

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
CIVIL APPLICATION NO.289 /2016
IN ORIGINAL APPLICATION STAMP NO. 812 /2016

Sandip Madhukar Kalne,
Aged about 37 years, Occ. Nil,
R/o Agar, Tq. & Dist. Akola.

Applicant.

Versus

- 1) The State of Maharashtra through its Secretary Public Health Department, Mantralaya, Mumbai.
- 2) The District Malaria Officer, Akola, Tq. & Dist. Akola.
- 3) The Medical Officer, Public Health Center, Kavasa, Tq. Akot, Dist. Akola.

Respondents

Shri S.D. Chande, Advocate for the applicant.

Shri V.A. Kulkarni, Id. P.O. for the respondents.

**Coram :- Hon'ble Shri J.D. Kulkarni,
Vice-Chairman (J).**

JUDGEMENT

(Delivered on this 28th day of June,2017)

Heard Shri S.D. Chande, Id. counsel for the applicant and
Shri V.A. Kulkarni, Id. PO for the respondents.

2. This is an application for condonation of delay in filing O.A. In the O.A. the applicant has claimed that the impugned order dated 17/11/2010 passed by respondent no.2 and dated 18/11/2010 passed by respondent no.3 be quashed and set aside. Vide impugned orders the services of the applicants have come to an end with immediate effect since the applicant was unable to produce Caste Validity Certificate. However said impugned order has been challenged in this O.A. and there is a delay of 5 years and 6 months.

3. According to the applicant, he was appointed on the post of Health Worker in pursuance of the order dated 19/4/1999 and was posted at Public Health Centre, Eiley, Tq. Deogad, dist. Sindhurg. Thereafter he was transferred to Akola district on his own request on 13/8/2004 and was posted at Borgaon Manju under the control and supervision of respondent no.2. The applicant belongs to caste Pateliya which comes under S.T. category and the Executive Magistrate, Akola has issued caste certificate to that effect.

4. The applicant received communication from respondent no.2 to produce caste certificate. The Caste Scrutiny Committee however refused to accept the applicant's claim. The applicant thereafter received a show cause notice from respondent no.2 on

29/1/2008. Since the applicant failed to produce Caste Validity Certificate he was removed from the service.

5. According to the applicant there was delay in filing of the O.A. as after the applicant lost his services in 2010, he came to know about one G.R. dated 31/10/2015 vide which the Govt. has decided to protect the services of the candidates who have joined before 2001 from the post of SC & ST though their Caste Validity Certificate is invalidated or they were unable to produce such certificate. After getting knowledge of the said G.R. the applicant immediately approached the Tribunal. In the alternative the applicant claims that in the interest of justice the delay caused be condoned. The applicant submits that he could not get proper advice to appear before the Tribunal against the termination order dated 18/11/2010 and therefore there is a delay which is not intention.

6. The respondent no.2 strongly objected for the condonation of delay. It is stated that the G.R. on which basis the applicant is claiming relief has already been stayed by the Hon'ble High Court in W.P. 6247/2015 on 25/4/2016.

7. From the aforesaid facts it is clear the applicant has claimed on the basis of G.R. dated 21/10/2015 which is at P.B. page nos. 42 & 43. Vide said G.R. the Govt. has taken decision to protect

the services of the employees who could not produce Caste Validity Certificate or whose Caste Validity Certificate was invalidated by the competent authority provided such employees are appointed prior to 15/6/1995. In my opinion, whether the said G.R. will be applicable to the applicant or not can be decided on merits. The application is filed along with the C.A. on 27/4/2016, whereas the G.R. has been issued on 21/10/2015. Considering this cause of action the so called delay filing in O.A. is require to be condoned in the interest of justice and equity and hence the following order :-

ORDER

The C.A. No.289/2016 in O.A.St.812/2016 is allowed. The delay cause in filing O.A. is condoned. The O.A.St.812/2016 shall be registered as O.A.

2. Issue notice to R-2 and 3, returnable in **four weeks**. Learned C.P.O. waives notice for R-1. Hamdast allowed.
3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
4. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

5. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

7. **S.O. four weeks.**

(J.D. Kulkarni)
Vice-Chairman (J).

dnk.