

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

MISC. APPLICATION NO.247 OF 2019

IN

ORIGINAL APPLICATION NO.557 OF 2016

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

DISTRICT : JALGAON

Varsha Bhagwat Patil)
Age:33 years, Occu: Household,)
R/o At Post Jalachakra Kh,)
Tq. Bodhavad,)
District Jalgaon.)...**Applicant**

V E R S U S

1. **Varsha Dilip Patil**)
Vaishali Shivaji Ushir)
Age: 42 years, Occu: Household,)
R/o At post Jalachakara Kh.)
Tq. Bodhavad, District Jalgaon.)
2. **The State of Maharashtra,**)
Through its Secretary, Home Department))
Mantralaya, Mumbai.)
3. **The Divisional Commissioner,**)
Nashik Division, Nashik.)
4. **The District Collector,**)
Jalgaon.)
5. **The Sub Divisional Magistrate,**)
Bhusawal Division, District Jalgaon.)....**Respondents.**

Shri Vishwas B. Wagh, learned Advocate for the Applicant.

Smt. Deepali S. Deshpande, learned Presenting Officer for the Respondent Nos. 2 to 5.

Shri Ajay G. Talhar, learned Advocate for the Respondent No.1 (absent).

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

DATE : **19.8.2019.**

ORAL ORDER

1. The Applicant has filed the present Misc. Application No.274 of 2019 for restoration of the O.A.No.557 of 2016 which was dismissed in default on 4.5.2016 by condoning the delay of 714 days caused for filing the restoration application.

2. The learned Advocate for the Applicant has submitted that the Applicant had filed the Original Application No.557 of 2016 challenging the appointment order of the Respondent No.1 dated 19.05.2016 passed by the Respondent No.5. He has submitted that the said application came to be dismissed in default on 4.05.2017 on the ground that the Applicant remained absent and she was not interested in prosecuting the matter.

3. Learned Advocate for the Applicant has submitted that the Applicant never informed in writing that she was not interested in prosecuting the matter and therefore, the order of dismissal requires to be recalled by setting aside the said order. He has submitted that the Applicant came to know about the order of dismissal in the month of April, 2019 and thereafter, she has filed

the present Misc. Application No.274 of 2019 for recalling the order of dismissal passed in the Original Application No.557 of 2016 on 4.5.2017 by condoning the delay of 714 days caused for filing the restoration application.

4. Learned P.O. for the Respondents has submitted that the Applicant has not moved the application for restoration of Original Application No.557 of 2017 which was dismissed in default on 4.5.2017 within stipulated time as provided in Rule. She has submitted that in view of the provision of Rule 16 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, the Applicant has to move the application for recalling/setting aside the order of dismissal within thirty days. But she failed to file application within thirty days. She has submitted that there is no sufficient cause for recalling the order of dismissal and to restore the Original Application. There is no provision to condone the delay caused for filing the application for restoring the Original Application and for setting aside the order of dismissal and therefore, she has prayed to reject the present Misc. Application No.274 of 2019.

5. I have heard Shri V.B. Wagh, learned Advocate for the Applicant and Smt. Deepali S. Deshpande, learned Presenting

Officer for the Respondent Nos.2 to 5. I have perused the documents on record.

6. On perusal of record it reveals that the Applicant had filed Original Application No.557 of 2016 before this Tribunal challenging the appointment order of the Respondent No.1 on the post of Police Patil passed by the Respondent No.5 on 19.5.2016. Bu she remained absent continuously on 22.09.2016, 20.01.2017, 10.3.2017, 05.04.2017 and 4.5.2017 and therefore, this Tribunal dismissed the application in default on 4.5.2017.

7. In view of the provision of Rule 16 of Maharashtra Administrative Tribunal (Procedure) Rules, 1988, the Applicant has to file application for restoration of the said application within thirty days from the date of order of dismissal and has to satisfy the Tribunal that there was sufficient cause for his/her non-appearance when the application was called for hearing. The Applicant has not filed the application for restoration of the O.A. No.557 of 2016 within thirty days. She ought to have filed the application for restoration of Original Application on or before 4.6.2017. But she has filed present Misc. Application on 24.06.2019. An inordinate delay of 714 days has been caused for filing the present Misc. Application. There is no provision for condoning the delay caused for filing the restoration application. Therefore, the present Misc.

Application is not maintainable. Not only this, but no sufficient cause for non-appearance of the Applicant when the O.A. had been called for hearing and for setting aside the order of dismissal has been given by the Applicant. Not a single reason has been given by the Applicant for condoning the delay caused for filing application for restoring the Original Application No.557 of 2016.

8. In these circumstances, in my view, the present Misc. Application deserves to be rejected as there is no sufficient ground for condoning the delay and restoring the Original Application.

9. In view of above, the Misc. Application No.274 of 2019 stands rejected. No order as to costs.

PLACE :- AURANGABAD.
DATE :- 19.08.2019

(B.P. PATIL)
ACTING CHAIRMAN

Sas. M.A.No.274/19 In O.A.No.557/2016.M.A. for condonation. BPP VC