





condonation of delay in filing application for review of the Award passed by the Labour Court in Reference (IDA) Case No.2/2017.

3. The petitioner no.1 is a company engaged in processing of steel material and the petitioner no.2 is a Contractor registered under Contract Labour (Regulation and Abolition) Act, 1970, who has undertaken the works of the petitioner no.1-Company. The respondent, who was employee of the petitioner no.2 claimed himself to be employee of the petitioner no.1 and on account of termination of the services of employee, proceedings were initiated before Additional Commissioner of Labour, Nagpur, who referred the dispute for adjudication to the Labour Court. The Reference (IDA) Case No.02/2017 was decided on merits holding thereby that the respondent was not entitled for reinstatement in service. The employee then filed Review Application No.02/2023 seeking to review the Award passed by the Labour Court in Reference (IDA) case No.02/2017 which was accompanied with an application for condonation of delay of 333 days in filing the review application. The petitioners filed reply to the application for condonation of delay, categorically raising an objection about maintainability of the condonation of delay application since the review application against the award of Labour Court is not maintainable in absence of any power of review under the Industrial Disputes Act. By an order dated



07.12.2024, the Labour Court allowed the application for condonation of delay. This order is subject matter of challenge in the instant writ petition.

4. Mr. Kumar, learned counsel for the petitioners, primarily submitted that the impugned order is without jurisdiction and therefore, unsustainable in law. He vehemently submitted that in absence of any power of review with the Labour Court, there was no question of entertaining any application for condonation of delay. He, therefore, submitted that the impugned order although considers the aspect of sufficiency of cause for delay, however, since the issue of maintainability of review application itself goes to the root of the matter, the order condoning delay is without jurisdiction. In support of his submissions, he relies upon the judgment of the coordinate bench of this Court in ***Sudhir Janardhan Desai Vs. Hyphosphite and Co. and others*** reported in ***2004 (4) Mh.L.J. 223***, to buttress his submissions that there is no power either express or implied in the Act or Rules permitting the Labour Court to exercise powers of Review. He adverts attention of this Court to paragraph no. 6 of this judgment, which is reproduced below:

*“6.The Labour Court is a creature of the statute i.e. the Industrial Disputes Act, 1947. Therefore, whatever powers are to be exercised by the Labour Court are circumscribed by the powers conferred on it by the statute. The Labour Court*



*cannot exceed such powers. On a perusal of the Act as well as the Rules framed thereunder, there is no express power conferred on the Labour Court for reviewing its own order neither is there any implied power. As held in the case of [Patel Narshi Thakershi](#) (supra), the power of review is not an inherent power. It must be conferred by law, either specifically or by necessary implication. There is no provision in the [Industrial Disputes Act](#) or the Rules framed thereunder, conferring such a power specifically or by necessary implication on the Labour Court. The Labour Court has been empowered under the [Industrial Disputes Act](#) to adjudicate references relating to matters falling within the [Second Schedule of the Act](#). It can compute any amount or benefits which can be computed in terms of money, accruing to a workman. The Labour Court is vested with the power for setting aside as ex-parte order or award. But there is no power of review conferred on it at all”.*

5. Per contra, opposing the writ petition, Mr. Mohta vehemently submitted that the application for condonation of delay was required to be considered independently on the strength of contentions demonstrating sufficient cause for delay. He submitted that while deciding the application for condonation of delay, the Court is not required to go into merits of the matter and the issue as to whether the Labour Court has powers of review needs to be considered only at the stage when the review application shall come up for consideration. He submitted that the Labour Court has given due consideration to



this aspect and by considering the sufficient cause for condonation of delay of 333 days, the impugned order is rightly passed.

6. Rival contentions thus fall for my consideration.

7. The controversy in the matter is mainly focused on the issue about legality in entertaining the application for condonation of delay in filing review application in absence of any powers of review with the Labour Court. There is no dispute that there is no express power conferred on the Labour Court to review its award. In view of the judgment referred above, the position of law is clear that the powers of review cannot be inferred. The powers of the Labour Court are circumscribed by the powers conferred on it by the statute and the power of review is not an inherent power therein.

8. Although, there is no quarrel with the proposition that while entertaining an application for condonation of delay, the Court is not required to go into merits of the matter, however, it is equally crucial to ascertain whether the proceedings sought to be initiated are maintainable in law. In the instant case, the impugned order is passed by the Labour Court by observing that the issue about maintainability of review application requires fullfledged arguments of both the parties and on this pretext the Court proceeded to condone the delay. However, the crucial issue about maintainability of review application before the Labour Court cannot be ignored. It is beneficial to refer at



this stage to a judgment of the Division Bench of this Court in the matter of *Nivruti G.Ahire Vs. State of Maharashtra and others* reported in 2007 SCC Online Bom 492, in which while dealing with an identical issue, the Division Bench has categorically held that if the main application for review is itself not maintainable in law, question of condonation of delay in filing such an application would not arise at all. The observations of the Division Bench as reflected in para 15 are reproduced below:-

*“15. In order to entertain an application for condonation of delay, the appeal or the application in respect of which there has been delay on the part of the applicant, and the condonation of which is sought for, the same must be maintainable in law. If the main application for review is itself not maintainable in law, question of condonation of delay in filing such an application would not arise at all. In the case in hand, admittedly, the applicant had preferred the S.L.P and the same was rejected by the Apex Court and only thereafter the applicant thought of filing the present review application”.*

9. As such, in view of the position of law as elucidated by the Division Bench in the matter referred above, the impugned order condoning the delay in filing review application, cannot be sustained. Although, it is not disputed that the Industrial Disputes Act is a social welfare legislation and further that a lenient view is required while condonation of delay in the matter of an employee, the position of law



as laid down by the Division Bench in the above referred matter cannot be ignored and has to be applied in the instant matter and as such the writ petition succeeds.

10. The impugned order dated 07.12.2024 passed by the Labour Court in Misc. Application IDA (Review) case No.02/2023 is quashed and set aside. The Misc. Application IDA (Review) case No.2/2023 is rejected.

11. The writ petition is allowed in the aforesaid terms. There shall be no order as to costs.

**(PRAFULLA S. KHUBALKAR, J.)**

Mukund Ambulkar