

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.11320 OF 2019

Bhaskar Waman Vishe	...	Petitioner
Versus		
Chief Security Officer		
MCGM, Security Department	...	Respondent

.....

Mr. Amit Ashok Gharte for the Petitioner.
Mr. Vinod Mahadik for the Respondent-MCGM.

.....

CORAM : S.C. GUPTE, J.

DATE : 14 JANUARY 2020

P. C. :

. Heard learned Counsel for the parties.

2 This writ petition challenges an order passed by the Labour Court at Mumbai on an application for condonation of delay in filing a complaint of unfair labour practice. The unfair labour practice alleged by the Petitioner (original complainant) was of termination of his service by an order delivered on 1 July 2006 and said to be executed on 22 October 2007. The complaint was filed in April 2018, that is to say, after a delay of about 10 years 5 months and 21 days. The only explanation of the complainant for this delay was that (a) being a layman, he was not aware of the court procedure; and (b) that he had approached various authorities in the meantime for redressal of his grievance. None of these was found as a good or

sufficient reason for entertaining the complaint after expiry of 90 days and the application was refused.

3 In his challenge to the impugned order, learned Counsel for the Petitioner relies on a decision of the Supreme Court in the case of **Ajaib Singh Vs. The Sirhind Co-operative Marketing-cum-Processing Service Society Ltd.**¹ The case of **Ajaib Singh** arose out of a reference made to the Labour Court by the appropriate government under the Industrial Disputes Act 1947 (“ID Act”). So far as a reference under ID Act is concerned, there is indeed no limitation period provided under the ID Act. A learned Single Judge of Punjab and Haryana High Court set aside the award of the Labour Court on the ground that the concerned workman had approached the reference court after delay. That order was upheld by a Division Bench of the High Court. The Supreme Court held that the High Court was not justified in prescribing any limitation for making of a reference or filing of an application under Section 33-C of the ID Act. The Supreme Court held that it was not the function of the Court to prescribe limitation where the Legislature, in its wisdom, had thought it fit not to do so; the courts admittedly interpret the law and do not make it. These observations, which are made in the context of the ID Act, are not apposite in the present case. So far as a complaint of unfair labour practice is concerned, section 28 of the Maharashtra Recognition of Trade Unions & Prevention of Unfair Labour Practices Act, 1971 provides for a limitation period of 90 days. No doubt, it reserves

1 AIR 1999 SC 1351

power unto the court to entertain a complaint after 90 days, if good and sufficient reasons are shown by the complainant for late filing of the complaint.

4 The labour court, in the present case, has correctly directed itself to the question as to whether or not there were good or sufficient reasons for condoning the long delay in filing of the complaint. The court was of the view that the reasons indicated in the complaint did not amount to sufficient cause for condoning the delay of nearly eleven years. Neither the approach nor the conclusion of the labour court can be termed as unreasonable or perverse. The view of the labour court can certainly said to be a possible view, supported by some evidence. The conclusion does not take into account any irrelevant or non-germane material or circumstance or leave out any relevant or germane material or circumstance.

5 The impugned order, accordingly, does not merit interference under Articles 226 or 227 of the Constitution of India. The writ petition is dismissed.

(S.C. GUPTE, J.)

Rajesh V.
Chittewan

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