

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD.

M.A.No.471/2017 IN REV. ST.1744/17 IN OA No.389/17.

DIST. : AURANGABAD.

Surendra s/o Dattopant Deshpande,
Age. 56 years, Occu. Service,
as Instructor (on promotion),
I.T.I. (Special Component Programme),
Aurangabad. R/o Plot No.43,
Minal Apartment, Flat No.4,
Shreya Nagar, Osmanpura,
Aurangabad.

-- APPLICANT.

VERSUS

1. The Joint Director of Technical Education,
Vocational Education & Training,
Regional office, Bhadkal Gate,
Aurangabad.
2. The Principal,
Special Component Programme,
Industrial Training Institute,
Near Govt. Arts College,
Killeark, Aurangabad.

-- RESPONDENTS

APPEARANCE : Shri S. D. Joshi, learned Advocate
for the Applicant.

: Shri M. P. Gude, learned Presenting
Officer for Respondents.

CORAM : Hon'ble Shri B. P. Patil, Member (J)

JUDGEMENT

{Delivered on 20.03.2018}

1. The applicant has filed the present application for condonation of delay of 52 days caused in filing the review application to review the order dated 1.9.2017 passed by this Tribunal in OA No.389/2017.

2. It is contended by the applicant that, he has filed review petition seeking review of the order dated 1.9.2017 passed in OA No.389/2017 by this Tribunal along with present M.A. The copy of the order in the O.A. was made available to the applicant on 6.9.2017. He ought to have filed the application for review of the order in the O.A. within 30 days from the date of order, but he could not able to file the same in time as the copy was not made available to him earlier. After receiving the copy of the order he immediately filed an application through the Advocate under Right to Information Act demanding the documents which had direct bearing on the decision of the case. The respondents have supplied the required information to the applicant initially by communication dated 4.10.2017 and thereafter on 27.10.2017. The review ought to have filed on or before 4.11.2017 but the same is filed on 22.11.2017. It is contention of the application that, there is delay of 52 days in filing the review petition. The

said delay is not deliberate or intentional. The applicant could not get the material and requisite information under the R.T.I. and therefore, the delay was caused. It is his contention that, there is merit in the review petition and therefore, it is just to condone the delay. Therefore, he filed the present M.A. and prayed to condone the delay.

3. Respondent no.1 filed affidavit in reply and resisted the contention of the applicant. It is contended by the respondents that, the applicant has not explained the delay satisfactorily. The grounds mentioned in the application are not sufficient to condone the delay of 52 days, which is inordinate and therefore, the respondent no.1 has prayed to reject the M.A.

4. I have heard Shri S. D. Joshi, learned Advocate for the applicant and Shri M. P. Gude, learned Presenting Officer for respondents. I have also perused the affidavit in reply and various documents placed on record by the respective parties.

5. Admittedly, the present applicant filed O.A.No.389/2017 before this Tribunal challenging the order dated 8.6.2017 & 19.5.2017 thereby transferring and posting him at Pathri and rejecting his representation for posting him at I.T.I. Aurangabad.

The said O.A.No.389/2017 came to be dismissed on merit on 1.9.2017 by this Tribunal. The applicant wants to file review petition seeking relief of reviewing the judgment passed in OA No.389/2017.

6. Learned Advocate for the applicant has submitted that, the applicant was transferred by the impugned order challenged in that O.A. and posted at Pathri along with other employees. He has submitted that, some of the employees were promoted and transferred by impugned transfer order, though they were not eligible. He has submitted that, those employees had been retained at Aurangabad on promotional post. He has argued that, after decision of the O.A. the applicant collected the information from the respondents under R.T.I. regarding the exemption given to those employees on account of completion of age of 55 years and he received the said information from the respondents on 4.10.2017 and 12.10.2017. Thereafter, he filed the review petition to review the judgment in OA No.389/2017 on that ground. He has submitted that, as the information was not received to the applicant at the earliest he could not able to file review petition in time and therefore, delay of 52 days has been caused. In view of said fact he prayed to condone the delay

caused for filing the review petition on the ground that, there is merit in the review petition.

7. Learned Presenting Officer has submitted that, the applicant received the information called under R.T.I. on 4.10.2017 and 12.10.2017, but thereafter he had not filed the review application immediately. He has submitted that, the applicant was having knowledge regarding the facts regarding promotions of other employees and their eligibility when he was contesting the O.A., but he has not collected the documents in that regard at that time and produced the same in the O.A. Therefore, the applicant has no just ground to ask for review of the earlier judgement on the ground of disclosure of evidence or documents. Learned P.O. has further submitted that, the delay has not been explained properly and satisfactorily by the applicant. He has submitted that, the issue involved in the earlier O.A. was regarding transfer of the applicant and it has no concern with the issue regarding promotion of the other employees and their eligibility for promotion and therefore, there is no merit in the review also. Therefore, he prayed to reject the present M.A.

8. I have gone through the documents on record. Earlier OA No.389/2017 filed by the applicant was dismissed on 1.9.2017. In that O.A. the applicant has challenged his transfer order by which he has been transferred from Aurangabad and posted at Pathri. The applicant ought to have filed review application for the said order passed in OA No.389/2017 within 30 days, but he has not filed it in time. The ground mentioned by the applicant in the application that, he had not received information from the respondent before 12.10.2017 is not satisfactory, as the said documents regarding the eligibility of other employees for promotion were nowhere relevant and concerned in deciding the issue of transfer of the applicant in OA No.389/2017 and therefore, on that ground the delay as prayed for by the applicant cannot be condoned.

9. Not only this but on perusal of the application it reveals that, the applicant has not given plausible, satisfactory reason and grounds for condoning the delay of 52 days caused for filing the review application. Even it is assumed that, the applicant received the information from the respondents on 12.10.2017. The applicant has not given explanation as to why he has not filed review application immediately thereafter. He wasted time till 22.11.2017. It shows that, the applicant was not diligent in

conducting the proceeding. The delay was caused because of the negligence of the applicant. It seems to be intentional and deliberate delay on the part of the applicant. Therefore, the M.A. deserves to be rejected.

10. As discussed above there is no merit in the review petition also. Therefore, the delay caused for filing the O.A. cannot be condoned. Consequently, the M.A. deserves to be dismissed. Accordingly MA No.471/2017 in Rev. St. No.1744/17 in OA No.389 of 2017 stands dismissed with no order as to costs.

MEMBER (J)

ATP MA 47117-P

