

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION No. 175/2012

and

ORIGINAL APPLICATION NO. 566/2011

Pravin S/o Jadhaoji Kariya
Aged about 65 years
R/o : Istari Nagar, Tahsil Ghatanji,
District Yavatmal.

Applicant

- **Versus** -

(1) The State of Maharashtra,
Through its Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai - 32.

(2) The District Collector, Yavatmal,
District Yavatmal.

Respondents

Shri Bharat Kulkarni, Advocate for the applicant

Shri S. C. Deshmukh, P. O. for the respondents

Coram : - The Hon'ble Shri B. Majumdar,
Member(A)

Dated :- January 4, 2013

ORAL ORDER

Heard Shri. Bharat Kulkarni, the learned counsel for the applicant and Shri. S. C. Deshmukh, learned P.O. for the respondents. The matter is finally heard and disposed of at the admission stage with the consent of the parties.

2. The applicant, an Aval Karkun in the Revenue Department, has filed the O.A. as he is aggrieved that the period of his absence from duty from 25-11-1987 to 12-3-1992 has been treated as extra ordinary leave. The applicant was absent from duty from 30-4-1982 and after the Medical Board declared him to be fit, he joined duty on 12-3-1992 in response to the order of the Collector (R-2) dated 29-2-1992 in that behalf. On 29-3-1994, the Government issued the impugned order vide which the period of the applicant's absence i.e. from 30-4-1982 to 12-3-1992 was treated as unauthorized absence. It is this order which has been challenged in the present O.A. The applicant retired on 31-5-2005. On 18-2-2008, the applicant applied for grant of extra ordinary leave to regularize the above period of absence. The applicant's case for regularization of the period of absence under Rule 16 and 63, sub rule (6) of the Maharashtra Civil Services (Leave) Rules was sent by the

Collector to the Government on 7-3-2008. The applicant filed this O.A on 9-8-2011. According to Shri. Kulkarni, learned counsel for the applicant, even though the impugned order was issued on 29-3-1994, due to the continued pursuance by the applicant, the Collector (R-2) submitted his case for favourable consideration to the Government on 7-3-2008. Thus, according to him, the applicant has a continuous cause of action and hence the delay in filing the present O.A. deserves to be condoned.

3. From what is discussed as above, it is clear that the applicant did not take any action to file an appeal against the impugned order dated 29-3-1994, at least not till 31-5-2005 when he retired. As per the communication dated 7-3-2008 from respondent no. 2 to respondent no. 1, it was only on 18-2-2008 that the applicant submitted an application for treating the period of absence as extra ordinary leave. Thus, it is very clear that from 29-3-1994 to 18-2-2008, the applicant did not take any steps to pursue the matter after issue of the impugned order. There is also no explanation whatsoever as to why the applicant slept over the matter during this prolonged period. Thus, looked at from all angles, the present O.A. is

hopelessly barred by limitation under Section 21 of the Administrative Tribunals Act, 1985. Hence the C.A. as well as the O.A. stands rejected.

sd/-

(B. Majumdar)
Member(A)

ayw/-