

JPP

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

WRIT PETITION NO. 2919 OF 2015

Edmund Estracio.

... Petitioner.

V/s.

Welcome Group Searock.

... Respondent.

Mr. Ramesh D. Bhat for the Petitioner.

CORAM : N.M. JAMDAR, J.

DATE : 1 FEBRUARY, 2016.

P.C. :-

By this Petition the Petitioner challenges the order passed by the Labour Court, Mumbai dated 26 August 2013 rejecting the Application under Section 33-C (2) of the Industrial Disputes Act, 1947.

2. The Petitioner was working with the Respondent. He was suspended on 12 February 1994. An enquiry was instituted. On 31 May 1999 the suspension was revoked and punishment imposed on 2 July 2001. Pursuant to the enquiry the Petitioner

filed the application under Section 33-C(2) with delay of nine years. The Labour Court dismissed the application on the ground that there is no pre-existing right in favour of the Petitioner and the application is barred by laches and delay.

3. The learned Counsel for the Petitioner submitted that suspension was revoked unconditionally and therefore, the Petitioner was entitled to difference between full wages and the suspension allowances. He submitted that there is no limitation prescribed under Section 33-C(2) and cogent reasons were given in respect of the delay of nine years.

4. The enquiry has resulted in punishment and it was not that the suspension was revoked unconditionally. Even otherwise assuming that point in favour of the Petitioner, the delay of nine years is completely without reasons. Though there is no limitation prescribed, it is expected that the applicant would approach the Court within a reasonable period. The only reason given for delay of nine years is that the Advocate promised him to file an application which he did not. There are no particulars at all as regard the Advocate, no particulars when the papers were given, what efforts were made to follow up. There is complete negligence on the part of the Petitioner and what is sought to be put-forth is a stale claim. It is also come on record that, after a bomb blast of 12 March 1993 in the premises, the Respondent hotel was closed.

5. In the circumstances, considering the gross laches on the part of the Petitioner in approaching the authority, the Labour Court has rightly not entertained the application. There is no perversity in the approach of the Labour Court. The Writ Petition is accordingly rejected.

(N.M. JAMDAR, J.)