



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2644 OF 2021

Narayan Garbad Gadhari

....Petitioner

VERSUS

Sub Executive Engineer MSEDCL Ltd

.....Respondent

Mr. S. V. Suryawanshi, Advocate for the Petitioner.

Mr. U. S. Malte, Advocate for the Respondent.

CORAM : KISHORE C. SANT, J.

DATE : 1st DECEMBER, 2025.

PER COURT :

1. Heard learned Advocates for the parties.
2. By consent, taken up for final disposal.
3. The Petitioner/original Applicant in Misc. Application (ULP) Delay No. 01/2020 before the learned Member, Industrial Court, Jalgaon, has approached this Court. Grievance is against order dated 09.12.2020 passed by the learned Member, rejecting the Application seeking condonation of delay.
4. Petitioner was serving with the Respondent. He was inducted into service on 12.12.1980. He was made permanent in

due course of time. While the Petitioner was serving as Technician at Shindada, Pachora Division, unfortunately, one child came in contact with the hanging wire having electricity supply and died in that incident. This, Petitioner was held responsible for the said incident. Even criminal case was filed under Section 304A of the Indian Penal Code. Simultaneously, enquiry was also initiated against him. In an enquiry, the Petitioner was held guilty of the charges framed against him. As a result of which, action of stopping increments was taken and his promotion was kept in abeyance for five years. The punishment came to be awarded by order dated 11.06.2012. In the meantime, Petitioner stood retired on 31.12.2017. So far as criminal case is concerned, the Petitioner came to be acquitted by order dated 27.10.2014. He, therefore, started making representations to the Respondent with a request to cancel the punishment imposed upon him. However, no heed was paid to him and therefore, the Petitioner approached the Industrial Court by filing complaint. There was delay of 7 years and 4 months in filing the complaint. The Petitioner also filed an Application for condonation of delay. It is the case of the Petitioner that he was continuously pursuing the authorities and praying for withdrawal of his punishment. In such representation, some time is spent. Initially, he waited for the outcome of the

criminal prosecution. He, thus, prayed that the delay deserves to be condoned.

5. The learned Member, Industrial Court, Jalgaon, however, came to the conclusion that there is no sufficient reason mentioned for condonation of delay. It was necessary for the Petitioner to show that there was a reason for which he was prevented from coming to the Court. It is observed that in the present case, the Petitioner has not acted diligently and remained inactive. Thus, there is no sufficient cause for condonation of delay. The Court also relied upon the judgment in the case of Baswaraj and another vs. The Special Land Acquisition Officer, **2013(5) ALL MR 934 SC**. Thus, the Application came to be rejected by order dated 09.12.2020. The Petitioner being aggrieved by this order, has approached this Court.

6. Learned Advocate Mr. Suryawanshi vehemently submits that the learned Member has failed to appreciate that there was sufficient cause to condone the delay. Till his acquittal, the Petitioner could not have filed representation and the complaint. Time to time he was assured by his superiors that they would look into the matter and will see to it that the punishment is set aside. It is this

assurance which made him not to file the complaint immediately. He submits that when there is case on merit, he should not have been deprived of his right to prosecute the remedy. He submits that the findings recorded in the criminal case can always be used in conduct of departmental enquiry as both are based on the same set of facts and evidence. Learned Advocate thus prays to allow the Petition.

7. Learned Advocate Mr. Malte vehemently opposes the Petition. At the outset, he submits that the complaint itself was not maintainable before the Industrial Court. The action is based upon departmental enquiry. Against the order of termination passed by the Executive Engineer, there is appeal provided under the Service Rules of the Respondent. Even second appeal is provided against the order passed by the first appellate authority, if any. Having failed in prosecuting the remedies provided in the Service Rules, the Petitioner has directly approached the Industrial Court. So far as delay is concerned, he submits that there is no sufficient cause for which, the Petitioner could not approach the Court in time. Actual delay from the date of order is 9 years and 6 months and not 7 years and 4 months as submitted by learned Advocate for the Petitioner.

He, thus, submits that no case is made out even on merits to condone the delay.

8. This Court has considered the argument and material before this Court. It is seen that the alleged incident took place on 05.12.2011. An enquiry was proposed against the Petitioner. On 09.01.2012, charge-sheet was filed. After filing of the charge-sheet, the enquiry took place. It is only thereafter, the Disciplinary Authority, by considering the enquiry report, passed the order. Even after completion of enquiry, an opportunity was given to the Petitioner by asking him to show cause as to why the proposed action be not taken. From the Petition, it does appear that the main ground on which the Petitioner appears before this Court is that he is acquitted by the Court in a criminal trial. It is well settled that departmental enquiry and criminal proceeding are two different proceedings. It is open for the Disciplinary Authority to conduct enquiry and to take action by following principles of natural justice and rules. Mere acquittal of Petitioner from criminal case cannot be a ground to set aside the punishment inflicted after conducting departmental enquiry even if both the proceedings have started on the basis of same set of facts.

9. Presently, this Court is considering only as to whether a sufficient cause was shown by the Petitioner to condone the delay. In the present case, even if the delay as mentioned by the Petitioner is seen, it is 7 years and 4 months. The reason assigned is that from to time, he had made representations after he was acquitted by the judgment and order dated 27.10.2014. The authorities were assuring him that they would look into the matter. In the meantime, he also retired on 31.12.2017. This Court also finds that no sufficient cause was shown except the cause stated above. Making repeated representations not provided by law and meeting the authorities cannot be said to be a sufficient cause for not approaching the Court in time. No case is made out showing that the Petitioner for some or the other reason was prevented from approaching the Court. Even departmental appeal is not preferred by the Petitioner. This conduct shows that the Petitioner himself was not diligent in prosecuting the proceeding. The learned Trial Judge has rightly considered all these aspects and has arrived at proper conclusion. No illegality or perversity is found in the order. This Court, thus, finds that there is no merit in the Petition and the same deserves to be dismissed. Petition, thus, stands dismissed with no order as to costs.

10. Pending Application, if any, does not survive and stands disposed of.

(KISHORE C. SANT)
Judge

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