

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

**MISC APPLICATION NO.18 OF 2023
IN
ORIGINAL APPLICATION NO.39 OF 2023**

**DISTRICT: PUNE
SUB : Compassionate Appt.**

Shri Raviraj Bhivaji Misal,)
Age – 32 years, Occ. Nil,)
R/o. A/P Vanjarwadi, Tal. Baramati, Dist. Pune).... **Applicant**

Versus

1. The Commissioner of Police, Mumbai,)
having office at Mumbai Police, -)
Commissionerate, L. T. Marg, opp.)
Crawford Market, Fort, Mumbai 400 001.)
2. The Superintendent of Police, Pune (Rural))
Chavan Nagar, Pashan Road, Pune 8.)
3. The State of Maharashtra, through)
Additional Chief Secretary, Home Dept.)
O/at Madam Cama Road, opp. Mantralaya)
Mumbai 400 032.) ...**Respondents**

Shri A. V. Bandiwadekar, learned Advocate for the Applicant.

Shri A. J. Chougule, learned Presenting Officer for the Respondent

CORAM : A.P. Kurhekar, Member (J)

DATE : 12.06.2023

JUDGMENT

1. Heard Shri A. V. Bandiwadekar, learned Counsel for the Applicant and Shri A. J. Chougule, learned Presenting Officer for the Respondents.

2. This M.A. is filed to condone the delay caused in challenging orders dated 19.10.2011, 27.06.2013 and 29.03.2022 whereby repeatedly the claim of the Applicant for compassionate appointment was rejected.

3. The perusal of record reveals that Applicant's father was in service on the establishment of Respondent No.1 - C.P. Mumbai and died in harness on 23.12.1991 leaving behind widow and son (Applicant). After the death of husband, his widow made an application on 06.05.1992. However, nothing was communicated to her. At the time of death of Government servant, the Applicant was minor. He was born on 20.11.1990. He attained majority on 20.11.2008. As per the then prevailing scheme for compassionate appointment, the application for compassionate appointment was to be made within one year from the date of death or in case of minor within one year after attaining majority. However, the Applicant made an application for compassionate appointment on 26.07.2011 which was not within limitation and, therefore, by communication dated 19.10.2011, the Respondent No.1 rejected his claim that the application on the ground of making an application quite belatedly.

4. It appears that the Applicant was again pursuing some authorities and, therefore, matter was placed before High Power Committee in its meeting dated 13.03.2013 for condonation of delay but it was rejected and communicated to the Applicant by communication dated 27.06.2013.

5. The Applicant again approached the Home Minister by application dated 03.01.2022 and it was again rejected by communication dated 29.03.2022 stating that his applications were already rejected on 19.10.2011, 27.06.2013.

6. It is on the above background, the Applicant has challenged the communications dated 19.10.2011, 27.06.013 and 29.03.2022.

7. Learned Counsel for the Applicant sought to contend that since the Applicant was pursuing the matter with authorities, limitation starts from the last order dated 29.03.2022. He, therefore, submits that the claim being for compassionate appointment, the Tribunal should condone the delay taking liberal approach of the matter.

8. Per contra, Shri A. J. Chougule, learned Presenting Officer opposed the application stating that O.A. is hopelessly barred by limitation and mere making of representations again and again will not extend the period of extension.

9. As stated above, the Applicant's father died on 23.12.1991 and that time limitation for making application was one year. It is by G.R. dated 20.05.2015, limitation was extended by additional two years subject to condonation of delay by competent authority at the level of Government. As such, the G.R. dated 20.05.2015 has no retrospective effect and at the relevant time limitation for making an application by heir was one year on attaining majority. He attained majority on 20.11.2008. However, he applied on 26.07.2011 quite belatedly and, therefore, it came to be rejected by communication dated 19.10.2011 on the point of limitation. Admittedly, that order was not challenged by Applicant by availing legal remedy.

10. The Applicant went on making representations. He seems to have made representation in 2013 which was rejected on 27.06.2013. Then again after eight years, he made one more representation on 03.01.2022 which came to be rejected by communication dated 29.03.2022. As such, subsequent communication dated 29.03.2022 will not give fresh cause of action to the Applicant.

11. It is well settled that mere making of representations will not extend the period of limitation nor the order passed on such representation would revive old and stale cause of action. The Applicant got cause of action on 19.10.2011 but he chooses not to avail legal remedy. This being so, the subsequent orders dated 27.06.2013 and 29.03.2022 will not extend the period of extension. In this behalf, in ***State of Tripura & Ors. Vs. Arabinda Chakraborty & Ors. reported in (2014) 6 SCC 460***, the Hon'ble Supreme Court held that the period of limitation commences from the date on which the cause of action arises for the first time and making representations in absence of any statutory provision, the period of limitation would not get extended. This authority is clearly attracted in the present case.

12. The Applicant's father died on 23.12.1991 and now the period of three decades is over. It is also indicative that there was no such hardship for compassionate appointment.

13. For the aforesaid reasons, I have no hesitation to sum up that the Applicant has not made out a case to condone the delay of 10 years to challenge the order dated 19.10.2011 as well as order dated 27.06.2013. The communication dated 29.03.2022 will not give fresh cause of action.

14. For the aforesaid reasons, I have no hesitation to sum up that the Applicant is slept over his right for more than decades and no case is made out to condone the delay. Hence, Misc. Application stands dismissed with no order as to costs.

Sd/-
(A.P. Kurhekar)
Member (J)

Place: Mumbai
Date: 12.06.2023
Dictation taken by: V.S. Mane

