



4174-2019

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

WRIT PETITION NO. 4174 OF 2019

(Murlidhar s/o Upasrao Nimkar & Ors. Vs. Project Officer, Soil and Water Management Pilot Project & Anr.)

WITH WRIT PETITION NO. 875 OF 2019

(Ashok s/o Sitaram Mate & Ors. Vs. Project Officer, Soil and Water Management & Anr.)

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

Court's or Judge's orders.

Shri S.S. Deshpande, Counsel for the petitioners.
Ms U.A. Patil, Counsel for the respondents.

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CORAM : ANIL L. PANSARE, J.
OCTOBER 24, 2024

On 12/8/2024, following order was
passed :

“Writ Petition No. 4174/2019

Heard for some time.

2] The petitioners were working as daily wagers with respondent no.2. Their services were terminated. They filed complaint under the provisions of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, along with an application to condone delay in filing complaint. The application was rejected by the Labour Court. The petitioners filed revision before the Industrial Court. Pending revision, the petitioners approached the Labour Commissioner, Bhandara, under the provisions of the Industrial Disputes Act, 1947 (for short “Act of 1947”). Thereafter, the petitioners withdrew the revision.

3] The learned Counsel for the respondents has relied upon the judgment of the Hon’ble Supreme Court in the case of Chairman, Akola Janta Commercial Co-operative Bank Ltd and others Vs. Vilas Fakiraji Sarkate and others [AIR 2021 SC (Supp) 1129], wherein the Supreme Court held that once the application seeking condonation of delay has been rejected and

attained finality, respondent no.1 therein could not have approached the Labour Commissioner under the provisions of the Act of 1947. The Supreme Court held that the aggrieved person cannot be permitted to take recourse to successive remedies for the same subject matter, particularly when the order passed by the Tribunal, rejecting the application seeking condonation of delay, has attained finality.

The learned Counsel for the respondents submits that the present matter is covered by the aforesaid judgment and, therefore, the petition is liable to be dismissed.

4] *The learned Counsel for the petitioners made an attempt to distinguish the judgment on facts. According to him, the petitioners approached the Labour Commissioner pending revision, meaning thereby that at the relevant time, the order, rejecting the application seeking to condone delay, had not attained finality.*

5] *I do not find substance in the aforesaid submission inasmuch as the Supreme Court has, in clear terms, held that the aggrieved person cannot be permitted to take recourse to successive remedies for the same subject matter. What has been held is that successive remedies are not available. In other words, the petitioners ought to have pursued their remedy under the revision. Instead, the petitioners chose to avail successive remedy pending revision, which is contrary to the law laid down by the Supreme Court in the aforesaid judgment. Further, the petitioners withdrew the revision. Consequently, the order passed by the Labour Court refusing to condone delay has attained finality. The petition, therefore, is liable to be dismissed.*

6] *At this stage, the learned Counsel for the petitioners seeks time to have research on the point involved.*

7] *Time is granted. Stand over to 29/8/2024."*

2] The learned Counsel for the petitioners submits that despite taking efforts, he could not find any

judgment that will help the petitioners in the peculiar situation.

3] In view of above and for the reasons stated in order dated 12/8/2024, the writ petitions stand dismissed. No order as to costs.

(ANIL L. PANSARE, J.)

Sumit