



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

947 WRIT PETITION NO. 2367 OF 2023
WITH
WRIT PETITION NO. 2368 OF 2023
WITH
WRIT PETITION NO. 2428 OF 2023

TUKARAMJI KONDIBA TIDKE
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. K.N. Lokhande
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 petitions challenge the orders dated 4.10.2018 passed by the Member, Industrial Court Jalna in Misc. (ULP) Restoration Nos. 7/2018 in Complaint ULP No. 81/2016, (in WP No. 2367/2023), 4/2018 in Complaint ULP No. 17/2016, (in WP No. 2368/2023) and 5/2018 in Complaint ULP No. 34/2016, (in WP No. 2428/2023), refusing to restore the Complaint ULPs filed by the applicants/complainants 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 ULPs 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 applicants/complainants, 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 complaints 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 applicants that due to weak economic condition, the applicants were unable to attend the Court and as per the chart given below, the restoration applications were filed within time.

Writ Petition Nos.	Petitioners became aware of dismissal	Certified copy applied on	Certified copy received on	Restoration application
2367/2023	12.12.2017	16.2.2018	16.2.2018	17.2.2018
2368/2023	19.12.2017	8.1.2018	8.1.2018	29.1.2018
2428/2023	29.12.2017	8.1.2018	8.1.2018	30.1.2018

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

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 applications by the impugned order.

7. It has to be understood that in the restoration application when the cause is made out by the applicants/claimants, who filed complaint ULPs for backwages for meager amount, liberal approach needs to be taken while dealing with such applications. It is the case of the applicants that the applicants/complainants learnt about the dismissal of the Complaint ULPs on the dates mentioned in the above chart at para 3 and thereafter the applicants applied for certified copy and upon receipt of the certified copy filed the applications 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 applications needs to be allowed by condoning the delay, if any, caused in filing such applications. Hence, the impugned orders passed by the Industrial Court are quashed and set aside and the respective Complaint (ULPs) are restored by condoning the delay, if any, in filing the restoration applications. The Tribunal is directed to decide the said complaint (ULPs) in accordance with law, as expeditiously as possible within a period of one year from the date of production of this order. The writ petitions are allowed and disposed of accordingly.

(ARUN R. PEDNEKER, J.)

ssc/