

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

MICS. APPLICATION NO.86 OF 2018 WITH ORIGINAL APPLICATION NO.183 OF 2017

Shri Dattatraya Mahadeo Baraskar)
Age:67 years,)
Occ.: retired from the post of Deputy Accountant.)
R/at: B-448, Ramakant Karnik Nagar,)
In front of Walchand College ladies hostel,)
Solapur 6.).... Applicant

Versus

1. The State of Maharashtra through,)
the Principal Secretary,)
Finance Department,)
Mantralaya, Mumbai-32.)
2. The Director Accounts & Treasury,)
New Government Barrack No.15 & 16,)
Plot No.176, Free Press Journal Marg,)
Mumbai 21.)
3. The Deputy Director Accounts & Treasury,)
Pune Region, Pune-1.)
4. The District Treasury Officer,)
District Treasury Office,)
Collector Office Compound, Solapur.)
5. The Joint Director)
Accounts & Treasury, Pune Division,)
Pune Accounts & Treasury Bhavan,)
in the premises of District Collector, Pune.).... Respondents

Shri K.R. Jagdale, learned Advocate for the Applicant.

Smt. Archana B.K., the learned P.O. for the Respondents.

CORAM : Shri P.N. DIXIT, MEMBER (A)

DATE : 06.08.2018

O R D E R

1. Heard Shri K.R. Jagdale, learned Advocate for the Applicant and Smt. Archana B.K., the learned P.O. for the Respondents.

2. The Applicant had made representations on 28.04.1988, 06.06.1994 which were rejected on 11.09.1995 by Respondent No.4.

3. The Applicant joined service as Junior Clerk on 03.07.1973. He was entitled to appear for the eligibility examination for 3 times after joining service. He did not appear at the first attempt. He succeeded in passing the same in 3rd attempt.

4. As against him, his colleague Shri M.V. Kulkarni joined service similar to him on 6.7.1973. He passed eligibility examination in first attempt in the year 1974 and he was accordingly able to get the necessary benefits of seniority. This was in pursuance of G.R. dated 18.1.1975 (Exh. 'R-1', page no.109). The same is as under:-

“ If a candidate passes the examination within three chances to be taken at any three out of four successive examinations held immediately after his date of appointment, he would retain his original seniority. In case he does not pass the examination within the three chances mentioned above, he will loss his seniority to all those who pass the said examination before he passes it.”

(quoted from page no.109 of the O.A.)

Thus the Applicant became junior to his colleague, as he passed the examination two years later i. e. in 1977. As a result, the colleague of the Applicant was promoted on the post of Senior Clerk on 3.09.1977. However, Applicant became eligible subsequently and was promoted in April, 1992.

5. Under misconception that his seniority would be retained as per his colleague, Applicant prayed to Respondent No.4 for the same. The Respondent No.4 after applying him mind rejected the same.

6. The Applicant kept on making representations on 28.04.1988, 6.6.1994, 23.05.2006, 16.10.2006, 11.06.2007, 20.10.2010, 5.10.2010 and 27.02.2013 before the Respondents. The contents of the representation remained the same.

7. The learned P.O. for the Respondents cites the judgment given by the Hon'ble Supreme Court in **W.P.No.1420 of 2015 and 2010 (7) SCC 525 Naresh Kumar Vs. Department of Atomic Energy & Ors. dated 8th July, 2010.** Relevant paragraph of this judgment reads as under:-

“9.

If an employee keeps making representation after representation which are consistently rejected then the appellant cannot claim any relief on that ground. We are unable to find any merit in the contention raised before us and we are also of the view that the High Court was not in error while dismissing the Writ Petition even on the ground of unexplained delay and laches. The representation of the appellant was rejected as back in the year 1999 and for reasons best known to the appellant he did not challenge the same before the Court of competent jurisdiction.”

8. The fact that the representations made by the Applicant were rejected by the Competent Authority and still he made representations to the Government which directed him to approach the Competent Authority, does not change the material fact. The rejection by the Competent Authority was conveyed on 11.09.1995, 10.06.2007 and 20.10.2011. The Applicant claims that he did not receive the copy of rejection in the year of 1995 and 2007.

9. Since last rejection by the Competent Authority was in the year 2011 and the fact that he did not prefer any application within stipulated time, he approached this Tribunal in 2015 for condonation of delay.

10. According to the Respondent Nos.2 to 5, the Applicant has filed O.A. after 10 years of his retirement. Even if, the contention of the Applicant is considered for condoning the delay, the material facts in the O.A. would not change. I therefore, find there is no merit in the O.A.

11. Learned Advocate for the Applicant has cited judgments of the Hon'ble Supreme Court in support of his claim to condone the delay. These are as follows:-

- (a) Judgment in Civil Appeal No.460 of 1987- Collector, Land Acquisition, Anantnag and Anr, Vs. Mst. Katiji and Ors., dated 19.02.1987 passed by the Hon'ble Supreme Court.
- (b) Judgment in Civil Appeal No.7510 of 1995- M.R. Gupta Vs. Union of India and Others, dated 21.08.1995 passed by the Hon'ble Supreme Court.

12. I do not find any merit in the contention of the learned Advocate for the Applicant, as these judgments are not relevant in present case.

13. Therefore, Misc. Application is rejected and Original Application is dismissed without costs.

(P.N. DIXIT)
Member (A)

sba