

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH

No.MAT/MUM/JUD/2851/2016
 Maharashtra Administrative Tribunal,
 Pay & Accounts Barrack Nos.3 & 4,
 Free Press Journal Marg,
 Nariman Point, Mumbai 400 021.

Date :

16/08/2016

MISC APPLICATION NO. 193 OF 2016
IN
ORIGINAL APPLICATION NO. 995 OF 2015

Sub: Permitting the Pay rent of Rs. 10/- per sq.ft.

- 1 Shri Vasant Kisanrao Jagdhane,
 R/at. Flat No.206, B-1 Building, Second Floor, Anand-Van, Varadha Vinayak
 Lane, Virar – (East).

...APPLICANT/S.

V/s.

- | | |
|---|--|
| 1 Administrative Officer, Kaksha
(Class)-8, Building Branch,
Commissioner of Police, Mumbai,
Crawford Market, M.Khana Road,
Dhobi Talao, Fort, Mumbai-01. | 2 Administrative Officer, South
Regional Division, Mumbai. Having
its office at Deputy Commissioner,
South Regional Division office,
Nagapada, Mumbai-400 008. |
| 3 Deputy Principal Secretary, (Home),
Government of Maharashtra, Having
its office at 30 th Floor, W.T.C.,
Centre-I, Curf Pared, Mumbai. | 4 Commissioner of Police, Mumbai and
Asst. Commissioner of Police, Both
having its Office at Crawford Market,
M.Khana Road, Dhobi Talao, Fort,
Mumbai-01. |

.. ..RESPONDENTS

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

The applicant/s abovenamed has filed an application as per copy already served on you, praying for reliefs as mentioned therein. The Tribunal on the 02nd day of August, 2016 has made the following order:-

APPEARANCE : . Shri A.A.Gharte, Advocate for the Applicant.
 Shri K.B.Bhise, P.O. for the Respondent.

CORAM : **HON'BLE SHRI. RAJIV AGARWAL, VICE-CHAIRMAN.**

DATE : **02.08.2016.**

ORDER : Order Copy Enclosed/Order Copy Over Leaf

Amal
 16/8/2016
 Research Officer,
 Maharashtra Administrative Tribunal,
 Mumbai.

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

MISC APPLICATION NO 193 OF 2016
IN
ORIGINAL APPLICATION 995 OF 2015

DISTRICT : MUMBAI

Shri Vasant Kisanrao Jagdhane,)
Senior Police Inspector [Retd],)
Residing at Flat No. 206, B-1 Building,)
2nd floor, Anand-Van,)
Varadha Vinayak Lane, Virar [E],)...**Applicant**

Versus

1. Administrative Officer, Kaksha)
[Class]-8, Building Branch,)
Commissioner of Police, Mumbai.)
Crawford Market, M.Khana Road,)
Dhobi Talao, Fort, Mumbai 400 001.)

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Administrative Officer.)
South Regional Division. Mumbai.)
Having its office at Deputy)
Commissioner. South Regional)
Division Office. Nagpada.)
Mumbai 400 008.)

Deputy Principal Secretary (Home))
Government of Maharashtra.)
Having office at 30th floor.)
World Trade Centre-1.)
Cuffe Parade. Mumbai.)

Commissioner of Police. Mumbai.)
And Assistant Commissioner of)
Police. both having office at)
Crawford Market. M. Khana Road.)
Dhobi Talao. Fort. Mumbai 400 001.) ...**Respondents**

Shri A.A Gharte. learned advocate for the Applicants.

Shri K.B. Bhise. learned Presenting Officer for the respondents.

CORAM : Shri Raiiv Agarwal (Vice-Chairman)

DATE : 02.08.2016

ORDER

1. Heard Shri A.A Gharte, learned advocate for the Applicants and Shri K.B. Bhise, learned Presenting Officer for the Respondents

2. This Misc Application has been filed seeking condonation delay of 3 years 6 months in filing the Original Application.

3. Learned Counsel for the Applicant argued that the Applicant is a retired Inspector of Police, who has been charged to pay penal rent @ Rs. 25/- per sq.ft for the Government accommodation, which he retained after the date of superannuation on 30.9.2007, while under suspension. The Applicant vacated the Government accommodation on 31.3.2013 and has been asked to pay a total of Rs. 9,00,870/- as rent/penal rent for this period by order dated 8.4.2013. Learned Counsel for the Applicant argued that the Respondents have not released pensionary dues of the Applicant and he is getting less pension every month. There is, therefore, continuing cause of action. Learned Counsel further stated that as per Rule 134-A of the Maharashtra Civil Services (Pension) Rules, 1982, a retired employee has to be given a notice before ordering recovery of rent from his pensionary dues. No such notice was given. Learned Counsel stated that the Applicant is charged penal rent @

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Rs. 25/- per sq. ft., while he is liable to pay at the rate of Rs. 10/- per sq. ft. Had he been given a show cause notice, he would have tried to convince the Respondents as to how the amount being recovered from him is excessive. Learned Counsel for the Applicant prayed that the delay, if any, in filing the Original Application may be condoned.

Learned Presenting Officer (P.O) argued that the Applicant has not given any reason as to why he did not challenge the order dated 8.4.2013 in time. The Applicant is charged penal rent for unauthorizedly occupying Government quarters for more than 5 years after date of superannuation. He argued that there is no case made out for condonation of delay.

It is seen that the Applicant is praying for condonation of delay, as he claims that he is liable to be charged @ Rs.10/- per sq.ft, while the Respondents are charging penal rent @ Rs. 25/- per sq. ft. After retirement rent can be recovered from pensionary dues under Rule 14-A of the Maharashtra Civil Services (Pension) Rules, 1982, but a notice is required to be given. The Applicant claims that no such notice was given to him. If such a notice was given to the Applicant, he could have tried to convince the Respondents about his case. Though, the Applicant has not given specific reasons for delay in filing the Original Application. I am inclined to condone the

delay in the interest of justice. Hon'ble Supreme Court in the case of **ESHA BHATTARCHARJEE Vs. MANAGING COMMITTEE OF RAGHUNATHPUR NAFAR ACADEMY & OTHERS : (2013) 12 SCC 649** has held, inter alia, that:-

"There should be a liberal, pragmatic, justice-oriented non-pendantic approach while dealing with an application for condonation of delay, for the Courts are not supposed to legalize injustice, but are obliged to remove injustice.

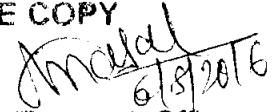
6. Having regard to the aforesaid facts and circumstances of the case, this Misc Application is allowed and the delay of 2 years and 6 months in filing O.A no 995/2015 is condoned. There will be no order as to costs.


(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai
Date : 02.08.2016
Dictation taken by : A.K. Nair.

H:\Anil Nair\Judgments\2016\1st Aug 2016\M.A 193.16 in O.A 995.15 condonation of delay SB.0816.doc

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6/8/2016
Asstt. Registrar/Research Officer
Maharashtra Administrative Tribunal
Mumbai.