

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**M.A.NO.332 OF 2018 IN O.A.ST.NO.1178 OF 2018
(Subject:- Condonation of Delay)**

DISTRICT:-BEED

Pradeep s/o Panditrao Jadhav,)
Age:-27 years, Oc: Education,)
R/o. Shivaji Nagar, Palvan Road,)
Beed, Tq. & Dist. Beed.)...**Applicant**

V E R S U S

1. **The State of Maharashtra,**)
Through its Secretary,)
Public Works Department,)
Mantralaya, Mumbai-32.)
2. **The Divisional Commissioner,**)
Aurangabad Division, Aurangabad.)
3. **The Collector, Beed,**)
District Beed.)
4. **The Executive Engineer,**)
Public Works Department,)
Beed.)
5. **The Sub-Divisional Officer,**)
Public Works Department,)
Sub-Division, Beed.)...**Respondents**

APPEARANCE : Shri H.P. Jadhav, learned Advocate
for the Applicant.

: Smt. Deepali S. Deshpande, 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 7 years and 53 days for filing the Original Application under Section 19 of the Administrative Tribunals Act, 1985 seeking compassionate appointment for himself.

2. The applicant's father named Panditrao Shrirangrao Jadhav while working as Road Karkoon with the respondent Nos.4 and 5 died in harness on 13.02.2004. The applicant's mother, thereafter, made application within the prescribed period of limitation on 14.07.2004 (Annex. 'A-2' in O.A.) seeking compassionate appointment in the cadre of Class-'IV' employees in place of her husband. Her name was taken in the waiting list. However, upon completion of age of 40 years, her name was deleted from waiting list as per communication dated 12.03.2009 (Annex. 'A-4' in O.A.). The applicant, thereafter, made application dated 29.12.2009 (Annex. 'A-6' in O.A.) for compassionate appointment. It is stated that at the time of death

of his father, he was 13 years old. Upon completion of 18 years of age, he made abovesaid application dated 29.12.2009. His application, however, came to be rejected vide communication dated 12.07.2011 (Annex. 'A-7' in O.A.) stating that there is no provision for substitution. The applicant challenged the said communication dated 12.07.2011 by filing Writ Petition No.12767 of 2017 before the Hon'ble High Court of Judicature at Bombay, Bench at Aurangabad. The said Writ Petition was disposed of by order dated 04.01.2018 (Annex. 'A-9' in O.A.) on the ground that the applicant has an alternate remedy. Thereafter, the present Original Application is filed along with the delay condonation application.

3. It is stated that since 2013, the applicant's mother was suffering from various illnesses and was required to be hospitalized many times. Her condition was normal a bit in the year, 2018. However, she was still under medical treatment. To substantiate the same, the applicant has produced on record the medical papers. In the circumstances, it is stated that the applicant could not file the Original Application in time. Hence this application for condonation of delay. The delay is not deliberate or intentional.

4. The application is resisted by respondents by filing affidavit-in-reply of Hanumant Nivruttirao Sanap working as Executive Engineer, Public Works Department, Beed. Thereby the respondents have denied the adverse contention raised in the application. It is stated that there is huge delay. No sufficient cause has been shown for condoning the delay. The applicant has no case on merit as there is no provision for substitution of name in the policy of compassionate appointment. Hence, the Original Application is liable to be rejected.

5. I have heard the arguments advanced by Shri H.P. Jadhav, learned Advocate for the applicant on one hand and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondent on other hand.

6. The Original Application along with delay condonation application is filed challenging impugned order dated 12.03.2009 (Annex. 'A-4' in O.A.) issued by the respondent No.4 refusing to give appointment to the applicant on compassionate ground. The Original Application is presented on or about 16.07.2018. Meanwhile, the applicant challenged the impugned order by filing Writ Petition No.12767 of 2017 before the Hon'ble High Court of Judicature at Bombay Bench at Aurangabad. The same was

disposed of by order dated 04.01.2018 (Annex. 'A-9' in O.A.). The period for prosecuting the said Writ Petition is to be deducted. However, the date of filing of Writ Petition is not mentioned by the applicant. However, it appears that the same was filed somewhere in 2017. The period may be marginal.

7. As far as the merit of the case is concerned, it appears that at the time of death of his father on 13.02.2004, the age of the applicant was 13 years. He was minor. The applicant's mother made application on 14.07.2004 for compassionate appointment. Her name was taken in the waiting list. However, as per communication dated 12.03.2009, the name of the applicant's mother was deleted as she crossed the age of 40 years. In the same year in 2009, the applicant said to have attained the age of majority. He, therefore, made application dated 29.12.2009. It was rejected vide impugned order dated 12.07.2011 stating that there was no provision for substitution. These facts would show that the applicant attained the age of majority around the period when the applicant's mother application was rejected being age barred. In view of same, it cannot be said that the applicant had no cause of action for filing the application for compassionate appointment. However, it seems that the applicant took 7 years to approach the Tribunal for seeking appropriate remedy. The

applicant has sought condonation of delay on the ground that all these years his mother was suffering from various illnesses. To substantiate that the applicant has produced medical papers which would *prima-facie* substantiate the ground of illness of the mother of the applicant.

8. It is a settled principle of law that the expression “sufficient cause” is to be construed liberally. Considering the ground of illness of mother of the applicant, the case of the applicant for condonation of delay can be considered liberally. *Prima-facie* it appears that the applicant has a viable case on merit and the same is required to be considered. In the facts and circumstances, some negligence can be attributed to the applicant for not approaching the Tribunal in time. However, the delay cannot be said to be deliberate or intentional. Meanwhile, the applicant had approached the Hon’ble High Court of Judicature at Bombay Bench at Aurangabad seeking redressal of his grievances. Some time was consumed in that.

9. In the circumstances as above, in my considered opinion, this is a fit case to condone the delay of 7 years and 53 days by imposing moderate costs upon the applicant. I compute the

costs of Rs.2,000/-(Rs. Two Thousand only) on the applicant and proceed to pass the following order: -

ORDER

The Misc. Application No. 332/2018 in O.A.St.No.1178/2018 is allowed in following terms:-

- (i) The delay of 7 years 53 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. 2,000/- (Rs. Two Thousand 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

SAS. M.A.332/2018 In O.A.St.1178/2018