

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 920/2019

Nagpur Zilla Nutan Dugda Utpadak Sahakari Sanstha, Saoner

..VS..

Sanjay S/o Gulabrao Nimbalkar & anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri V.D. Raut, Advocate for the petitioner
Shri J.L. Bhoot, Advocate for the respondent no. 1

CORAM : Z.A.HAQ, J.
DATED : 27/02/2019

Heard.

The complaint filed by the respondent no. 1 – employee under Section 28 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act 1971 (for short “the Act of 1971”) was allowed by the Labour Court by the order dated 05/04/2003. This order was passed ex-parte against the present petitioner. The petitioner had filed an application under Section 31 (2) of the Act of 1971 before the Labour Court praying that the order dated 05/04/2003 be set aside and the complaint be restored and decided on merits. As there was delay of about 37 days in filing the application under Section 31 (2) of the Act of 1971, the petitioner had filed an application praying for condonation of delay. The application praying for condonation of delay and the application under Section 31 (2) of the Act of 1971 were dismissed by the Labour Court by the order dated 18/02/2011. This order was challenged by

the petitioner in revision before the Industrial Court. The Industrial Court has dismissed the revision by the impugned order. The Industrial Court has recorded that the application under Section 31 (2) of the Act of 1971 is required to be filed within 30 days and there is no provision which enables the Labour Court to condone the delay. The conclusions of the Industrial Court are in consonance with the judgment given by this Court in the case of Anand Shivram Samant vs. Kasai Nerolac Paints Ltd. & Ors. reported in 2016 I CLR at page 88.

I see no reason to interfere with the impugned order.

The writ petition is **dismissed** with costs quantified at Rs. 25,000/- (Rs. Twenty Five Thousand) to be paid by the petitioner to the respondent no. 1.

The receipt showing that the amount of costs is paid to the respondent no. 1 shall be produced on record of this petition within one month.

The learned advocate for the respondent no. 1 – employee has submitted that the respondent no. 1 – employee is still not reinstated as per the order passed by the Labour Court on 05/04/2003. It is submitted that the respondent no. 1 – employee had filed application under Section 48 of the Act of 1971 and though the application is allowed and the President of the petitioner – Society is convicted, the respondent no. 1 – employee is not yet reinstated.

The learned advocate for the petitioner has not been able to counter the factual aspects except pointing out that the revision application is filed against the order passed

by the Labour Court under Section 48 of the Act of 1971. It is pointed out that the Industrial Court has not stayed the order passed by the Labour Court under Section 48 of the Act of 1971.

The Industrial Court is directed to dispose the revision application filed by the petitioner against the order passed by the Labour Court under Section 48 of the Act of 1971, within two months.

JUDGE

Ansari