

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

WRIT PETITION NO.10661 OF 2019

Hanmantrao Yashwant Patil

...Petitioner

Versus

General Manager & Ors.

...Respondents

....

Mr. Kuldeep U. Nikam, for Petitioner.

Mr. Amit Gharate, for Respondent.

....

CORAM : SANDEEP V. MARNE, J.

DATED : 19 MARCH 2024.

P. C. :

The challenge in the petition is to the Order dated 30 April 2019 passed by the President, Industrial Court, Sangli rejecting application filed by Petitioner seeking condonation of delay of 5 years 1 month and 22 days in filing complaint under provisions of Section 28 of the Maharashtra Recognized Trade Union and Prevention of Unfair Labour Practices Act, 1971.

2. Petitioner's grievance in the complaint was about non-grant of retrospective effect to the benefit of additional increment granted to him on account of acquisition of higher qualification by Order dated 19 January 2023. It is Petitioner's case that he has completed higher qualification in the year 1987 and that in accordance with the scheme in vogue at the relevant time, he ought to have been granted additional increment in the year 1987 itself. However it appears

that on account of discontinuation of the scheme in the year 1986, i.e. before acquisition of higher qualification by the Petitioner, the benefit of additional increment was denied him. He made representation dated 22 February 2011. For reasons unknown, the General manager of the Respondent took a decision to grant benefit of additional increment to the Petitioner on the ground that the date on which he took admission for acquisition of additional qualification, the scheme was in existence. Be that as it may, Rightly or wrongly, the General Manager of the Respondent took a decision to grant additional increment to the Petitioner though the scheme for grant of such additional increment was already discontinued in 1986 itself. However while granting benefit of additional increment, General Manager thought it appropriate to restrict benefit of such additional increment from 22 February 2011, which was the date of making an application by Petitioner. The Order granting additional increment from 22 February 2011 was passed on 19 January 2013. From the date of birth disclosed in the complaint, it appears that Petitioner had already retired from service, by time Order dated 19 January 2013 was passed.

3. Despite grant of benefit of additional increment from 22 February 2011, Petitioner expected that the said benefit ought to have been extended to him from the year 1987 when he acquired the additional qualification. He was thus aggrieved by the non-grant of retrospective benefit in respect of additional increment to him from the year 1987. He however did not challenge the Order dated 19 January 2013 within reasonable time thereafter. He approached Industrial Court only on 08 June 2018, after delay of more than 5 years. Considering the facts and circumstances of the case, Industrial Court has proceeded to reject the application for condonation of delay.

4. In my view, no serious error can be traced in the Order passed by the Industrial Court. Petitioner was made aware of the fact that benefit of additional increment was denied to him in respect of the period from 1987 to 2010 by passing Order dated 19 January 2013. By the time he filed complaint before Industrial Court, period of over 31 years had elapsed. Even if the cause of action is treated to have been arisen on 19 January 2013, still there was inordinate delay of over 5 years in approaching the Industrial Court. Industrial Court has rightly rejected the application for condonation of delay. Writ Petition, being devoid of merits, is rejected.

SANDEEP V. MARNE, J.

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