

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3541 OF 2020

SHAIKH FAYAZODDIN IMAMODDIN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for the Petitioner : Shri A. S. Bayas
AGP for Respondent No. 1 : Shri A. S. Shinde
Advocate for Respondent Nos. 2 to 4 : Shri A. D. Wange
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CORAM : RAVINDRA V. GHUGE, J.

DATED : 4th MARCH, 2020
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PER COURT :

1. The Petitioner is aggrieved by the judgment and order dated 26/08/2019 delivered by the Industrial Court, Latur, by which, complaint (ULP) No. 01/2018 has been dismissed on the ground of delay.
2. I have considered the strenuous submissions of the learned Advocate for the Petitioner and have gone through the petition paper book with his assistance.
3. The Petitioner was appointed as a driver on 14/03/1991 by the Respondent MSRTC. He was made

permanent on 27/09/2005. While on duty on the Beed-Hyderabad route, the Petitioner became seriously ill and blood started oozing from his nose. He underwent a 'Heart Bypass Surgery' on 09/12/2005 and reported for duties on 25/04/2006. On 06/10/2006 the General Manager directed the Divisional Controller, Beed to allot him light work. For sometime, he was permitted to do a light work and on 28/09/2007, was issued with an order of termination.

4. Considering that Respondent Nos. 2, 3 and 4 in this matter are the authorities of the MSRT Corporation at Osmanabad, I called upon Shri Wange, learned Advocate who is on the MSRTC panel, to assist the Court. He has gone through the petition paper book and submits that Regulation 101 of the Industrial Court Regulations 1975 prescribes a limitation period of 90 days to challenge the termination. However, the complaint (ULP) No. 1/2018 filed by the Petitioner was not maintainable before the Industrial Court as the order of termination was challenged and considering Sections 6 and 7 of the MRTU and PULP Act, 1971, the

complaint against termination, discharge, dismissal, removal, retrenchment etc. would be within the jurisdiction of the Labour Court under Item I of Schedule IV. Rule 61 of the Labour Court (Practice and Procedure) Rules 1975 also prescribes only 90 days of limitation with condonation of delay if a just and reasonable cause is shown.

5. Shri Wange, learned Advocate for Respondent Nos. 2 and 4, therefore, submits that as the termination order dated 28/09/2007 was challenged on 26/08/2019 after about 12 years and that too before a wrong forum, the complaint was untenable and the Industrial Court has rightly dismissed the complaint.

6. It appears from the impugned judgment of the Industrial Court that the learned Advocates appearing on behalf of the litigating parties did not even point out that the complaint was not tenable before the Industrial Court and should have been filed before the Labour Court.

7. Considering the above, I do not find that the impugned judgment of the Industrial Court could be faulted and more so in view of the fact that the complaint was not maintainable before the Labour Court. This petition is, therefore, disposed off.

8. Notwithstanding the result of this petition, the Petitioner, who is only 54 years of age, cannot be rendered remediless. Such cases (as like the one in hand) are covered by the judgment delivered by this Court (Coram : Ravindra V. Ghuge and S. M. Modak, JJ) ***dated 13/02/2020 in Writ Petition No. 799/2017, Nagpur Bench*** in the matter of ***Mahesh s/o Sanjayrao Bahad Vs. Maharashtra State Road Transport Corporation, Yavatmal***. The Petitioner can raise an industrial dispute under Section 2-A of the Industrial Disputes Act, 1947.

9. In the event, the Petitioner raises such an industrial dispute, on or before 15/04/2020, the competent authority/ Conciliation Officer shall make

an attempt to resolve the dispute in the light of the judgment delivered in ***Mahesh s/o Sanjayrao Bahad (supra) and Divisional Controller, MSRTC, Latur Vs. Dhananjay Sudhakar Dixit, 2019 (3) Mh.L.J. 108.*** The Conciliation Proceedings shall be concluded on or before 30/06/2020. If the matter is not resolved between the parties and the Conciliation Officer submits a failure report, the appropriate Government would refer the dispute to the Labour Court keeping in view that an industrial dispute under Section 2-A is a deemed industrial dispute. If such a reference is made, the Labour Court would make an attempt to decide the said proceedings as expeditiously as possible and preferably on or before 31/12/2020.

(RAVINDRA V. GHUGE, J.)

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