



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Writ Petition (WP) No. 1268 of 2020

Rajesh S/o Sambhaji Tarodekar

Versus

Pee Vee Textiles Limited, Wardha and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri B.C.Chandrikapure, Advocate for the petitioner.

Shri D.M.Kakani, Advocate for the respondent nos. 1
and 2.

CORAM : ANIL S. KILOR, J.

DATED : 25th OCTOBER, 2023.

Heard.

2. The Order Below Exhibit C-2 dated 13th November, 2019 passed by the learned Industrial Court-1, Nagpur in Revision (ULP) No. 124 of 2016 rejecting the review application on the ground of delay, is under challenge in this writ petition.

3. The petitioner was terminated from 16th February, 2007 by the respondent which gave him a cause to approach to the learned Labour Court by filing a complaint. The said complaint was dismissed vide judgment and order dated 3rd September, 2011. Thereupon, the petitioner filed revision ULP No. 124 of 2016 before the learned Industrial Court.

4. Since the revision was filed beyond the period of three years and for the reasons that, no

sufficient cause was shown by the petitioner for such delay, the revision came to be dismissed vide impugned order 13th November, 2019.

5. Learned counsel for the petitioner submits that there is no period of limitation is prescribed for filing of the revision application.

6. However, in view of the various judgments of the Hon'ble Supreme Court and High Court it is time and again held that if no period of limitation is provided, the normal period of limitation under the residuary Article No. 113 of the Limitation Act, would apply.

7. It is submitted that petitioner being poor, he approached to the District Legal Aid Committee for providing advocate and though the revision was drafted and the affidavit was sworn on 25th July, 2014, it was not filed for two years. He, therefore, submits that for the mistake of the lawyer, the petitioner should not be suffered.

8. On the other hand, Shri Kakani, learned counsel for the respondent nos. 1 and 2 pointed out that the application for dismissal of the revision was moved by the respondent nos. 1 to 2, on the ground of delay and while filing the say to it, the petitioner did not give any sufficient reason for such delay. It is therefore

submitted that the petitioner had an opportunity to explain the delay, which he did not avail. Accordingly, he prays for dismissal of the present writ petition.

9. In the light of rival contentions of the parties, I have perused the record and the impugned order.

10. The only ground mentioned in the writ petition, particularly the ground (g) discloses the fact that it was the mistake of the lawyer who drafted the revision but did not file the same for two years. The ground (g) reads thus:

“g) It is submitted that the petitioner is poor person and therefore, approached the office of the District Legal Aid Sub Committee, Nagpur, to provide the Advocate from the Panel of the Legal Aid Office. However, Advocate Salunke to whom the matter was allotted, he had not filed case in Industrial Court. The petitioner approached thereafter to the office of District Legal Sub Committee, Nagpur, then another Advocate Shambharkar was provided by the Legal Aid Sub Committee, Nagpur, who filed the revision petition on 26/7/2016 challenging the order passed by the learned Labour Court. Therefore, there was delay in filing the revision petition before the learned Industrial Court.”

11. From the copy of revision memo, it is evident that the affidavit was sworn on 25th October, 2014. Whereas, the revision was filed in the year 2016 i.e. after about two years.

12. Thus, I find any substance in the submission made by the learned counsel for the petitioner that the delay was caused due to the mistake of the lawyer.

13. Moreover, I am of the opinion that the learned Industrial Court ought to have granted one more opportunity to the petitioner to explain the delay, before denying him justice on technical grounds.

14. In that view of the matter, I am of the opinion that matter needs to be remanded back to the learned trial Court to decide the revision application afresh after giving such opportunity to the petitioner to explain the delay. Accordingly, I pass the following order.

- i. The writ petition is partly allowed;
- ii. The Order Below Exhibit C-2 dated 13th November, 2019 passed by the learned Industrial Court-1, Nagpur in Revision (ULP) No. 124 of 2016 is hereby quashed and set aside.
- iii. The matter is remanded back to the learned Industrial Court, Nagpur to decide the revision application afresh after giving sufficient opportunity to the petitioner to explain the delay.
- iv. Both the parties shall appear before the learned Industrial Court, Nagpur on **9th November, 2023** at 11 am

[ANIL S. KILOR, J.]