

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**CIVIL APPLICATION NO. 13 OF 2018 AND**  
**ORIGINAL APPLICATION NO. 249 OF 2017 (S.B.)**

Shri Ajay S/o Trimbakrao Gavai,  
Aged : 38 years, Occupation - Nil,  
R/o Santaji Nagar, Dabki Road,  
Opposite to Nandani Mangal Karyalaya,  
Akola, Distt. Akola.

**Applicant.**

**Versus**

- 1) The State of Maharashtra through,  
The Upper Chief Secretary, Home Department,  
Madan Kama Marg, Hutatma Rajguru Chowk,  
Mantralaya, Mumbai-32.
- 2) The Director General of Police,  
Maharashtra State Police Head Quarters,  
Shahid Bhagatsing Marg, A/P Colaba,  
Mumbai-1.
- 3) The Special Inspector General of Police,  
Amravati Range, Near Maltekdi Camp Road,  
A/P Amravati, Pin 400 602.
- 4) The Superintendent of Police,  
Opposite to Collector Office,  
A/P Buldhana, Tq. and District Buldhana.

**Respondents**

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Shri J.S.Deshmukh, the Id. Adv. for the applicant.

Shri M.I.Khan, the Id. P.O. for the respondents.

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

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**JUDGMENT**

**(Delivered on this 4<sup>th</sup> day of May, 2018)**

Heard Shri J.S.Deshmukh, learned counsel for the applicant and Shri M.L.Khan, learned P.O. for the respondents.

2. The O.A. No. 249/2017 has been filed by the applicant whereby he has claimed directions to respondent nos. 1 to 4 to consider his claim for appointment on compassionate ground of any Class - III post or any other suitable post as per his qualification and suitability. The said application is filed on 23/04/2017. Alongwith the said O.A., the C.A.No. 13/2018 has been filed whereby the applicant has claimed that the delay in filing original application may be condoned, the delay caused in filing the original application is of 17 years, 03 months and 13 days.

3. From the facts on record, it seems that the applicant's father late Shri Trimbak Namdeo Gavai was Police Head-Constable and he died on 31/05/1998. The mother of the applicant immediately applied for appointment on compassionate ground for her son i.e. applicant. The said applications were moved on 11/06/1998. The respondent no. 4, the S.P., Buldhana called the applicant on 20/09/2001 and on that date, the

applicant submitted relevant documents and required certificates. Time-and-again, the applicant has requested that his applications shall be considered. He has also filed reminders on 03/07/2015, 06/11/2015 and 23/11/2015, but his claim was kept pending for no reasons. The applicant's mother again filed representation on 02/06/2016 and vide impugned order dated 17/03/2017, the applicant's claim was denied by respondent no. 4 by referring to the Government Resolution dated 26/10/1994. According to the applicant, his claim should have been considered but since it should have been considered alongwith 17 years. The applicant was constrained to file the original application. The reasons for the delay is mentioned in para no. 8 of the condonation of delay which is as under :-

That, applicant had made application on 11/06/1998 and is required to approached before this Hon'ble Tribunal in 10 January, 2000 for seeking compassionate appointment, but could not approached before this Hon'ble Tribunal, as his claim for compassionate appointment was pending with the respondents and he was time and again put under impression by respondents, thereby calling him in the office and keeping his claim for compassionate appointment alive by directing him to submit essential documents for that purpose. Finally, vide communication dated 17/03/2017 his claim for compassionate appointment is rejected which gives him cause of action to approach before this Tribunal.

4. The respondent no. 4 has filed affidavit-in-reply and denied the claim for condonation of delay. It is stated that the original application is filed after a statutory period of limitation and the delay is not explained. It is further stated that making of representation will not

extend the delay and, therefore, no case has been made out for condonation of delay.

5. It seems from the record, that the applicant is coming with a case that his mother has filed an application for compassionate appointment on 11/06/1998. As per (Annexure-A-2), a request has been made by applicant's mother that her son i.e. the present applicant be considered for appointment on compassionate ground. It seems that, the applicant's mother was called on by the office of respondent no. 4 on 20/09/2001, as per (Annexure-A-3) and thereafter nothing had happened. It seems that after 1998, the first application/ representation was filed in the year 2015 vide (Annexure-A-4) and thereafter on 23/11/2015, (Annexure-A-6) and then on vide (Annexure-A-7), dated 09/12/2015. It seems that the respondent no. 4 has intimated that there is no note of the so-called applications filed by the applicant's mother on 31/05/1998 in the office record. The so called application dated 11/06/1998, (Annexure-A-2) also cannot be said to be authenticate one and it does not make it clear as to who has received the said application on behalf of the respondent no. 4 and there are additions made in the typed copy of the main applications as well as in the receipt of date in handwriting. It seems from the application itself that i.e. Annexure-A-2, that the applicant was aged about 20 yrs. at that time and, therefore,

such an application was not filed within 1 year after attaining the age of majority by the applicant. It seems from the facts of the case, that the applicant's elder brother was already in service since 1993 and also at the time of death of applicant's father. In such circumstances, whether the applicant was entitled to be considered for compassionate appointment, is also a disputed question.

6. From the record, it thus seems that firstly there is no evidence of filing of application dated 11/06/1998 and even otherwise from 11/06/1998 till another application was filed by applicant's mother on 03/07/2015 as per (Annexure-A-4), no steps were taken by the applicant to pursue his application. In fact, there is nothing on record to show that the applicant's mother has filed any application for appointment on compassionate ground. Admittedly, even on 11/06/1998, he was major and was aged about 20 yrs. Even the application and representation filed in 2015 are also filed by applicant's mother and not by the applicant himself. Thus from 1998 till 2015, the applicant remained silent and slept over his so-called right to get appointment on compassionate ground. No convincing reason is coming forward to condone the delay. Even for argument sake, it is accepted that the representations were filed and no action was taken by the respondent no. 4 on the request of the applicant or his mother, the fact

remains that from 1998 till 2015, the applicant did not approach this Tribunal. Appointment on compassionate ground is not a right. Such appointments are considered under peculiar circumstances, considering the family background of the deceased employee and need of the legal heirs of such employee after the death of the employee. From the facts on record, it seems that the applicant's brother was already in service. The applicant was also major at that time. The applicant has miserably failed to make out any case for condonation of delay and in fact, whatever reasons given for not filing the applications within limitation are not explained properly and the said reasons given are not satisfactory. In such circumstances, the delay of 17 yrs., 03 months and 13 days cannot be condoned. Hence, the following order:-

**ORDER**

1. The Civil Application for condonation of delay stands dismissed. Subsequently, the O.A. also stands dismissed.
2. No order as to costs.

**Dated :- 04/05/2018**

aps

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