



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

29 WRIT PETITION NO. 2942 OF 2020

BHIMRAJ SAKHARAM SHEJWAL

VERSUS

THE ASSISTANT COMMISSIONER DISTRICT SOCIAL WELFARE
OFFICE

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Advocate for the Petitioner : Mr. S. M. Kamble

AGP for Respondents-State : Ms. P. V. Diggikar

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CORAM : MANJUSHA DESHPANDE, J.

Dated : March 10, 2025

PER COURT :-

1. In this writ petition, the petitioner is challenging the order dated 09.03.2017 passed in Revision (ULP) No. 34 of 2015 by the Member, Industrial Court, Aurangabad. In the said revision, order dated 12.02.2015 passed in Miscellaneous ULP (Delay) Application No. 11 of 2014 was challenged wherein the Labour Court, Jalna has rejected the application of petitioner.

2. It is the contention of the petitioner that he was Employed in the Office of Respondent as a Peon from 01.02.1999 to 25.01.2008. His services were discontinued, therefore, he had challenged the order of termination before the Labour Court.

3. It is further contention of the petitioner that while

working with the respondent, he was not made permanent and denied the benefits thereof as per circulars. Therefore, he had filed original application No. 544 of 2001 before the Maharashtra Administrative Tribunal, Bench at Aurangabad (hereinafter 'MAT' for short). By virtue of interim relief dated 12.07.2001, he was continued in service. Thereafter, on 10.12.2007, the MAT has vacated the interim relief, as a result of which, the petitioner came to be terminated.

4. The original application filed before the MAT is dismissed vide order dated 27.07.2010. He had challenged the order passed by the MAT before this Court in Writ Petition No. 8525 of 2011. By order dated 03.08.2012, this Court has granted liberty to the petitioner to file appropriate proceedings before the competent forum for the regularisation of service in terms of policy decisions of the State Government in accordance with law.

5. Therefore, petitioner has filed complaint before the Labour Court alongwith application seeking condonation of delay. In the application, he has stated that after his termination on 26.01.2008, due to his weak financial condition, he could not challenge the order of termination. Though while disposing the Writ

Petition No. 8525 of 2011, this Court had granted liberty to file appropriate proceeding vide order dated 03.08.2012. But he could not file appropriate proceeding before the competent authority immediately.

6. The delay for approaching the competent forum has been explained in para No. 6 of the application by the applicant. It is stated that he was out of employment; he has lost his confidence; he was not keeping good health; he was also mentally depressed. During such adversities, he also met with an motor vehicular accident, as a result of dash given to him by an unknown vehicle. It is further stated by the petitioner that he had to undergo medical treatment for some time. Since the applicant did not have any source of livelihood, he had to shift to the residence of his brother-in-law alongwith his family members. He could not succeed in getting alternative employment and hence, he was totally frustrated. Only with the help of his brother-in-law, he was able to engage an Advocate. Therefore, delay has occurred in filing complaint, in view of the reasons stated herein above, the application for condonation of delay is required to be allowed. The delay 720 days in filling the complaint challenging the order of termination dated 26.01.2008 may kindly be condoned.

7. The Labour Court, Aurangabad vide its order dated 12.02.2015, has rejected the application by holding that the petitioner had not produced any oral or documentary evidence in respect of the accident. Thereby the applicant failed to explain inordinate delay of more than two years.

8. Vide order dated 09.03.2017, the same approach was adopted by the Industrial Court while dismissing the Revision filed by the applicant. While passing the order, the Industrial Court has also adopted technical approach observing that (I) application is drafted in casual manner and the complainant has not mentioned the place where the accident has taken place; (II) whether the police have registered any offence / place of his accident is also not mentioned; and (III) what kind of disability sustained by the petitioner as well as in which hospital the petitioner underwent medical treatment is also not mentioned.

9. It is further observed by the Industrial Court that as per proviso to Section 28 of MRTU & PULP Act, the Court may entertain the Complaint after the period of 90 days from the date of alleged occurrence, if good and sufficient reasons is shown for the delay in filing of the Complaint. Bu the revision petitioner has failed to explain

the delay with good and sufficient reasons. Therefore, the Industrial Court has confirmed the order passed by the Labour Court by dismissing the revision filed by the petitioner.

10. Learned AGP has opposed the application contending that Labour Court as well as Industrial Court had taken appropriate approach since the petitioner has failed to explain the delay which has occurred in filing the complaint. The delay is not satisfactorily explained. Though the opportunity is granted vide order dated 03.08.2012 by this Court in Writ Petition No. 8525 of 2011, the present petitioner has not immediately approached appropriate forum. Therefore, the application for condonation of delay which is rejected by the Labour Court as well as Industrial Court does not deserve any interference. Hence, writ petition may kindly be dismissed.

11. I have gone through the orders passed by the Labour Court, MAT as well as the order passed in Revision Application No. 34 of 2015.

12. After going through the application seeking condonation of delay, elaborate explanation is given by the applicant. After his termination, he was having no source of income. He was in weak

financial condition. Therefore, he could not challenge the termination by resorting to appropriate remedy. He has explained the delay in detail submitting that he was not keeping good health and at the same time, he was mentally depressed. Thereafter, he had met with an motor vehicular accident therefore he required some time to recover. He was unable to approach before the appropriate forum since he did not have any source of income. With the aid of his brother-in-law, he was surviving and with his help, he has engaged an Advocate who could represent him.

13. I find that the applicant has elaborately and satisfactorily explained the delay. Both the Courts have adopted a hyper-technical approach while rejecting the application. An FIR is not always filed in all the cases involving accident. The Courts have held that applicant has not filed any documents pertaining to the treatment taken after the accident or the FIR which is registered after the vehicular accident. Observing that the ground of accident and subsequent treatment is not supported by any document, the application has been rejected by the Labour Court as well as the Industrial Court in the revision.

14. Apart from the accident, the petitioner has also stated

about his lack of source of income and his dependency on his brother-in-law for survival. The applicant has also taken a ground about his condition of depression. In such circumstances, the Court should have taken a liberal approach considering the circumstances which the application was facing. Hence, I find that the delay has been satisfactorily explained by the applicant and he is not going to benefit by causing delay in prosecuting the remedy available under law. In fact, it would cause an irreparable loss to the applicant, since he will lose his valuable right, if the proceedings are terminated for not approaching the forum within time. In view of the above, I find that the delay caused in filing the complaint which is satisfactorily explained, needs to be condoned in the interest of justice.

15. Proviso to Section 28 of the MRTU & PULP Act provides that if the reasons given by the applicants are sufficient, the delay can be condoned. In the present case, after perusing the documents, it appears that delay has been properly and satisfactorily explained by the applicant. Therefore, both the orders i.e. order dated 12.02.2015 passed by the Labour Court, Jalna as well as order dated 09.03.2017 passed by the Industrial Court, needs to be quashed and set aside. In the interest of justice, the delay occurred in filing the complaint is condoned.

16. In view of the above, writ petition is **allowed** in terms of prayer Clause '**B**' and accordingly disposed of.

(MANJUSHA DESHPANDE, J.)

Omkar Joshi