

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**M.A.NO.524 OF 2019 IN O.A.ST.NO.1944 OF 2019
(Subject:- Delay Condonation)**

DISTRICT: - Dhule.

Jayprakash Anandrao Patil,)
Age :60 years, Occu.: Nil)
(Pensioner), R/o: 66, Mankarnika,)
J.B. Badgujar Colony, Devpur,)
Post Vidyanagari,)
Dhule-424005.)...**APPLICANT**

V E R S U S

1. **The State of Maharashtra,**)
Through it's Secretary,)
Revenue & Forest Department,)
Mantralaya, Mumbai.)
2. **The Additional Principal Chief**)
Conservator of Forest,)
Maharashtra State - Nagpur,)
Van Bhavan, Civil Lines, Nagpur.)
3. **The Conservator of Social Forestry,**)
Nashik,)
Social Forestry Division, Nashik,)
Central Administrative Building,)
2nd Floor, Nashik Road, Nashik.)
4. **The Accountant General -II (A & E),**)
M.S., Nagpur.)
W. High Court Road, CBI Colony,)
Civil Lines, Nagpur-01.)
5. **The Deputy Conservator of Forest,**)
Nandurbar Forest Division, Shahada,)
Shahada-Dondaicha Road,)
Tq. Shahada, Dist. Nandurbar.)

6 The Deputy Conservator of Forest)
Social Forest Division, Dhule)
Dist. Dhule) **.RESPONDENTS**

APPEARANCE : Shri A.M. Hajare, learned Advocate for
the applicant.
: Shri D.R. Patil, learned Presenting
Officer for the respondents.

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

DATE : **17.06.2022**

ORDER

1. By this application the applicant is seeking condonation of delay of about 1 year, 1 month and 20 days caused in filing the Original Application under Section 19 of the Administrative Tribunals Act, 1985 challenging the impugned order of recovery of excess amount dated 05.01.2017 (Annex. 'A-4') issued by the respondent No.6 i.e. the Deputy Conservator of Forest, Social Forest Division, Dhule, Dist. Dhule and seeking refund of recovered amount as the amount was already recovered.

2. The applicant was working with the Forest Department. He stood retired on superannuation on 30.11.2016 from the post of Forester. After his retirement, during preparation of

pension papers, revised pay fixation was done and recovery of excess amount for the period of 01.01.2006 to 30.11.2016 to the tune of Rs.1,16,143/- was ordered. The said amount was recovered from the leave encashment amount of the applicant. The recovery order is passed due to wrong pay fixation and not because of misrepresentation or fraud committed by the applicant. In view of the same, the applicant being Class-III (Group 'C') employee, such recovery is impermissible.

3. The applicant is retired person and he is facing financial difficulties. The delay caused in filing the Original Application is not deliberate or intentional. Hence, the applicant seeks condonation of delay.

4. Affidavit-in-reply is filed on behalf of the respondent No.6 i.e. the Deputy Conservator of Forest, Social Forest Division, Dhule, Dist. Dhule by one Kalidas Vaman Saindane working as Assistant Conservator of Forests, in the office of Divisional Forest Officer, Social Forestry Divisional, Dhule, Dist. Dhule. Thereby he denied the adverse contentions raised in the application and contended that no sufficient cause has been shown for condonation of delay. The

impugned order of recovery is legal and proper and there is no merit in the contentions raised by the applicant.

5. Affidavit-in-reply is also filed on behalf of the respondent Nos.1 to 3, 5 and 6 by the said deponent raising the similar contention.

6. I have heard at length the arguments advanced by Shri A.M. Hajare, learned Advocate for the applicant on one hand and Shri D.R. Patil, learned Presenting Officer for the respondents on other hand.

7. The Original Application along with delay condonation application is filed on 25.09.2019. The applicant is seeking to challenge the impugned order of recovery dated 05.01.2017 issued by the respondent No.6. The applicant said to have made representation dated 01.02.2019 (Annex. 'A-7' in O.A.). However, the said representation is made beyond prescribed period of limitation of one year. Therefore, the same cannot be taken into consideration for condonation of delay.

8. In view of above dates, there is delay of about 1 year, 8 months and 20 days for filing the Original Application. The applicant is seeking to challenge the impugned recovery order

and seeking refund of amount as amount being already recovered. The applicant is retired person from Class-III (Group 'C') category. The contentions raised by the applicant on merit cannot be said to be baseless. Those are required to be considered. In the circumstances, refusing to condone the delay is likely to defeat the cause of justice at the threshold. It is a settled principle of law that the expression "sufficient cause" is to be construed liberally.

9. In such circumstances, in my considered opinion, it would be just and proper to condone delay of 1 year, 8 months and 20 days caused in filing the Original Application by imposing moderate costs upon the applicant. I compute the costs of Rs.1000/- (One Thousand only) on the applicant and proceed to pass the following order: -

ORDER

The Misc. Application No. 524/2019 in O.A.St.No.1944/2019 is allowed in following terms:-

- (A) The delay of 1 year, 8 months and 20 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. 1,000/- (One 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.

- (B) 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 :- 17.06.2022**

SAS. M.A.524/2019 IN O.A.St.1944/19