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

WRIT PETITION NO. 2681 OF 2020

M/s.Rafat Logistics Pvt. Ltd.Petitioner
Vs.
Shri Raju Pancham Sharma and anr. Respondents

Mr.Jaiprakash Sawant i/b Ms.Ranjana Todankar, for the Petitioner.

CORAM : M. S. KARNIK, J.

DATE : 24th MARCH, 2021

P.C. :

. Heard learned Counsel for the Petitioner. The Petitioner challenges the judgment and order dated 10/01/2020 passed by the Commissioner for Employees Compensation & Judge Labour Court, Mahad, Dist. Raigad condoning the delay of 2 years, 4 months and 30 days caused in filing the application under section 4 read with section 22 of the Employees Compensation Act, 1923 (for short 'the said Act'). Learned Counsel for the Petitioner contends that the Labour Court has virtually not assigned any reason while condoning the delay. According to him, it ought to have considered that the delay

caused in filing the application has to be reasonably and sufficiently explained. The application made by the Respondent No.1 - employee for condonation is devoid of any explanation much less satisfactory explanation for condoning the delay. He further submits that the Petitioner is disputing that the Respondent No.1 is their employee and therefore authority should have first decided the question of employer and employee relationship before deciding the condonation of delay application.

2. I have gone through the impugned order. The Respondent No.1 was working as a Mechanic since 2007. The Labour Court took into consideration that accident in question took place on 25/05/2013. In view of the section 10 of the Act, an application should have been moved for compensation before 24/05/2015. Undoubtedly there is delay of 2 years, 4 months and 30 days in filing the application. The Labour Court then proceeded to consider the settled principles of law in respect of condonation of delay and relied upon the decision of the Hon'ble Supreme Court in the case of **Esha Bhattacharjee Vs. Managing Committee of Reghunathpur Nafar Academy, (2013) 12 SCC 649**. The principles are reproduced in the impugned order. The Labour Court found on the basis of the evidence that the Respondent No.1 specifically deposed that the

Petitioner asked him to wait and assured for positive action which contention remained unchallenged. The Labour Court found that the conduct of the Respondent No.1 - employee to wait on the assurance of the Petitioner to be probable and bonafide. The Labour Court was of the opinion that delay caused appeared to be bonafide. Considering that the application is made for compensation under the said Act, the order passed by the Labour Court condoning the delay of 2 years, 4 months and 30 days for the reasons mentioned in the order cannot be said to be perverse so as to warrant interference. The Petition is therefore rejected.

3. So far as the contention of the learned Counsel for the Petitioner that the Labour Court should have decided the question of disputed relationship of employer-employee relationship by framing necessary issue, it is open for the Petitioner to make appropriate application before the Labour Court in this regard which aspect obviously will be considered by Labour Court on its own merits and in accordance with law.

(M.S.KARNIK, J.)