

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**MISC. APPLICATION NO.290 OF 2014  
IN  
ORIGINAL APPLICATION NO.486 OF 2014**

Shri Taterao M. Bagul. )...**Applicant**

**Versus**

The State of Maharashtra. )...**Respondent**

**Shri A.V. Bandiwadekar, Advocate for Applicant.**

**Ms. N.G. Gohad, Presenting Officer for Respondent.**

**P.C. : R.B. MALIK (MEMBER-JUDICIAL)**

**DATE : 30.03.2016**

**ORDER**

1. This is an application for condonation of delay of one year and eight months, as counted by the Applicant himself.

2. I have perused the record and proceedings and heard Shri A.V. Bandiwadekar, the learned Advocate for the

  
\_\_\_\_\_

Applicant and Ms. N.G. Gohad, the learned Presenting Officer for the Respondent.

3. The issue is as to whether sufficient cause has been demonstrated, so as to allow the delay to be condoned and my finding thereof is in affirmative for the following reasons.

4. The main relief sought in the OA is for deemed date in the cadre of Additional Collector. The Applicant came to be promoted as Additional Collector on 28<sup>th</sup> March, 2011. The sum and substance of the case of the Applicant is that ever since then, he had been making representations to seek deemed date in that cadre so that his further promotion can be facilitated including nomination to IAS cadre. Shri Bandiwadekar took me through the entire record to buttress his contention that he had been taking recourse to the provisions of Right to Information Act (RTI) to gather information and to fortify his case to get a favourable order in the representations. I have also perused the order made by the Nashik Information Commissioner in appeal. It is a fact that the Applicant had been moving under that Act for gathering information though beyond that as far as its merit is concerned, the same need not be commented about by me herein.

5. Exhibit 'H' at Page 95 of the paper book of the MA would show that a representation came to be made on 3<sup>rd</sup>



March, 2014 by the Applicant to the Additional Chief Secretary, Revenue wherein reference was made to earlier similar representations dated 27.1.2010 and 14.9.2011. The present MA along with the still to be admitted OA came to be presented on 13.6.2014.

6. On the face of it, it becomes quite clear that whatever the learned PO might contend in assailing the case of the Applicant, it cannot be said with any degree of justification that the Applicant was inexcusably indolent in the matter of deemed date. Thus depending upon the data and much as one would expect, the Respondent to be forthcoming to furnish it more often than not the said data is not adduced without recourse to R.T.I, the recourse to legal remedy may be a little difficult.

7. Ms. Gohad, the learned PO relying upon the representation of 3.3.2014 emphasized that as a senior Officer of the Government and an educated Officer, the Applicant having moved earlier on 27<sup>th</sup> January, 2010 and 14<sup>th</sup> September, 2011 was in duty bound to be more vigilant, and therefore, no case is made out for showing any indulgence to him. She further contended that under Section 21 of the Administrative Tribunals Act, 1985, the Applicant after having waited for six months ought to have moved the Tribunal in time. Now, in my opinion, all these submissions do not answer as to why the Respondent should not have sent him a one line

A handwritten signature in black ink, appearing to be 'M. Gohad', is written over a horizontal line. There are some small marks and a checkmark-like symbol above the signature.


reply to all his representations. The issue of condonation of delay is such that one has to trace it in the realm of the cause of action which in turn would depend upon the challenge posed by the adversary to the right. In actual practice, at least in the matters such as deemed date, etc. and promotions, in view of the various segments to be dealt with including reservations, etc., the whole thing is not always free from being vexed. Therefore, with the basic mandate being very much there that such applications should be approached more with a view to do substantial justice rather than technical disposals, in my view, the kind of approach suggested by the learned PO is the one which I must not adopt.

8. There was admittedly no express rejection of the representation of the Applicant. Now, no doubt, repeated representations to somehow keep the pot boiling, as they say, has to be discouraged and if it appears that a delinquent was indulging in some kind of a sharp practice by repeated representations already knowing the stand of his adversary, then his move such as this one, may not have an easy passage to success. That, however, is something completely absent herein and in my opinion, a case for condonation is made out, which of course is no word as far as the merit of the OA is concerned.

9. For the foregoing, the Misc. Application is allowed. The delay is condoned. The office and the Applicant are

A handwritten signature or set of initials, possibly 'B. S.', written in dark ink. The signature is stylized and appears to be written over a horizontal line.

directed to process the OA so as to be brought before the Bench for further progress of the OA. In the absence of any other office objection, it be placed before the appropriate Bench. I am informed that the Affidavits-in-reply, rejoinder are filed in the OA also. Therefore, a formal order of admission of the OA is hereby made and the OA be placed before the appropriate Bench for hearing on 10<sup>th</sup> June, 2016. The MA is allowed in these terms with no order as to costs.

  
**(R.B. Malik)**  
**Member-J**  
**30.03.2016**

30.3.16

Mumbai

Date : 30.03.2016

Dictation taken by :

S.K. Wamanse.

E:\SANJAY WAMANSE\JUDGMENTS\2016\3 March, 2016\M.A.290.14 in O.A.486.14.w.3.2016.doc

