

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

**MISC APPLICATION NO 332 OF 2021
IN
ORIGINAL APPLICATION NO 678 OF 2021
WITH
ORIGINAL APPLICATION NO 678 OF 2021**

DISTRICT : THANE

Shri Jayram Devendra Rathod,)
Occ-ASI, Police Commissionerate,)
Navi Mumbai. R/at Aniruddh Arcade,)
Plot No. 102, Room No. B-103, Sector-35)
Kamothe, Navi Mumbai.)...**Applicant**

Versus

1. The State of Maharashtra)
Through the Secretary,)
Home Department, Mantralaya,)
Mumbai 400 032.)
2. The Director General of Police,)
S.B S Road, Colaba,)
Mumbai 400 001.)
3. The Commissioner of Police,)
Having office at C.B.D, Belapur,)
Navi Mumbai.)...**Respondents**

Shri M.B Kadam, learned advocate for the Applicant.

Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents.

**CORAM : Justice Mridula Bhatkar (Chairperson)
Mrs Medha Gadgil (Member) (A)**

DATE : 10.02.2022

PER : Justice Mridula Bhatkar (Chairperson)

J U D G M E N T

1. The present Misc Application is filed by the applicant seeking condonation of delay of nearly 7 years and 3 months.

2. The applicant has filed Original Application No. 678/2021 praying that the Respondents be directed to decide the representations dated 29.6.2013, 13.9.2014, 18.10.2016 and 23.5.2021 and further direct them to declare the result of LDCE-2002.

3. There is a delay of 7 years and 3 months in filing the present Original Application, as the cause of action according to the applicant arose on 28.12.2012, when the Respondents gave him deemed date of promotion to the post of Police Hawaldar. Thereafter, the applicant went on submitting representations to the Respondents. However, the representations were till today not decided and if any decision was taken by the Respondents, the same is not communicated to the applicant. The only reason given for the delay is that the applicant went on filing the representations to the Respondents.

4. Learned C.P.O has filed affidavit in reply to the Misc Application. We rely and refer to the affidavit in reply dated 6.1.2022, by Urmila Dalvi, Desk Officer in the office of Director General of Police, Mumbai, wherein it is stated that the applicant was found unfit for appearing in the Department Qualifying Examination held by A.D.G, Training and Special Units, M.S, Mumbai, as he was not complying with the very mandate of

completion of five years continuous service in the cadre of Police Head Constable and A.S.I as per mandate Rule 3 (a) of the aforesaid Rules. The applicant has earlier filed O.A 26/202 earlier and the Tribunal has permitted him to appear in the said examination subject to the final outcome of the said Original Application. So his result was kept in sealed cover. However, the Original Application was rejected on merits on 28.4.2003. Hence, he was declared unfit for appearing in the Departmental Qualifying Examination held by A.D.G. Training and Special Units.

5. After going through the affidavit in reply, we are of the view that the cause of action arose way back on 28.7.2003 and it should have been challenged within one year from the said date. It appears that there is a delay of more than 7 years. The act of filing of representations after representations for any claim does not extend the limitation, as limitation is to be counted within a stipulated period of one year from the cause of action.

6. We do not find any merit in the Misc Application seeking condonation of delay in filing the present Original Application.

7. In view of the above, Misc Application is dismissed. As the Misc Application seeking condonation of delay is dismissed, the Original Application also stands dismissed.

Sd/-

(Medha Gadgil)
Member (A)

Sd/-

(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai

Date : 10.02.2022

Dictation taken by : A.K. Nair.