

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**M.A. NO.244 OF 2021 IN O.A.ST.NO.980 OF 2021
(Subject:- Condonation of Delay)**

DISTRICT:- HINGOLI

Prakash s/o Bhimrao Kamble,)
Age : 41 years, Occ: Service,)
R/o : Plot No.24, Samrat Ashok Housing Society,)
Near Pethe Nagar, Bhavsingpura,)
Aurangabad, Tq. Dist. Aurangabad.)
Mobile No.7620940294)...**Applicant**

V E R S U S

- 1. The State of Maharashtra,**)
Through Charity Commissioner,)
Maharashtra State, 3rd Floor,)
83, Dr. Annie Besant Road,)
Worli, Mumbai-40018.)
- 2. The Assistant Charity Commissioner,**)
Hingoli Division Hingoli, Office at Plot No.3,)
Naik Nagar, in front of Collector Office,)
Hingoli, Tq. Dist. Hingoli-431513.)..**Respondents**

APPEARANCE : Shri V.G. Pingle, learned Advocate for
the Applicant.
: Shri M.P. Gude, learned Presenting
Officer for the Respondents.

CORAM : **SHRI V.D. DONGRE, MEMBER (J)**

DATE : **13.04.2022.**

O R D E R

This application is made seeking condonation of delay of 660 days caused in filing the Original Application under Section 19 of the Administrative Tribunals Act, 1985 challenging the impugned communication dated 10.07.2018 issued by the respondent No.1 i.e. the State of Maharashtra, through Charity Commissioner, Maharashtra State, Mumbai rejecting the claim of the applicant for correction in date of birth on the ground of delay.

2. The applicant came to be appointed as Supervisor on 25.06.2014 in the office of the respondent No.2 i.e. the Assistant Charity Commissioner, Hingoli Division Hingoli, Tq. and Dist. Hingoli. According to the applicant the date of birth of the applicant in his service book is noted as 25.06.1976. However, correct date of birth of the applicant is dated 25.12.1979. In order to show the correct date of birth, the applicant is having the Gram Panchayat record. The applicant made application within five years of joining the service on 15.04.2015 seeking correction in date of birth. He made the said application to the respondent No.1. His application, however, is rejected by the

respondent No.1 by impugned order dated 10.07.2018 stating that it is time barred.

3. In order to challenge the said impugned order, the applicant has filed the Original Application along with this delay condonation application on or about 09.08.2021. There is delay of about 660 days. The applicant seeks condonation of delay on the ground of his illhealth and to substantiate the same he relied upon the medical certificate dated 01.01.2020 (Annex. 'A-1'). Moreover, from 23.03.2020 lock down was declared by the Government in view of Covid-19 pandemic situation.

4. The application is resisted by respondent Nos.1 and 2 by filing the affidavit-in-reply of one Surendra Jagannath Biyani working as the Joint Charity Commissioner, Public Trust Registration Office, Aurangabad Region, Aurangabad. Thereby he denied the adverse contentions raised in the Original Application and stated that no sufficient cause is shown by the applicant for condonation of delay. Therefore, the application is liable to be rejected.

5. I have heard the arguments advanced by Shri V.G. Pingle, learned Advocate for the applicant on one hand and Shri M.P.

Gude, learned Presenting Officer for the respondents on other hand.

6. Considering the dates involved in the matter it is evident that there is delay of 660 days in filling the Original Application under Section 19 of the Administrative Tribunals Act, 1985. The applicant has pleaded the ground of illness and in order to substantiate the ground of illness he has placed reliance on the medical certificate dated 01.01.2020 (Annex. A-1) issued by the Saraf Hospital. Prima-facie I don't find any ambiguity or fault in the said medical certificate.

7. Considering the limitation period of one year, the Original Application ought to have been filed on or about 09.07.2019. It is also a fact that from 23.03.2020 onwards lock-down was declared an account of Covid-19 pandemic situation. From the facts on record, it appears that the applicant has meritorious case as he has pleaded that within five years of joining the services, he made application for correction in date of birth.

8. It is a settled principle of law that the expression "sufficient cause" is to be construed liberally. Considering the facts of the case some, some negligence can be attributed to the applicants in not approaching the Tribunal in time. However, the said

negligence cannot be said to be deliberate or gross one. Thereby the applicant had nothing to gain. Considering the facts, refusing to condone the delay is likely to defect the cause of justice at the threshold. In the circumstances, in my considered opinion, this is a fit case to condone the delay of 660 days caused in filing the Original Application by imposing moderate costs upon the applicant. I compute the costs of Rs.1,000/- (Rs. One Thousand only) on the applicant and proceed to pass the following order: -

ORDER

The Misc. Application No. 244/2021 in O.A.St.No.980/2021 is allowed in following terms:-

- (i) The delay of 660 days caused in filing the accompanying O.A. under Section 19 of the Administrative Tribunals Act, 1985 is hereby condoned subject to payment of costs of Rs. 1,000/- (Rs. One Thousand only) by the applicant. The amount of costs shall be deposited in the Registry of this Tribunal within a period of one month from the date of this order.

- (ii) Upon satisfaction of the costs as above, the accompanying O.A. be registered and numbered by taking in to account other office objection/s, if any.

**(V.D. DONGRE)
MEMBER (J)**

Place:- Aurangabad

Date :- 13.04.2022

SAS. M.A.244/2021 In O.A.St.980/2021