

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD****MISC. APPLICATION NO. 65 OF 2018
IN
ORIGINAL APPLICATION ST. NO. 883 OF 2016
(Subject – M.A. For Condonation of Delay)****DISTRICT : PARBHANI****Smt. Dwarkabai w/o Prabhakar Ramteke,)
Age : Major, Occu. : Household,)
R/o : Mujiboddin Kazi Galli, Jintoor,)
Dist. : Parbhani.) .. **APPLICANT******V E R S U S**

- 1) **The State of Maharashtra,**)
Through Secretary,)
Revenue Department,)
Mantralaya, Mumbai.)
- 2) **The Collector,**)
Parbhani.)
- 3) **The Tahsildar,** Jintoor.)
- 4) **The Accountant General (A&E)-II,**)
Maharashtra State, Nagpur.) .. **RESPONDENTS**

APPEARANCE : Dr. Kalpalata Patil-Bharaswadkar, Advocate
for the Applicant.: Shri V.R. Bhumkar, Presenting Officer for
Respondents.**CORAM : B.P. PATIL, MEMBER (J).****DATE : 07.01.2019.****O R D E R**

1. The applicant has filed the present Misc. Application
for condonation of delay caused for filing the accompanying O.A.

2. Deceased Shri Prabhakar Wanganuji Ramteke was husband of the applicant. He was serving as a Clerk in the Tahsil Office, Jintoor. He died on 30.06.1985 while in service. He rendered 17 years' service. The marriage of deceased Prabhakar Ramteke was performed with Rukminibai Alias Kamlabai Ramteke and she died on 04.07.1984. After her death Prabhakar Ramteke performed second marriage with the present applicant. The applicant is legally wedded wife of deceased Shri Prabhakar Ramteke and therefore, she is entitled to get family pension and other pensionary benefits. After death of Shri Prabhakar Ramteke, the applicant had submitted applications with the respondents along with relevant documents on 02.03.2000, 11.12.2001 and 06.03.2004 with a request to grant family pension to her. But her representations had not been considered by the respondents. Thereafter, she filed the O.A. No. 1154/2005 in this Tribunal.

3. It is contention of the applicant that after filing of the O.A., the respondent No. 2, i.e. the Collector, Parbhani filed his affidavit in reply in that matter stating that one Shri Dadaji Wangnu Ramteke had filed M.A. No. 07/85 before the C.J.J.D., Jintoor for getting succession certificate and the Court had issued succession certificate in his name and therefore,

authorities had paid pending claims of Shri Prabhakar Ramteke to his brother Shri Dadaji Ramteke. Considering the fact that all pending claims have already been paid to the brother of deceased Shri Prabhakar Ramteke, the Tribunal dismissed the O.A. It had also observed that the pending of application for revocation of succession certificate filed by the applicant was immaterial.

4. It is her contention that, on 13.04.2017 the Jt. C.J.J.D. Jintoor passed the order in M.A. (R.J.E.) No. 02/2006 revoking the succession certificate issued on 17.04.1986. Thereafter, the applicant filed the Misc. C.A. No. 10/2009 and the Court of C.J.S.D. Parbhani pleased to allow the same and granted heir-ship certificate to the applicant. On receiving the heir-ship certificate, the applicant submitted the same in the office of respondent No. 2 on 17.07.2000 and requested to grant pensionary benefits to her. Thereafter, she had also made several representations to the respondents, but the same were not considered by the respondents. Therefore, she approached this Tribunal by filing the present O.A. St. No. 883/2016. It is her contention that necessary directions are required to be issued to the respondents to consider her case, but delay of about 696 days has been caused for filing the accompanying O.A.

and therefore, he has filed the present M.A. for condonation of delay.

5. The respondent Nos. 2 and 3 resisted the contention of the applicant by filing their affidavit in reply. It is their contention that the name of the applicant is not appearing in the service record of deceased Shri Prabhakar Ramteke as his nominee. Therefore, the entire pensionary benefits have been paid to brother of Shri Prabhakar Ramteke on the basis of succession certificate. The said fact was within the knowledge of the applicant, but she has not made Shri Dadaji Ramteke as party respondent to the O.A. and present M.A. It is their contention that after death of Shri Prabhakar Ramteke, his brother moved an application for getting pensionary benefits of Shri Prabhakar Ramteke and accordingly, all pensionary benefits have been paid to him. It is their contention that the applicant has filed applications dated 02.03.2000, 11.12.2001 and 06.03.2004 claiming pensionary benefits but the said applications were moved after more than 15 years from the date of death of her husband. It is their contention that the applicant has filed the present O.A. but it is barred by limitation. It is their contention that the applicant has not explained the delay caused

for filing the accompanying O.A. satisfactorily. The delay is inordinate and therefore, they prayed to reject the M.A.

6. I have heard Dr. Kalpalata Patil-Bharaswadkar, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents. I have perused the documents placed on record by both the parties.

7. Admittedly, deceased Shri Prabhakar Ramteke was serving as a Clerk in Tahsil Office Jintoor. He died on 30.06.1985 while in service. He rendered 17 years' service. Admittedly, one Rukminibai Alias Kamlabai Ramteke, the first wife of Shri Prabhakar Ramteke, died on 04.07.1984. Admittedly, after death of Shri Prabhakar Ramteke, his brother Shri Dadaji Ramteke filed an application for succession certificate in the Civil Court and it was granted. On the basis of said certificate, he received all the pensionary benefits. Admittedly, the applicant is claiming herself as second wife of deceased Shri Prabhakar Ramteke. The applicant has filed O.A. No. 1154/2005 before this Tribunal claiming pensionary benefits and family pension. The said O.A. came to be dismissed on 23.11.2006 on merit and it has been observed by this Tribunal that the applicant is not entitled to get family pension and

pensionary benefits. Admittedly, the said order has not been challenged by the applicant. After dismissal of the said O.A., the applicant has moved an application for revocation of succession certificate granted in favour of brother of deceased Shri Prabhakar Ramteke by filing M.A. (R.J.E.) No. 02/2006 and it was allowed on 13.04.2007 by the Jt. C.J.J.D., Jintoor. Thereafter, the applicant has moved M.A. No. 10/2009 in the Court of C.J.S.D., Parbhani claiming legal heir-ship certificate and accordingly, heir-ship certificate was granted on 17.07.2010. Thereafter, she moved an application with the respondents and produced the heir-ship certificate and claimed pensionary benefits.

8. Learned Advocate for the applicant has submitted that the applicant has collected heir-ship certificate from the competent Court and on the basis of it, she has claimed family pension by filing the application with the respondent No. 2. She has submitted that the applicant had made several representations with the respondent No. 2 thereafter, but the respondent No. 2 had not decided the same and therefore, she approached this Tribunal by filing the present O.A. She has submitted that since the applicant was waiting for the decision on her representations, the delay has been caused for filing the

accompanying O.A. and the delay was not intentional and deliberate. Therefore, she prayed to allow the present M.A. and to condone the delay.

9. Learned Advocate for the applicant has further submitted that there were no laches on the part of the applicant and on considering all these facts and in the interest of justice she prayed to allow the M.A. In support of her submissions, she has placed reliance on the judgment delivered by the Supreme Court of India in case of **S.K. Mastan Bee Vs. The General Mangar, South Central Railway and Anr.** in **Appeal (Civil) No. 8089 of 2002** decided on 04.12.2002.

10. Learned Presenting Officer has submitted that there is inordinate delay for filing the accompanying O.A. and the applicant has not explained the delay satisfactorily. He has submitted that earlier O.A. filed by the applicant has been dismissed on merit. While dismissing the said O.A., this Tribunal has held that the applicant is not entitled to get family pension. He has submitted that the said order has not been challenged by the applicant. He has submitted that since the year 2005 the applicant has not approached this Tribunal and the delay of

more than 13 years has not been explained by the applicant satisfactorily and therefore, he prayed to reject the present M.A.

11. On perusal of the record, it reveals that the applicant was aware about the fact that after death of her husband Shri Prabhakar Ramteke, her brother in law Shri Dadaji Ramteke applied with the respondents for getting pensionary benefits and accordingly, he received the pensionary benefits on the basis of succession certificate issued by the Civil Court. Pensionary benefits were paid in the year 1985 but the applicant has not challenged it at that time. Thereafter, she had filed O.A. No.1154/2005 before this Tribunal claiming family pension, but it was dismissed on merit on 23.11.2006. While dismissing the said O.A., it was observed by this Tribunal that the applicant is not entitled to get family pension. The fact regarding the application filed by the applicant for revocation of succession certificate issued in favour of brother of deceased Shri Prabhakar Ramteke was considered by this Tribunal at that time and it was observed that it was immaterial. Thereafter, the applicant had kept mum. In the year 2010 after receiving heir-ship certificate, she had moved an application for getting family pension. There was no response to her from the respondent No. 2, but she had not approached this Tribunal within a prescribed period of

limitation. There was delay of more than 7-8 years in approaching this Tribunal from that time. No satisfactory reasons have been mentioned by the applicant in the application for condoning the inordinate delay caused for filing the accompanying O.A. Therefore, in the absence of sufficient and satisfactory reasons and explanation, the inordinate delay caused for filing the accompanying O.A. cannot be condoned. Moreover, her claim for family pension has already been rejected by this Tribunal in O.A. No. 1154/2005 on 23.11.2006 and therefore, the delay caused for filing the accompanying O.A. cannot be condoned.

12. I have gone through the decision referred by the learned Advocate for the applicant. The facts in that case are not identical with the facts in the present case and therefore, the said decision is not much useful to the applicant in the instant case.

13. The applicant has not explained the inordinate delay caused for filing the accompanying O.A. satisfactorily and therefore, the delay cannot be condoned. There is no merit in the present M.A. Therefore, M.A. deserves to be dismissed.

14. In view of the discussions in the foregoing paragraphs, the M.A. No. 65/2018 stands dismissed. Consequently, the O.A. St. No. 883/2016 stands rejected with no order as to costs.

PLACE : AURANGABAD.
DATE : 07.01.2019.

(B.P. PATIL)
MEMBER (J)

KPB S.B. M.A. 65/18 in O.A. St. 883/2016 BPP 2019 M.A. for condonation of delay