

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

**MISC. APPLICATION NO.236 OF 2022
IN
ORIGINAL APPLICATION NO.260 OF 2022**

Shri Sunil Jotiram Chavan.)
Age : 41 Yrs, Occu.: Naib Tahasildar at)
District : Sangli and residing at Mahadev)
Nagar, State Bank Colony, Behind)
Dnyandeep Building, Near House of)
Pratap More, A/P. Islampur, Tal.: Walwa,)
District : Sangli – 415 409.)...**Applicant**

Versus

1. The Divisional Commissioner,)
Pune Division, Pune having office)
at Vidhan Bhavan, Pune.)
2. The State of Maharashtra.)
Through Secretary,)
Revenue & Forest Department,)
Mantralaya, Mumbai.)...**Respondents**

Mr. K.R. Jagdale, Advocate for Applicant.

Mr. A.J. Chougule, Presenting Officer for Respondents.

CORAM : A.P. KURHEKAR, MEMBER-J

DATE : 16.11.2022

JUDGMENT

1. This Misc. Application is filed for condonation of delay of 4 years, 11 months and 12 days caused in filing O.A.No.260/2022 wherein

Applicant has challenged the order dated 05.04.2016 whereby order of deemed date of promotion was cancelled.

2. The Applicant was initially appointed as Junior Clerk. Later, he was promoted in the cadre of Awal Karkoon and was given posting by order dated 17.11.2005. Thereafter, Respondent No.1 – Divisional Commissioner by order dated 22.04.2013 granted deemed date of promotion to the Applicant to the post of Awal Karkoon w.e.f. 22.07.2004. However, later, Divisional Commissioner himself by order dated 05.04.2016 cancelled his earlier order dated 22.04.2013 whereby deemed date of promotion was granted. Subsequently, Applicant was promoted to the post of Naib Tahasildar by order dated 19.01.2021. Then he made representation on 14.06.2021 for grant of deemed date of promotion in the post of Naib Tahasildar.

3. Thus in O.A, the challenge is to the order passed by Divisional Commissioner on 05.04.2016 whereby the order dated 22.04.2013 granting deemed date of promotion in the post of Awal Karkoon was cancelled. There is huge and inordinate delay of near about five years in filing the O.A.

4. Shri K.R. Jagdale, learned Advocate for the Applicant all that submits that the Applicant was waiting for his promotion to the post of Naib Tahasildar and once he got promotion in the post of Naib Tahasildar, he made representation, but it was not responded. Thus, according to him, Applicant was waiting for promotion to the post of Naib Tahasildar, and therefore, he did not file O.A. within the period of limitation of one year.

5. The learned Presenting Officer opposed the application stating that no reasonable ground is established to condone the delay.

6. Thus what emerges from the admitted facts that now in O.A, the Applicant is seeking challenge to the order dated 05.04.2016. Thus, cause of action accrued to the Applicant on 05.04.2016 and he could have filed O.A. within the period of limitation of one year i.e. upto 05.04.2017. However, in the period of one year neither he made representation nor filed O.A. O.A. is filed belatedly after 5 years on 16.03.2022.

7. The ground raised by Applicant that he was waiting for promotion to the post of Naib Tahasildar, and therefore, did not file O.A. within the period of limitation of one year to challenge the order dated 05.04.2016 is totally unacceptable and that could not be the ground to condone the delay. If the Applicant was aggrieved by order dated 05.04.2016, he had no reason to wait for his further promotion to the post of Naib Tahasildar and he ought to have filed O.A. within the period of limitation of one year from 05.04.2016. However, he remained silent for nearer about 5 years and after 5 years only raised grievance about the legality of order dated 05.04.2016. Thus, he is not vigilant and slept over his right. Being Government employee, he was much aware about the consequences of the order dated 05.04.2016 and would have taken necessary steps to challenge the same within the period of limitation.

8. True, while considering the application for condonation of delay, the Tribunal/Court should take liberal approach but at the same time, it could not be considered as a charity and there has to be reasonable explanation for the delay. When law provides limitation of one year for filing O.A, in absence of any such reasonable explanation for delay, the delay of 5 years cannot be condoned on the ground that Applicant was waiting for promotion to the post of Naib Tahasildar. It had nothing to do with the order of cancellation dated 05.04.2016. These two aspects are not inter-linked. Be that as it may, the Applicant remained silent spectator for 5 years to redress his grievance. He slept over his right and now raising grievance about dead claim which is barred by limitation.

9. For the aforesaid reason, I have no hesitation to sum-up that no reasonable ground is shown to condone the delay. There is huge delay of near about 5 years, which is not at all explained properly. Hence, M.A. is liable to be dismissed.

10. M.A. is accordingly dismissed.

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

Mumbai

Date : 16.11.2022

Dictation taken by :

S.K. Wamanse.

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