



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.5378/2023

Shri Deepak S/o Bhaiyaji Sankulwar

Vs.

The Chief Officer, Kalmeshwar Nagar Parishad, Kalmeshwar, Nagpur

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

Court's or Judge's orders

Shri V.N. Mate, Advocate for petitioner
Shri O.A. Ghare, Advocate for respondent

CORAM : ANIL L. PANSARE, J.
DATED : 14/08/2024

The challenge is to order dated 21/02/2023, passed by Industrial Court, Nagpur by which, the Court declined to condone the delay of 988 days in filing complaint against the respondent under the provisions of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (hereinafter referred to as 'MRTU and PULP Act').

2. The petitioner – employee, while explaining the delay has averred in the application that after suspension from service, he was in a serious financial constrain and could not pay a single pie and was required to spend whatever was available with him to educate his two children and maintain the mentally challenged elder son. He further averred that after settlement of hand loan dues in the year 2019, he contacted the Counsel.

3. The Trial Court found no substance in the aforesaid justification. The Trial Court noted that the petitioner had focused on defending himself in the criminal trial pending against him and was ultimately acquitted. The Trial Court noted that he had engaged Advocate in defending the criminal trial but has put forth the excuse of financial difficulty to engage Counsel to file complaint. The Trial Court then has noticed that on 01/07/2017, the petitioner was reinstated in service and started getting regular salary and was thus relieved from the financial crises. Accordingly, the Trial Court held that the plea of financial crises is not a bonafide ground in not approaching Counsel within 90 days from 01/07/2017.

4. I do not find any error in the approach of Trial Court inasmuch as the petitioner has failed to show sufficient cause to not approach the Court within stipulated time. On the point of delay, profitable reference could be made to the judgment of the Apex Court in the case of ***Pathapati Subba Reddy (Died) By L.Rs. And others Vs. Special Deputy Collector (LA), 2024 SCC OnLine SC 513***, wherein the Court held thus :

“26.

(i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;

(ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;

(iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;

(iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;

(v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;

(vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;

(vii) Merits of the case are not required to be considered in condoning the delay; and

(viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the

conditions have been imposed, tantamounts to disregarding the statutory provision.”

5. Applying the aforesaid principles of law and considering the failure of petitioner to show sufficient cause in approaching the Court within time, I find no substance in the petition. The petition is accordingly dismissed.

(ANIL L. PANSARE, J.)

Jayashree..