



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

WRIT PETITION NO. 4169 OF 2011

Executive Engineer, Public Works Department, Amravati and anr. **.vs.** Shri Pralhad Mahadeo
Gawande)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A. A. Madiwale, AGP for the petitioners

CORAM : ANIL L. PANSARE J.

DATED : 24-10-2024

On previous date, following order was passed.

*“Learned A.G.P submits that identical issue was raised in one of the petitions viz. Writ Petition No.4954/2011, which has been decided by this Court vide judgment and order dated 23.09.2024. He, however, seeks time to verify the facts and make appropriate submissions.
Stand over to 24.10.2024.”*

2. Learned Assistant Government Pleader has placed on record copy of judgment dated 23-9-2024 passed by this Court in Writ Petition No. 4954/2011. The issue involved was that the employee approached the Labour Court after period of 12 years (in the present case, it is 7½ years) without even filing an application seeking condonation of delay. Labour Court, Amravati, however, directed petitioner to pay to the respondent compensation of Rs. 40,000/-. In the said case, reliance was placed on couple of judgments and this Court, having considered the judgments, has held as under :

“7] As could be seen, in both the judgments, the Courts took a view that it is necessary to raise

dispute within a reasonable period. The Supreme Court has held that relief can be denied on the ground of unexplained delay and laches and/or on presumption that such person had waived his right. Both the Courts, however, have clarified that where Court finds dispute still exists, though raised belatedly, it is always open to the Court to mould the relief accordingly.

8] In the present case, the Labour Court has considered the issue of delay. The Labour Court has referred to the evidence wherein the respondent had categorically stated that after his termination, he approached the petitioner from time to time, who only gave assurance but did not reinstate him. The Labour Court then found that in cross-examination, this testimony remained unshattered.

9] Thus, in the present case, the respondent hastendered explanation for approaching belatedly. The Deputy Commissioner of Labour, Nagpur, thought it proper to refer the dispute to the Labour Court, meaning thereby, that he found that the dispute is still existing or is live and has not become stale claim. In the circumstances, it cannot be held that the respondent has acquiesced his claim/right.

10] The Labour Court has then considered the effect of delay and moulded the relief to grant Rs.40,000/- as compensation instead of reinstatement.”

3. Thus, it is held that if it is found that dispute is still existing or is live and that it has not become stale claim, reference could be entertained by the Labour Court. The only difference is that in the present case, the Labour Court has awarded compensation at Rs. 50,000/-. The order passed by the Labour Court is in tune with the settled principles of law. I do not find any reason to

interfere in writ jurisdiction. Writ petition is accordingly dismissed with no order as to costs.

(Anil L. Pansare, J.)

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