



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO. 2920 OF 2024

Nilesh Laxmikant Shiurkar

VERSUS

Pace Business Machines Pvt Ltd

...

Advocate for the Petitioner : Mr. Ubale Mahesh B.

Advocate for Respondent : Mr. B.D. Birajdar a/w Ms. Anjali Haribhau
Dhat (Kulkarni)

WITH

WRIT PETITION NO. 6380 OF 2024

Mr. Vivek Makarand Shoor

VERSUS

Nilesh Laxmikant Shiurkar

...

Advocate for the Petitioner : Mr. B.D. Birajdar a/w Ms. Anjali Haribhau
Dhat (Kulkarni)

Advocate for Respondent : Mr. Ubale Mahesh B.

...

CORAM : ROHIT W. JOSHI, J.

DATE : 22nd AUGUST, 2025

P.C.:

1. The petitioner in Writ Petition No.2920 of 2024 is hereinafter referred to as “employee” and petitioner in Writ Petition No.6380 of 2024 is referred to as “employer”.

2. The employee claims that he was working on the post of “Technical Commercial”. He claims that he was appointed in the service in 1999 and his services were orally terminated on 19.05.2005. He claims that ever since the order of termination, he is making correspondence with the employer calling upon the employer to clear

outstanding dues. He claims that despite repeated emails, there was no response from the employer and balance amount outstanding was also not paid. The employer contends that in such circumstance, he was compelled to approach the Deputy Commissioner of Labour, Aurangabad with a request seeking reference relating to the dispute between the parties as contemplated under Section 10-C of the Industrial Disputes Act. He contends that he had issued notices for conciliation on 01.07.2016. The Deputy Commissioner of Labour made a reference to the learned Labour Court at Aurangabad. In the reference, preliminary objection pertaining to delay and laches, territorial jurisdiction and status of the employer as workman under the Industrial Disputes Act were raised by the employer. These preliminary objections came to be rejected by the Labour Court vide order 13.02.2020. The employer thereafter filed an application for review which was also rejected vide order dated 27.11.2021. The employer has filed Writ Petition No.6380 of 2024 challenging the said orders.

3. Having rejected the preliminary objections as aforesaid, the learned Labour Court proceeded with adjudication of reference on merits. The learned Labour Court has dismissed the reference vide judgment and order dated 23.11.2023 observing that the employee had failed to prove that his services were terminated on 01.07.2005 as alleged by him. The employee filed Writ Petition No.2920 of 2024

challenging the said judgment and award.

4. It is the case of the employee that his services were terminated on 19.05.2005. The date of termination is 01.07.2005 as per the reference order. Perusal of the documents annexed to Writ Petition No.2920 of 2024 filed by the employee will indicate that according to employee, initially he had issued letters dated 25.08.2005, 28.08.2005 and 06.06.2007 to the employer by registered post. The employee has filed certain communications sent by email from 20.06.2013 upto 17.06.2014. The email communications of the year 2013 to 2014 indicate that the employee did not raise any dispute as regards the alleged illegal termination. The communications reflect that he was making demand for some outstanding dues which were allegedly not paid by the employer. Thereafter, for the first time, a notice is issued by the employee to the employer on 01.07.2016 i.e. after a period of around 11 years from the date of alleged termination and around nine years from the date of last registered letters. This notice is also after a period of three years from the alleged email communication in which some monetary demand was raised.

5. The learned Labour Court has rejected the preliminary objection pertaining to delay and laches holding that for raising a dispute under Section 10, the Act does not prescribe for any act for limitation. Be that as it may, it is well settled that although Section 10 does not

prescribe any period of limitation, the dispute must be raised within a reasonable period. The learned Labour Court has erred in not following the ratio of judgment of the Hon'ble Apex Court in the matter of *Nedungadi Bank Ltd Vs. K.P. Madhavankutty & Ors reported in 2001 I CLR 671* and *Prabhakar Vs. Joint Director, Sericulture Department & Ors reported in 2015 (4) LLN 16 (SC)*.

6. Learned advocate for the employee places reliance on the judgment of Hon'ble Supreme Court in the matter of *Raghubir Singh Vs. General Manager, Haryana Roadways, Hissar reported in 2015 (2) Mh.L.J. 107*, to contend that a industrial dispute cannot be dismissed merely on the ground of delay. The judgment of the Hon'ble Supreme Court is delivered in peculiar set of facts. The employee in the said case was charged for the offence punishable under Section 409 of the Indian Penal Code on 10.08.1993. He was arrested on 15.09.1994. His services were terminated on 21.10.1994 in view of the aforesaid. He was released on bail on 15.11.1994. It was the case of employee that he was given oral assurance that after his acquittal, he would be reinstated in service. In such circumstances, upon his acquittal on 11.07.2002, the employee approached the employer for joining service which was declined by the employer. The employee raised dispute in this backdrop. The case relied upon by the learned advocate for the employee is certainly distinguishable on facts.

7. In present case, there was no impediment for the employee to raise the dispute with respect to his alleged termination within a reasonable time frame. The dates mentioned above speaks for themselves. More importantly, in the email communications issued in the year 2013 and 2014, the employee does not speak about his alleged wrongful termination and only pressed certain monetary demands. In that view of the matter, the judgment of the Hon'ble Supreme Court in the matter of **Raghubir** (supra) does not come to the aid of employee in the present set of facts. In the considered opinion of this Court, learned advocate for employer is justified in placing reliance on the judgment of the Hon'ble Supreme Court in the matter of **Nedungadi Bank Ltd** (supra) and **Prabhakar** (supra). There is no plausible explanation for inordinate delay of 11 years in approaching the Deputy Commissioner of Labour.

8. Since the preliminary objection pertaining to delay and laches is upheld, there is no need to deal with other contention pertaining to territorial jurisdiction.

9. As regards the merits of the matter, the learned Labour Court has observed that the employee had failed to establish that his services were orally terminated on 19.05.2005 as contended by learned advocate for petitioner or 01.07.2005 as recorded in the reference order. Perusal of the findings will indicate that the said findings are

recorded after considering the material on record. The said findings also get credence from the alleged email communications filed by the employee. These email communications issued in the year 2013-14, as stated above, do not indicate that there was any dispute between the parties with respect to alleged termination and the dispute as it appears from perusal of the email communications was with respect to certain amount allegedly payable by the employer to employee. The findings on merits therefore also cannot be faulted.

10. In view of above, Writ Petition No.2920 of 2024 is dismissed.

11. Writ Petition No.6380 of 2024 is allowed. Impugned orders dated 13.02.2020 and 27.11.2021 passed by Presiding Officer, 2nd Labour court at Aurangabad in Reference (IDA) No15 of 2017 are quashed and set aside. Preliminary objection raised by the petitioner-employer with respect to delay and laches is upheld.

[ROHIT W. JOSHI J.]