

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

WRIT PETITION NO. 5959/2022

SHAIKH HANIF SHAIKH MUNIR
VS
THE SUPERINTENDING ENGINEER, AKOLA IRRIGATION CIRCLE AKOLA
AND ORS

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

Court's or Judge's Order

Shri Y.P. Kasilkar, counsel for the petitioner.

CORAM : ANIL S. KILOR, J.
DATED : 23/01/2023

1. Heard.
2. In this writ petition, answering of the reference under the Industrial Dispute Act, in negative on the ground of delay is under challenge.
3. The learned counsel for the petitioner submits that there is no limitation provide under the Industrial Dispute Act, 1947 to make a reference and therefore, answering the reference in negative, on the point of delay is erroneous.
4. Admittedly, the petitioner was terminated on 01/03/1991 and the reference was made after more than 19 years after the date of termination i.e. 25/11/2010. The learned Labour Court while dealing with the point of limitation has held thus:-

“11. Admittedly, no limitation is provided for reference under Sec.2-A. However, the dispute must be in existence on the day of making reference. Certainly after termination if the employee has not raised any voice

*against the order of termination and he has kept mum for considerable period then it can be presumed that the concerned employee has waived his right of challenging order of termination. In other words, it can be said that the dispute came to an end. Considering this fact and considering the facts of present case it can be easily gathered that party no.2 has not challenged the termination order by making reference under Sec.2-A for considerable period of 19 years. Hence it can be presumed that right of party no.2 for challenging termination order is extinguished as held in **Prabhakar - Vs- Joint Director reported in 2016 (1) ALL MR 486 (SC) and Sub-Divisional Engineer, PWD -Vs- Maroti Amrutrao Bramhankar reported in W.P. No. 4568 of 2009**. Considering the facts of present case and considering the facts of above referred case laws, I came to the conclusion that as there was delay and laches on the part of party no.2 in main reference at the earliest opportunity the party no.2 has lost his right to challenge termination order and the dispute in between the parties has already come to an end.”.*

5. After the said award dated 5/6/2017, again the petitioner did not take any steps to challenge the same for the period of more than four years. The present writ petition was filed on 14/09/2021. No explanation has been offered by the petitioner for such delay of four years in filing the writ petition, after the award was answered in negative.

6. Furthermore, considering the present age of the petitioner and the age of superannuation, it can be said that the petitioner is on the verge of retirement and no purpose would be served in considering the challenge raised in the petition.

7. Thus, on the point of limitation, the learned Labour Court has rightly answered the reference in negative. Hence, I do not find any merit in the present petition. Accordingly, the writ petition is **dismissed**.

JUDGE