

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

MISC APPLICATION NO 51 OF 2023

IN

ORIGINAL APPLICATION NO 1276 OF 2022

WITH

ORIGINAL APPLICATION NO 1276 OF 2022

DISTRICT : MUMBAI

Shri Jaywantrao R. Deshmukh,)
Occ-Assistant Commissioner of Police)
Motor Transport, R/O Worli Police Camp,)
Parijat Bldg, R. No.303,)
Sir Pochkhanwala Road, Worli,)
Mumbai.)...**Applicant**

Versus

1. The State of Maharashtra)
Through Addl. Chief Secretary,)
Home Department, Mantralaya,)
Mumbai.)
2. The Secretary,)
M.P.S.C, Cooperage,)
Mumbai 400 021.)
3. Mr Sachin P. Bade,)
Superintendent of Police, Pune Range))
Special Inspector General of Police,)
Motor Transport Office, Aundh,)
Pune 07.)
4. Mr Sandip Himmatrao Shinde,)
Superintendent of Police,)
Aurangabad Range,)
Police Motor Transport Work Shop,)
Opp. Kranti Chowk Police Station,)
Samarth Nagar, Aurangabad-01.)
5. Mr Tushar B. Deshmukh,)
Superintendent of Police,)
Nagpur Range, Police Motor Transport))
Work Shop, Nagpur, Katol Road,)
Nagpur - 02.)

6. Mr Niba Khandu Patil,)
Deputy Commissioner of Police,)
Motor Transport Division,)
Shford Road, Nagpada, Mumbai-08.)
7. Smt Gayatri Vitthal Pawar,)
Superintendent of Police,)
[Head Quarter],)
Special Inspector General of Police,)
Motor Transport Office, Aundh,)
Pune – 07.)...**Respondents**

Shri K.R Jagdale, learned advocate for the Applicant.

Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents no 1 & 2.

Shri Kiran Upasni, learned counsel for Respondents no 3 to 7.

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

DATE : **15.06.2023**

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

J U D G M E N T

1. The applicant has filed the present Misc Application seeking directions from this Tribunal to condone the delay if any in filing the present Original Application No. 1276/2022.

2. Learned counsel for the applicant submits that the applicant is working as Deputy Superintendent of Police/Assistant Commissioner of Police, Motor Transport. He is challenging the appointment of Respondents no 3 to 7 dated 23.4.2012, 12.11.2013 and 12.11.2018 respectively on the ground that they do not hold the required experience. Learned counsel for the applicant submits that all the Respondents no 3 to 7 are recruited

through M.P.S.C and the applicant is a promotee. At present the Respondents no 3 to 7 are working as Deputy Commissioner of Police / Superintendent of Police, Motor Transport. The applicant further prays for grant of deemed date of 23.4.2012.

3. Learned counsel for the applicant submits that there is no delay in filing the present Original Application and he relied on para 17 of the Misc Application stating that the cause of action is required to be considered from the date of grant of promotion to the applicant on the post of Dy. S.P/A.C.P on 29.6.2022 as well as on the basis of a similar issue decided by this Tribunal by order dated 6.6.2022 in O.A Nos 173 & 174/2021, (Mr M.A Tapase & Ors Vs. State of Maharashtra & Ors). Thereafter the applicant filed representation dated 12.12.2022 which is still pending the present Original Application is filed on 19.12.2022. Learned counsel for the applicant on the point of delay relies on the decision of the Hon'ble Supreme Court dated 19.2.1987 in Collector, Land Acquisition, Anantnag & Ors Vs. Katiji & Ors, AIR 1987 SC 1353.

4. In the case of Collector, Land Acquisition, Anantnag & Ors, (supra), the Hon'ble Supreme Court observed as under:-

“2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.”

5. Learned C.P.O opposes to condone the delay on the ground that the judgment and order dated 6.6.2022 passed in O.A 173 & 174/2021 is set aside by the Hon'ble Bombay High Court by order dated 3.4.2023 in W.P 8852/2022.

6. Learned counsel Mr Upasni for Respondents no 3 to 7 submitted that there is a delay of more than 10 years in filing the present Original Application and no satisfactory ground has been brought out by the applicant to condone the delay. The reasons stated by the learned counsel for the applicant is totally incorrect and legally not maintainable and cannot be considered as cogent and justified reasons for condoning the delay of more than 10 years.

7. Thus, we find that there is a delay of more than 10 years in filing the Original Application. No sufficient and good ground is place by the learned counsel for the applicant to condone the delay. We are unable to accept the arguments of the learned counsel for the applicant regarding delay.

8. In view of the above, Misc Application seeking condonation of delay 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 : 15.06.2023
Dictation taken by : A.K. Nair.