

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

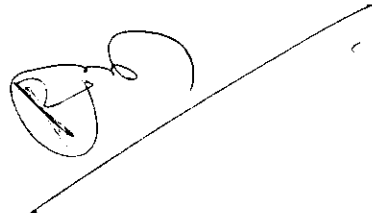
**MISC. APPLICATION NO.611 OF 2015
IN
ORIGINAL APPLICATION NO.1087 OF 2015**

DISTRICT : JALGAON

Smt. Subhangi W/o. Pravin Pathak.)
Age : 38 Yrs., Occ. Nil, Working on CHB -)
Visiting faculty as Lecturer in Govt.)
Polytechnic, Jalgaon, R/o 175, Adarsh)
Nagar, Behind D-Mart, Jalgaon,)
District : Jalgaon.)...**Applicant**

Versus

1. The State of Maharashtra.)
Through the Presenting Officer,)
Maharashtra Admn. Tribunal,)
Mumbai.)
2. The Principal Secretary.)
Higher & Technical Education Dept.,)
Mantralaya, Mumbai 400 032.)
3. The Director of Technical Education,)
M.S, Near Kama Hospital, Mumbai.)
4. Government Polytechnic, Dhule,)
Tal. & Dist. Dhule, Through its)
Principal.)...**Respondents**



Shri A.S. Deshpande, Advocate for Applicant.

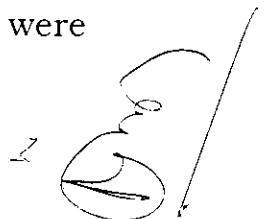
Ms. N.G. Gohad, Presenting Officer for Respondents.

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

DATE : 31.03.2016

ORDER

1. This is an application for condonation of delay in making the Original Application seeking continuation in service.
2. I have perused the record and proceedings and heard Mr. A.S. Deshpande, the learned Advocate for the Applicant and Ms. N.G. Gohad, the learned Presenting Officer for the Respondents.
3. There is admittedly delay in making the OA and according to the Applicant, the delay is of about two years. Let me proceed on the basis that it is so. The issue is as to whether sufficient cause is made out for the condonation of delay and in the set of facts and circumstances such as they are, I am constrained to hold in the negative.
4. Let me make it very clear at the outset that I am deeply conscious of the legal position which obtains as a result of a large number of binding judicial pronouncements that the applications like the present one must be approached more with a view to advance the cause of justice rather than insisting on technicality. Therefore, there have to be strong reasons if such applications were



to be spurned and I regret to say that in this matter, they very much are.

5. The case of the Applicant in this MA is that she was working as a Lecturer on contract basis from 16.9.2009 on a consolidated salary. That was an appointment for two years. A combined reading of Affidavits of both the sides would show that the Applicant came to be transferred from Jalgaon to Dhule. According to the Respondents, she did not report for work while according to the Applicant, she did so but by the time, she joined the academic session had almost ended and her help was taken in the matter of administration. Ultimately, this remains an instance of oath against oath and nothing more, and therefore, another aspect of the matter will have to be closely considered.

6. According to the Applicant, she was badly shattered by the events that occurred and went into depression and once she was out of that stage, she moved the Hon'ble High Court with Writ Petition No.9161/2015 in the month of March, 2015 and the Hon'ble High Court by the order dated 17th November, 2015 I Aurangabad Bench was pleased to dispose of the said Writ Petition with liberty to approach the Tribunal, if so advised.

7. It is no doubt true that the above discussed case of the Applicant may not be entirely impossible for being set up in so far as the medical aspect of the matter is concerned. But in any case, it is quite difficult to accept it just for the asking. Therefore, in my view, it was necessary for the Applicant to fortify her case by convincing medical record. Had the record been produced, may be, I would have considered as to whether it was sufficient or not at

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least for the purposes limited hereto. But there is no record at all. That being the state of affairs, in my view, it will not be possible for this Tribunal to show indulgence. It is no doubt true that the model litigant that the State is, it has to make sure that it did not insist on technicalities. However, it is equally true that without even a particle of material, if this Tribunal were to allow the application, it would have erred on the other extreme which is legally impermissible. When the law mandates sufficient cause to be shown, it is possible that the unnecessarily stiff and rigid attitude should not be exhibited by the judicial forum in the matter of evaluation of the said material. But here, it is an instance of no material at all, and therefore, as I mentioned above, I am left with no alternative but to reject this application. The Misc. Application is accordingly dismissed with no order as to costs and as a consequence, the Original Application gets concluded herewith.

Sd/-

(R.B. Malik)
Member-J
31.03.2016

Mumbai

Date : 31.03.2016

Dictation taken by :

S.K. Wamanse.

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