

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**M.A. NO. 38 OF 2020 IN O.A. ST. NO. 2381 OF 2019
(Subject:- Condonation of Delay)**

DISTRICT:- BEED

- | | | | |
|-----------|-------------------------------------|---|----------------------|
| 1. | Sujata Wd/o. Ranjan Parsode, |) | |
| | Age 44 years, Occu: Household, |) | |
| | R/o : Kesapri, Tq. Majalgaon, |) | |
| | Dist. Beed. |) | |
| 2. | Prasad S/o. Ranjan Parsode, |) | |
| | Age 28 years, Occu. Nil, |) | |
| | R/o : as above. |) | ...Applicants |

V E R S U S

- | | | | |
|-----------|-------------------------------------|---|-----------------------|
| 1. | The State of Maharashtra, |) | |
| | Through Secretary, |) | |
| | Water Resources Department, |) | |
| | Mantralaya, Mumbai. |) | |
| 2. | The District Collector, |) | |
| | Beed. |) | |
| 3. | The Superintendent Engineer, |) | |
| | Water Resources Department, |) | |
| | Mechanical Circle, Nanded. |) | |
| 4. | The Executive Engineer, |) | |
| | Water Resources Department, |) | |
| | Mechanical Division, Beed. |) | ...Respondents |

APPEARANCE : Shri B.G. Deshmukh, learned Advocate holding for Shri Bharat N. Gadegaonkr, learned Advocate for the Applicants.

: Smt. Sanjivani K. Deshmukh-Ghate, 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 about 6 years and 63 days caused in filing the Original Application under Section 19 of the Administrative Tribunals Act, 1985 seeking compassionate appointment to the applicant No.2 in place of applicant No.1.

2. The applicant No.1 is the widow and the applicant No.2 is the son of the deceased Ranjan Piraji Parsode, who was working as Assistant/Helper in Water Resources Department, Government of Maharashtra and posted at Majalgaon Sub-Division. He died on 30.09.2005 while in service with the Water Resources Department. After death of the deceased Ranjan Piraji Parsode, the respondent authorities approached the applicant No.1 and told her about the scheme of compassionate appointment. At that time, the applicant No.2 was minor. The applicant No.1 wanted to make application for compassionate appointment for her son i.e. the applicant No.2. However, due to limitation period, she was constrained to make application for compassionate appointment on 05.05.2007.

3. The applicant No.1 has studied upto 5th standard. Her name was included in the wait list at Sr.No.69. Her name remained in the wait list for about 12 years. She was on the verge of completing 45 years. She visited the respondent's office on various occasions. However, she is not given an employment and her name was deleted after completion of 45 years age. At that time, the name of the applicant No.1 is at Sr.No.4.

4. It is contended that meanwhile, the applicant No.2 upon attaining the age of majority made application on 12/21.03.2009 seeking compassionate appointment. The applicant No.2 thereafter made several representations seeking compassionate appointment. Shortly the name of the applicant No.1 i.e. the mother of the applicant No. 2 is liable to be deleted. Meanwhile, the applicants also filed W.P.No.14789/2019 before the Hon'ble High Court of Judicature at Bombay Bench at Aurangabad, whereby they were asked to file application before the Tribunal.

5. The application is resisted by the respondent Nos.3 and 4 by filing the affidavit-in-reply of one Ashish Vidyadhan Rokade, Deputy Engineer, Sub-Division, Majalgaon, Dist. Beed. Thereby he denied adverse contentions raised in the application. It is specifically contended that the applicant No.1 has become age

barred and therefore her name was deleted from the waiting list prepared for appointment on compassionate ground and decision is communicated to the applicant vide letter dated 14.01.2020 (Annex. 'R-1') that once the name of eligible candidates is removed, there is no provision to change the name. In view of same, the applicant No.2 has no case on merit. No sufficient cause is shown for condonation of huge delay. Therefore, the application is liable to be rejected.

6. I have heard the arguments advanced by Shri B.G. Deshmukh, learned Advocate holding for Shri Bharat N. Gadegaonkar, learned Advocate for the applicants on one hand and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents on other hand.

7. From the facts of the case, it appears that the applicants are seeking appointment to the applicant No.2 on compassionate ground after death of his father i.e. late Ranjan Piraji Parsode who died in harness on 30.09.2005. It is a fact that the applicant No.1 applied for compassionate appointment and lastly her name was in waiting list at Sr.No.4. She, however, did not get appointment and ultimately her name was removed from waiting list as contended by the respondents relying on

communication dated 14.01.2020. However, it appears that during pendency of claim of the applicant No.1, the applicant No.2 upon attaining the age of majority made application for compassionate appointment on 12/21.03.2009. At that time, the claim of the applicant No.1 was also pending. In the circumstances, it appears that the applicants have a meritorious case which requires consideration.

8. The Original Application along with delay condonation application is presented on 11.12.2019. In view of same, there is delay of about 6 years and 2 months in presenting the application. However, it appears that till December, 2019 the claim of the applicant No.1 for compassionate appointment was pending. Admittedly, the applicant No.1 did not get an appointment. According to the applicants, the next eligible candidate for such an appointment is the applicant No.2, who made application on 12/21.03.2009. His claim was also pending. It appears that by communication dated 21.12.2011, the applicant No.2 was communicated that there is no provision for consideration of second person of family for compassionate appointment. Considering that date, there is delay of about 6 years and 2 months in presenting the application. Considering the facts and circumstances, 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.

9. It is a settled principle of law that the expression “sufficient cause” is to be construed liberally. By approaching the Tribunal belatedly the applicants had nothing to gain. As stated earlier, the claim of the applicant No.1 was pending and she was not given appointment. In the circumstances 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 6 years and 2 months caused in filing the Original Application by imposing moderate costs upon the applicants. I compute the costs of Rs.2,000/- (Rs. Two Thousand only) on the applicants and proceed to pass the following order: -

ORDER

The Misc. Application No. 38/2020 in O.A.St.No.2381/2019 is allowed in following terms:-

- (i) The delay of 6 years 2 months 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. 2,000/-

(Rs. Two Thousand only) by the applicants. 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.38/2020 In O.A.St.2381/2019