

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**M.A.NO.130 OF 2020 IN O.A.NO.114 OF 2020
(Subject:- Condonation of Delay)**

DISTRICT:- LATUR

Dagdu s/o Govindrao Patil,)
Age:- 65 years, Occ: Nil,)
R/o : At: Post: Sindhgaon,)
Taluka: Renapur,)
Dist. Latur.)....**Applicant**

V E R S U S

- 1. State of Maharashtra,**)
Through its Secretary,)
Medical Education and)
Drugs Department,)
New Mantralaya, 9th Floor,)
Gokuldas Tejpal Hospital,)
Mumbai-1.)
- 2. The Director,**)
Medical Education and Research,)
Govt. Dental College & Hospital,)
4th Floor, St. George's Hospital Compound,)
P.D.' mello Road,)
Fort, Mumbai-1.)
- 3. The Dean,**)
Government Medical College)
and General Hospital,)
Near Old Railway Station, Latur.)...**Respondents**

APPEARANCE : Ms. Preeti Wankhade, learned Advocate
for the Applicant.

: Shri I.S. Thorat, learned Presenting
Officer for the Respondents.

CORAM : **SHRI V.D. DONGRE, MEMBER (J)**

DATE : **09.02.2022.**

O R D E R

1. This Misc. Application is filed seeking condonation of delay of about 11 years 5 months and 13 days for filing the Original Application challenging the recovery of the amount towards the loss caused to the Government on account of dereliction of duty by the applicant and also seeking pension and pensionary benefits which is withheld in the background of the alleged recovery.

2. It is the case of the applicant that while he was in service, the respondent No.3 i.e. the Dean, Government Medical College and General Hospital, Latur issued communications dated 04.09.2008, 08.04.2009 and 08.11.2010 directing recovery of total amount of Rs.6,58,240/- thereby alleging that chemical named "Bilirubin" worth of total Rs.6,58,240/- was not received and the applicant falsely issued acknowledgement of the said chemical thereby causing loss to the Government.

3. It is further contended that the applicant stood retired on 30.4.2012. However, no pension was released to the applicant. Departmental Enquiry was held against the applicant. In the Departmental Enquiry only one charge was proved against the applicant and punishment of his further promotion for one year was stopped.

4. It is further contended that after his retirement when he did not receive his regular pension and pensionary benefits, he made

representation in the year 2016. Thereafter, the respondent again issued recovery letter dated 13.11.2019 and 26.11.2019.

5. In the circumstances as above, it is stated that if the recovery letters of the year 2008 are taken into consideration, there is delay of about more than 11 years. In fact, the respondents have kept alive the cause of action till the year, 2019. The applicant, therefore, wants to challenge the initiation of action of recovery in the year, 2008. The said delay is not deliberate and intentional. The alleged misconduct is of the period of 2002 to 2007. No action can be taken against the applicant as regards the misconduct beyond the period of four years on retirement in terms of Rule 27 (2) (b) of the M.C.S. (Pension) Rules, 1982. In the circumstances, the applicant is seeking condonation of delay.

6. The affidavit-in-reply is filed on behalf of the respondent Nos.1 to 3 by Shri Atul Viraj Vadagale working as Statistician cum Lecturar in the office of Respondent No.3 i.e. the Dean, Government Medical College, Latur. Thereby he denied all the adverse contentions raised in the application. It is stated that there is huge delay of more than 11 years which is not explained by the applicant with any plausible reason. The action is initiated against the applicant on account of loss caused to the Government at the hands of the applicant. Initially provisional pension was paid to the applicant till the completion of the

departmental enquiry. In the circumstances, he has prayed for dismissal of the application.

7. I have heard the argument advanced by Ms. Preeti Wankhade, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.

8. Perusal of the pleadings and documents on record would show that the action of recovery and withholding of pension is the result of alleged misconduct of the applicant during the period of 2002 to 2007 while in service causing loss to the Government to the tune of Rs.6,58,240/-. The action was initiated in the year, 2008, 2009 and 2010. Thereafter, the applicant stood retired on 30.04.2012. Thereafter the action of recovery is revived against the applicant by issuing communication dated 13.11.2019 and 26.11.2019. Initial action of recovery was ordered on 04.09.2008, 08.04.2009 and 08.11.2010. No effective steps for recovery are taken against the applicant all these years. At this stage of deciding the delay condonation application, much cannot be commented on the merit of the claim made by the respondent against the applicant. On the facts as above, it is evident that action is kept alive till the year, 2019. The applicant technically wants to challenge the initiation of action in the year, 2008.

9. It is true that there is huge delay of more than 11 years. However, it appears that meanwhile the departmental enquiry was

conducted and the applicant also made representations. The applicant is ultimately seeking relief of pension and pensionary benefits. Thereby the applicant is not encroaching upon the rights of any other government servant adversely. He is seeking protection for his rights.

10. It is a settled principle of law that the expression “sufficient cause” is to be construed liberally. Considering the facts of the present case, this is fit case to construe the sufficient cause liberally. Refusing to condone delay is likely to defeat the cause of justice at the threshold. In the circumstances, in my considered opinion, it is just to condone the delay of 11 years 5 months and 13 days in filing the Original Application by imposing the costs upon the applicant. I compute the costs of Rs.3000/- on the applicant and proceed to pass the following order: -

ORDER

The Misc. Application No. 130/2020 in O.A.No.114/2020 is allowed in following terms:-

- (i) The delay of 11 years 5 months and 13 days in filing the accompanying O.A. under Section 19 of the Administrative Tribunals Act, 1985 is hereby condoned subject to payment of costs of Rs. 3,000/- by the applicant. The amount of costs shall be

deposited in the Registry of this Tribunal within a period of one month from the date of this order.

- (ii) Upon satisfaction of the costs as above, the accompanying O.A. be registered and numbered by taking in to account other office objection/s, if any.

(V.D. DONGRE)
MEMBER (J)

Place:- Aurangabad
Date :- 09.02.2022