

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO.843 OF 2016

Jitendra Bhupatrai Shah

...Petitioner

vs.

Shankar Rama Hadkar & Anr.

...Respondents

Mr. S. S. Pakale a/w Mr. Avinash Belge i/b M/s. Salgaonkar & Co. for the Petitioner.

Mr. S. N. Deshpande a/w. Ms. Swara P. Munshi a/w Ms. Nivedita S. Deshpande for Respondent No.1.

CORAM : R. M. SAVANT, J.

DATE : 29th SEPTEMBER, 2016

P.C.

. The above Writ Petition takes exception to the Award passed by the learned Presiding Officer, Labour Court, Mumbai dated 15/3/2011 by which the Reference in question was allowed and direction came to be issued to reinstate the Respondent No.1 herein with full back wages from the date of his termination till his reinstatement. Though the Award was passed as long back as on 15/3/2011, the above Petition has been filed only on 21/3/2016. The justification given for the said delay is that the petitioner was under legal advise that since Respondent No.1 has reached the age of superannuation in the year 2010 and since the Award directs reinstatement, there was no necessity to challenge the award as Respondent No.1 was not required to be reinstated and in so far as back wages are concerned, Respondent No.1 could be paid back wages till the date of his retirement. The second justification given is that the parties were negotiating a settlement till the respondent filed

Complaint(ULP) No.361/2012 for implementation of the Award.

2. In my view the said two reasons can hardly justify the delay in challenging the award which has been passed as long back as on 15/3/2011. In so far as the Complaint filed by the Respondent No.1 is concerned, the same has been filed in the year 2012 and therefore atleast from the year 2012, the challenge to the Award was required to be raised within a reasonable time. The Respondent No.1 in so far as the above petition is concerned has taken a stand that the challenge raised to the Award is an afterthought and that in fact the Petitioner has acquiesced in the Award.

3. In my view having regard to the fact that the Petition has been filed in the year 2016 and that the justification given does not commend acceptance to this Court, the Petition is required to be dismissed on the ground of delay and laches and is accordingly dismissed on the said ground.

[R.M.SAVANT, J]