

ORDER

1. Heard with the consent both the sides.
2. The present applicant is seeking condonation of delay caused in filing accompanying O.A. before this Tribunal. According to the applicant, the delay of 1013 days had occurred in filing the O.A. The facts on record, however, would show that the delay is of more than 18 years.
3. The applicant in the present M.A. as well as O.A. pleaded that he was working as a Daily Wages Labourer in Osmanabad District with the res. no. 3 since 15.7.1987. He was regularized as a Forest Labourer on 15.5.1996. However, this appointment on regular basis was cancelled vide order dtd. 7.10.1996 and he continued to be a Daily Wages Labourer. He along with co-employee viz. Shri Kashinath Harichandra Pawar therefore filed O.As. in this Tribunal. The applicant's O.A. number was 1161/1996. As the applicant did not attend the said matter, it was dismissed in default by the Tribunal vide order dtd. 15.5.1997.

The applicant averred that, though the O.A. of the co-employee was also dismissed in default, the respondents continued him in the job, however, the applicant was discontinued. Ultimately on 30.11.2012 the applicant was again regularly appointed as a Forest Labourer. Thereafter on 29.6.2015 the applicant made a representation to his superiors for giving effect to the said regular appointment from the earlier date of his first regular appointment i.e. 15.5.1996. Since no reply was

given by the concerned respondent to the said representation of the applicant, he has filed the accompanying O.A. in the month of September, 2015. In these circumstances, the applicant claims that the delay caused in filing the accompanying O.A. is only of 1013 days i.e. from the date of non consideration of his representation.

4. The reason for this delay as forwarded in the present M.A. is that, as certain oral assurances were given to the applicant by his superiors i. e. res. nos. 3 to 5 that he would be given the benefit of regular posting w.e.f. 15.5.1996, he did not file the O.A.

5. Though not pleaded in the present M.A., in the written notes of arguments, the applicant has averred that after dismissal of earlier O.A., he filed proceedings bearing Complaint (ULP) no. 25/1999 in the Industrial Court, Solapur. The Industrial Court was pleased to direct the respondents therein to maintain Status quo. However, vide order dtd. 28.7.2003 the said Complaint was dismissed on the ground that the Industrial Court had no jurisdiction.

6. The respondents opposed the M.A. They submitted that by mistake the provision of the G.R. earlier was applied to the applicant and other co-employee. In fact, their names were not mentioned in the list of the employees, who were eligible for regular appointment at that point of time. Therefore, the regular appointments of applicant and other co-employee were cancelled. The allegation of the applicant that his Superiors i.e. they themselves orally assured the applicant that the retrospective effect will be given to his regular appointment, is false. It is stated

that once the O.A. is decided / dismissed in default by the Tribunal, the second O.A. for the same grievance is not maintainable. The reasons given for delay caused in filing O.A. are unjust and untenable and hence they prayed to dismiss the M.A.

7. Upon hearing both the sides, in my view, the delay caused in filing the O.A. is of 18 years. There is no reason for delay either of 18 years or 1013 days. In view of dismissal of earlier O.A. filed by the applicant now he cannot file second O.A. for the same grievance.

8. The learned Advocate for the applicant has relied upon the ratio laid down by the Hon'ble Supreme Court in the case of **Jatinder Singh and Others Vs. Ranjit Kaur [2001 CRI L.J.2015]**. The said judgment, however, pertains to dismissal of criminal complaint and, therefore, it was held that the second complaint on the same allegations is maintainable.

9. In the present case, the applicant is pressing his grievance for giving him regular appointment since 1996 and the present O.A. is filed in the month of September, 2015 and, therefore, the delay caused in filing the O.A. is not just and proper. Not only this, but even if for the sake of arguments the said delay of 1013 days as pleaded by the applicant is accepted, still the reason for said delay is that oral assurances were given to him by the Superiors and, therefore, he did not file the application, the reason for the said delay cannot be called as just and reasonable. Hence, I pass following order :-

ORDER

The present M.A. for condonation of delay caused in filing accompanying O.A. stands dismissed. Consequently, the registration of O.A. stands rejected. There shall be no order as to costs.

VICE CHAIRMAN

ARJ-M.A. 423-2015 IN O.A.ST. NO. 1369-2015 JUS. MT JOSHI (DELAY CONDONATION)