

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH

NO.MAT/MUM/JUD/47 /2016
Maharashtra Administrative Tribunal
Pay & Accounts Barrack Nos.3 & 4,
Free Press Journal Marg,
Nariman Point, Mumbai 400 021.

Date : [-6 JAN 2016

M.A. No. 303/2015 IN O.A. ST. No. 478/2015.

1. Shri Ravindra D. Suryawanshi,
R/o. Sector-1, Police Line, Room No. B-2/22, CBD Belapur, Navi Mumbai.
....**APPLICANT/S.**

VERSUS

- 1 The State of Maharashtra, Through the Addl. Chief Secretary, Home Dept., Mantralaya, Mumbai-32. 2 The Commissioner of Police, CBD, Belapur Konkan Bhavan, Navi Mumbai.
3 The D.G.P., M.S., S.B. Marg, Fort, Mumbai.

...**RESPONDENT/S**

Copy to : The C.P.O. M.A.T., Mumbai.

*The applicant/s above named has filed an application as per copy already served on you, praying for reliefs as mentioned therein. The Tribunal on the 05th day of **January, 2016** has made the following order:-*

APPEARANCE : Shri R.M. Kolge, Advocate for the Applicant.
Smt. K.S. Gaikwad, P.O. for the Respondents.

CORAM : **HON'BLE SHRI R.B. MALIK, MEMBER (J).**

DATE : **05.01.2016.**

ORDER : Order Copy Enclosed/Order Copy Over Leaf.

Research Officer
**Research Officer,
Maharashtra Administrative Tribunal,
Mumbai.**

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI

MISC. APPLICATION NO.303 OF 2015
IN
ORIGINAL APPLICATION NO.478 OF 2015

DISTRICT : THANE

Shri Ravindra Dhondiram Suryawanshi.)...**Applicant**

Versus

1. The State of Maharashtra & 2 others.)...**Respondents**

Shri R.M. Kolge, Advocate for Applicant.

Smt. K.S. Gaikwad, Presenting Officer for Respondents.

P.C. : R.B. MALIK (MEMBER-JUDICIAL)

DATE : 05.01.2016

JUDGMENT

1. This is an application for condonation of delay in preferring this Original Application (OA) which in turn



seeks the appointment on compassionate ground.

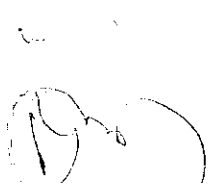
2. The father of the Applicant died in harness on 5.5.2012. The Applicant made an application on 22.5.2012 for being appointed on compassionate ground to the Commissioner of Police under whose administrative control, the said deceased being a Police Naik was working. The Applicant was informed on 22.5.2012 that his father was working in category 'B' and hence, his case for compassionate appointment could not be considered. The Applicant made another application on 29.12.2012 to the same Respondent No.2 pointing out the facts with regard to the basic salary of his deceased father and claiming that the said deceased was in category 'C'. He made another application to the Director General of Police – Respondent No.3, who in turn forwarded the same back to the Respondent No.2. There were other similar representations-cum-applications from time to time and it was thereafter, that the Applicant moved this Tribunal with this application in which connection, it appears that he treated 29.6.2014 as the relevant date claiming thereby that his application presented here before this Court on 10.6.2015 was not hit by the bar of limitation. In that connection, some reference was made to G.Rs. etc.



3. Assistant Commissioner of Police Shri Dilip S. Mane filed an Affidavit-in-reply on behalf of the Respondent No.2. The factual averments are not disputed. The crux of his case is that repeated applications and representations could not infuse life into a lis which had suffered demise after one year, and therefore, no good cause is shown to be called sufficient cause to condone the delay.

4. I have perused the record and proceedings and heard Mr. R.M. Kolge, the learned Advocate for the Applicant and Smt. K.S Gaikwad, the learned Presenting Officer for the Respondents.

5. The above discussion which as I find is sufficiently detailed one would clearly show as to how the events took place. The case of the Respondent, in fact the only case, is that the repeated applications by the Applicant could not serve his cause. Now, even if I proceed on this very basis, that the principle is that the repeated representations and applications can be no ground to condone the bar of limitation on the sufficiency of cause. It must be clearly understood that as far as the present facts are concerned, the issue had its own peculiar hue. There is absolutely no material to show that the Applicant was either deliberately negligent or his conduct was



contumacious or still further he was treating this matter as what can be described as Lottery. Here, within a couple of weeks post demise of his father, he exercised what he considered to be his right and thereafter also, when he first heard of the unfavourable response of the Respondent No.2, he had a point which may or may not stand judicial scrutiny and that will be, if and when, his OA is heard on the judicial side. That point pertained to the issue of the pay structure to determine the category which his father fell within. That was not answered and even the Respondent No.3 also did not do anything expect forwarding it back to the Respondent No.2. When one talks about the fate of the application having not being heard in the context of Section 21 of the Administrative Tribunals Act, one must not lose sight of the existing realities of the events that take place in the public administration and in that context, the time lag even after six months for considering condonation of delay is a fact which is peculiar to each matter and for which no general rule of absolute application is capable of being stated. On these facts, I am satisfied that a case for condonation of delay is constituted, because after-all, other factors remaining constant, the general rule that the harp of a judicial forum has to be more on doing substantial justice rather than technical disposals especially if the conduct of



the claimant of judicial indulgence is not contumacious or such as to deprive him of judicial benediction will be very much applicable. Because for that matter, unless and until there is some degree of negligence, there cannot be any provision for condonation of delay and that being the state of affairs, such applications cannot be disposed of only on the ground that there is a delay. The crucial aspect would be as to whether the circumstances exist, that merit the condonation thereof. In the present set of facts, I hold that the case for condonation is made out.

6. The Misc. Application is allowed. The delay is condoned. The Applicant and the Office shall now process the OA and in the absence of any other Office objection, place before the Tribunal the OA after registering it for further steps in the matter.

7. The Misc. Application is accordingly allowed in these terms with no order as to costs.

sd/-
(R.B. Malik)
Member-J
05.01.2016

Mumbai
Date : 05.01.2016
Dictation taken by :
S.K. Wamanse.

E:\SANJAY WAMANSE\JUDGMENTS\2016\K.A.306.15 in O.A.No.478.15 w.J.2016.doc

TRUE COPY
6/1/2016
Asstt. Registrar / Research Officers
Maharashtra Administrative Tribunal
Mumbai

