

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

WRIT PETITION NO.2004 OF 2020

SK. MUNIR SK. KASIM

VERSUS

**MAHARASHTRA STATE FARMING CORPORATION LIMITED
GANGAPUR FARM THROUGH ITS STHAWAR VYAVSTHAPAK**

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Advocate for Petitioner : Mr. Arvind R. Kawade

Advocate for Respondent : Mr. Parag V. Barde

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 20th APRIL, 2023

PER COURT :

1. Labour Court has refused to condone delay of 152 days in filing restoration application. The said order is confirmed by the Industrial Court. Both these orders are challenged in this petition, filed under Article 226 and 227 of the Constitution of India.

2. By filing Complaint (ULP) No.115/2002 before the Labour Court, Aurangabad, petitioner challenged his premature retirement notice dated 01/10/2002. The complaint was dismissed in default on 17/04/2008. Petitioner preferred application for restoration of complaint along with delay condonation application for condonation of delay of 152 days in filing said application. By order dated 19/11/2023, Labour Court has dismissed the application with cost. The said order is confirmed by Industrial Court in Revision (ULP) No.12/2014. Hence, the present petition.

3. Heard learned advocate for petitioner and learned advocate for respondent. Perused the memo of writ petition, annexures thereto and the impugned orders.

4. Admittedly, the substantive complaint of the petitioner is dismissed in default. Petitioner prayed for condonation of delay of 152 days, on the ground that he is very old person hailing from Taluka Gangapur. He was sick due to a skin disease and was unable to attend proceeding as he was busy in treatment. He resides at very remote area and he was not aware of the dismissal of complaint. When he came to know about dismissal of his complaint, he immediately moved application and, therefore, there is delay in filing said application.

5. Labour Court rejected delay condonation application holding that no period of illness and name of the doctor from whom petitioner is taking medical treatment is stated. Nature of illness is not clearly mentioned. Petitioner ought to have placed on record medical evidence to show that he was suffering from skin disease. Entire approach of the Labour Court in refusing to condone 152 days delay is hypertechnical. Labour Court has ignored settled legal position that delay is to be liberally condoned. Petitioner is not likely to be benefited by belatedly approaching the Labour Court for restoration of his complaint. By the impugned order, reasonable and

fair opportunity is denied to the petitioner to contest his complaint on merit. In the revision, Industrial Court has erred in confirming the order passed by Labour Court. In that view of the matter, impugned orders are unsustainable in the light of the facts of the present case.

6. In the result, writ petition is allowed in terms of prayer clause 'A' and 'B'. Impugned order dated 19/11/2013, passed by the Labour Court in Misc. Application (ULP) Delay No.20/2008 and order dated 06/06/2018, passed by the Industrial Court in Revision (ULP) No.12/2014, are quashed and set aside. Misc. Application (ULP) Delay No.20/2008, filed by the petitioner is allowed.

(NITIN B. SURYAWANSHI, J.)