

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2704 OF 2018
(Altaf Ahmed Sayyad Vs. The Divisional Controller)

MrS.N.Patne., Advocate for the petitioner.

Mr.S.R.Yadav-Lonikar, AGP for State.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 14/03/2018

PER COURT :

1. The petitioner is aggrieved by the order of the Industrial Court dated 15/01/2018 by which the Industrial Court has refused to condone the delay of 2 years and 7 months caused in filing the ULP complaint. Contention is that the petitioner had initially approached the Labour Court in Complaint (ULP) No.27/2013 which was unconditionally withdrawn on 28/06/2013. He then approached the Industrial Court on 01/07/2016.

2. The issue involved in this petitioner's case is that he was dismissed from service by way of punishment for mis-appropriation. The First Appellate Authority of the Corporation partly allowed the first department appeal by order dated 19/08/2013 and granted reappointment as an alternative to the order of dismissal.

3. Reappointment amounts to a fresh appointment. This Court has dealt with an identical case in the matter of Anil Vajjnath Arbad Vs. The Divisional Traffic Superintendent, MSRTC, Parbhani Division, Parbhani 2016(1) LLJ 613 = 2016 (5) ALL MR 502 wherein this Court has laid down the law that a fresh appointment, by using the term "reappointment", would amount to imposing the order of dismissal, creating a break in service and then granting reappointment, since there cannot be a fresh appointment without there being a termination from service earlier. So also, the Hon'ble Apex Court in the matter of State of Punjab Vs. Krishan Niwas [AIR 1997 SC 2349] has dealt with the issue of acceptance of fresh appointment and then posing a challenge which was held to be unsustainable.

4. Nevertheless, the petitioner is not remediless since he will first have to challenge his order of dismissal dated 20/05/2013. He can therefore approach the Conciliation Officer by raising an industrial dispute u/s 2-A of the I.D.Act, 1947.

5. Considering the above, no interference is called for in the impugned order. This petition, being devoid of merits, is therefore, dismissed.

(RAVINDRA V. GHUGE, J.)