These nine Petitioners appear to have ceased to be in the employment of the Company about

¹ 1987 SCC (2) 107

14 years prior to their complaints. These complaints are not placed before this Court, but it appears from one of the letters of the first Respondent Company, which is on record, that all these workers were terminated sometime in 1984. One of the nine Petitioners, namely, Petitioner No.2, whose complaint is on record, was employed as a turner with the first Respondent Company and worked with it between 22 June 1973 and 21 February 1984. After having ceased to be in the employment of the Company from 21 February 1984, this particular complainant approached the Court with a complaint under the MRTU & PULP Act, alleging non-compliance with settlements of 1983 and 1985, as late as on 5 May 1997. Once again, as in the case of the companion petition, namely, Writ Petition No.7478 of 2000, there is no explanation for the delay. The impugned order of the Industrial Court passed commonly on the nine complaints of the Petitioners in Writ Petition No.3511 of 2004, rejecting the complaints as time-barred, cannot, thus, be faulted on the ground of perversity or impossible conclusion. Even this writ petition lacks merits and the same ought to be dismissed.

10. Rules in both writ petitions are, accordingly, discharged and the petitions are dismissed. No order as to costs.

(S.C. GUPTE, J.)