

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**MISC. APPLICATION NO.437 OF 2022  
IN  
ORIGINAL APPLICATION NO.727 OF 2022**

Shri Shaikh Rashid S/o. Shaikh Munir. )  
Age : 67 Yrs, Occu.: Retired Govt. Servant,) )  
Residing at B-608, Karnik Nagar, )  
Solapur – 413 605. )...**Applicant**

**Versus**

The State of Maharashtra. )  
Through Secretary (Forest), )  
Revenue & Forest Department, )  
Mantralaya, Mumbai – 400 032. )...**Respondent**

**Mr. C.T. Chandratre, Advocate for Applicant.**

**Smt. A.B. Kololgi holding for Smt. S.P. Manchekar, Chief Presenting  
Officer for Respondent.**

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

**DATE : 16.11.2022**

**JUDGMENT**

1. The Applicant has filed O.A.727/2022 for direction to the Respondent for limited relief to decide the representation dated 17.12.2019. The O.A. is filed along with M.A. for condonation of delay, which is counted as 1 year and 1 month in M.A.

2. The Applicant stands retired on 31.12.2013. While he was in service, he was placed under suspension by order dated 14.03.1991 in

view of registration of crime against him. However, he came to be acquitted in Criminal Case. At the same time, DE was initiated in which he came to be dismissed from service. However, in appeal, order of dismissal was set aside and punishment of withholding of one increment for two years without cumulative effect was imposed. Despite this position, he was not reinstated in service within reasonable time. The Applicant made representation to treat his suspension period from 14.03.1991 to 14.10.1993 as 'duty period', which was rejected and treated as 'suspension as such' by order dated 16.08.2015.

3. The Applicant had challenged the order dated 16.08.2015 by filing O.A.No.769/2017 before this Tribunal which was allowed on 16.07.2019. Order dated 16.08.2015 treating suspension from 14.03.1991 to 14.10.1993 as 'suspension period' was quashed and set aside. The directions were issued to treat it as duty period. The Judgment dated 16.07.2019 has attained finality, since it is not challenged before the higher forum.

4. The Applicant thereafter made representation on 17.12.2019 stating that his juniors were promoted in 1993, but he was superseded because of pendency of DE and suspension. He requested to grant deemed date w.e.f.12.02.1993 i.e. the date on which his juniors were promoted. He again made representation on 19.09.2022 specifically mentioning that Tribunal has set aside the order dated 26.08.2015 passed by the Department and his suspension period is now treated as duty period. However, representations are not responded.

5. It is on the above background, learned Advocate for the Applicant submits that there is short delay of one year in filing O.A. and submits that it be condoned and direction be issued to the Respondent for deciding the representation.

6. Per contra, learned Presenting Officer opposed the application for condonation of delay and O.A. *inter-alia* contending that no reasonable ground is made out to condone the delay.

7. As stated above, in O.A, the Applicant has simply prayed for direction to decide his representation dated 17.12.2019. After filing of O.A, the Applicant has also made another representation dated 19.09.2022. Thus, it appears that Applicant is seeking deemed date of promotion taking benefit of the decision rendered by the Tribunal on 16.07.2019 whereby suspension period is treated as 'duty period'. It is for the Competent Authority to decide the issue of deemed date of promotion.

8. Insofar as limitation is concerned, the Applicant got cause of action in view of order passed by the Tribunal on 16.07.2019 and on the basis of it, he made representation on 17.12.2019. Six months' period from the date of representation expired on 17.06.2020. Therefore, O.A. ought to have been filed within one year after expiration of period of 6 months i.e. upto 17.06.2021. Thus, limitation expired during Covid-19 pandemic situation.

9. Hon'ble Supreme Court in *suo moto* Writ Petition No.03/2020 by order dated 10.01.2022 held that in cases where limitation would have expired during the period from 15.03.2020 to 28.02.2022, notwithstanding balance period of limitation remaining, all persons shall have limitation period of 90 days from 01.03.2022. In the event, the actual balance period of limitation remaining i.e.01.03.2022 is greater than 90 days' longer period shall apply.

10. In the present case, limitation expired within the period from 15.03.2020 to 28.03.2022 and consequently, O.A. ought to have been filed within the period of 90 days i.e. upto 01.06.2022. Whereas O.A. was filed on 26.07.2022. Thus, in view of order of Hon'ble Supreme Court, the delay is hardly one month and 26 days.

11. The Applicant being retired Government servant, it would be just and reasonable to condone the delay. M.A. is accordingly allowed.

12. In view of above, O.A. also required to be disposed of, since very limited relief of deciding representation is sought for.

13. O.A. is accordingly disposed of with direction to the Respondent to decide the representation made by the Applicant on 17.12.2019 as well as 19.09.2022 (which is made during the pendency of O.A.) in accordance to law within three months from today. The decision, as the case may be, shall be communicated to the Applicant.

14. No order as to costs.

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

Mumbai  
Date : 16.11.2022  
Dictation taken by :  
S.K. Wamanse.

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