

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

Writ Petition No.5373 of 2016
(Devidas Sadashiv Gharad .vs. The Executive Engineer, Pench Irrigation
Management Division, Nagpur and another.)

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

Mr. J.L. Bhoot, Advocate for Petitioner.
Mr. V.G. Palshikar, Advocate for Respondent Nos. 1 & 2.

CORAM : Manish Pitale, J.
DATED : March 20, 2019.

By this writ petition, the petitioner has challenged judgment and order dated 04.07.2012 passed by the Industrial Court, Nagpur Bench, whereby order of the Labour Court has been reversed and complaint filed by the petitioner against termination of his service has been rejected on the ground of delay of 5 years and 3 days.

2. The petitioner had filed complaint before the Labour Court in the year 1996 to challenge oral termination of his service along with an application for condonation of delay. The said application for condonation of delay was allowed as the Labour Court found that sufficient ground had been made out.

3. The respondents challenged the said order of the Labour Court before the Industrial Court. By the impugned judgment and order, the revision filed by the respondents was allowed, as a consequence of which,

the order of the Labour Court stood reversed and the complaint of the petitioner stood rejected on the ground of delay.

4. In the present petition, it is claimed on behalf of the petitioner that when the Labour Court had condoned delay, the Industrial Court ought not to have interfered with the said order and the complaint should have been decided on merits. In similar circumstances, this Court in the case of **Madho Pandurang Mohature .vs. The Project Office and another (Writ Petition No. 3193 of 2017 decided on 04.09.2018)** has held that a balance needs to be struck between the interest of the employer and the workman and that in such a situation where there was considerable delay on the part of the workman to approach the Labour Court to raise grievance about termination of service, ends of justice would be met if delay is condoned on the condition that the workman shall not be entitled to monetary benefits from the date of termination of service till the date of institution of the complaint along with an application for condonation of delay, under Section 28 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971.

5. Applying the said dictum, the present writ petition is partly allowed. Accordingly, the impugned order passed by the Industrial Court is set aside and that of the Labour Court is restored, subject to the condition that the petitioner shall not be entitled to

monetary benefits from the date of termination of his service till the date of institution of the complaint along with an application for condonation of delay, under Section 28 of the aforesaid Act before the Labour Court, if eventually the complaint stands allowed.

6. Writ Petition is disposed of.

JUDGE

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