

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION No. 286/2012

and

ORIGINAL APPLICATION NO. 589/2011

Shri. Chandrakant S/o Rambhau Chimote
Aged 63 years, Occ : Retired
R/o : 525, Gurumurti,
New Nandanwan Layout,
Nagpur.

Applicant

- Versus -

- (1) The State of Maharashtra,
Through its Principal Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai.
- (2) Principal Chief Conservator of Forest (M. S.),
Head of Forest Force, Van Bhawan,
Civil Lines,
Nagpur.
- (3) Additional Principal Chief Conservator of Forest,
Administration and Subordinate Services,
Civil Lines,
Nagpur.
- (4) Chief Conservator of Forest (Territorial),
Nagpur Circle, Zero Mile,
Civil Lines,
Nagpur.

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(5) Deputy Conservator of Forest,
Wardha Division,
Civil Lines, Wardha.

Respondents

Shri S. A. Pathak, Advocate for the applicant

Shri D. M. Kakani, C. P. O. for respondents

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

Dated :- January 4, 2013

ORAL ORDER

Heard Shri. S. A. Pathak, the learned counsel for the applicant and Shri. D. M. Kakani, learned C.P.O. for the respondents.

2. The applicant has filed this C.A. praying for condonation of delay in filing the present O.A. The applicant, a retired Range Forest Officer, was promoted as Range Forest Officer on an ad-hoc basis on 4-1-1994. As per the scheme of assured promotion in terms of the G.R. dated 20-7-2001, he was due for grant of promotional pay scale of Assistant Conservator of Forest on 4-1-2006, when he had completed 12 years of service. The applicant retired on 30-7-2007. During the period from 2-7-2007 to 14-7-2009, he made representations to the respondents for grant of time

bound promotion in terms of the G.R. of 2001. On 11-11-2009, the Principal Chief Conservator of Forests (R-2) in response to the applicant's representation dated 14-7-2009 informed the applicant that a proposal for regularization of the fortuitous promotions granted to the Range Forest Officers like the applicant was submitted to the Government in 1998 and the Government's order in that behalf were still awaited. According to the applicant, thus, as late as in November, 2009, the matter was still pending with the Government and hence the cause of action was a continuous one. It is also submitted by the applicant that he was undergoing treatment for retinal detachment in Hyderabad in December, 2001 and that was another reason why he could not approach this Tribunal till filing the present O.A. on 22-8-2011. The applicant also submits that in 2008, he had undergone operation for removal of cataract.

3. From the averments made as above by the applicant as well as submissions made by Shri. Pathak, learned counsel for the applicant, I find that the applicant was due for grant of time bound promotion on 4-1-2006 and he made representations in that regard continuously from 2007 to 2009. It is also to be noted that during this period even after having undergone an operation for removal of cataract, he was in a position to make representations from 2008 onwards. Thus, it is clear that during

this period from 2007 to 2011 i.e. till he underwent surgery for correction of retinal detachment, the applicant made representations after representations and it was only on 11-11-2009 that his representation dated 14-7-2009 was replied ^{to} by the respondent no. 2. Thus, there is nothing on record to show as to why the applicant did not approach this Tribunal during the period from 2007 to 2009 instead of simply making representations. It is also relevant that the Government did not take any action since 1998 when the applicant's case for promotion was submitted by respondent no. 2 to Government. This is one more reason why the applicant should have approached this Tribunal earlier.

4. Shri. Pathak, the learned counsel for the applicant had relied on the judgment delivered by the High Court of Bombay, Nagpur Bench in Writ Petition No. 5557 of 2012 delivered on 22-11-2012. However, the case before the High Court involved the issue of grant of deemed date of promotion and hence the facts of that case are different from the present one as the present one only involves the issue that the applicant failed to approach this Tribunal and continued to make repeated representations. Shri. Pathak also relied on the decision of the Supreme Court in *Collector, Land Acquisition, Anantnag and Anr. Vs. Mst. Katiji and others* 1987 SC 92 in which Supreme

Court had held that refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and thus cause of justice being defeated and that issues related to condonation of delay must be decided by considering properly the substantial justice and technical consideration involved. I feel that this order of the Supreme Court is also not relevant to the present case as no substantial or justifiable reasons have been put forth to explain as to why the applicant did not approach the Tribunal during the period from 2007 to 2009. It is the stated legal position that the continuous representations do not extend the cause for condonation of delay and hence I find no merit in the present C.A. Thus, C.A. as well as O.A. stands rejected.

sd/-

(B. M. Jundar)
Member(A)

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