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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7803 OF 2018

Shri. Anil Babulal Gujarani

...Petitioner

vs

The Nashik Merchants Co-Operative Bank Ltd.

...Respondent

.....

Mr. Sachin Gite, for the Petitioner.

Mr. P.M. Palshikar, for the Respondent.

.....

CORAM : S.C. GUPTE, J.

DATED: 20 DECEMBER, 2019

P.C. :

. Heard learned Counsel for the parties. Rule. Rule taken up for hearing forthwith by consent of the parties.

2. This writ petition challenges an order passed by the Labour Court at Nashik on a complaint of unfair labour practice. The complaint was in respect of dismissal of the Petitioner (original complainant). The complaint was dismissed on the ground of delay of about two months. The Industrial Court at Nashik dismissed a revision application from that order. That is how the Petitioner has approached this Court. It is submitted that the Petitioner had given adequate reasons for condonation of the delay of two months. Firstly, it is submitted that the Petitioner was given assurances by the Respondent Bank to consider his

case for reinstatement and that on 12 January 2006, the Petitioner met with an accident, as a result of which, he was hospitalized. None of the two courts below was impressed with these reasons and rejected the complaint on the ground of delay. No doubt, in an application for condonation of delay the Court theoretically considers each day's delay; that does not, however, mean that this maxim is to be literally applied. If any industrial adjudicator, whilst dispensing justice in an industrial dispute, finds that there is no contumacious or unreasonable delay and there is some believable case that the application or complaint could not be filed within time on some bonafide grounds, a liberal view deserves to be taken. For a mere delay of two months, out of which about one month was due to indisposition due to an accident, the courts below should have taken a lenient view and condoned the delay. Accordingly, the impugned orders of the Labour Court and the Industrial Court are quashed and set aside and the delay is condoned and the complaint is restored and remitted to Labour Court at Nashik for being registered and thereafter heard on merits. Rule is, accordingly, made absolute and the petition is allowed.