IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11431 OF 2017

Masaji Kondiba Chavan ***...Petitioner***

V/s.

1. Solapur Zilha Madhyawarti
Sahakari Bank Maryadit and Anr. ***...Respondents***

Mr. Prashant Nayak *for the Petitioner.*

Mr. Suhas S. Inamdar *for Respondent No.1.*

Ms Tanaya Goswami*, AGP for Respondent No.2-State.*

CORAM : SANDEEP V. MARNE, J.

Dated : 24 September 2024.

P.C. :

1) The Petition challenges order dated 7 July 2010 passed by the learned Member, Industrial Court, Solapur, rejecting the Revision (ULP) No.37 of 2014 preferred by the Petitioner and confirming the order dated 17 December 2013 passed by the Labour Court, Solapur. By order dated 17 December 2013 the Labour Court has refused to condone the delay of 15 long years in filing the complaint.

2) I have heard Mr. Nayak, the learned counsel appearing for the Petitioner and Mr. Inamdar, the learned counsel appearing for Respondent No.1.

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3) The main grievance of the Petitioner is about the discriminatory treatment given to him vis-a-vis Shri C.R. Hingamire, who was also dismissed from service on account of the involvement in criminal case relating to alleged misappropriation. According to the Petitioner after acquittal of both the accused (Petitioner and Shri Hingamire) by the Criminal Court on 12 October 2010, the Bank adopted a resolution on 25 February 2011 reinstating Shri Hingamire by recovering the amount of misappropriation from him. The Petitioner also expected similar treatment and reinstatement in service and accordingly filed representation on 8 November 2011. Since his request was not accepted, he proceeded to lodge complaint relating to unfair labour practices before the Labour Court, Solapur. However, since there was delay in filing the complaint, application for condonation of delay was filed, which has been rejected by the Labour Court.

4) In my view, there appears to be substantial difference between the case of Shri Hingamire and that of the Petitioner. Shri Hingamire was a regular employee of the Bank whereas Petitioner was mere daily wager. This aspect is admitted by Petitioner in paragraph 1 of application for condonation of delay. Secondly, on account of Shri Hingamire being a regular employee of the Bank, disciplinary proceedings were conducted against him, which resulted in passing of dismissal order dated 12 July 2000. Shri Hingamire took immediate steps in setting up a challenge to the said dismissal order dated 12 July 2000 by filing Application (BIR) No. 12 of 2000 before the Labour Court, Solapur on 30 August 2000. The Petitioner on the other hand slept over his remedy and did not take any steps

challenging discontinuation of his service. It appears that on account of his arrest, coupled with the fact that he was merely a daily wager, Bank did not continue his service without passing any specific order. In that view of the matter, Petitioner ought to have taken necessary steps for challenging the action of the Bank in not continuing his service within reasonable time. In case of Shri Hingamire, the Labour Court passed judgment and order dated 20 November 2006 directing his reinstatement with 50% backwages. Thus, Bank's resolution dated 25 February 2011 is essentially attributable to the order passed by the Labour Court on 20 November 2006 and not to his acquittal. In case of the Petitioner he did not take any steps to challenge the action of discontinuation of his services. Therefore, Petitioner cannot be placed on the same pedestal as that of Shri Hingamire.

5) I, therefore, do not find any valid reason to interfere in the order passed by the Labour Court, Solapur, refusing to condone inordinate delay of 15 long years. The Industrial Court has rightly dismissed the Revision. Accordingly, the Writ Petition is rejected.

[SANDEEP V. MARNE, J.]