



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

6 WRIT PETITION NO. 15078 OF 2019

BHARAT TOTARAM GAIKWAD

VERSUS

SUPERINTENDING ENGINEER MAHARASHTRA JEEVAN
PRADHIKARAN

...

Mr. Sandesh R. Patil, Advocate for the Petitioner.

Mr. D. P. Bakshi, Advocate for Respondent.

Mr. Vinod Prakash Patil, Advocate for Respondent.

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 5th MAY, 2026

PC.:-

1. Heard learned Advocates for the respective parties.
2. By the present petition, the Petitioner assails the order dated 11.12.2018 passed by the learned Judge, Labour Court, Jalgaon in Misc. Reference No.1/2015.
3. Mr. Patil, learned Advocate for the Petitioner, submits that the learned Labour Court allowed the application filed by the Respondent and set aside the ex-parte award dated 22.06.2015 passed in Reference (IDA) No. 13/2012.
4. Learned Advocate for the Petitioner further submits that as per Rule 26 of the Industrial Disputes (Maharashtra) Rules, 1957, an application for setting aside an ex-parte award is required to be filed within a period of 30 days. It is contended that if such an application is

not filed within the prescribed period, the Labour Court becomes functus officio and has no jurisdiction to entertain the application thereafter.

5. In support of his submissions, he relied upon the judgment of the Coordinate Bench of this Court in *Dnyaneshwar Anantrao Kulkarni Vs. The Superintendent Engineer, Public Works Division & Ors.*, reported in *2016 (6) ALL MR 35*, to contend that an application filed beyond the period of limitation is not maintainable. He submits that despite this settled position, the learned Labour Court entertained the application and set aside the ex-parte award, which is liable to be interfered with.

6. Per contra, Mr. Vinod Patil, learned Advocate for the Respondent, submits that the Respondent was not given an opportunity to contest the matter on merits, as the proceedings had gone ex-parte. He submits that the application for setting aside the ex-parte award was filed within limitation from the date of knowledge of the award and no prejudice would be caused to the Petitioner if the matter is heard on merits. He, therefore, prays for dismissal of the petition.

7. Having heard the learned Advocates for the respective parties and upon perusal of the impugned order, this Court finds that the issue involved is squarely covered by the judgment of the [Coordinate Bench in *Dnyaneshwar Anantrao Kulkarni (supra)*]. In paragraph 28 of the

said judgment, it has been held that an application filed beyond the prescribed period of limitation cannot be entertained and the Court/Tribunal would lack jurisdiction to do so.

8. In view of the aforesaid settled position of law, the impugned order passed by the learned Labour Court in Miscellaneous Reference (IDA) No. 1/2015 cannot be sustained and is hereby quashed and set aside.

9. However, it is clarified, as observed in paragraph 13 of the aforesaid judgment, that the Respondent would be at liberty to challenge the ex-parte award by adopting appropriate proceedings as permissible in law.

10. The writ petition is accordingly disposed of.

11. Liberty is granted to the Respondent to avail appropriate legal remedies in accordance with law.

(SIDDHESHWAR S. THOMBRE, J.)