

2. The petitioner submits that he has been disallowed from reporting for duties with effect from 27/09/2001. Thereafter, there was a criminal complaint against him for having indulged in forgery. It was alleged that he has forged documents to facilitate his induction in service. He has been acquitted by the learned Metropolitan Magistrate, 34th Court, Vikhroli, Mumbai, vide judgment dated 24/06/2016, delivered in C.C. No.130/PW/2002.

3. His advocate had issued notice to the management on 22/03/2002. He has moved an application under the Right to Information Act (for short, **“the RTI Act”**) on 28/11/2017 for collecting information about his status and the employer informed him by communication dated 12/10/2017 that he has already been terminated long ago.

4. Under Rule 60 of the Labour Court (Practice & Procedure) Rules 1975 framed under the MRTU & PULP Act, 1971, a complaint of unfair labour practices has to be filed, within 90 days from the date of occurrence of the cause of action. In the event of delay, an application has to be filed for seeking condonation of delay under Rule 61 of the said Rules. The petitioner has preferred the ULP complaint on 12/04/2018, which is after six months of having received the information that he has already been terminated, under the RTI Act. Nevertheless, he was aware that he has been allegedly refused work with effect from 27/09/2001 or allegedly he was kept away from work. He had

also issued a legal notice on 22/03/2002. He could have straight away, approached the Labour Court within 90 days. He, however, waited till his acquittal in the criminal complaint. Thereafter, he approached the management under the RTI Act. After receiving the information under the RTI, he again waited for six months before moving the ULP complaint before the Labour Court.

5. In view of the above, I do not find that the Labour Court or the Industrial Court has committed any error in refusing to condone the delay. When the petitioner was aware that he has been allegedly orally refused employment from 27/09/2001, he need not have waited till April, 2018.

6. In view of the above, this petition being devoid of merits, is therefore, dismissed.

7. Considering the wastage of court time by the petitioner, I was inclined to impose cost of Rs.25,000/- on the petitioner. However, the learned counsel for the petitioner prayed for leniency and sympathy, since the petitioner is out of employment from September, 2001. As such, I am not imposing cost on the petitioner.

8. Despite the dismissal of the petition, the petitioner cannot be rendered remedy-less. He can approach the competent authority for raising an industrial dispute under Section 2A(1) of the

Industrial Disputes Act, 1947. In the event he does so and the competent authority refers the 'deemed industrial dispute' under Section 2A to the Labour Court, it would be left open to the Labour Court to consider whether to deprive the petitioner of the back wages, in the event he succeeds in the reference case.

[RAVINDRA V. GHUGE, J.]