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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7516 OF 2024
(Khadir Jamal Shaikh Vs. The State of Maharashtra and others)

Mr.T.M.Venjane, Advocate for the Petitioner.
Mr.S.B.Pulkundwar, AGP for Respondent No.1.
Mr.A.M.Gaikwad, Advocate for Respondent Nos. 2 to 5.

**(CORAM : RAVINDRA V. GHUGE AND
Y.G.KHOBRADE, JJ.)**

DATE : JULY 24, 2024

PER COURT :

1. We have heard the learned Advocates for the respective sides. There are several disputed questions, in the light of the rebuttal of Employer, as under :-

[a] After the order of suspension dated 14.08.2023 was served on the Petitioner, whether he abided by the conditions set out in the suspension order by marking his presence in a register with the employer, once a week ?

[b] Whether the Petitioner appeared before the employer for the first time on 20.06.2024, with a representation that he should be reinstated in service ?

[c] Whether the Petitioner can prove that he had approached the

employer in each week or during the period from the date of his suspension till June 2024, with several representations ?

[d] Whether the Petitioner would be entitled for the suspension allowance, though, for allegedly violating the terms of the suspension order ?

[e] Whether the Petitioner can prove that he had abided by the terms of the suspension order and was entitled for the suspension allowance for the entire period for which he was suspended ?

[f] Whether the Petitioner can prove that a representation dated 23.01.2024 was addressed to the employer for the first time or it is a part of the series of the representations ?

2. The above aspects would require oral and documentary evidence. The Petitioner is working as a ‘Technician’. He would fall within the definition of “Workman” u/s 2(s) of the Industrial Disputes Act and the definition of “Employee” u/s 3(5) of the MRTU and PULP Act, 1971. The employer of the Petitioner is an “Industry” u/s 2(j) of the Industrial Disputes Act.

3. In view of the above, we grant liberty to the Petitioner to

approach the Industrial Court for the redressal of his grievance. All contentions are kept open. Since it is a recurring cause of action, the issue of limitation would not arise.

(Y.G.KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)