

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**MUMBAI**  
**MISCELLANEOUS APPLICATION NO.241 OF 2019**  
**IN**  
**REVIEW APPLICATION NO.8 OF 2019**  
**IN**  
**ORIGINAL APPLICATION NO.736 OF 2017**

**DISTRICT : MUMBAI**

Shri Sachin Anant Hatkhambkar, )  
Aged about 37 years, residing at 5/504, )  
Ashtavinayak Building, A Wing, Dongri, Mumbai-9 )..Applicant

Versus

Dean, J.J. Group of Hospitals, )  
Byculla, Mumbai 400008 )..Respondents

Shri M.D. Lonkar – Advocate for the Applicant

Shri A.J. Chougule – Presenting Officer for the Respondents

CORAM : Shri P.N. Dixit, Vice-Chairman (A)  
Shri A.P. Kurhekar, Member (J)  
RESERVED ON : 5<sup>th</sup> November, 2019  
PRONOUNCED ON : 6<sup>th</sup> November, 2019  
PER : Shri P.N. Dixit, Vice-Chairman (A)

## J U D G M E N T

1. Heard Shri M.D. Lonkar, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.

2. This MA has been filed in RA No.8 of 2019 in OA No.736 of 2017 for condoning the delay of more than 180 days. In support of the same he has mentioned the following grounds:

*“4. The petitioner states that he is suffering from prolapsed inter verteble disc and was advised rest for the period from 2.10.2018 to 23.3.2019. In the process, on account of circumstances beyond his control, the petitioner could not approach this Hon’ble Tribunal with a view to institute review proceedings within the period of 30 days from the date of the order passed in the OA.*

*5. The petitioner stats that after recovery from illness, the petitioner approached his colleagues working as Badli Employees in Class IV cadre with G.T. Hospital, with a view to secure orders passed by this Hon’ble Tribunal in their cases. The petitioner states that it took about 4 weeks’ time to collect and receive the copies of various orders and judgments passed by this Hon’ble Tribunal as mentioned in the Review Application. It is only after the copies of orders and judgments are collected, the petitioner has filed the present OA.”*

(Quoted from page 2 of MA)

3. He has also enclosed medical certificate from one Dr. Navneet Shah dated 23.3.2019 stating that the applicant was advised rest from 2.10.2018 to 23.3.2019.

4. The respondents have filed affidavit and contested the prayers. The relevant portion of the same reads as under:

“2. With reference to contents of paragraph no.1 of Miscellaneous Application, it is submitted that the judgment and order dated 26.9.2018 passed by this Hon'ble Court in the Original application No.736/2017 is absolute , legal and correct. This Hon'ble Court considered all the aspects in details and dismissed the O.A. No.736/2017 filed by the present applicant.

3. With reference to contents of paragraph no.2, it is submitted that, the applicant has accepted that there is a delay of more than 180 days on his part to file Review application. It is barred by limitation. Hence the present Misc. application is liable to be rejected.

4. With reference to contents of paragraph no.3, it is submitted that, the Applicant's application should not be admitted, as it is barred by limitation.

5. With reference to contents of paragraph no.4, it is submitted that the applicant annexed herein the copy of medical certificate of private practitioners dated 23.3.2019, stating that he was under treatment from 02.10.2018 to 23.03.2019 for prolapsed inter vertebrae disc (Lambo sacral) it is pertinent to note that the applicant put his address as 5/504, Astavinayak Bldg., A -wing, Dongri, Mumbai-09 . It is also submitted that the well known and full-fledged Government Hospital i.e. Sir J.J. Group of Hospital, Mumbai is rather nearer to the residence of applicant in comparison to the private practitioners clinic where he took treatment as per his own statement. It is very surprising that the applicant did not prefer to go to Sir J.J. Group of Hospital, Mumbai for his so called prolonged illness. It is also more surprising that he did not even bothered to inform the Respondents office about his so called illness as his was willing to file Review application. Thus it is submitted that the entire scenario presented by applicant is doubtful. On this back ground and in the light of the fact that the Hon'ble Tribunal had already considered each and every aspect of the case of applicant while deciding O.A. No. 736/2017 the M.A. may not be allowed.

6. *With reference to contents of paragraph no.5, it is submitted that reasons mentioned by the applicant herein to this paragraph are not enough to stand to reason and not sufficient for preferring this application.*

7. *With reference to contents of paragraph no.6, it is submitted that, the applicant has filed this applications after 180 days which is barred by law of limitation. The applicant with this M.A. came along with baseless reasons and ground which is not acceptable.*

8. *With reference to contents of paragraph no.7, it is submitted that, the applicant even he was willing to file review, did not informed to his office / Respondents about his sickness. As mentioned herein above paragraph no.4 the reasons of so called sickness is not at all considerable.*

9. *With reference to contents of paragraph no.8, it is submitted that there is no any plausible and sufficient explanation on part of the applicant for not approaching this Hon. Tribunal within the stipulated period.*

10. *With reference to contents of paragraph no.9, it is submitted that in the judgment and order dated 26.9.2018 this Hon'ble Tribunal covered all the aspect in details and made correct and legal observation. There is no merit in the present review application and it is liable to be dismissed.*

11. *With reference to contents of paragraph no.10, it is submitted that, reasons given by the present applicant herein for delay are not bonafied and sufficient for preferring this application.”*

(Quoted from page 7-9 of MA)

5. The respondents have therefore stated that the MA for delay condonation be dismissed.

Observations:

6. We have carefully gone through the MA and the record including medical certificate furnished by the applicant. The reason mentioned by the applicant that he was not well is based on this medical certificate by private doctor furnished by him. The applicant is staying near the J.J. Group of Hospital which is at walking distance from his residence. Even when he is aware about the same and the facilities available to him, he has preferred not to visit J.J. Group of Hospitals for his allegedly prolonged illness. Furthermore as per medical certificate he was under treatment of doctor for *prolapsed inter verteble disc* from 2.10.2018 to 25.3.2019. Except this bare medical certificate no other evidence is forthcoming about the nature of treatment and medical advise by the doctor. On the basis of this medical certificate it cannot be said that he was totally unable to move out and to consult his advocate. He was neither bedridden nor he was suffering from any such serious ailment which had prevented him from moving out. Therefore no reliance can be placed on this medical certificate which is apparently obtained only to create ground for condonation of delay. Suffice to say he is not vigilant and slept over his right. The reasons stated to justify the condonation of delay are clearly an afterthought and does not inspire confidence to believe in the same.

7. True while considering the MA for condonation of delay court should adopt justice oriented approach instead of harping on technicalities. However, there has to be sufficient explanation for the delay which is absolutely missing in the present case. There is delay of about six months which is not at all explained to the satisfaction of the Tribunal. As such

the medical certificate does not inspire any confidence so as to condone the delay.

8. For the aforesaid reasons MA is dismissed. No order as to costs.

**(A.P. Kurhekar)**  
**Member (J)**  
**6.11.2019**

**(P.N. Dixit)**  
**Vice-Chairman (A)**  
**6.11.2019**

Dictation taken by: S.G. Jawalkar.