

Thakur

[Spl/MAT/F-5/E]

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH

NO.MAT/MUM/JUD/ 2220 /2017.
Maharashtra Administrative Tribunal
Pay & Accounts Barrack Nos.3 & 4,
Free Press Journal Marg,
Nariman Point, Mumbai 400 021.

Date : 16 JUN 2017

M.A. NO. 150 OF 2017 IN O.A. NO. 293 OF 2017.
(Sub :- Delay)

1 Shri. Siddhesh Mangesh Sawant,
R/o. 50/6, Worli Police Camp, Worli, Mumbai-30.

....**APPLICANT/S.**

VERSUS

1 The State of Maharashtra, Through
The Principal Secretary, Home
Dept., Having Office at Mantralaya,
Mumbai-400 032.

2 The Commissioner of Police,
Mumbai, Having Office at Mumbai
Police Commissionerate, L.T.Marg.,
Opp. Crawford Market, Fort,
Mumbai – 400 001.

3 The State of Maharashtra, Through
The Principal Secretary, General
Administration Dept., Having Office
at Mantralaya, Mumbai-400 032.

...**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 14th day of **June, 2017** has made the following order:-*

APPEARANCE : **Shri. A.V. Bandiwadkar, Advocate for the Applicant.**
Mrs. A.B. Kololgi, P.O. for the Respondents.

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

DATE : **14.06.2017.**

ORDER : **Order Copy Enclosed / Order Copy Over Leaf.**

Malik
16/6/2017
Research Officer
Maharashtra Administrative Tribunal,
Mumbai.

6

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram,
Appearance, Tribunal's orders or
directions and Registrar's orders

Tribunal's orders

M.A.150/2017 in O.A.293/2017

Mr. S.M. Sawant ... Applicant
Vs.

The State of Mah. & Ors. ... Respondents

The original Applicant in this MA seeks condonation of delay in filing the said OA.

I have perused the record and proceedings and heard Mr. A.V. Bandiwadekar, the learned Advocate for the Applicant and and Mrs. A.B. Kololgi, the learned Presenting Officer for the Respondents.

The father of the Applicant died on 24.1.2013 in harness. By an application of 19.8.2014, the move was made for being considered for appointment on compassionate ground. That was rejected in October, 2014. These proceedings were preferred in this Tribunal on 5.4.2017.

Now, there is a peculiar fact situation in this particular OA which would in my view lead to a liberal approach being adopted in considering this MA. Without entering any finding and just as a statement of facts, the Respondents are averse to consider the case of the Applicant because the deceased employee left behind him three children. The Applicant, I am informed is the first of the twins. The third child is a single child. The factual aspect of the matter would require the provisions of the Maharashtra Civil Services (Declaration of Small Family) Rules, 2005. According to the Applicant, there are instances where in case of twins, the rigors of that Rule came to be relaxed. There was a correspondence *inter partes* in the meanwhile. That apparently is the reason why the delay occurred. For principles, Mr. Bandiwadekar relied upon **Esha Bhattacharya Vs. Managing Committee of Raghunathpur Nafar Academy : (2013) 12 SCC 649**. I have attentively perused that Judgment of the Hon'ble Supreme Court and drew the necessary guidance.

Mrs. Kololgi, the learned PO in stoutly opposing the MA *inter-alia* relying upon **Special Leave Petition (Civil) No.6609-6613/2014 (Brijesh Kumar & Ors. Vs. State of Haryana & Ors, dated 24.3.2014)**. That was a matter where it would become very clear from Para 4 that while others so similarly placed as the Petitioners of the Hon'ble Supreme Court did act in time, he opted belatedly. As far as the principles are concerned, they are required to be applied because the facts are bound to differ. The legal principles which were also culled out in **Esha**

Office Notes, Office Memoranda of Coram,
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Bhattacharya (supra) are that, such applications should not be construed ~~completely~~. However, if on account of delay, third party rights have been created or the conduct of the litigant appears to be contumacious, then very obviously, the indulgence of Court will not be extended to such litigant. In my opinion, that quite clearly is not the case here and here in this matter, the interest of justice demands that the matter is heard and decided post contest. The delay is, therefore, condoned. The Office of the Applicant are directed to process the OA so as to get it placed before an appropriate Bench for disposal according to law. The MA is allowed in these terms with no order as to costs.

DATE: 14/6/17

CORAM:

~~Hon'ble Shri. RAJIV AGARWAL~~
(Vice-Chairman)

Hon'ble Shri R. B. MALIK (Member)

APPEARANCE:

Shri/Smt. A. V. Bhandiwadekar

(skw)

Advocate for the Applicant

Shri/Smt. A. B. Kolalgi

C.P.O./P.O. for the Respondents

App. To: M.A. is Allowed.
Office of Applicant are
directed to process the
OA.

[Signature]

[Signature]
14.6.17
(R.B. Malik)
Member (J)
14.06.2017

TRUE COPY

[Signature]
16/6/2017
Asst. Registrar/Research Officer
Maharashtra Administrative Tribunal
Mumbai