

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
CIVIL APPLICATION NO.474 /2016
IN ORIGINAL APPLICATION STAMP NO. 1908 /2016

Sudhakar S/o Raghunath Nagarkar,
Aged about 69 years, Occ. Retired,
R/o Pusad, Tah. Pusad,
District Yavatmal.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Home Department, Mantralaya,
Mumbai-32.
- 2) The Director General of Police,
Maharashtra State, Mumbai.
- 3) The Deputy Inspector General of Police (Estt.),
Maharashtra State,
Mumbai.
- 4) The Superintendent of Police,
(Rural), Amravati.

Respondents

Shri A.S. Chakotkar, 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 11th day of July,2017)

Heard Shri A.S.Chakotkar, Id. counsel for the applicant and Shri V.A. Kulkarni, Id. PO for the respondents. The matter is heard finally at the admission stage with consent of Id. counsel for parties.

2. This is an application for condonation of delay in filing O.A. In O.A. The applicant has claimed that the impugned communication dated 29/4/2005 (A-5,P-15) issued by respondent no.3, the Deputy Inspector General of Police, Mumbai be quashed and set aside and the applicant be considered for promotion to the post of Assistant Police Inspector (API). The C.A. is filed on 25th Sept.,2016 and there is a delay of 10 years, 5 months and 8 days in challenging the communication dated 29/4/2005 issued by respondent no.3. Vide said communication the applicant's claim for promotion to the post of API has been rejected.

3. According to the applicant, on 23/1/2004 the applicant collapsed while on duty and was immediately admitted to the Hospital. He was referred to Neurologist. He is suffering from Old Infarcts Involving Right Frontal Lobe Showing Gliosis. He was admitted in the Govt. Medical College Hospital on 23/10/2004 and was discharged from

Hospital on 27/10/2004. Due to ill health and since the applicant was continuously taking treatment he could not challenge the communication within time. The applicant submits that the delay caused in filing the O.A. challenging the communication 29/4/2005 be condoned in the interest of justice.

4. The respondent no.2 resisted the application saying that there was no reason for applicant not to challenge the communication dated 29/4/2005. There is a delay of 12 years since the applicant never challenged promotion of his juniors.

5. Only material point is to be considered whether the applicant has proved that there was sufficient ground for not filing the O.A. within limitation.

6. The applicant admittedly got retired on superannuation on 31/1/2005 and during his entire service period he never challenged the action on the part of respondents not promoting him as API. In para-3 of the application itself it is stated that the applicant was never promoted while his juniors were promoted even though the name of the applicant appeared in the first place of gradation list. It is stated that he has also filed representations to the respondents on 3/4/2002 and 25/7/2003, but no reply was given. Had it been a fact that his representation was not considered, the applicant should have waited

for six months from the date of representation and thereafter within 1 year he should have filed application challenging his non consideration of promotion.

7. The learned counsel for the applicant submits that he was under medical treatment and has also placed on record some certificates to that effect. I have carefully gone through those certificates. It is pertinent to note that the applicant was admitted in the Hospital, but for a period from 23/1/2004 to 2/2/2004 only. Even for argument sake it is accepted that the applicant was suffering from Neurological problem, there is nothing on the record to show that he was indoor patient or that he was undergoing prolonged treatment. The applicant has therefore miserably failed to prove that he was bed ridden and was not in a condition to approach the Tribunal from 23/1/2004 till filing of the application.

8. As already stated, the applicant has got retired on superannuation on 31/1/2005. Even prior to that date he never challenged promotion of his juniors. In such circumstances, there is no reason is made out for challenging the rejection of promotion vide impugned communication dated 29/4/2005 till filing of this application on 25/9/2016. The delay caused for filing O.A. has not been properly explained and on the contrary there is no reason as to why the

applicant immediately did not approach the Tribunal. I therefore do not find a fit case to condone the delay. Hence, the following order :-

ORDER

The C.A. No.474 of 2016 stands dismissed with no order as to costs. Consequently the O.A. St. 1908 of 2016 also stands dismissed.

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

dnk.