

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**M.A.NO.165 OF 2018 IN O.A.ST.NO.606 OF 2018
(Subject:- Condonation of Delay)**

DISTRICT:-LATUR

Shital D/o Satish Banale@)
Shital W/o Yuvraj Honrao,)
Age:-26 years, Occ.Household,)
R/o Chapoli, Tal. Chakur,)
District Latur.)...**Applicant**

V E R S U S

- 1. State of Maharashtra,**)
Through its Secretary,)
Irrigation Department,)
Mantralaya, Mumbai.)
- 2. The Superintending Engineer,**)
and Administrator,)
Command Area Development,)
Authority, Circle Office, Beed,)
Tal. & District Beed.)
- 3. The Executive Engineer,**)
Irrigation Division, Latur,)
Old Ausa Road, Sinchan Bhavan,)
Tal. & District Latur.)...**Respondents**

APPEARANCE : Shri S.B. Solanke, learned Advocate
for the Applicant.

: Shri V.R. Bhumkar, learned
Presenting Officer for the
Respondents.

CORAM : **SHRI V.D. DONGRE, MEMBER (J)**
DATE : **11.03.2022.**

O R D E R

By this Misc. Application, the applicant is seeking condonation of delay of about 3 years, 3 months and 23 days for filing the Original Application under Section 19 of the Administrative Tribunals Act, 1985 seeking compassionate appointment.

2. The Original Application is filed seeking direction to the respondents and more particularly to the respondent Nos.2 and 3 to include the name of the applicant in waiting list of the candidates getting appointment on compassionate ground by deleting the name of her step mother i.e. Sindhubai Satish Banale and also challenging the order dated 31.12.2013 (Annex. 'A-7') whereby appointment to the applicant on compassionate ground was denied stating that there is no provision for substitution of name in the policy of giving appointment on compassionate ground.

3. It is the contention of the applicant that impugned communication/order dated 31.12.2013 (Annex. 'A-7') was not received by her whereby the claim of the applicant is denied. She came to know about the said decision only when she went to the office of respondent No.3 on 16.04.2018 to enquire about the status of her application. At that time, photocopy of the said decision was handed over to her. Immediately thereafter the applicant filed the Original Application along with this delay condonation application. The delay is not deliberate or intentional. Therefore, the applicant sought condonation of delay.

4. The respondents resisted the application by filing affidavit-in-reply of Ramesh Nagesh Kshirsagar working as Executive Engineer, Latur Irrigation Division No.1, Latur. District Latur. It is specifically denied that the impugned order/communication dated 31.12.2013 denying the claim of the applicant was served upon her only on 16.04.2018. There is huge delay and the same is not explained by the applicant and therefore, the application deserves to be dismissed.

5. I have heard the arguments advanced by Shri S.B. Solanke, learned Advocate for the applicant on one hand and

Shri V.R. Bhumkar, learned Presenting Officer for the respondents on other hand.

6. During the course of arguments learned P.O. for the respondents submitted that the communication/order dated 31.12.2013 was served upon the applicant immediately by sending the same by R.P.A.D. He has produced the postal receipt dated 13.01.2014 on record. The applicant denied the said documents by filing short affidavit and contending that she never received the said communication by post.

7. Upon perusal of the Original Application, it appears that the applicant's father namely Satish Sambhaji Banale while working with the respondent No.3 on the post of Labour (Untrained Labour) died in harness on 18.04.2008 leaving behind the applicant and her step mother i.e. Sindhutai Satish Banale as heirs and legal representatives. The step mother of the applicant filed application on 16.10.2009 for getting compassionate appointment. Her name was taken into waiting list. The deceased father of the applicant left behind certain properties. The applicant, thereafter, filed R.C.S. No.158/2011 against her step mother for certain relief in respect of the property. Compromise decree dated 10.12.2011 was passed. As

per the said compromise, the claim of right of compassionate appointment was given to the applicant. Accordingly, the applicant filed application dated 13.02.2013 with the respondent No.2 seeking appointment on compassionate ground. However, it appears that her said application was rejected by order dated 31.12.2013(Annex. 'A-7' in O.A.).

8. As pleaded by the applicant, the applicant came to know about the said communication/order only on 16.04.2016 when she visited the office of the respondent No.2. Waiting list of the candidates getting appointment on compassionate ground produced in Original Application at Annex. '2' would show that as on 31.12.2016 the name of the step mother of the applicant was in the waiting list at Sr.No.16. Hence, after compromise, the applicant made application on 13.02.2013. In the circumstances, *prima-facie* it appears that the applicant has a viable case on merit. In the circumstances as above, if the delay condonation application is considered liberally, it is not going to affect anybody else's right adversely.

9. So far as the knowledge of the applicant about the impugned communication/order dated 31.12.2013 (Annex. 'A-7') is concerned, only on the basis of postal receipt it would be

difficult to draw irresistible inference of service of said communication on the applicant.

10. It is a settled principle of law that the expression “sufficient cause” is to be construed liberally. In the circumstances, in my considered opinion, this is a fit case to condone the delay of 3 years, 3 months and 23 days by construing the reasons stated by the applicant liberally and by imposing moderate costs upon the applicant. I compute the costs of Rs.1,500/-(Rs. One Thousand Five Hundred only) on the applicant and proceed to pass the following order: -

ORDER

The Misc. Application No. 165/2018 in O.A.St.No.606/2018 is allowed in following terms:-

- (i) The delay of 3 years 3 months and 23 days in filing the accompanying O.A. under Section 19 of the Administrative Tribunals Act, 1985 is hereby condoned subject to payment of costs of Rs. 1,500/- (Rs. One Thousand Five Hundred only) by the applicant. The amount of costs shall be deposited in the Registry of this Tribunal within a period of one month from the date of this order.

- (ii) Upon satisfaction of the costs as above, the accompanying O.A. be registered and numbered by taking in to account other office objection/s, if any.

(V.D. DONGRE)
MEMBER (J)

Place:- Aurangabad

Date :- 11.03.2022

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