

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

**MISC. APPLICATION NO.263 OF 2019
IN
REVIEW APPLICATION NO.05 OF 2019
IN
ORIGINAL APPLICATION NO.1028 OF 1995**

Shri T.S. Shinde.)...**Applicant**

Versus

1. The State of Maharashtra & 4 Ors.)...**Respondents**

Mr. M.T. Sawant, Advocate for Applicant.

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

CORAM : A.P. KURHEKAR, MEMBER-J

DATE : 05.08.2019

ORDER

1. Heard Shri M.T. Sawant, learned Advocate for Applicant and Shri A.J. Chougule, learned P.O. for Respondents.
2. This M.A. is filed to condone the delay of 22 years and 4 months in filing Review Application No.05/2019 in O.A.1028/1995.
3. The perusal of O.A.1028/95 reveals that the said O.A. was filed to reinstate the Applicant in service on the ground that his resignation was obtained in distress. This Tribunal dismissed the O.A. on 07.08.1996 on hearing the parties on merit.

4. Now, the R.A. is filed after 22 years and 4 months delay with an application for condonation of delay.

5. The learned Advocate for the Applicant submits that the Applicant was taking treatment from Psychiatric for mental disorder, and therefore, he could not approach the Tribunal within the period of limitation or filing the R.A. He, therefore, requested to condone the delay and to decide the R.A. on merit.

6. Whereas, the learned P.O. submitted that the O.A. is already decided on merit and no case is made out to exercise the powers of review. He further submits that there is absolutely no explanation about 22 years' inordinate delay.

7. Needless to mention that the scope of review is very limited and unless the matter comes within the parameters of order 47, Rule 1 of CPC, the review should not be entertained. The review of order can be allowed on three grounds :-

- (i) discovery of new and important matter of evidence which after the exercise of due diligence, was not within the knowledge of the applicant or could not be produced by him at the time when the decree was passed or order was made, or
- (ii) some mistake or error apparent on the face of the record or
- (iii) for any other sufficient reason (which has been interpreted to be analogous to the other reasons specified above).

8. However, in the present case, there is no discovery of new or fresh material which after the exercise of due diligence was not within the knowledge of the Applicant nor there is any error apparent on the face of record. The learned Advocate for the Applicant could not point out anything to bring his case within the aforesaid grounds except repeatedly stating that the resignation of the Applicant was taken in distress. As stated above, the O.A. was decided on merit, and therefore, this ground is not available to the Applicant.

9. Secondly, there is huge delay of 22 years and 4 months. The Medical Certificates sought to be relied by the Applicant pertain to period onward 2008.

Merely because the Applicant has taken some treatment periodically from Psychiatric that itself will not explain the delay of 22 years. There is absolutely no explanation of delay from the date of order passed in O.A. As such, the periodic treatment from Psychiatric can hardly be said enough to condone the delay of 22 years. It is thus quite clear that the Applicant is guilty of negligence, lapses and no case is made out to condone the delay. This M.A. and R.A. is nothing but abuse of the process of law and deserves to be rejected.

10. M.A. 263/19 is dismissed. Accordingly, R.A.05/19 is disposed of. No order as to costs.

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

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