

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

**MISC. APPLICATION NO.301 OF 2019
IN
MISC. APPLICATION NO.302 OF 2019
IN
ORIGINAL APPLICATION NO.303 OF 2019**

Dr. M.C. Singh.)...**Applicant**

Versus

1. Government of Maharashtra & Ors.)...**Respondents**

Mr. J.N. Kamble, Advocate for Applicant.

Smt. A.B. Kololgi, Presenting Officer for Respondents.

CORAM : SHRI A.P. KURHEKAR, MEMBER-J

DATE : 14.08.2019

ORDER

1. Heard Shri J.N. Kamble, learned Advocate for the Applicant and Smt. A.B. Kololgi, learned Presenting Officer for the Respondents.

2. The Applicant had filed O.A.3032 of 2018 for grant of Travelling Allowances which has been dismissed by the Tribunal for non-compliance of conditional order of issuing notices to the Respondents and for filling Affidavit. The O.A. was dismissed for non-compliance of order dated 20.08.2018.

3. The Applicant has, therefore, filed M.A.301/2019 for restoration of the O.A. along with M.A.302/2019 for condonation of delay of ten months caused in filing restoration application.

4. The Applicant contends that he was under treatment for fracture of right leg and was out of Mumbai for some period. Therefore, he could not contact his Advocate. In support of the application, he has filed Discharge Card issued by Potdar Hospital which shows the period of hospitalization from 05.02.2019 to 16.03.2019.

5. Shri J.N. Kamble, learned Advocate for the Applicant submits that because of hospitalization, the Applicant could not make an application for restoration within one month, and therefore, prayed to condone the delay.

6. Per contra, the learned P.O. opposed the application contending that there is huge delay of ten months and even considering the period of hospitalization, the delay is not satisfactorily explained about rest of the period.

7. True, while considering the application for condonation of delay, the Tribunal is required to adopt liberal approach and hyper technical approach should be avoided. However, at the same time, there must be reasonable explanation for condonation of delay. In the present matter, the order of issuance of notice was passed in O.A. on 10.08.2018. Thereafter, on 20.08.2018, on the request of learned Advocate for the Applicant, extension of time was granted to serve notices. However, the Applicant did not serve the notices, and therefore, in default of the compliance of the order, the O.A. was dismissed. Whereas, the Medial Certificate reveals that the Applicant's leg was fractured and he was admitted in hospital on 05.02.2019. He was discharged on 16.03.2019. As such, from

20.08.2018 to 05.02.2019, there was no difficulty or any hurdle to file restoration application. There is absolutely no explanation in respect of these six months' period. As such, even if the period of hospitalization of the Applicant is considered, there is absolutely no explanation about six months earlier period. This goes to show that the Applicant himself was negligent in taking steps for restoration of the matter. Delay cannot be condoned for mere asking and there has to be reasonable explanation. It is manifest that the Applicant was not diligent.

8. In view of above, I have no hesitation to sum-up that the delay is not at all properly explained and application is liable to be rejected.

9. In view of above, the M.A.302/2019 is dismissed. Resultantly, the M.A.301/2019 stands disposed of. No order as to costs.

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

skw