

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

MISCELLANEOUS APPLICATION NO.583 OF 2023

IN

ORIGINAL APPLICATION NO.1127 OF 2023

DISTRICT : MUMBAI

Arun Sakharam Nimbalkar,)
Retired Administrative Officer, CP Office, Mumbai)
R/at 5/2, Marathi Asmita Society, Plot No.22, Sector-2)
NSB Road, Charkop, Kandivali West, Mumbai-67)..Applicant

Versus

1. The State of Maharashtra,)
Through Additional Chief Secretary,)
Home Department, Mantralaya, Mumbai)
2. Director General of Police, Old Council Hall,)
S.B. Marg, Mumbai 400001)
3. Commissioner of Police,)
25, Dr. D.N. Road, Dhobi Talao, Kalbadevi,)
Mumbai 400001)..Respondents

Shri A.S. Dhannawat – Advocate for the Applicant

Smt. Archana B.K. – Presenting Officer for the Respondents

CORAM : Smt. Medha Gadgil, Member (A)

RESERVED ON : 1st March, 2024

PRONOUNCED ON: 14th March, 2024

J U D G M E N T

1. This M.A. is filed to condone the delay of more than 3555 days caused in filing O.A.

2. Learned Advocate for Applicant submits that cause of action arose on 30.11.2013. Learned Advocate states that Applicant stood retired on 30.11.2013 from the post of 'Administrative Officer' HQ, CP Mumbai. After retirement, the Applicant made various representations to Respondent No.3 including RTI Applications to ensure for all the retirement monetary claims and seniority in service and promotional benefits of 6th and 7th Pay Commission to be given to him. But there is no communication in this regard from the Respondent.

3. Learned Advocate further submits that as aggrieved by negligence from the office of the Respondent No.3 and as Applicant retired on 30.11.2013, the Applicant also made representation to Office of the Hon'ble Lokayukt, Mantralaya dated 03.12.2021 for seeking the relief. Thereafter, office of the Lokayukt had passed the final order dated 19.04.2023 and communicated to applicant on 22.05.2023 which was received to Applicant on 16.06.2023 and as per their order in 2023, the Applicant has moved to this Hon'ble Tribunal. Learned Advocate placed reliance on para 3 of Order of the Hon'ble Lokayukta and UPA Lokayukta which reads as under :-

"The complaint is, therefore, closed reserving the right to the complainant to approach an appropriate authority viz Maharashtra Administrative Tribunal or the Hon'ble High Court by filing an Original Application before the Maharashtra Administrative Tribunal or by

filing W.P. in the High Court under Article 226 and 227 of the Constitution of India.”

4. Today, learned Advocate produces set of compilation of various judgments and orders of Hon'ble Supreme Court, Hon'ble High Court and also of this Tribunal. It is taken on record. Learned Advocate for Applicant placed reliance on following judgment :-

- A. Judgment of the Hon'ble Supreme Court in Collector Land Acquisition, Anantnag & Anr. V/s Mst. Katiji & Ors (1987 AIR 1353).
- B. Judgment of the Hon'ble Supreme Court in MA.21/2022 in MA.665/2021 in Suo Motu W.P. (C) No.3/2020 dated 10.1.2022 (Cognizance for Extension of Limitation).
- C. Judgment of the Hon'ble Bombay High Court in W.P. No.10241 of 2012 Basawant Devidas Nandgavali V/s The Secretary Water Resources Dept., & Ors. dated 8.3.2023.
- D. Judgment of this Tribunal Bench at Aurangabad in M.A. No.51/2018 in O.A. St. No.354/2017 Ashrubha B. Jaybhaye Vs. State of Maharashtra & Ors. dated 7.6.2023.
- E. Judgment of this Tribunal Bench at Aurangabad in M.A. No.304/2020 in O.A.St. No.1095/2020 Abhay A. Kulkarni Vs. State of Maharashtra & Ors. dated 7.6.2023.

5. Learned P.O. opposes the delay condonation application as Applicant has not given satisfactory and reasonable reasons for long delay of 3555 days. She states that mere appearance before Lokayukta is not sufficient ground for condoning delay. It appears that Applicant is not vigilant about his right that is why he has not appeared before this Tribunal within stipulated time period.

6. The Applicant retired in 2013. Therefore, mere making of representation does not condone the delay.

7. Second reason for delay argued by learned Advocate for Applicant is COVID-19 period to that reason learned P.O. states that the cause of action started before COVID-19 Pandemic Situation, therefore, this period cannot be counted for condoning the delay.

8. In view of *Basawant Devidas Nandgavali case (supra)*, Learned P.O. states that in this case, the delay was condoned because it was not communicated to the aggrieved applicant.

9. In M.A.No.304/2023, learned P.O. states that in this matter, the Tribunal has condoned the delay of 9 years, 8 months and 3 days delay. She states that in M.A.304/2023, the Applicant filed W.P. No.6075/2019 on or about 20.06.2018 before the Hon'ble High Court at Judicature at Bombay. During hearing of the said W.P., it was transpired that Applicant has remedy before this Tribunal. The said W.P. came to be disposed of by order dated 28.01.2020 granting liberty to the Applicant to approach this Tribunal.

10. In this case it is seen that the applicant had approached the office of Hon'ble Lok Ayukta who had passed the order on 19.4.2023 which was received by the applicant on 16.6.2023. In view of the aforesaid facts and the order dated 19.4.2023 passed by the Hon'ble Lok Ayukta the delay is condoned. MA is allowed. No order as to costs.

Sd/-
(Medha Gadgil)
Member (A)
14.3.2024

Dictation taken by: S.G. Jawalkar.