

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

WRIT PETITION NO. 9257 OF 2019

**VIJAY PRABHAKARRAO NAKHATE
VERSUS
THE CHIEF EXECUTIVE OFFICER PARBHANI DISTRICT
CENTRALCO-OPERATIVE BANK LTD.**

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Advocate for the Petitioner : Shri P. S. Koshti
Advocate for the Respondent - sole : Shri S. R. Yadav - Lonikar

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 1st AUGUST, 2019.

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PER COURT :

1. The petitioner/original complainant in Complaint (ULP) No. 253/2016, is aggrieved by the order dated 13/03/2019, by which, the Industrial Court, Jalna has rejected Misc. Application for Restoration (ULP) No. 17/2018.

2. The complaint was dismissed in default on 27/04/2018. An application for restoration was filed by the petitioner on 07/08/2018. The Industrial Court has rejected the application on the ground that the Court can exercise its jurisdiction for restoring the dismissed complaint if an application is filed within 30 days from the date of such dismissal.

3. The learned Advocate appearing on behalf of the respondent bank submits that this issue is squarely covered by the judgment of this Court in the matter of ***Dilip Vithalrao Jogdand Vs. Vaidyanath Urban Co-op. Bank Ltd. Parali, Dist. Beed & 2 Ors., 2007 II CLR 78***. He further adds that the learned Single Judge had relied upon the order passed by the learned Appeal Bench (Coram : B. H. Marlapalle and D.S. Zoting-JJ.), in LPA No.3/2004 in W.P. No. 631/2003.

4. *Insofar* as the Labour Courts (Practice and Procedure) Rules 1975 and the Industrial Court Regulations 1975, are concerned, the law permitting condonation of delay in filing a ULP complaint, is not prescribed for restoration of a complaint dismissed in default. Hence, the LPA Bench had concluded that an application for restoration of such a dismissed complaint, cannot be entertained after 30 days as the Labour and the Industrial Court, would be rendered functus-officio.

5. In view of the above, this petition is devoid of merit and is, therefore, dismissed. Nevertheless, the petitioner would be

at liberty to challenge the order dated 27/04/2018 dismissing complaint ULP No. 253/2016, by filing a Writ Petition.

(RAVINDRA V. GHUGE, J.)

shp/-