

Thakur

[Spl/MAT/F-5/E]

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH

NO.MAT/MUM/JUD/294/2016
Maharashtra Administrative Tribunal
Pay & Accounts Barrack Nos.3 & 4,
Free Press Journal Marg,
Nariman Point, Mumbai 400 021.

Date : 10.08.2016

M.A. No. 501/2015 IN O.A. No. 283/2015.
(Sub :- Termination)

1 Shri Sanjay L. Raysing,
R/o. B/10/26, Ground Floor, Room No. 1, Sector-4, C.B.D. Belapur, Navi
Mumbai-400 614.

.....**APPLICANT/S.**

VERSUS

1 The Commissioner of Police, Navi
Mumbai, Having Office at Navi
Mumbai Police Commissionarate,
C.B.D. Belapur,
Navi Mumbai-400 614.

2 The State of Maharashtra, Through
Principal Secretary, Home Dept.,
Having Office at Mantralaya,
Mumbai-32.

...**RESPONDENT/S**

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

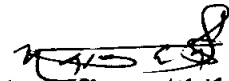
The applicant/s above named has filed an application as per copy already served on you, praying for reliefs as mentioned therein. The Tribunal on the 08th day of **August, 2016** has made the following order:-

APPEARANCE : Shri A.V. Bandiwadekar, Advocate for the Applicant.
Shri K.B. Bhise, P.O. for the Respondents.

CORAM : **HON'BLE SHRI RAJIV AGARWAL, VICE-CHAIRMAN.**
HON'BLE SHRI R.B. MALIK, MEMBER (J).

DATE : **08.08.2016.**

ORDER : **Order Copy Enclosed/ Order Copy Over Leaf.**


Research Officer, /A.K.
Maharashtra Administrative Tribunal,
Mumbai. 10.8.2016.

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IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI

MISC. APPLICATION NO.501 OF 2015
IN
ORIGINAL APPLICATION NO.283 OF 2015

DISTRICT : MUMBAI

Shri Sanjay L. Raysing.)...Applicant

Versus

1. The Commissioner of Police & Anr.)...Respondents

Shri A.V. Bandiwadekar, Advocate for Applicant.

Shri K.B. Bhise, Presenting Officer for Respondents.

**CORAM : RAJIV AGARWAL (VICE-CHAIRMAN)
R.B. MALIK (MEMBER-JUDICIAL)**

DATE : 08.08.2016

PER : R.B. MALIK (MEMBER-JUDICIAL)

ORDER

1. This is an application for condonation of delay in bringing the OA which challenges an order whereby the



services of the Applicant, a Police Constable came to be discharged for the alleged suppression of the information about his involvement in a criminal prosecution.

2. We have perused the record and proceedings and heard Shri A.V. Bandiwadekar, the learned Advocate for the Applicant and Shri K.B. Bhise, the learned Presenting Officer for the Respondents.

3. The order impugned in the OA detailed above was made on 2nd July, 2008. The Applicant preferred an appeal unsuccessfully and thereafter, an application for review. According to the Applicant, these two proceedings came to be decided on 25th June, 2009 and 22nd November, 2013 respectively. He brought an earlier OA being OA 59/2013 seeking directions to the concerned Respondent to take a decision on the pending R.A. of 9.1.2010 and / or 1.9.2012. Therein, he had filed a similar M.A. for condonation of delay pegging it at one year and six months. Now, this very Bench had an occasion to deal therewith. On 15.12.2014, a copy of the said order is to be found on Page 30 of the OA. It would appear therefrom that a certain letter of 22nd November, 2013 addressed to the Applicant rejecting his representation of September, 2012 was placed on record and it was found that the scope



of the OA was such that it was worked out, and therefore, the same came to be disposed of and the MA was held to be not surviving. Within one year thereafter, on 15.10.2015, the present application came to be moved.

4. The sum and substance of the case of the Applicant is that it can never be said that he simply slept over his right. In fact, he has been diligently pursuing the administrative remedies and in fact, the judicial remedy also in the form of the earlier OA, and therefore, the case for condonation of delay was constituted. The facts with regard to the earlier proceedings have not been disputed by the Respondents. If the Respondents have in their minds, the determination of any issue that squarely falls within the domain of the OA, then the scope of this MA does not permit the same. Here we have only to consider as to whether, on the anvil of sufficiency of cause, a case for condonation of delay is made out.

5. The above discussion, in our opinion, must have made it clear that it has been. The Respondents have very heavily relied upon the Judgment of the Hon'ble Supreme Court in **C. Jacob Vs. Director of Geology and Mining, AIR 2009 SC 264**. That was a matter where 20 years after cessation of the employment, the whole thing was sought

A handwritten signature in black ink, consisting of a stylized 'B' followed by a flourish and a horizontal line extending to the right.

to be revived by just making a representation. The main event took place in 1980-82 and that representation came to be made in the year 2000. Now, it was in that context that the Hon'ble Supreme Court was pleased to deplore the judicial directions made in such matters just for the asking and ordering consideration of such representations. It was also explained as to how such a move can lead to unfair results. Therefore, it must follow from the law laid down by the Hon'ble Supreme Court that representations should be a legitimate exercise in the direction of vindicating a certain right and not just a ruse to get a dead cause enlivened. Now, as far as the present MA is concerned, the above discussion must have made it clear that the Applicant cannot be assailed for having resorted to such unacceptable artificial means to somehow keep the pot boiling. Here, as a matter of fact, if he had moved the Tribunal with the kind of relief that he is doing now without exhausting administrative remedies, then obviously, he would have been relegated to a situation where he must exhaust them first. That he did in his earlier OA, and therefore, now, one aspect of the matter may be that there is no delay at all, but even if the delay was there, it needs to be condoned. In order to facilitate for guidance, Shri Bandiwadekar, the learned Advocate for the Applicant relied upon Esha Bhattacharjee Vs.

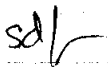



Managing Committee of Raghunathpur Nafar Academy and others, (2013) 12 SCC 649. The ultimate result thereof may not have been in favour of the party that sought condonation of delay, but Shri Bandiwadekar mainly relied upon the principles laid down therein and culled out in placitum (B).

6. We are, therefore, quite clearly of the opinion that a case for condonation of delay is made out and the Applicant hereof cannot be held to be at par with the Applicant in **Jacob's** case.

7. This Misc. Application is allowed. The delay is condoned. The Office and the Applicant are directed to process the OA further so as to get it listed before an appropriate Bench for decision according to law. No order as to costs.




(R.B. Malik)
Member-J
08.08.2016


(Rajiv Agarwal)
Vice-Chairman
08.08.2016

Mumbai

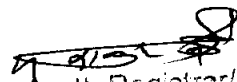
Date : 08.08.2016

Dictation taken by :

S.K. Wamanse.

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 Asst. Registrar/Research Officer
 Maharashtra Administrative Tribunal
 Mumbai. 10.8.2016.