

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 10248 OF 2014

**BHAGWAN SADASHIV KHASEKAR
VERSUS
THE DEPOT MANAGER, MSRTC, GANGAPUR AND ANOTHER**

**WITH
WRIT PETITION NO. 10280 OF 2014**

**WALMIK PUNJAJI SONAWANE
VERSUS
THE DEPOT MANAGER, MSRTC, GANGAPUR AND ANOTHER**

...
Advocate for Petitioners : Shri Deshmukh Arvind.
Advocate for Respondents : Smt.R.D.Reddy.
...

**CORAM: RAVINDRA V. GHUGE, J.
DATE :- 27th February, 2017**

Per Court:

1 Both the Petitioners, who are identically placed and were working with the Respondent/ MSRTC, are aggrieved by the judgments dated 28.02.2013 delivered by the Industrial Court by which Miscellaneous Application Nos.9/2011 and 8/2011, respectively, have been rejected and the Industrial Court has refused to condone the delay of 10 years in filing the revision petitions under Section 44 of the MRTU & PULP Act, 1971.

2 I have heard the learned Advocates for the respective sides for

quite sometime.

3 There is no dispute that the judgment of the Labour Court is dated 13.03.2001 by which Complaint (ULP) Nos.51/1992 and 52/1992 filed by these two Petitioners have been dismissed. It is concluded that they have no right to reinstatement and cannot be permitted to work with the Respondent Corporation.

4 It is equally undisputed that both these Petitioners preferred the revision petitions before the Industrial Court and filed the applications for condonation of delay of 10 years, on 16.03.2011. By the impugned orders, both these applications have been rejected.

5 Shri Deshmukh, learned Advocate for the Petitioners, has strenuously contended that Section 44 of the MRTU & PULP Act, 1971 does not prescribe any limitation. In the absence of limitation, the Industrial Court could not have declined to allow the Miscellaneous Applications. He submits that these Miscellaneous Applications were filed by way of abundant precaution anticipating that the Industrial Court might have an issue with regard to the maintainability of the revision petitions.

6 He further submits that even if there is any delay, the same deserves to be condoned as the Petitioners are poor persons, they have no legal knowledge, they are not aware of their legal rights and they were performing the work of washing the buses of the Respondent Corporation. By the refusal of the Industrial Court to condone the delay, the doors of litigation have been closed on them.

7 The learned Advocate for the Respondent Corporation has supported the impugned order.

8 There can be no debate that a complaint alleging unfair labour practices under Item (1) of Schedule IV of the MRTU & PULP Act, 1971 making a grievance against the termination, discharge, dismissal or removal from service, can be filed under Section 28(1) of the said Act. The Labour Court (Practice and Procedure) Rules, 1975 prescribe the limitation of 30 days. If a sufficient cause is shown and if the delay is properly explained, the ULP complaint can be entertained even beyond the 90 days of limitation. There can be no debate that no such limitation is prescribed for filing of a revision petition under Section 44 of the MRTU & PULP Act, 1971.

9 However, even if no limitation is prescribed, it cannot be

ignored that the filing of the ULP complaint has limitation of 90 days which would, therefore, mean that a revision petition challenging the order of the Labour Court should also be filed within a reasonable time.

10 The Limitation Act, 1963 provides under Article 131 that any Court while exercising its powers of revision under the Code of Civil Procedure, 1908 or the Code of Criminal Procedure, 1898, can entertain a revision petition within 90 days from the date of the decree sought to be revised. Article 137 provides for three years period of limitation for entertaining any other application for which no period of limitation is provided elsewhere in this regard. Even if it is presumed that Article 137 of the Limitation Act, 1963 may be applicable, a revision petition can be said to be filed within a reasonable time and in a given case that could be three years as provided under Article 137.

11 In the instant case, the Petitioners have not canvassed before the Industrial Court that they were not aware as to whether, the Labour Court has dismissed their complaints on 13.03.2001. It is pointed out that after the Honourable Supreme Court decided the case of *MSRTC v/s Casteribe Rajya Parivahan Karmchari Sanghatana*, **(2009) 8 SCC 556**, in 2009, that these Petitioners had approached this Court in Writ Petition No.1305/2010 against the judgment of the Labour Court. By order dated

19.11.2010, this Court disposed of the petition by recording the statement of the Petitioners that they would prefer the revision applications.

However, this Court specifically observed in the order as under:-

"2. *It is however, made clear that insofar as delay is concerned, the Industrial Court shall decide it on its own merits and in accordance with law. Petition to stand disposed of.*"

12 It was in the light of the above directions, that the Industrial Court considered the aspect of 10 years delay. When the Petitioners were aware of their complaints being dismissed on 13.03.2001, not filing the revision petitions even after 09 years when they had approached this Court, cannot be countenanced. They had approached this Court after nine years. This period of nine years also cannot be condoned since the only reason expressed is that they are poor persons and did not have the financial strength to approach this Court or the Industrial Court.

13 Considering the above and the fact that the Industrial Court considered the issue of delay under the orders of this Court dated 19.11.2010, I do not find that the Industrial Court has committed any error in refusing to condone the delay of 10 years. Both these Writ Petitions being devoid of merit are, therefore, dismissed.