

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**M.A.NO. 220/2015 IN O.A.ST.NO. 493/2015
(Shri Dhansingh B. Banjara & Ors. Vs. The State of Maha.
and Ors.)**

**CORAM : Hon'ble Shri Rajiv Agarwal, Vice Chairman (A)
AND
: Hon'ble Shri B.P. Patil, Member (J)**

DATE : 4TH AUGUST, 2017.

O R D E R :

[Per : Hon'ble Shri B.P. Patil, Member (J)]

1. In the present Miscellaneous Application, the applicants have prayed to condone the delay of 10 years and 9 months caused in filing the accompanying Original Application St. 492/2015.

2. The applicants have filed the accompanying Original Application praying to direct the respondent No. 2 to insert their names in the seniority list as per the guidelines given by this Tribunal in O.A. No. 138/2003. It is contention of the applicants that they were worked as Badali Kamgar in Class-IV cadre with the respondents for the period of 29 days'. This Tribunal considered the O.A. No. 138/2003 filed by other Badali Kamgars, who were similarly situated persons and issued directions accordingly. Accordingly, respondent No. 2 prepared the seniority list of the Badali Kamgar. They have not included the name of the applicants in that list. Therefore, the applicants filed the accompanying Original Application and prayed to direct the respondents to insert their name in the seniority list. It is their contention that they have no knowledge about the legal proceedings and, therefore, they have not approached the Tribunal in time. It is, their contention that delay caused in filing the accompanying O.A. was not deliberate, intentional and willful, but it was caused

due to lack of their knowledge. It is their contention that they are from poor families and are struggling for bread and butter. Therefore, considering the reasons and grounds mentioned in the application, they prayed to allow the same and to condone the delay.

3. The respondents have filed affidavit in reply and resisted the application on the ground that the applicant had not worked as Badali Kamgar and, therefore, their names have not been recorded in the list of the Badali Kamgar for the year 1999-2004. It is their contention that the applicants have not mentioned on which date and year they worked with the respondent No. 2. It is their contention that the applicants have suppressed the material fact.

4. They have denied that the applicants could not able to file the accompanying O.A. in time due to the lack of knowledge. It is their contention that after 2004 and till 2014 nobody has been appointed. It is their contention that there is no just and sufficient reason to condone the delay caused in filing the accompanying Original Application. Therefore, they prayed to reject the present M.A.

5. We have heard Shri K.G. Salunke – learned Advocate for the applicants and Shri I.S. Thorat – learned Presenting Officer for the respondents. We have also perused the documents placed on record by both the sides.

6. Learned Advocate for the applicants has submitted that already this Tribunal has decided the O.A. bearing No. 138/2003 and issued the direction to the respondents to prepare the list of Badali Kamgar, who worked in different spells during the year 1999-2003. He has submitted that as

per the direction of this Tribunal, the respondent No. 2 ought to have entered the name of the applicants in the list, but he had not included the name of the applicants, though they worked as Badali Kamgar for 29 days continuously in different spell. He has submitted that the applicants had no knowledge regarding legal proceedings, and therefore, they could not able to approach the Tribunal in time. He has submitted that the applicants are seeking direction to direct the respondent No. 2 to include their name in the list as per their seniority in view of the direction given by this Tribunal in O.A. No. 138/2003.

7. Learned Advocate for the applicants has further submitted that applicants are from poor family and they are struggling for bread and butter. Therefore, in these circumstances, it is just to condone the delay caused in filing the accompanying O.A., as the applicants have explained the delay properly.

8. Learned Presenting Officer for the respondents has submitted that the delay is more than 10 years and 9 months. The delay has not been properly explained by the applicants. He has submitted that the reason mentioned in the application for condonation of delay by the applicants is not sufficient and, therefore, he prayed to reject the present M.A.

9. We have perused the documents placed on record. On going through the contention of the parties, it is crystal clear that similarly situated persons i.e. Badali Kamgar have filed O.A. No. 138/2003 in this Tribunal and it was decided on 18.06.2004 and directions were given to the respondents in that O.A. to prepare the list of Badali Kamgar appointed in

different spells during the year 1999-2004. Accordingly, respondent No. 2 has prepared the list of Badali Kamgar and included the names of 191 Badali Kamgars for the year 1999-2004. Respondent No. 2 has also prepared short list candidates of 09 candidates for the year 2001-2004, the names of the applicants have not been recorded therein as they had not worked with them. The applicants have not challenged the action of the respondents in that record fill filing of the accompanying Original Application. The decision in the O.A. has been passed on 18.7.2004. If they have been aggrieved by the said order ought to have approached this Tribunal in time. The applicants have contended that they have no knowledge regarding the legal proceeding and, therefore, there was delay in filing the accompanying Original Application. The reason and explanation given by the applicants is not sufficient to condone the delay. There is inordinate delay of 10 years and 9 months in filing the accompanying Original Application. The said inordinate delay had not been explained by the applicants properly. The delay appears to be deliberate, willful and intentional, and therefore, in the absence of sufficient cause or reason the inordinate delay of 10 years and 9 months cannot be condoned. Therefore, in our view, the application filed for condonation of delay is devoid of merit. Consequently, it deserves to be dismissed.

10. In view of the above position, the application for condonation of delay stands dismissed. Consequently, the registration of accompanying Original Application stands refused.

There shall be no order as to costs.

MEMBER (J)

VICE CHAIRMAN (A)