

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**MISC APPLICATION NO. 229 OF 2020**

**IN**

**ORIGINAL APPLICATION NO 504 OF 2020**

**WITH**

**ORIGINAL APPLICATION NO 504 OF 2020**

**DISTRICT : NASIK**

Shri Bahusaheb Rajabhau Rajwade, )  
R/o: N-9, 15/2, Sawarkar Chowk, )  
CIDCO, Nasik 422 009. )...**Applicant**

**Versus**

1. The State of Maharashtra )  
Through its Secretary, )  
Tribal Development Department, )  
Mantralaya, Mumbai 400 032. )  
2. The Addl. Commissioner, )  
Tribal Development Department, )  
Adivasi Vikas Bhawan, )  
Ground floor, Old Agra Road, )  
Nasik 422 002. )...**Respondents**

Shri R.M Kolge, learned advocate for the Applicant.

Ms Archana B.K, learned Presenting Officer for the Respondents.

**CORAM : Justice Mridula Bhatkar (Chairperson)**

**Mrs Medha Gadgil (Member) (A)**

**DATE : 28.10.2021**

**PER : Justice Mridula Bhatkar (Chairperson)**

**J U D G M E N T**

1. The applicant working as Senior Clerk in the office of Project Officer, Tribal Development Department, has filed the Original Application challenging the order dated 18.7.2018, intimating the applicant of termination of his services and rejecting his representation thereby. He also challenges the order of dismissal of January, 2005.

2. The Original Application is filed on 24.9.2020 along with application for condonation of delay of 16 years and 7 months. Learned counsel for the applicant Mr Kolge has submitted that in fact there is no such delay of 16 years. The letter of dismissal dated nil of January, 2005 was not in fact served on the applicant. So the applicant was not aware of his dismissal for a long time. The applicant was served a charge sheet on 17.7.2003. The Departmental Enquiry was conducted against the applicant ex-parte not following the principles of natural justice. However, the applicant was not paid his subsistence allowance. So the applicant made representation on 23.1.2008 for payment of subsistence allowance during suspension period and sent two reminders dated 8.8.2008 and 18.8.2008. However, he was informed by Respondent no. 2 on 1.9.2008 that he is dismissed from service w.e.f 5.6.2006.

3. Learned counsel for the applicant has submitted that the department has failed to communicate that such order was served on him. So the applicant went on making applications to the Department. However, he did not receive any response till 2015. He again made two applications on 27.3.2017 and 29.5.2017 and thereafter on 18.7.2018 the Respondents communicated the

applicant with the order of dismissal and thereafter, the applicant has filed the present Original Application challenging the said order of dismissal.

4. Learned counsel for the applicant argued that the applicant was not at all at fault and cannot be held responsible for the delay in filing the Original Application. He argued that there is a delay of few months and due to Covid-19 Pandemic, by standing order the Hon'ble Supreme Court has condoned the delay from 15.3.2020 and hence the delay be condoned.

5. Ms Archana B.K, learned P.O for the Respondents opposed the application and relied on the affidavit in reply dated 19.3.2021, filed by Varsha Ramnath Meena, Project Officer in the office of Integrated Tribal Development Project, Nasik. Learned P.O submitted that the contentions raised by the applicant that he was not intimated about the order of dismissal is patently false. The applicant was from time to time informed about the departmental proceedings. However, the applicant did not take trouble to attend the same. She further submitted that the order dated 16.9.2005 in the departmental enquiry was sent to him immediately. The order of dismissal from service was also inform to him. She relied on para 6 of the application for condonation of delay, wherein the applicant has admitted that Respondent no. 2 has informed on 1.9.2008 about his dismissal from service w.e.f 5.6.2006. Learned P.O submitted that the applicant was thus aware from 1.9.2008 that he was dismissed from service w.e.f 5.6.2006. Thus, he should have approached this Tribunal one year thereafter, which he did not do. Therefore, the application is time barred and hence be dismissed.

6. Learned P.O relied on the judgment of the Hon'ble Supreme Court in Naresh Kumar Vs. Department of Atomic Energy & Ors, (2010) 7 SCC 525, on the point of delay and laches, wherein, in the said case, the Military Officer has approached the High Court by invoking jurisdiction after 8 years of unexplained delay, the Hon'ble Supreme Court upheld the order of the High Court by dismissing the Writ Petition on the ground of delay and laches.

7. We have gone through the record, the orders passed by the Respondents and the communication between the parties. It appears from the pleadings of the applicant that the applicant was aware that he was suspended in the year 2003. He was also served with the show cause notice on 17.7.2003. The Departmental Enquiry was conducted and he was dismissed from service w.e.f 5.6.2006. Learned P.O has rightly pointed out to the admission given by the applicant in para 6 that he was informed by Respondent no. 2 on 1.9.2008 that after conducting departmental enquiry he is dismissed from service w.e.f 5.6.2006. Thus, we hold that the admission given by the applicant that he was informed by Respondent no. 2 on 1.9.2008 about his dismissal from service, the cause of action arose when the applicant had knowledge of his dismissal from service on 1.9.2008. Thereafter, the limitation started running and he should have filed the Original Application by 31.8.2009. The applicant did not pursue the legal action within time. He filed the Original Application in September, 2020. Thus, there is a clear and inordinate delay of 11 years. There is no justification for such a long delay of 11 years. The application is, therefore, hopelessly time barred. We are of the view that it is just a chance litigation preferred by the applicant. We discourage such type of litigation.

8. In view of the above, we pass the following order:-

- (a) Misc Application seeking condonation of delay in filing the Original Application is dismissed.
- (b) As the Misc Application is dismissed, the Original Application also stands dismissed.
- (c) The applicant is directed to pay cost of Rs. 1000/-.

Sd/-

**(Medha Gadgil)**  
**Member (A)**

Sd/-

**(Mridula Bhatkar, J.)**  
**Chairperson**

**Place : Mumbai**  
**Date : 28.10.2021**  
**Dictation taken by : A.K. Nair.**