

Thakur

[Spl/MAT/F-5/E]

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH

NO.MAT/MUM/JUD/ 1000 /2016
Maharashtra Administrative Tribunal
Pay & Accounts Barrack Nos.3 & 4,
Free Press Journal Marg,
Nariman Point, Mumbai 400 021.

Date : 22 MAR 2016

M.A. No. 539/2015 IN O.A. No. 1047/2015.

(Sub :- Denial Of Appointment)

- 1 Shri Ramesh Yashwant Tanpure,
R/at Plot No. 9, Sriram Nagar, Pipe Line Road, Savedi, Ahmednagar.
....**APPLICANT/S.**

VERSUS

- 1 The Member Secretary,
Regional Selection Committee,
Pune cum Superintending
Engineer, Koyana Construction
Circle and Zonal Officer,
Kolhapur Zone, Satara, Having
office at Sinchan Bhawan,
Krishna Nagar, Satara.
- 2 The Regional Selection Committee,
Pune cum Chief Engineer (Special
Project), Water Resources
Department, Pune-11.
- 3 The State of Maharashtra,
Through Principal Secretary,
Water Resources Department,
Having office at Mantralaya,
Mumbai-32.

...RESPONDENT/S

Copy to : The C.P.O. M.A.T., Mumbai.

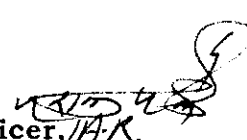
*The applicant/s above named has filed an application as per copy already served on you, praying for reliefs as mentioned therein. The Tribunal on the 18th day of **March, 2016** has made the following order:-*

APPEARANCE : Shri. A.V. Bandiwadekar, Advocate for the Applicant.
Ms. N.G. Gohad, P.O. for the Respondents.

CORAM : **HON'BLE SHRI R.B. MALIK, MEMBER(J).**

DATE : **18.03.2016.**

ORDER : Order Copy Enclosed / Order Copy Over Leaf.


Research Officer, J.A.R.
Maharashtra Administrative Tribunal,
Mumbai. 22.3.2016.

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

MISCELLANEOUS APPLICATION NO.593 OF 2015

IN

ORIGINAL APPLICATION NO.1047 OF 2015

DISTRICT : AHMEDNAGAR

Shri Ramesh Yashwant Tanpure,)
Age 49 years, occ. Nil, Ex-serviceman,)
R/o Plot No.9, Sriram Nagar, Pipeline Road,)
Savedi, Ahmednagar)..Applicant

Versus

1. The Member Secretary,)
Regional Selection Committee, Pune-cum)
Superintending Engineer,)
Koyana Construction Circle & Zonal Officer,
Kolhapur Zone, Sinchan Bhavan,)
Krishna Nagar, Satara)
2. Regional Selection Committee, Pune-cum)
Chief Engineer (Special Project),)
Water Resources Department, Pune-11)



3. The State of Maharashtra,)
Through Principal Secretary,)
Water Resources Department,)
Mantralaya, Mumbai 400 032)..Respondents

Shri A.V. Bandiwadekar – Advocate for the Applicant

Miss Neelima Gohad – Presenting Officer for the Respondents

CORAM : Shri R.B. Malik, Member (J)

DATE : 18th March, 2016

J U D G M E N T

1. This is an application for condonation of delay in bringing the OA No.1047 of 2015 which in turn calls into question the applicant having been disqualified for the post in question for want of invalid MS-CIT certificate and several other reliefs in the same line.

2. I have perused the record and proceedings and heard Shri A.V. Bandiwadekar, the learned Advocate for the Applicant and Miss Neelima Gohad, the learned Presenting Officer for the Respondents.



3. Bt it noted right at the outset that in this MA for condonation of delay I am not at all concerned with the facts or facts at issue that befall the OA. None of my observations would, therefore, be taken even as expression of opinion much less conclusion in so far as the OA is concerned.

4. The delay according to the applicant is of 2 years and 5 months. The sum and substance of his case is that he got the results of the examination on 21.7.2012 and subsequent order on 13.9.2012. He made a representation there against pointing out that he was an Ex-Serviceman and had already crossed 45 years of age and 6 months time be granted to him to clear the said examination. In Para 5 it is mentioned that no response was given by the first respondent. It is the case of the applicant that he was governed by the GR dated 19.3.2003 and he could have submitted the said certificate within two years of his appointment. The subsequent GR was not applicable to him. Even as the matter was pending with the applicant awaiting the result of his moves he fell ill suffering some kind of a serious gastric trouble named in Para 8 of the MA. He has annexed medical documents in that behalf. He has referred to a decision of OA No.933 of 2012 which he came to know when he met his advocate for consultation. He claims that he is a similarly placed person and is, therefore, entitled to be given hearing on merit. In Para 12 he has referred to a judgment of the Hon'ble Supreme Court enshrining the guidelines on how to

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construe "sufficient cause" aspect of the matter in dealing with the issue of condonation of delay.

5. The affidavit in reply deals in extenso with the very facts mentioned above and castigates the applicant for the delay which according to the respondents is inexcusable.

6. In this matter the delay is no doubt there but the application cannot be defeated by merely pointing out the delay itself. The issue is as to whether it needs to be condoned. There are large number of authorities of binding nature either because they are from Hon'ble Supreme Court or from the Hon'ble High Courts, the crux of which is that the approach of a judicial forum in such matters should not be unduly rigid and must be justice oriented and a good cause should not be allowed to be lost on the altar of procedure but substantive and substantial justice after contest is the course of action that should be adopted.

7. Now, in the first place it is no doubt true as contended by Miss Gohad, Ld. PO that application for condonation of delay cannot be lightly allowed if it was found that the said litigant was waiting in the wings for the outcome of another litigation in which the same issue was involved. However, again there is no straight jacketed formula of universal application. That is because as a fallout there can be

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other circumstances that would become necessary to be considered. Without making any detailed comments it may only be noted that the common judgment in **OA No.933 of 2012 and OA No.1140 of 2013 (Shivaji Hambir Patil & Ors. Versus The Regional Selection Committee, Pune & Anr, 12.8.2015)** the second DB speaking through me dealt with the matter which seems to be more or less like the OA which is still awaiting to be registered on account of delay. Now, the applicant had been making representations citing some State instruments etc and it was incumbent upon the respondents in my view to at least give a response. State is a model litigant and it should not in my opinion behave like a cantankerous private litigant. And, why, in fact if the applicant was similarly placed as the applicants of the OA above referred to which was disposed off on 12.8.2015 there is no reason why the applicant should not have been given the same benefit by the State as a State action without driving him to the litigation. Now, they have not done it. In fact the similarly placed persons must be treated similarly as per the law laid down by the Hon'ble Supreme Court in **MAHARAJ KRISHAN BHATT AND ANOTHER VERSUS STATE OF JAMMU AND KASHMIR AND OTHERS, (2008) 2 SCC (L&S) 783**. One aspect of the matter is very clear that here the applicant cannot be assailed of making futile repeated representations.

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8. As far as the other aspect related to the health is concerned it is supported by medical documents as additional support to his case. After all in such matters the case is required to be examined in the totality of the circumstances. Each and every fact segment cannot be taken in isolation and either accepted or rejected in that manner. Therefore, taking an overall view of the matter such as it is I am of the opinion that a case for condonation of delay is constituted because any other conclusion would leave the interest of justice dilated.

9. The delay in bringing OA stands hereby condoned. The applicant and the office shall now process the matter further so as to place the OA before appropriate bench. The MA is allowed in these terms with no order as to costs.

(R.B. Malik)
Member (J)
18.3.2016

Date : 18th March, 2016

Dictation taken by: S.G. Jawalkar.

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Asst. Registrar / Research Officers.
Maharashtra Administrative Tribunal
Mumbai 22.7.2016