

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.38 OF 2023**

UTTAM AMRUTA GAIKWAD
VERSUS
M/S SIDDHESHWAR SAHAKARI SAKHAR KARKHANA
MARYADIT THROUGH ITS MANAGING
DIRECTOR/MANAGER

...
Mr. Ashok A. More, Advocate for the Petitioner.

...
**CORAM : SHARMILA U. DESHMUKH, J.
DATED : 19th JANUARY, 2023.**

PER COURT:-

1. Heard.
2. The petition challenges the order dated 27.06.2022 passed by the Commissioner for Employee's Compensation and Judge, 2nd Labour Court, Aurangabad in Miscellaneous Application under the Employee's Compensation Act, whereby the petitioner's application for condonation of delay of 9 years and 8 days came to be rejected.
3. Learned counsel for the petitioner submits that the incident had taken place in the year 2008 and thereafter, the petitioner was residing in the quarters which were provided by the respondent-employer and in the year 2018, the petitioner was in receipt of his dues in respect of gratuity and thereafter, there was no full and final settlement. He invited the attention of this Court to page no.37, which is a disability certificate and would contend that the delay has been sufficiently explained. He would further submit that the petitioner had submitted written applications to the respondent-employer which were not responded to.

4. The application under Section 23 of the Employee's Compensation Act, 1923 was filed on 09.12.2019. The admitted position is that, the accident has taken place in the year 2008 and thereafter, after a delay of almost 9 years, the present application has been preferred. In the application, the only ground that has been mentioned is that, the respondent kept on giving empty assurances and upon the request by the petitioner for full and final settlement, no heed was paid. It is also stated in the application that, the petitioner stood retired on 03.12.2008 without paying compensation for the disablement caused to him.

5. I do not find any explanation much less a sufficient explanation in the application for explaining the delay of 9 years and 8 days caused in filing the application. It appears from the submissions that, the petitioner was residing in the premises allotted by the respondent-employer and had therefore not preferred an application for compensation under the Employee's Compensation Act and subsequently, due to the dispute now the application has come to be filed. Reliance which has been placed on the disability certificate has been issued in the year 2019 and cannot be a reason for condoning the delay caused in filing the application.

6. There is no merit in the writ petition. Writ Petition is accordingly dismissed.

(SHARMILA U. DESHMUKH)
JUDGE