

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3796 OF 2018**

Santosh Kedarnath Rajbhar .. Petitioner.

Vs.

M/s.Indian Technical Education
Society and Ors. .. Respondents.

Mr.P.G. Kayande for the Petitioner.

Mr.S.S. Pathak for the Respondent No.1.

CORAM : A.K. MENON, J.

DATED : 21ST JANUARY, 2019

P.C. ,

1. The petition challenges the order dated 10th December, 2014 passed by the Industrial Court, Mumbai and the judgment and order dated 8th September, 2010 passed by 5th Labour Court, Mumbai rejecting the petitioner's application for reinstatement.

2. At the outset it was noticed that this petition was filed on 15th December, 2017 i.e. after period of three years from the date of the impugned order. It is contended by learned counsel for the petitioner that the judgment of the Industrial Court was exparte inasmuch as he was not able to remain present. A copy of the judgment annexed indicates that the revision application was received on 13th April, 2011 and was decided on 10th December, 2014. A period of three and half years have gone by. The petitioner, however, was not attending. The reason for inability to attend and as canvassed today by learned

counsel for the petitioner is that his mother was unwell and was under treatment of Spinal Tumor between April 2011 and December 2014 and unfortunately his mother passed away on 31st December, 2014. However, it is not in dispute that the petition was filed only on 15th December 2017. Paragraph 11 of the petition states as under :

“11. The Petitioner has approached this Hon'ble Court as expeditiously as possible and hence there is no any intentional or deliberate delay or laches on the part of the Petitioner and whatever delay or laches on the part of the Petitioner may please be condoned in the interest of justice.”

3. When this was pointed out to the learned counsel for the petitioner, he contends that the petitioner himself was unavailable as evident from an undated medical certificate appearing at Exhibit-M. The medical certificate relied upon states that the petitioner is fit for duty from 30th May, 2017. Proceeding on the basis that the certificate is issued on 30th May, 2017, there is still no explanation given in approaching this Court on 15th December, 2017. The delay is fatal. In the circumstances, I have no reason to interfere with the impugned order. Hence I pass the following order :

- (i) Petition is dismissed.
- (ii) No costs.

(A.K. MENON,J.)