

Urmila Ingale

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

WRIT PETITION NO. 6837 OF 2018

Sukhdev Nivruti MahadikPetitioner
Vs.
Government of Maharashtra and anr. Respondents

Mr.Y.B.Lengare, for the Petitioner.
Mrs.V.S. Nimbalkar, AGP for the Respondent – State.
Mr.Vijay Killedar, for Respondent No.2.

CORAM : M. S. KARNIK, J.

DATE : 11th MARCH, 2021

P.C. :

. Heard learned Counsel for the Petitioner. The Petitioner challenges the order passed by the Industrial Court Sangli dismissing the Revision filed by him against the order passed by the Labour Court.

2. The Petitioner was working as a Muster Assistant since 1981 under the Employment Guarantee Scheme. Pursuant

to the policy dated 01/12/1995, the Petitioner came to be absorbed as a Muster Assistant with effect from 15/04/1997.

3. Learned Counsel for the Petitioner contended that there was mistake in the name of his father and therefore he was not permitted to join. He had requested for the correction of the mistake and after getting necessary corrections done in 1997, he had requested the Respondents to allow him to join duties. However, there was no response from the Respondents.

4. The Petitioner filed Regular Civil Suit No. 344 of 2011 before the Civil Judge, Senior Division, Sangli seeking mandatory injunction of appointment of the plaintiff as Class IV servant against the defendants. The said Suit came to be dismissed on 14/03/2014 with liberty to the Petitioner to prefer his claim before the appropriate forum. The Petitioner therefore filed complaint of unfair labour practices before the Labour Court, Sangli on 15/06/2014. Before the Labour Court, an application for condonation of delay in filing the complaint was made. By order dated 02/03/2017, the Labour Court dismissed the application for condonation of delay. The order of the Labour Court was confirmed by the Industrial Court.

5. Both Courts below have found that from 1997 upto 2010, the Petitioner has not made any attempt to approach any forum for redressal of his grievance. The Courts below found that there is not a single correspondence on record indicating that the Petitioner during the period from 1997 till the time he approached the Civil Court had made any representation to the Respondents or effort to join duties.

6. My attention is invited by learned Counsel for the Petitioner to the communication dated 17/04/1998 which at page 23. Even from this communication, it is seen that grievance of the Petitioner is as regards the incorrect seniority list prepared by the Sub-Division of the Minor Irrigation Department. Even in this letter dated 17/04/1998, there is no grievance raised that the Petitioner was not allowed to join his duties on account of mistake in the name of his father.

7. Both the Courts below were conscious that a pragmatic approach has to be adopted while considering the application for condonation of delay. From the orders passed, it is seen that the delay of 13 years till the time the Petitioner approached the Civil Court is gross and unexplained. Moreover,

the Courts below have observed that the Petitioner has taken contradictory stand. In these circumstances, the Courts below were of the opinion that complaint of unfair labour practices as filed is belated. I see no reason to interfere with the well considered reasoned orders of the Courts below. There is no perversity or an error of jurisdiction with the orders to warrant interference in the exercise of writ jurisdiction of Article 227 of the Constitution of India. The Petition is therefore rejected.

8. At this stage, a request is made by learned Counsel for the Petitioner that considering the Petitioner was working as a Muster Assistant since from 1981 to 1997, the Respondents may consider engaging him as a Muster Assistant as per their policy dated 01/12/1995 despite the rejection of the complaint. It is always open for the Petitioner to make an appropriate representation to the concerned authorities. If the Petitioner is eligible as per the policy, rules and regulations, it is for the Employer to consider the same and take appropriate decision.

9. With these observations, Petition is rejected and disposed of.

(M.S.KARNIK, J.)