

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**MISCELLANEOUS APPLICATION NO. 289 OF 2018  
WITH  
MISCELLANEOUS APPLICATION ST. NO. 1353 OF 2018  
WITH  
ORIGINAL APPLICATION ST. NO. 1210 OF 2018**

DISTRICT: - AURANGABAD.

**1. Smt. Sangita Wd/o Sanjay Kale,**

Age-43 years, Occu. : Nil,  
R/o. Panvadot, Tq. Sillod,  
District:- Aurangabad.

**2. Shubham S/o Sanjay Kale,**

Age-22 years, Occu. : Nil,  
R/o. Panvadot, Tq. Sillod,  
District:- Aurangabad.

.. APPLICANTS.

**V E R S U S**

**I] The State of Maharashtra,**

Through Secretary,  
Home Department,  
Madam Cama Road,  
Mantralaya, Mumbai-32.

**II) Inspector General of Police (Prison)**

Central Department of Aurangabad  
Tq. and Dist. Aurangabad.

**III) Deputy Inspector General of Police (Prison)**

Central Department of Aurangabad  
Tq. and Dist. Aurangabad.

.. RESPONDENTS.

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**APPEARANCE** : Shri. Amol Gandhi, learned Advocate  
for the applicants.

: Shri D.R. Patil, learned Presenting  
Officer for the respondents.  
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**CORAM : B.P. PATIL, ACTING CHAIRMAN**

**RESERVED ON : 21<sup>ST</sup> NOVEMBER, 2019**

**PRONOUNCED ON: 22<sup>ND</sup> NOVEMBER, 2019**  
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**ORDER**

By filing the present Miscellaneous Application the applicants have prayed to condone the delay of about 1 year, 7 months and 28 days caused for filing accompanying Original Application St. No. 1210/2018.

2. It is contention of the applicants that the husband of the applicant No. 1 and father of the applicant No. 2 died on 15.02.2008 while in service as a Guard at Jalgaon District Prison. At that time applicant No. 2 was minor. Therefore, the applicant No. 1 moved an application for getting appointment on compassionate ground. Her name was recorded in the waiting list at Sr. No. 46 on the basis of her application. Thereafter, in the year 2013 the respondent No. 1 directed to applicant No. 1 to submit the documents with respondent No. 2. Accordingly, She had supplied all the documents, but she was not appointed on any post. Meanwhile the applicant No. 2 attained the age of majority. Therefore, the application was made in his name for

appointment on compassionate ground. The said application was rejected by the respondents on 21.11.2015. Thereafter, the applicant No. 2 moved another application on 10.01.2017 requesting to consider his case for appointment on compassionate ground. But it had not been considered by the respondents. Because of the reasons mentioned by the applicants, they could not able to approach this Tribunal for challenging the order dated 21.11.2015 within the prescribed time limit and, therefore, the delay of 1 year, 7 months and 28 days has been caused for filing the accompanying Original Application. It is their contention that due to the above said just reason the delay has been occurred for filing accompanying Original Application. It is their contention that their valuable rights are involved in the accompanying Original Application and, therefore, they prayed to condone the delay of about 1 year, 7 months and 28 days caused for filing accompanying Original Application, by allowing the present Miscellaneous Application.

3. The respondents resisted the contentions of the applicant by filing affidavit in reply. They have not disputed the fact that husband of the applicant No. 1 and father of the applicant No. 2 died in harness and thereafter, the applicant

No. 1 filed an application for getting employment on compassionate ground and her name was included in the waiting list. It is their contention that there is no provision of substituting the name of the deceased heir whose name has been included in the waiting list by inserting the name of another heir. The Government Resolution dated 20<sup>th</sup> May, 2015 specifically provides that once name of the eligible candidate to be appointed on compassionate ground is included in the waiting list, the same cannot be changed or replaced. It is their contention that the respondents have rightly rejected the request of the applicants by the communication dated 21.11.2015. They have stated that delay of about 1 year, 7months and 28 days has been caused for filing the accompanying Original Application. The said delay has not been explained by the applicants by giving sufficient cause. Therefore, the delay cannot be condoned. It is their contention that the delay is deliberate and intentional and, therefore, they prayed to reject the present Miscellaneous Application.

4. I have heard Shri Amol Gandhi, learned Advocate for the applicants and Shri D.R. Patil, learned Presenting Officer

for the respondents. I have perused application, affidavit, affidavit in reply filed by the respondents.

5. Admittedly, the deceased employee was husband of applicant No. 1 and father of applicant No. 2. He died on 15.02.2008 while in service as a Guard at Jalgaon District Prison. Admittedly, at that time the applicant No. 2 was minor and, therefore, the applicant No. 1 filed an application for getting employment on compassionate ground. On the basis of the application, her name was recorded in the waiting list of the eligible candidates to be appointed on compassionate ground. In the year 2013 she was asked to furnish the documents and accordingly, she had supplied all the documents to the respondents, but she was not appointed on any post. Admittedly, the applicants made application for recording the name of the applicant No. 2 in place of applicant No. 1. But their application was rejected on 21.11.2015. The said order ought to have been challenged by the applicant on or before 20.11.2016. But they have challenged the said order by filing accompanying Original Application on 7.8.2018. It means there is delay of about 1 years, 7months and 28 days. The applicants have not given sufficient reasons for condoning the delay. They were not

prevented by any just cause for filing the accompanying Original Application within time. They have not given plausible and reasonable explanation for condoning the delay of about 1 year, 7 months and 28 days. In the absence of sufficient explanation, the delay cannot be condoned. Therefore, I do not find any merit in the present Miscellaneous Application. Hence, it deserves to be dismissed.

6. In view of the aforesaid discussions in foregoing paragraphs, the present Miscellaneous Application stands dismissed. Consequently, the registration of accompanying Original Application and M.A. St. No. 1353/2018 stand refused.

There shall be no order as to costs.

**ACTING CHAIRMAN**

**PLACE : AURANGABAD.**

**DATE : 22<sup>ND</sup> NOVEMBER, 2019**

M.A.NO.289-2018 In M.A.ST.1353-2018 In  
O.A.St.No.1353-2018(SB)-HDD-2019