

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
BENCH AT AURANGABAD**

**MISC. APPLICATION NO. 201 OF 2018
WITH
ORIGINAL APPLICATION NO. 243 OF 2018
(Subject :- M.A. for Condonation of Delay)**

DISTRICT : Aurangabad

Shyamsingh S/o Dhondusing Chauhan,)
Age : 46 years, Occ.: Service,)
R/o. House No.1291, Sudha Nagar,)
Satara, Aurangabad.)

...Applicant

V E R S U S

1. The State of Maharashtra)
Through it's Secretary,)
Home Department, Mantralaya,)
Mumbai,)
2. The Commissioner of Police,)
Police Commissioner Office,)
Aurangabad.)
3. The Assistant Commissioner of Police)
Aurangabad.)
4. The Police Inspector,)
Police Station Satara, Aurangabad,)
Tq. & Dist. Aurangabad.)

...Respondents

**Shri B.V. Thombre, Advocate holding for Shri M.B. Ubale,
Advocate for the Applicant.**

**Shri M.S. Mahajan, Chief Presenting Officer for the
Respondents.**

CORAM : B.P. Patil, Member (J).

DATE : 22.01.2019.

ORDER

1. The applicant has filed this Misc. Application for condonation of delay caused for filing the O.A.

2. The Applicant has challenged the orders dated 05.10.2016 and 09.10.2017 passed by the Deputy Commissioner, Circle-2, Aurangabad by filing the Original Application. It is his contention that the order dated 05.10.2016 has not been served on him. Therefore, he made application dated 24.01.2018 to the Police Commissioner, Aurangabad for supplying extract of the service book for the period of July, 2014 to December, 2017 and for supplying copy of order dated 05.10.2016. In pursuance of the said letter, the Assistant Police Commissioner, Aurangabad issued communication dated 20.02.2018 stating that the necessary documents have been supplied to him. It is his contention that he never received the said documents. It is his contention that he received the copy of order dated 05.10.2016 on 10.03.2018 and therefore he could not able to challenge the order in time. Because of non-supply of the copy of the order, he could not able to file the Original Application in time and therefore, the delay has been occurred. It is his contention that due to the said reason,

delay has been caused in filing Original Application and there is not deliberate and intentional on his part in filing Original Application. Therefore, he prayed to allow the Misc. Application and to condone the delay caused for filing the Original Application.

3. Respondent Nos. 2 to 4 have filed their affidavit-in-reply and resisted the contentions of the applicant. They have contended that by the communication dated 20.2.2018 in response to the application made by the applicant on 24.01.2018, they informed the applicant to collect the certified copy of the documents from the concerned Police Station and furnished detailed information sought to him. It is their contention that the intimation regarding impugned order dated 05.10.2016 has been given to the application through the concerned police station. But the applicant had not filed the Original Application challenging the said order in time. It is their contention that there is deliberate and intentional delay on the part of the applicant in filing Original Application and the delay has been not explained by the applicant satisfactorily.

4. I have heard Shri B.V. Thombre, learned Advocate holding for Shri M.B. Ubale, learned Advocate for the

Applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the Respondents.

5. Admittedly, the Applicant is serving in the Police Department as Police Constable. The applicant remained absent on duty from 15.03.2016 to 14.06.2016 without obtaining prior permission of the Respondents and therefore, his absence is treated as without pay leave by the order dated 05.10.2016 issued by the Respondents. Admittedly, the Applicant has not challenged the said order in time by filing Original Application before this Tribunal. The applicant has challenged the said order by filing the Original Application on 05.06.2018. Admittedly, there is delay of more than 8 months in filing Original Application.

6. Learned Advocate for the applicant has submitted that the impugned order dated 05.10.2016 had never been communicated to the applicant and therefore, he could not able to file the Original Application in time. He has submitted that without collecting the necessary information and copy of the said order, he was not able to challenge the said order by filing Original Application in time. After receiving the necessary documents and copy of the said order, he approached this Tribunal by filing the Original Application.

There is no delay on the part of the applicant and therefore, he prayed to allow the Misc. Application and to condone the delay caused in filing Original Application. It is his contention that the valuable rights of the Applicant are involved in the case. Therefore, he prayed to allow the M.A.

7. Learned C.P.O. for the Respondents has submitted that the impugned order dated 05.10.2016 had been communicated to the applicant through concerned Police Station where the applicant was serving. On the basis of the said order, the Police Inspector Police Head Quarter, Aurangabad issued letter dated 15.11.2016 directing the Police Inspector, Police Station, Satara, Aurangabad city, Aurangabad to recover the amount of leave period from the salary of the applicant of November, 2016. The applicant had knowledge of the said fact but he had not challenged the said order intentionally in time. He has submitted that the applicant has suppressed the material facts. The delay caused for filing Original Application has not been properly explained by the applicant and therefore, he prayed to reject the Misc. Application.

8. On perusal of record it reveals that the impugned order has been issued on 05.10.2016. Thereafter, by

communication dated 15.11.2016, the Police Inspector, Police Head Quarter, Aurangabad has directed to Police Inspector, Police Station to recover the salary paid to the applicant for the said period from the salary of the applicant from November, 2016 onwards and accordingly, the amount has been recovered. The applicant was aware about the said facts. Pay slip issued to the applicant, which are at page nos.36 to 38, show that the amount has been recovered from the monthly salary of the applicant from the month of February, 2018, November, 2017 & December, 2017. It is shows that the impugned order dated 05.10.2016 had been served on the applicant and applicant was aware about the said order. In spite of the knowledge of the said facts, he had not challenged the order dated 05.10.2016 in time. The delay of 8 months has been caused for filing the Original Application. The said delay has not been explained by the applicant properly. Explanation given by the applicant for condoning the delay caused for filing Original Application is not satisfactory. The delay caused for filing the O.A. is deliberate and intentional. Therefore, the same can not be condoned. There is no merit in the Original Application. Consequently, the Misc. Application deserves to be dismissed.

9. In view of the discussion in aforesaid paragraphs, the Misc. Application No. 201/2018 is dismissed with no order as to costs. Consequently, the O.A. No. 243/2018 stands rejected.

Place:- Aurangabad
Date :- 22.01.2019

Sd/-
(B.P. Patil)
Member (J)

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