

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

WRIT PETITION NO.2724 OF 2017

(UNION BANK OF INDIA...VS.. BHOLENATH LALA DAKAH & OTH.)

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

Court's or Judge's orders

Shri Rajeev Chhabra, Advocate for Petitioner.
Ms Hemlata Dhande, Advocate for Respondent Nos. 1 & 2.

CORAM : Z.A.HAQ, J.

DATED : JUNE 25, 2019.

PURSIS ST.NO.2309/2019.

This Pursis is filed by the Advocate appearing for the respondent Nos. 1 and 2 stating that the respondent No.3- Nirmala Lala Dakah expired on 4th January 2019. The respondent Nos. 1 and 2 are said to be son and daughter of the respondent No.3. In these facts, the learned Advocate for the petitioner made oral request for grant of leave to delete name of the respondent No.3 from the array of the respondents.

Leave, as sought by the petitioner, is granted.

W.P.NO.2724/2017.

As the learned Advocate for the respective parties have shown willingness to argue the matter on merits, the petition is taken up for hearing.

The petitioner-Bank has challenged the order passed by the Commissioner under the Employees Compensation Act, 1923 condoning delay of about 13 years in filing application for compensation under Section 22 of the Employees Compensation Act, 1923 (hereinafter referred to

as “the Act of 1923”).

The impugned order is attacked on the ground that the Commissioner has not considered the objection raised on behalf of the petitioner/Bank that the application filed by the respondents under Section 22 of the Act of 1923 itself is not maintainable as there is no relationship of employer-employee between the petitioner and the respondents. It is further submitted that the explanation given by the respondents justifying inordinate delay is not sufficient to condone it.

After going through the impugned order, I find that the learned Commissioner has examined the facts of the case and dealt with the rival contentions in the light of the legal position reflected in the judgments cited before him. As far as objection raised on behalf of the petitioner/Bank to the tenability of the application under Section 22 of the Act of 1923, I find that the learned Commissioner has rightly not adverted to it at this stage and has kept it open for consideration at appropriate stage.

I see no reason to interfere with the discretion exercised by the learned Commissioner in favour of the respondents who are claiming benefit as per the Act of 1923, i.e. the beneficial legislation.

Hence, the writ petition is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE