

MHLC090000422025



Received On : 18/01/2025  
Registered On : 20/01/2025  
Decided On : 06/03/2026  
Duration : 01 Y. 01M. 19 D.

EXH. No. O -

**BEFORE THE JUDGE, LABOUR COURT NO.1, AT KOLHAPUR**  
[CORAM :- Mrs. Madhura A. Mulik]  
[JO Code MH-02960]

**Misc. Delay (ULP) No. 05/2025**

Shri. Ajit Ashok Mhalungekar  
Age : 29 Yrs., Occupation : Unemployed,  
R/o. Shenwade, Taluka Gaganbawada,  
District Kolhapur

.... Applicant

V/s.

1. Divisional Forest Officer,  
Samajik Vanikaran Vibhag, Kolhapur  
193/1, A Vicharemala, Shahu College,  
Sadar Bazar, Kolhapur

2. Forester,  
Samajik Vanikaran Parikshetra,  
Gaganbawada, Prashaskiy Emarat,  
Tal. :- Gaganbawada,  
District Kolhapur

3. State Government  
Through Collector, Kolhapur

.... Opponents

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**Claim :-** Application for Condonation of Delay

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**Appearance :-**

Advocate for the applicant : Shri. B. B. Powar  
Advocate for opponent Nos. 1 and 2 : Shri. A. A. Mahadeshwar  
Opponent No. 3 : Ex-parte

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**-: J U D G M E N T :-**  
(Delivered on 06/03/2026)

The application under consideration is filed by the applicant to condone the delay of 02 years and 02 months caused to file complaint under section 28 (1) of the Maharashtra Recognition of Trade Unions & Prevention of Unfair Labour Practices Act, 1971 against the opponents.

**BRIEF FACTS OF THE CASE :**

2. It is submitted by the applicant that, he was working as a “*Vanmajur*” since 02/03/2017 and he was terminated from the services by oral order dated 14/08/2022. After termination, the Senior Officers of the opponent assured the applicant to provide the work as per availability. Time to time he made request for providing the work. However, the work was not provided to him. The applicant worked with the opponent in Covid-19 pandemic. He had hope that considering his work done in corona period, the opponent will definitely allow him to join the work. Further, he had insufficient knowledge of law and did not get guidance in time. His financial condition was poor. He is living in remote and financially weak area. Therefore, he could not file the complaint within limitation. The delay of 02 years and 02 months caused to file the present application. Hence, he has prayed to allow the application.

3. Opponent Nos. 1 and 2 have filed say to the present application vide Exh. C-2 and denied all the adverse allegations raised against it. It is submitted that, the applicant was not working with these opponents since 02/03/2017 and his services have not been terminated w.e.f. 14/08/2022 as alleged by the applicant. The Officers of the opponents never assured the applicant for providing work. The financial condition and insufficient legal

knowledge cannot be the grounds for condonation of delay. The Government has provided free legal aid to the financially weak people. It is submitted that, in each financial year for few days as per the requirement and availability of the work, the applicant did work with the opponent on daily wages. In the year 2019-2020, he did work only for 16 days on daily wages. Instead of that, he did not work with the opponent. The reasons mentioned in the present application are not satisfactory and believable. Thus, it is prayed to reject the application with costs.

4. Opponent No. 3 is not appeared though duly served with the notice, thus, matter proceeded ex-parte against it vide order dated 20/06/2025 passed below Exh. U-1.

5. On the rival pleadings of the parties, following Issues are framed below Exh. O-4. I record my findings thereon for the reasons thereof as follows :-

<b>Sr. No.</b>	<b><u>ISSUES</u></b>	<b><u>FINDINGS</u></b>
1)	Whether there are justified grounds to condone the delay caused to file complaint of unfair labour practice ?	<b><u>In the Affirmative</u></b>
2)	What order ?	<b><u>Application is Allowed</u></b>

**- REASONS -**

The applicant to prove his contentions examined himself at Exh. UW-1. He has closed evidence vide pursis at Exh. U-7.

As opponent Nos. 1 and 2 failed to adduce evidence, their evidence came to be closed vide order dated 12/02/2026 passed below Exh. U-1.

Heard Ld. Adv. Shri. B. B. Powar for the applicant and Ld. Adv. Shri. A. A. Mahadeshwar for opponent Nos. 1 and 2.

**AS TO ISSUE NOS. 1 & 2 :-**

6. The initial burden lies on the applicant to prove his contentions. In view of discharge the burden, the applicant examined himself vide Exh.UW-1. His affidavit in lieu of chief is nothing but replica of facts and circumstances mentioned in his main application. It is contended by the applicant that, the opponents by indulging into unfair labour practices has terminated his services orally from 14/08/2022. After termination, the Senior Officers of the opponent assured him to provide the work as per availability. Thereafter, time to time he made request for providing the work. However, the work was not given to him. The applicant worked with the opponent in Covid-19 pandemic. He had hope that considering his work done in corona period, the opponent will definitely join him. It is contended that, he had insufficient knowledge of law and did not get guidance in time. Further, his financial condition was poor. He is living in remote and financially weak area. For these reasons, he could not file the complaint within limitation. Therefore, the delay of 02 years and 02 months caused to file the present application which is required to be condoned. Thus, he has prayed to allow the application.

7. It is seen that opponent Nos. 1 and 2 in their say denied employment of the applicant with them, however, further stated that in

each financial year for few days as per the requirement and availability of the work, the applicant did work with the opponent on daily wages. In the year 2019-2020, he did work only for 16 days on daily wages. Instead of that, he did not work with the opponent. It is further contended that the reasons of poor financial condition, having insufficient knowledge of law and living in remote area mentioned in the present application are not satisfactory and believable. Therefore, it is prayed to reject the application.

8. It is seen that during cross-examination, the applicant admitted that his village is situated at the distance of 45 to 50 K.M. from Kolhapur. In his village, bus, mobile and telephone facilities are available. He used to come to Kolhapur for work. It is seen that the opponent has not adduced any oral evidence or produced documentary evidence in support of their contentions or to rebutte contentions of the applicant.

9. So far as delay caused to file complaint of unfair labour practice is concerned section 28 (1) of the M.R.T.U. & P.U.L.P Act, 1971 stipulates that, where any person has engaged in or is engaging in any unfair labour practice, then any union or any employee or any employer or investigating officer within 90 days of the occurrence of such unfair labour practice, file a complaint before the Court competent to deal with such complaint. The section further provides that, the court may entertain the complaint after the period of 90 days from the date of the alleged occurrence, if good and sufficient reasons are shown by the applicant for the late filing of the complaint.

10. The applicant on the issue of condonation of delay relied upon **K. Thirumurthy and Anr. V/S. Muthammal and ors. [2004 (i) Civil LJ 13]**.

In this case, the Hon'ble High Court concluded that in the interest of justice and following cited precedence, it was just and necessary to condone the delay. He further relied upon **APSRTC Rep. By its Depot Manager, Kukatpally, Hyderabad V/s Presiding Officer, Additional Industrial Tribunal-cum- Additional Labour Court, Hyderabad and Anr. [1999 II CLR 1230]**. In this case, it is held that a lapse of 5 years after termination is not fatal and not a bar for the Tribunal to adjudicate, in view of the law laid down by the Hon'ble Apex Court in *Ajaib Singh's* case. He further relied upon **Vasanti Narayan Naik and ors. V/s. Guru Shirodkar and Ors. [2013 (5) Bom C.R.]**. In this case, the Hon'ble Bombay High Court after relying on the Hon'ble Apex Court observations in Raj Kishor Pandey V/S. State of U. P held that the discretion to condone the delay must be exercised on sound principles to advance justice, not technicalities and that matters should be decided on merits where possible. He further relied upon **Shankarrao Premaji Banarase and Ors. V/S Madarasa Jamia Arabia Islamiya and Ors. [2024 (2) ALL MR 230]**. I have gone through this Judgment. It is regarding appeal filed against Mutation Entry after 35 years. So, the facts in this case and the case in hand are totally different. Thus, I humbly submit that the observations in this case are not helpful to the applicant.

11. It is seen that, the applicant has mentioned specific reasons of delay caused to file complaint before this Court against the opponents. As per the settled position of law, the application for delay condonation cannot be rejected on technicalities and matter needs to be decided on its merit. In present case, it appears that the opponent has not led any evidence to rebut the contentions of the applicant regarding delay caused to reach this Court. Thus, it is clear that the applicant is succeeded to establish his contentions regarding the delay caused to approach this Court. In this

situation, the observations in the Judgments on which the applicant relied except **Shankarrao Premaji Banarase (cited supra)** helps the applicant. In my considerable view, if present application is allowed the applicant would get an opportunity to challenge his termination and it would not cause any prejudice to the opponents as they have every opportunity to defend the case of the applicant. If present application is rejected, it would totally prevent the applicant to put-up his case. Therefore, considering all these aspect and considering important right of litigating parties present application deserves to be allowed. In the peculiar facts and circumstances of the case parties to bear their own costs. Thus, I answer Issue No. 1 in the **Affirmative** and in answer to Issue No. 2, I proceed to pass following order :-

**-: ORDER :-**

- 1) Application is hereby allowed.
- 2) Delay of 02 years and 02 months caused to file complaint is hereby condoned.
- 3) Original complaint under the provisions of the M.R.T.U. & P.U.L.P Act, 1971 be registered accordingly.
- 4) Both the parties shall bear their own costs.

Kolhapur.  
Date :- 06/03/2026.

(Madhura A. Mulik)  
Judge,  
Labour Court No.1, Kolhapur.

Argued on : 02/03/2026  
Judgment dictated directly on computer : 06/03/2026  
Judgment checked & signed on : 06/03/2026