

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**MISC. APPLICATION NO.90 OF 2016**

**In**

**ORIGINAL APPLICATION NO. 334 OF 2014**

**DISTRICT :Mumbai**

Mr. Prabhakar K. Wast )  
Age:56 Yrs. Occ: Service, )  
R/at: C/o: 'Shivam Classic', )  
201/A, Sec 23, )  
Nerul (E), Navi Mumbai. )...**Applicant**

**VERSUS**

1. The State of Maharashtra )  
Through the Principal Secretary, )  
Maharashtra State, Employment )  
& Self Employment Dept. 4<sup>th</sup> Floor )  
Mantralaya, Mumbai 32. )
2. The Commissioner, )  
Directorate of Employment )  
Exchange, Konkan Bhavan )  
(Extention), 3rd Floor, )  
Navi Mumbai 614. )
3. The Assistant Director, )  
Employment & Self Employment )  
Guidance Centre, Mumbai District )  
Suburb, CDO Barrack No.9, Jivan )  
Bima Marg, Mumbai 21. )...**Respondents**

Shri K.R. Jagdale, learned Advocate for the Applicant.

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

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**CORAM : Shri Rajiv Agarwal, Vice-Chairman**

**DATE : 07.07.2016**

**ORDER**

1. Heard Shri K.R. Jagdale, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

2. This Misc. Application is filed seeking condonation of delay of almost 30 years (if the prayer in the O.A. is taken into account) in filing the O.A.

3. The Applicant is seeking regularisation of his services from 23.11.1981 instead of the 19.11.1983, the date from which he claims that his services were regularised. The Applicant claims that he was initially appointed as a Clerk through Special Employment Exchange for physically handicapped person w.e.f. 23.11.1981. The initial appointment continued till 12.11.1982 and then there was a break. He was again appointed on 24.11.1982 till 16.11.1983. After another break, he was again appointed on 21.11.1983. Ultimately by order dated 30.10.1986, his services were regularised with effect from 19.11.1983. The Applicant claims that on 3.11.2001, he has submitted a representation to the Respondent No.3 for condonation of breaks in service before 19.11.1983. Again on 12.11.2001, he submitted another representation. The Applicant claims that he continued to file representation after representation till 18.1.2014. He filed application under Right to

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Information Act on four occasions in October, 2015. Learned Counsel for the Applicant argued that the Applicant is suffering from a continuing wrong and, therefore, there is no delay in filing this O.A. If there is any delay, it may be condoned.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that mere filing representations is not a sufficient cause for condonation of delay. The Applicant, as per his own admission, is seeking continuation of service from 23.11.1981. His representations have been replied to from time to time and such repeated representations will not mean a fresh cause of action. The Applicant is seeking continuation of service from a date which is 30 years back, with seniority. It is not a case which concerns only him. In case his prayer is considered, the seniority which has been fixed for decades will be disturbed and a large number of persons may be affected. It is, therefore, not a case of continuing wrong. Learned P.O. for the Respondents argued that the Applicant has failed to give a single reason for not filing O.A. within limitation. As per his own admission, his first representation was filed on 3.11.2001. If he had not received any reply within 6 months, he could have approached this Tribunal. He, however, waited for 15 long years, and now wants this Tribunal to decide a case, which has become stale.

5. I find that the Applicant is seeking seniority in the post of Clerk-cum-Typist from 23.11.1981. He claims that his service was regularised from 19.11.1983. If that is the

case, he should have approached this Tribunal, after getting regularisation of his services from 19.11.1983, and in the event that his request was rejected he would have been at liberty to take appropriate legal action. By his own admission he made his first representation only on 3.11.2001. Why he did not make any representation before that date, is not explained. After he did receive any reply to that representation dated 03.11.2001, within 6 months, the Applicant could have approached this Tribunal. However, he claims that he continued to file representation till 18.01.2014. There is absolutely no mention in the M.A., as to why he did not file the O.A. within limitation. As pointed out by learned P.O., the Applicant seeks to disturb long established seniority, which may affect large number of employees. It cannot be called a case of continuing wrong. The Applicant has failed to point out any reason whatsoever to explain the delay in filing this O.A. This is no ground before me which will justify condonation of delay in filing this O.A.

6. Having regard to the aforesaid facts and circumstances of the case, M.A. for condonation of delay is rejected. As the M.A. for condonation of delay is rejected, nothing survives in the O.A.No.334 of 2014, which also stands dismissed with no order as to costs.

Sd/-

**(RAJIV AGARWAL)**  
**(VICE-CHAIRMAN)**

Date : 07.07.2016

Place : Mumbai

Dictation taken by : SBA

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