

BDP-SPS

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10467 OF 2017**

Eknath Laximan Nilkhanth Petitioner

V/s

Factory Manager,
Ghatge Patil Industries Ltd. Respondent.

ALONGWITH
WRIT PETITION (ST) NO.18616 OF 2017

Eknath Laximan Nilkhanth Petitioner

V/s

Factory Manager,
Ghatge Patil Industries Ltd. Respondent.

Ms. Prabha U. Badadare for the Petitioner.
Mr. Meelam Topkar for the Respondent No.1.

CORAM: NITIN W. SAMBRE, J.

DATE: 5th August, 2019.

P.C.:-

1] Both these Petitions can be conveniently disposed of by consent of parties at the stage of admission.

2] In Complaint (ULP) 144/2009, an Application – Exhibit-U-23 came to be moved, seeking amendment. The nature of amendment sought was, the entitlement of the Petitioner for relief with effect from May 22, 2009 i.e. the date of his termination.

3] The Labour Court allowed the amendment application, thereby restricting the claim of the Petitioner from July 17, 2015 instead of May 22, 2009. Feeling aggrieved, both the Petitioner and Respondent preferred respective Revision wherein the Revision preferred by the Respondent came to be allowed whereas, that of the Petitioner came to be dismissed by the impugned order dated February 6, 2017. As such this Petition.

4] Having heard the respective Counsel, in my opinion, the order impugned is not sustainable and prayer for amendment moved by the Petitioner pursuant to the Application – Exhibit-U-23 is required to be allowed as the Labour Court or Industrial Court is not required to appreciate and record the findings, as to whether the claim of the

Petitioner is within limitation or not. At the stage of considering the application for amendment, all that is required to be looked into is, whether the amendment sought is germane to the main cause raised in the complaint. Of course, the Labour Court, after considering the pleadings and evidence of respective parties, may record findings as to the entitlement of the Petitioner to any relief in the backdrop of prayer made from a particular date, after appreciating the evidence.

5] In view thereof, the order passed by the Industrial Court in its revisional jurisdiction is quashed and set aside. The order of the Labour Court passed on 17/07/2015 below Exhibit-U-23 in Complaint (ULP) No.144 of 2009 to the extent of Clause 3 of the impugned order viz “3. If the complainant succeed in the main complaint to get a relief as prayed then, he will be entitled to get effect from 17/07/2015” stands quashed and set aside. Needless to clarify that this Court has not appreciated merits of the claim of the Petitioner.

6] Both the Petitions stand partly allowed in the aforesaid terms.

(NITIN W. SAMBRE, J.)