

Shabnoor

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6224 OF 2018

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Sanjay Bapu Sadamate

... Petitioner

V/s.

Javahar Navodaya Vidhyalaya,
Through Its Principal

... Respondent

Mr. Prashant Bhavake, for Petitioner.

Ms. Neeta Vinay Masurkar a/w Mr. N. Y. Masurkar, for
Respondent.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 8, 2024

P.C.:

1. The petitioner is challenging the order passed by the Industrial Court confirming the order of Labour Court rejecting application for condonation of delay of 5 years and 4 months in filing the complaint before the Labour Court.

2. The following are undisputed facts:

The resignation is dated 1 July 2010. On 10 July 2010, the employer communicated to the petitioner that his resignation was sanctioned. On 31 July 2010, he was relieved from his services.

On 25 August 2012, he applied to the Deputy Commissioner of respondent and stated that he resigned on 1 July 2010 due to his difficulty and, therefore, he should be reappointed. The reason mentioned in the application that his resignation was due to family tension and lack of money. In the said communication, no grievance on the forced resignation was made.

3. The complaint appears to have been filed in the year 2015. However, the material on record indicates that the petitioner on 4 September 2010 applied for encashment of his provident fund amount. He accepted amount of Rs.1,71,877/- towards provident fund dues.

4. The petitioner applied for release of gratuity amount on 1 September 2010 and accordingly gratuity amount of Rs.1,24,156/- was paid to him. Based on aforesaid factors, the Labour Court recorded a finding that he had voluntarily resigned in the year 2010.

5. The reasons assigned by the Labour Court indicate that the grievance made before the respondent at initial stage was not recorded in respect of his forced resignation but a grievance was raised that he should be reappointed. In absence of grievance of forced resignation for redressal of his grievance before the Competent Authority and in absence of immediate dispute regarding voluntary nature of resignation, mere filing of applications before the Authorities instead of approaching the Court cannot be termed as sufficient cause for condonation of delay of 5 years and 4 months in approaching the Labour Court.

Therefore, both the Courts below have rightly rejected the application for condonation of delay. Hence, there is no legal infirmity. The writ petition is, therefore, dismissed. No costs.

(AMIT BORKAR, J.)