

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

MISC. APPLICATION NO. 348 OF 2006
WITH
ORIGINAL APPLICATION ST. NO. 1186 OF 2006

DIST. : DHULE

Mahesh s/o Bansi Dhamdhere,
Age. 38 years, Occ. Nil,
r/o Samrat Nagar, Jamnagiri Road,
Dhule, Dist. Dhule.

-- APPLICANT.

VERSUS

1. The State of Maharashtra,
Through C.P.O., M.A.T.,
Bench Aurangabad.

2. The Director General of Police,
Mumbai.

3. The Superintendent of Police,
Dhule, Dist. Dhule.

-- RESPONDENTS

APPEARANCE : Shri J.S. Deshmukh, learned Advocate for
the Applicant.

: Shri Milind S. Mahajan, learned Chief
Presenting Officer for the Respondents.

CORAM : Hon'ble Shri Rajiv Agarwal, Vice Chairman
A N D
Hon'ble Shri J.D. Kulkarni, Member (J)

DATE : 21ST OCTOBER, 2016

JUDGMENT

{PER : HON'BLE SHRI J.D. KULKARNI, MEMBER (J)}

1. The applicant Shri Mahesh s/o Bansi Dhamdhere has filed O.A. st. No. 1186/2006 wherein he has challenged his dismissal order dated 13.10.1997, which was also confirmed in the revision. The applicant prayed that the said impugned order of his dismissal may be quashed and set aside and the respondents be directed to reduce the quantum of punishment imposed upon the applicant.

2. Along with the said O.A., the applicant filed M.A. no. 348/2006. The said M.A. & O.A. came to be dismissed by this Tribunal vide order dated 6.9.2007. Against the said order of dismissal of the M.A. for condonation of delay & O.A. itself, the applicant approached the Hon'ble Bombay High Court, Bench at Aurangabad by W.P. no. 1832/2009. In the said writ petition vide order dated 7.5.2014 Hon'ble High Court was pleased to quash and set aside the order passed by this Tribunal in M.A. no. 348/2006 with O.A. st. No. 1186/2006 and the said O.A. st. No. 1186/2006 was restored to its original file.

3. In view of the history as aforesaid, the applicant is before us and is claiming that the delay caused in filing the O.A. be

restored. The delay as calculated by the applicant is of 2910 days.

4. According to the applicant, he was mentally disturbed due to his dismissal from service and was under orthopaedic treatment from October, 2002 to 2.8.2006 and, therefore, the delay of 8 years was not intentional. If the delay caused in filing the O.A. is not condoned, the applicant will suffer irreparable loss and, therefore, M.A. for condonation of 2910 days delay be allowed.

5. The respondent no. 3 has filed affidavit in reply in the M.A. and has resisted the claim of the applicant. It is his contention that there is near about 8 years delay in filing the O.A. before the Tribunal. He further stated that though the applicant was mentally disturbed due to dismissal from service and was under orthopaedic treatment from October, 2002 to 2.8.2006, but he could have very well agitated his grievance before October, 2002. The dismissal order is issued in the year 1997. He further contended that the applicant has not explained the delay properly and, therefore, M.A. filed for condonation of delay be dismissed.

6. We have heard Shri J.S. Deshmukh, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents. We have also perused the affidavit, affidavit in reply and various documents placed on record.

7. The only material point to be considered is whether the applicant has made out a case for condonation of delay of 2910 days in filing O.A. before this Tribunal ?

8. We have perused the contents of the M.A. According to the applicant, he was mentally disturbed due to dismissal from service and was under orthopaedic treatment during the period from October, 2002 to 2.8.2006. In support of his claim the applicant has filed one copy of the medical certificate issued by Dr. Rajesh A. Patil, M.B.B.S. D. Ortho (Mumbai) dated 2.8.2006. The said certificate is very vague. It is stated that the applicant was undergoing treatment from 2002 till 2.8.2006. From the said certificate, it cannot be spelled out that the applicant was unable to move or was unable to do his daily activities. Except filing the said medical certificate, there is nothing on record to show that the applicant was really under medical treatment.

9. We have given thoughtful consideration to the contentions made by the learned Advocate for the applicant and we have also

perused the medical certificate placed on record. It is material to note that the applicant was dismissed from service vide order dated 13.10.1997. He has filed revision before the Director General of Police, Mumbai on 17.5.1998 and the same was rejected on 22.6.1998. There is absolutely no reason as to why the applicant remained silent from 1997 till 2002 and thereafter till filing of misc. application. There is absolutely no reason to say that the applicant was under any disability from 1997 till 2002. The applicant has miserably failed to show any reason as to why he has not filed O.A. immediately or at least from 22.6.1998 till 2002. In such circumstances, even accepting, though it is not at all proved, that the applicant was undergoing some medical treatment from 2002 to 2006, why the applicant did not approach the Tribunal immediately is a million dollar question.

10. In our considered opinion the applicant has miserably failed to explain each and every day's delay for approaching the Tribunal belatedly. The so called delay is of more than 8 years and there is no reason or material on record from which it can be said that, there was sufficient cause for the applicant in not challenging the dismissal order from 22.6.1998 to October, 2002 and thereafter till filing of this M.A. In the result, we are

satisfied that, no sufficient cause has been made out for condonation of delay. Hence, we pass following order :-

ORDER

The M.A. no. 348/2006 filed for condonation of 2910 days delay in filing O.A. st. No. 1186/2006 stands dismissed. In view of dismissal of M.A., the O.A. st. No. 1186/2006 also stands dismissed. There shall be no order as to costs.

MEMBER (J)

VICE CHAIRMAN