

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

WRIT PETITION NO. 10248 OF 2019

**SAKHARAM MAHADU BRAHMRAKHSE
VERSUS
EXECUTIVE ENGINEER JAYAKWADI PROJECT WORKS DIV 1
AND ANOTHER**

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Advocate for the Petitioner : Shri Abhishek Kulkarni

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 18th SEPTEMBER, 2019.

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PER COURT :

1. The petitioner / original complainant in Complaint (ULP) No. 79/2012 filed before the Industrial Court, is aggrieved by the judgment and order dated 11/04/2018.

2. It is submitted that the petitioner was a driver employed by the respondent on 30/10/1972 and continued in employment till 30/09/1988. After he was removed from employment on 30/09/1988 on the ground of being "excess", he has approached the Industrial Court on 01/10/2012. Considering the delay of about 24 years, the Industrial Court dismissed the complaint on the ground that the complaint was not tenable since the petitioner challenged his termination from service before the Industrial Court.

3. In view of the above, I find that the petitioner is a victim of a wrong legal advise of filing a ULP Complaint before the Industrial Court under Items 6, 9 and 10 of Schedule IV of the MRTU and PULP Act, 1971, when his cause of action as against his alleged termination in September – 1988 would have been a subject matter of an industrial dispute. A complaint directly filed under Item 1 of Schedule IV before the Labour Court would also be hopelessly barred by limitation.

4. In view of the above, this petition is dismissed. Nevertheless, the petitioner would be at liberty to raise an industrial dispute under Section 2A of the Industrial Disputes Act, 1947. No doubt the delay is of 24 years as on date of approaching the Industrial Court and 7 years have thereafter been consumed in this litigation. He would be at liberty to address the Conciliation Officer as regards the delay caused. Needless to state, the Conciliation Officer and the appropriate Government would consider the said issue on its own merits.

(RAVINDRA V. GHUGE, J.)

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