



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

974 WRIT PETITION NO. 2412 OF 2023

HARISHCHANDRA SAKHARAM BIRAJDAR
VERSUS
THE REGIONAL MANAGER AND OTHERS

...
Advocate for the Petitioner : Mr. R.C. Bora h/f. Mr. Kadu Shivraj B.
AGP for Respondent/State : Mr. D.B. Bhang
Advocate for Respondent 1 : Mr. V.R. Dhorde
Advocate for Respondent 3 : Mr. P.A. Bhosle
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CORAM : ARUN R. PEDNEKER, J.
Dated : September 04, 2024

PER COURT :-

1. Heard the learned counsel for the parties.
2. The present writ petition challenges the orders dated 4.10.2018 passed by the Member, Industrial Court Jalna in Misc. (ULP) Restoration No. 12/2018 in Complaint ULP No. 96/2016, (in WP No. 2412/2023), refusing to restore the Complaint ULP filed by the applicant/complainant by holding that there is delay of more than 30 days in filing the restoration application and it has not been sufficiently explained.
3. Facts leading in the complaint ULP are briefly stated as under :-

The complaint ULP under section 28 (1) of Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (M.R.T.U. & P.U.L.P. Act, 1971) are filed by the applicant/complainant, alleging unfair labour practice as per items 9 and 10 of Schedule -IV of the Act against the respondent Nos. 1 to 3, in respect of non payment of arrears of pay and

allowances for the services rendered to the respondent No. 2. When the said complaint reached to the stage of adducing evidence, they were dismissed in default on 10.11.2017, for absence of the complainants. It was the contention of the applicant that due to weak economic condition, the applicant was unable to attend the Court and as per the chart given below, the restoration application was filed within time.

Writ Petition Nos.	Petitioners became aware of dismissal	Certified copy applied on	Certified copy received on	Restoration application
2412/2023	8.3.2018	8.3.2018	8.3.2018	13.3.2018

4. The impugned order is placed on record in which above facts are stated at para 3 of each order. It is contended in the application that the restoration application is filed within thirty days, however, the certified copies are not diligently obtained and thus, the Industrial Court refused restore the complaint (ULP).

5. The Industrial Court, on consideration of the application, has observed that the application for restoration has to be filed within 30 days and at para 16 of the orders, observed as under :-

“(16) In the present case, if the time period from the date of order of dismissal, to the date of application for certified copy, and thereafter, date of receipt of certified copy till date of filing application for restoration of complaint is computed, then, even after excluding the time period required for receiving certified copy, the present application for restoration, clearly falls beyond limitation period of 30 days.”

6. The Industrial Court further observed that the Labour or Industrial

Court has no powers to entertain an application for restoration beyond the period of 30 days. The Industrial Court also notices that there is no application for condonation of delay moved by the applicant/complainant and the applicant has come with a premise that his application for condonation of delay is filed within limitation. Thus, in absence of the application for condonation of delay with restoration application, the application for restoration falls beyond the limitation period of 30 days prescribed under section 31(2) of the Act and has rejected the application by the impugned order.

7. It has to be understood that in the restoration application when the cause is made out by the applicant/claimant, who filed complaint ULP for backwages for meager amount, liberal approach needs to be taken while dealing with such application. It is the case of the applicant that the applicant/complainant learnt about the dismissal of the Complaint ULP on the dates mentioned in the above chart at para 3 and thereafter the applicant applied for certified copy and upon receipt of the certified copy filed the application for restoration as mentioned in above chart. The Industrial Court ought not to have take hyper technical view in the matters of poor employees seeking arrears of pay and allowances and backwages of small amount. In view of the above and in the interest of justice, I hold that the restoration application needs to be allowed by condoning the delay, if any, caused in filing such application. Hence, the impugned order passed by the Industrial Court is quashed and set aside and the Complaint (ULP) is restored by condoning the delay, if any, in filing the restoration application. The Tribunal is directed to decide the said complaint (ULP) in accordance

with law, as expeditiously as possible within a period of one year from the date of production of this order. The writ petition is allowed and disposed of accordingly.

(ARUN R. PEDNEKER, J.)

ssc/