

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
BENCH AT AURANGABAD**

**MISC. APPLICATION NO. 185 OF 2019
IN
ORIGINAL APPLICATION ST.NO. 695 OF 2019**

(Subject :- M.A. for Condonation of Delay)

DISTRICT : LATUR

Ramchandra S/o Laxmanrao Kulkarni,)
Age: 54 years, Occu-Service,)
R/o Kulswaminagar, Barsi Road,)
In front of SP Quarter, Latur,)
Near Maitri Apartment, Latur.)...**Applicant**

V E R S U S

1. **The State of Maharashtra,**)
Through its Secretary,)
Irrigation Department,)
2nd Floor, Mantralaya, Mumbai.)
2. **The Superintending Engineer,**)
Labh Kshetra Vikas Pradhikaran,)
Beed.)
3. **The Executive Engineer,**)
Latur Irrigation Division,)
Latur, Division-1,)
Tq. & District. Latur.)
4. **Deputy Executive Engineer,**)
Latur Irrigation Division-1,)
Tq. & Dist. Latur.)...**Respondents.**

Shri Kiran M. Nagarkar, learned Advocate for the Applicant.

Smt. Deepali S. Deshpande, learned Presenting Officer for the Respondents.

CORAM : **B.P. Patil, ACTING CHAIRMAN**

RESERVED ON : **13.11.2019.**

PRONOUNCED ON : **16.11.2019.**

ORDER

1. The Applicant has filed this Misc. Application for condonation of delay of 277 days caused for filing the Original Application.

2. It is contention of the Applicant that he has challenged the order dated 31.5.2017 issued by the Respondent No.4 directing the recovery of amount from his monthly salary on account of cancellation of second benefit under ACPS by filing the Original Application. It is his contention that after issuance of order dated 31.5.2017 by the Respondent No.4, he made representation on 23.6.2017 and requested to cancel the order dated 31.5.2017. But the Respondent authority had not considered it. Therefore, he moved another representations dated 7.4.2018, 15.2.2019 and 21.2.2019. The Respondents assured him to cancel the impugned order dated 31.5.2017. But the Respondents had not taken any steps for cancelling the order dated 31.5.2017. Therefore, he has approached this Tribunal by filing the Original Application.

3. The Applicant has filed the Original Application on 4.4.2019. It is his contention that due to assurance given by the Respondents, he could not file the Original Application in time. Therefore, the delay has been caused for filing the Original Application. It is his contention that there is merit in the Original Application and therefore, he has prayed to allow the Misc. Application and to condone the delay caused for filing the Original Application. It is his contention that the delay is not deliberate and intentional. The delay has been caused due to assurance given by the Respondents and therefore, he has prayed to condone the delay caused for filing the Original Application.

4. The Respondent No.3 has filed affidavit-in-reply and resisted the contention of the Applicant. It is his contention that the Applicant has not given sufficient reason for condoning the delay caused for filing the Original Application. The delay caused for filing the Original Application is intentional and deliberate. The Applicant has suppressed the material facts before approaching this Tribunal.

5. It is his contention that the Applicant was not entitled for second benefit under the ACPS. But it was wrongly granted to him and therefore, it has been withdrawn subsequently and recovery has been ordered. It is his contention that there is no

illegality in the impugned order. It is his further contention that as the Applicant has not shown plausible reason, the same requires to be rejected and therefore, he has prayed to reject the Misc. Application.

6. The Applicant has filed affidavit-in-rejoinder to the affidavit-in-reply filed by the Respondent No.3 and resisted the contention raised by the Respondent No.3. It is his contention that he has given plausible reason for condoning the delay and therefore, he has prayed to allow the Misc. Application.

7. I have heard Shri K.M. Nagarkar, learned Advocate for the Applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the Respondents. I have perused the documents on record.

8. Admittedly, the Applicant has challenged the order dated 31.5.2017 issued by the Respondent No.4 withdrawing the second benefit given to him under ACPS and directed recovery from his monthly salary. There is no dispute about the fact that the Applicant has made representations with the Respondents in that regard on 23.6.2017, 7.4.2018, 15.02.2019 and on 21.2.2019 but his representations have not been decided by the Respondents.

9. Learned Advocate for the Applicant has submitted that the Applicant has made representation against the impugned order dated 31.5.2017 with the Respondents by filing the representations dated 23.6.2017, 7.4.2018, 15.2.2019 and 21.2.2019. The Respondents authority assured him to consider his representations and they will cancel the impugned order dated 31.5.2017. The Applicant relied on the assurance given by the respondents. But the Respondents had not decided the representation filed by the Applicant and therefore, he filed Original Application on 4.4.2019. He has submitted that because of the said reason, the delay has been caused for filing the Original Application and it was not intentional and deliberate and therefore, he has prayed allow the Misc. Application and condone the delay caused for filing the Original Application.

10. Learned Advocate for the Applicant has submitted that valuable rights of the Applicant are involved in the Original Application. Therefore, he has prayed to condone the delay and decide the Original Application on merit.

11. Learned P.O. for the Respondents has submitted that the delay is inordinate and it has not explained by the Applicant by given justifiable and sufficient reason. He has argued that the delay is inordinate and deliberate. In the absence of sufficient

cause, the delay cannot be condoned and therefore, he has prayed to reject the Misc. Application.

12. On going through the record it reveals that the delay of about 277 days has been caused for filing the Original Application. The Applicant has challenged the order dated 31.5.2017 issued by the Respondent No.4 cancelling second benefit under ACPS granted to him and directed to recover the amount paid to the Applicant.

13. The Applicant has made representations with the Respondent immediately on 23.6.2017, but the same was not decided by the Respondent and therefore, the Applicant again made another representation dated 7.4.2018, 15.2.2019 and 21.2.2019. But the Respondents had not decided those representations also. It is true that mere filing of the representations is not sufficient ground to condone the delay. By filing the representations, the limitation prescribed in the Administrative Tribunal Act, 1985 cannot be extended and that would not be a just ground to condone the delay. However, the record shows that the Applicant has made several representations for cancelling the order dated 31.5.2017 issued by the Respondent No.4, but the Respondent has not decided the same. That might one of the cause for the delay caused in filing the Original

Application. The said cause is not sufficient and acceptable. There is not just and plausible reason to condone the delay. However, considering the valuable rights of the Applicant involved in the matter, it would be just and proper to condone the delay caused for filing the Original Application by imposing costs upon the Applicant.

14. In view of the above, the Misc. Application is allowed subject to payment of costs of Rs.5000/- by the Applicant. The Applicant shall deposit the amount of costs on or before 30.11.2019. On depositing the costs, the registry is directed to scrutinize the Original Application. On failure to deposit the amount of costs, the Misc. Application stands dismissed without further reference to the tribunal. No order as to costs.

(B.P. PATIL)
ACTING CHAIRMAN

Place:- Aurangabad

Date :- 16.11.2019

Sas. M.A.NO.185/2019 IN O.A.ST.NO.695 of 2019. BPP