

Received on : 03-02-2018

Registered on : 03-02-2018

Decided on : 10-07-2018

Duration: 00 Yrs.,07 Mths.,07 Days

CNR No.: MHLC-32-000402-2016

**BEFORE THE JUDGE, LABOUR COURT, WARDHA**  
**(R.R.Hastekar,Judge under the MRTU and PULP Act,1971)**

**Misc.(ULP) No.01/2018**

**Exh.**

**Applicant** : Abhay Bholanath Zade,  
Age about -- Yrs., Occu. Nil,  
R/o.Gautam Ward, Hinganghat,  
Tq.& Distt.Wardha.

**-V/S-**

**Respondents** : R.S.R.Mohota Spinning-& Waiving Mills,  
Hinganghat through its Manager,  
Tq.Hinganghat, Distt.Wardha.

**Appearances** : Adv. Shri.B.S.Bokare for the applicant,  
Adv.Shri.S.G.Zinzarde for the non-applicant.

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**Application U/s.28 of the MRTU and PULP Act,1971 for condonation  
of delay.**

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**JUDGMENT**

**(Delivered on 10/07/2018)**

Application is for condonation of delay caused for filing complaint u/s.28 Item-1 of Sch.IV of the MRTU and PULP Act,1971.

2. In brief case of applicant, is as under :-

2(i). He was employee in Weaving and Spinning Mills of non-applicant. He was terminated illegally on 14/08/2017. He is required to challenge the termination by filing complaint u/s.28 of the MRTU and PULP Act,1971.

2(ii). It is his case that delay caused for filing complaint on account of his ill-health, as he is suffering from hyper tension. Doctor suggested him to take rest and not to travel. It caused delay of 78 days to file complaint. On these grounds applicant urged for condonation of delay.

3. Non-applicant filed reply. It is at Exh.C-3. It is admitted that applicant was terminated. The application is opposed on the ground that important ingredients are not given in the application and the application is false. Mandatory requirements of rule 61 and filing case in Form 16,18 of the Labour Court (Practice and procedure) Rules,1975 are not complied. Applicant has not filed any documents in support of his case.

4. The points for determination along with my findings thereon are as under :-

| <b><u>Points</u></b>                                                           | <b><u>Findings</u></b> |
|--------------------------------------------------------------------------------|------------------------|
| 1. Whether the applicant has shown sufficient cause for condonation of delay ? | : Yes.                 |
| 2. Whether applicant is entitled for condonation of delay ?                    | : Yes.                 |
| 3. What Order ?                                                                | : As per final order.  |

### **Reasons**

#### **As to point No.1 :-**

5. Applicant has not filed any medical certificate to show that he was suffering from hyper tension and was advised to take rest.

6. Applicant was terminated on 14/8/2017. Period of 90 days is provided in section 28 of the MRTU and PULP Act, 1971 for filing complaint after termination. The present complaint came to be filed on 03/02/2018. After 90 days, after termination on 14/8/2017 delay of 78 days is caused to applicant. Applicant has given cause for delay that he was ill and it was not possible for him to travel. Considering the nature of the case, it will not be proper to weigh to the cause strictly and decide it on the basis of medical certificate. It will be proper to weigh it liberally. Period of delay i.e. 78 days is comparatively short. Pleading is sufficient to show that he was ill. I therefore hold that the applicant has shown good and sufficient cause for condonation of delay. Hence, I have given my finding to point No.1 in the affirmative.

**As to point No.2 :-**

7. It is contention of non-applicant that applicant has not given necessary details in the application. However, the application is for condonation of delay and only because age, occupation, address or other details are not given, it will not prejudice non-applicant. Date of joining of the services and such other details are not necessary in deciding the present application.

8. It is contention of the non-applicant that mandatory requirement of rule 61 of the Labour Court (Practice & procedure) Rules, 1975 is not made.

9. I have perused record and proceeding of the case. Applicant has not filed affidavit in support of the application. Rule 61

laid down that if delay is caused for filing complaint, the complainant shall file application for the condonation of delay mentioning specifically each unfair labour practice and such application should be supported by affidavit. The applicant has not mentioned details of unfair labour practice in the application. However, he has filed the complaint alongwith it. It is also objection of non-applicant that required From No.16 and 18 are not given. However, non-completion of technicality will not frustration prayer of applicant for condonation of delay. Therefore, I have given my finding to point No.2 in the affirmative.

**As to point No.3 :-**

10. The application deserve to be allowed. It will be proper to allow applicant to file the complaint. As applicant has no source of income, it will be proper to direct parties to bear their own costs. Hence, I pass following order :-

**Order**

1. The application is allowed.
2. Delay which is caused for filing complaint under MRTU & PULP Act,1971 is condoned.
3. The complaint be registered u/s.28(1) of the MRTU and PULP Act,1971 and it be posted on 10/8/2018.
4. Parties to bear their own costs.

Date :- 10/07/2018.  
Wardha.

(R.R.Hastekar)  
Judge,  
Labour Court, Wardha.

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|------------------------------|---|-------------|
| Argued on                    | : | 10/07/2018. |
| Judgment dictated on         | : | 10/07/2018. |
| Judgment transcribed on      | : | 10/07/2018. |
| Judgment checked & signed on | : | 10/07/2018. |