

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

**MISC. APPLICATION NO.266 OF 2017**

**IN**

**ORIGINAL APPLICATION ST. NO.517 OF 2017**

**(Subject :- M.A. For Condonation of Delay)**

**DISTRICT : AURANGABAD**

**Ratanrao S/o Sakharam Shejwal,** )  
Age: 66 Years, Occ- Retired, )  
R/o:- A/p:- Lasurstation, Tq. Gangapur, )  
Dist. Aurangabad ) **...Applicant**

**V E R S U S**

1. **The State of Maharashtra,** )  
Through its Secretary )  
Revenue and Forest Department, )  
Mantralaya, Mumbai-400032. )
2. **The Accountant Genera,** )  
Nagpur. )  
Pension Wing Old Building )  
In Front of Ravi Bhavan, )  
Nagpur. )
3. **The Divisional Commissioner,** )  
Revenue Department, )  
Aurangabad, )  
Tq. & Dist.- Aurangabad. )
4. **The Collector,** )  
Aurangabad. )

5. **The Sub Divisional Officer, Vaijapur, )**  
Tq. & Dist. Auangabad. )
6. **The Tahsildar, Vaijapur )**  
Tq. Vaijapur, )  
Dist. Aurangabad. ) **...Respondents**

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**Shri S.K. Mathpati, learned Advocate for the Applicant.**

**Shri S.K. Shirse, learned Presenting Officer for the Respondents.**

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

**RESERVED ON : 12.04.2019.**

**PRONOUNCED ON : 26.04.2019.**

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### **ORDER**

1. The Applicant has filed the application for condoning the delay caused for filing the Original Application.

2. It is contention of the Applicant that he was initially appointed as Talathi on 12.03.1975. On 20.10.1990 on the basis of some false and bogus allegations, he has been suspended. Thereafter he was reinstated by order dated 27.07.1991. Enquiry was conducted against him. It is his contention that on 09.05.2007 he had submitted an application for voluntary

retirement to the Respondent No.3 and it was sanctioned by order dated 01.10.2007. It is his contention that he has not given benefit of Time Bound Promotion Scheme till his retirement and therefore, he approached the Respondents by filing the application. But the benefit was not extended to him. Therefore, he filed the Original Application for granting benefit of Time Bound Promotion Scheme to him w.e.f. 1.10.1994 along with the application for condonation of delay.

3. It is his contention that he could not able to approach this Tribunal within stipulated time due to his critical financial position. Therefore, the delay of 7 years and one month has been caused in filing the Original Application. It is his contention that the said delay is not intentional and deliberate. There is merit in the case and therefore, he prayed to condone the delay by allowing the M.A.

4. The Respondent Nos.4 & 5 have filed their affidavit-in-reply and resisted the contention of the Applicant. It is their contention that there is an inordinate delay of 7 years and more in filing the Original Application. The said delay has not been explained by the Applicant satisfactorily, convincingly and by

showing the just reason and therefore, they prayed to reject the Misc. Application.

5. I have heard Shri S.K. Mathpati, learned Advocate for the Applicant and Shri S.K. Shirse, learned Presenting Officer for the Respondents.

6. Admittedly, the Applicant was initially appointed as Talathi on 12.03.1975. He took voluntary retirement w.e.f. 1.10.2007. Admittedly, the Applicant is claiming first benefit under Time Bound Promotion Scheme w.e.f. 1.10.1994. Admittedly, the Applicant had not claimed the said benefit when he was in service. After retirement he made representations to the Respondents. Admittedly, the Applicant has claimed benefit under Time Bound Promotion Scheme on completion of 12 years of service i.e. w.e.f. 1.10.1994. He has not raised his grievance since then. There is delay of more than 23 years in filing the Original Application.

7. Learned Advocate for the Applicant has submitted that after retirement, in the year 2017, the Applicant approached the Respondents by filing the representation and prayed to extend the benefit under Time Bound Promotion Scheme. He has

submitted that the Applicant was involved in the Departmental Enquiry. He was not considered for extending benefit under Time Bound Promotion Scheme. He has submitted that after retirement, the financial position of the Applicant was not sound. Therefore, he could not able to approach this Tribunal in time. Therefore delay has been caused for filing the Original Application. Therefore, he prayed to condone the delay of 7 years and more caused in filing the Original Application by allowing the Misc. Application. He has submitted that there is merit in the case of the Applicant and therefore, in the interest of the justice it is just to condone the delay caused in filing the O.A.

8. Learned Advocate for the Applicant has placed reliance on the judgment of Hon'ble High Court of judicature, Bombay in **W.P.Nos.2358/2013 with W.P.No.650/2013 with W.P.No.6431 of 2012 with W.P.No.11711/2012 in case of Kiran Namdeo Shinde and Ors. Vs. State of Maharashtra, Through Secretary, Social Welfare Dept. and Ors. decided on 21.09.2013** in support of his submission.

9. Learned P.O. for the Respondents has submitted that the Applicant has not explained the delay satisfactorily and therefore, he prayed to reject the Misc. Application.

10. Learned P.O. for the Respondents has submitted that the Applicant has not apprehended this Tribunal within stipulated time for redressal of his grievance. There is inordinate delay of more than 23 years in filing the Original Application and the said delay has not been satisfactorily and convincingly explained by the Applicant. Therefore, he prayed to reject the Misc. Application.

11. He has submitted that the Applicant has slept over his right for more than 20 years. There are laches and delay on the part of the Applicant and therefore, the delay cannot be condoned. In support of his submission he placed reliance on the judgment of Hon'ble Supreme Court in **Special Leave Petition (Civil) Nos.6609-6613 OF 2014** in case of **Brejesh Kumar & Ors. Vs. State of Haryana & Ors. decided on 24.03.2014** wherein it is observed as follows:-

*“7. The issues of limitation, delay and laches as well as condonation of such delay are being examined and explained every day by the Courts.*

*The law of limitation is enshrined in the legal maxim Interest Reipublicae Ut Sit Finis Litium” (it is for the general welfare that a period be put to litigation). Rules of Limitation are not meant to destroy the rights of the parties, rather the idea is that every legal remedy must be kept alive for a legislatively fixed period of time.*

8. The Privy Council in **General Fire and Life Assurance Corporation Ltd. v. Janmahomed Abdul Rahim**, AIR 1941 PC 6, relied upon the writings of Mr. Mitra in Tagore Law Lectures 1932 wherein it has been said that “a law of limitation and prescription may appear to operate harshly and unjustly in a particular case, but if the law provides for a limitation, it is to be enforced even at the risk of hardship to a particular party as the Judge cannot, on applicable grounds, enlarge the time allowed by the law, postpone its operation, or introduce exceptions not recognised by law.”

9. In **P.K. Ramachandran v. State of Kerala & Anr.**, AIR 1998 SC 2276, the Apex Court while considering a case of condonation of delay of 565 days, wherein no explanation much less a reasonable or satisfactory explanation for condonation of delay had been given, held as under:-

“Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and the Courts have no power to extend the period of limitation on equitable grounds.”

11. The courts should not adopt an injustice-oriented approach in rejecting the application for condonation of delay. However the court while allowing such application has to draw a distinction between delay and inordinate delay for want of bona fides of an inaction or negligence would deprive a party of the protection of Section 5 of the Limitation Act, 1963. Sufficient cause is a condition precedent for exercise of discretion by the Court for condoning the delay. This Court has time and again held that when mandatory provision is not complied with and that delay is not properly, satisfactorily and convincingly explained, the court cannot condone the delay on sympathetic grounds alone.

It is further observed as follows:-

“12. It is also a well settled principle of law that if some person has taken a relief approaching the Court just or immediately after the cause of action had arisen, other persons cannot take benefit thereof approaching the court at a belated stage for the reason that they cannot be permitted to take the impetus of the order passed at the behest of some diligent person.

13. **In State of Karnataka & Ors. v. S.M. Kotrayya & Ors.**, (1996) 6 SCC 267, this Court rejected the contention that a petition should be considered ignoring the delay and laches on the ground that he filed the petition just after coming to know of the relief granted by the Court in a similar case as the same cannot furnish a proper explanation for delay and laches. The Court observed that such a plea is wholly unjustified and cannot furnish any ground for ignoring delay and laches.

14. Same view has been reiterated by this Court in **Jagdish Lal & Ors. v. State of Haryana & Ors.**, AIR 1997 SC 2366, observing as under:-

“Suffice it to state that appellants kept sleeping over their rights for long and elected to wake-up when they had the impetus from Vir Pal Chauhan and Ajit Singh’s ratios...Therefore desperate attempts of the appellants to re-do the seniority, held by them in various cadre... are not amenable to the judicial review at this belated stage. The High Court, therefore, has rightly dismissed the writ petition on the ground of delay as well.”

15. **In M/s. Rup Diamonds & Ors. v. Union of India & Ors.**, AIR 1989 SC 674, this Court considered a case where petitioner wanted to get the relief on the basis of the judgment of this Court wherein a particular law had been declared ultra vires. The Court rejected the petition on the ground of delay and laches observing as under:-

“There is one more ground which basically sets the present case apart. Petitioners are re-agitating claims which they have not pursued for several



*years. Petitioners were not vigilant but were content to be dormant and chose to sit on the fence till somebody else's case came to be decided."*

12. I have gone through the documents on record. Admittedly, the benefit of Time Bound Promotion was not extended to the Applicant because of the pendency of Departmental Enquiry. The Applicant never approached the Respondents for extending the benefit till his retirement. He retired from service w.e.f. 01.10.2007. Thereafter also he had not approached this Tribunal claiming said relief within stipulated time. It seems that the delay of more than 23 years in approaching this tribunal has been occurred. The Applicant has not shown the satisfactory reasons which prevented him to approach this Tribunal. The Applicant has prayed to condone the delay on the sole ground that his financial position was not sound after his retirement. But the said ground is not just and satisfactory to condone the inordinate delay caused in filing the Original Application. The Applicant has slept over his right for long period and approached this Tribunal after 23 years. There is no satisfactory and convincing reason for condoning the delay. Delay caused for filing the Original Application seems to be intentional and deliberate. In the absence of just, proper,

satisfactory and convincing reason the inordinate delay caused in filing the Original Application cannot be condoned.

13. I have gone through the decision referred by the learned Advocate for the Applicant and learned P.O. for the Respondents. I have no dispute about the settled legal principle laid down therein. The principle laid down by the Hon'ble Apex Court in case of **Brejesh Kumar & Ors. Vs. State of Haryana & Ors. in Special Leave Petition (Civil) Nos.6609-6613 OF 2014** referred by the learned P.O. is most appropriately applicable in the present case. In the absence of satisfactory and convincing reason the inordinate delay caused for filing the Original Application cannot be condoned. There is no merit in the present Misc. Application. Consequently, it deserves to be dismissed.

14. In view of the discussion in the foregoing paragraphs, the Misc. Application stands dismissed. Consequently, the Original Application also stands rejected with no order as to costs.

**(B.P. Patil)**  
**Member (J)**

**Place:- Aurangabad**

**Date :- 26.04.2019**

Sas. M.A.266/17 In O.A.ST.517/17.M.A. for Condonation of Delay. BPP.