

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**M.A. NO. 334 OF 2021 IN O.A. ST. NO. 1442 OF 2021
(Subject :- Condonation of Delay)**

DISTRICT:- BEED

Manesh S/o. Dattatraya Nagargoje)
Age : 31 years, Occ: Nil)
R/o : Meenatai Thakre Nagar, Ambajogai)
Tq. Ambajogai, Dist. Beed.)
Mobile No:-9665238707.)...**Applicant**

V E R S U S

- 1. The State of Maharashtra,**)
Through its Secretary,)
General Administration Department,)
Maharashtra State,)
Mantralaya, Mumbai-32.)
- 2. The Collector, Beed**)
Tq. & Dist. Beed)
- 3. The Dean,**)
Swami Ramanand Terth,)
Rural Medical College Hospital,)
Ambajogai, Tq. Ambajogai, Dist. Beed.)...**Respondents**

APPEARANCE : Shri K.G. Salunke, learned Advocate for
the Applicant.

: Smt. Sanjivani K. Deshmukh-Ghate,
learned Presenting Officer for the
Respondents.

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

DATE : **13.04.2022.**

O R D E R

This application is made seeking condonation of delay of 2 years 7 months and 3 days i.e. 916 days caused in filing the Original Application under Section 19 of the Administrative Tribunals Act, 1985 challenging the impugned communication dated 08.03.2017 passed by the respondent No.3 i.e. the Dean, Swami Ramanand Teerth, Rural Medical College Hospital, Ambajogai, Tq. Ambajogai, Dist. Beed rejecting the claim of the applicant for appointment on compassionate ground.

2. It is the case of the applicant that his father namely Dattatraya Govindrao Nagargoje was working under respondent No.3 i.e. the Dean Swami Ramanand Teerth, Rural Medical College Hospital, Ambajogai, Tq. Ambajogai, Dist. Beed in Class-IV category. His father died in harness on 28.06.2001. After the death of his father, the mother of the applicant namely Nabkabai Dattatraya Nagargoje made application dated 24.08.2001 seeking appointment on compassionate ground. The respondent No.3 appointed mother of the applicant on daily wages i.e. 29 days in a month while giving technical break. She worked with the respondent No.3 till her death on 14.05.2004.

3. At the time of death of his mother the applicant was minor. His brother namely Ganesh Dattatraya Nagargoje made application dated 07.02.2017 with the respondent No.3 for compassionate appointment. His application was rejected contending that the mother of the applicant was working on temporary basis.

4. The applicant after attaining the age of majority made application on 28.01.2016 and 25.10.2016 seeking appointment on compassionate ground in place of his deceased father to the post of Class-IV category. The respondent no.3 by impugned order dated 08.03.2017 rejected the claim of the applicant giving reference of G.R. dated 28.03.2001 and further stating that the disease due to which father of the applicant expired is not listed or incorporated in the list of disease mentioned in the G.R. dated 28.03.2001.

5. It is contended that the applicant ought to have challenged the impugned order dated 08.03.2017 within a period of one year i.e. on or about 08.03.2018. There is delay of 2 years, 7 months and 3 days i.e. 916 days in filing the Original Application challenging the impugned order. The applications were made by the applicant seeking compassionate appointment on 28.01.2016

and 25.10.2016. However, the respondent No.3 did not decide the said applications immediately. In view of same, the applicant shifted from Ambajogai to rural Area. In view of same, the applicant could not come to know about the impugned order. Moreover, the applicant was not aware of his legal rights. Hence, this delay which is sought to be condoned.

6. The application is resisted by respondent Nos.2 and 3 by filing the affidavit-in-reply of one Dr. Rajendra Tulshiram Ankushe working as Professor and Head, Department of Community Medicine with the respondent No.3. Thereby he denied all adverse contentions raised by the applicant and contended that the applicant has no case on merit. Moreover, no sufficient cause is shown for condonation of delay. The application is, therefore, liable to be dismissed.

7. I have heard the arguments advanced by Shri K.G. Salunke, learned Advocate for the applicant on one hand and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents on other hand.

8. Considering the facts of the case, it seems that the facts of the case are a bit complex. As stated above, the mother of the applicant was given appointment. Her employment was on

temporary basis. Hence the brother of the applicant did not get appointment on compassionate ground. When the applicant sought appointment on compassionate ground upon attaining the age of majority in place of his deceased father, it is stated that the disease by which his father died is not covered under the Government Resolution dated 28.03.2001. In view of this, in my considered opinion, debatable issue is raised in the Original Application which needs resolution.

9. It is a settled principle of law that the expression “sufficient cause” is to be construed liberally. Considering the facts of the case, some negligence can be attributed to the applicants in not approaching the Tribunal in time. However, the said negligence cannot be said to be deliberate or gross one. Thereby the applicant had nothing to gain. The applicant is seeking compassionate appointment. In such circumstances, refusing to condone the delay is likely to defect the cause of justice at the threshold. In the circumstances, in my considered opinion, this is a fit case to condone the delay of 2 years, 7 months and 3 days i.e. 916 days caused in filing the Original Application 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. 334/2021 in O.A.St.No.1442/2021 is allowed in following terms:-

- (i) The delay of 2 years, 7 months and 3 days i.e. 916 days caused 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 :- 13.04.2022

SAS. M.A.334/2021 In O.A.St.1442/2021