

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**ORIGINAL APPLICATION NO 1029 OF 2015**

**DISTRICT : MUMBAI**

Shri Dilip Balkrishna Desai )  
Occ : Junior Accountant, )  
Upper Division Clerk in the office )  
of the below named Respondent no.2) )  
R/o: 501, Sita C.H.S Ltd, Sun Tower) )  
G.D Ambekar Road, Bhoiwada, ) )  
Parel, Mumbai 400 012. )...**Applicant**

**Versus**

1. The State of Maharashtra )  
Through Principal Secretary, )  
Food, Civil Supply and )  
Consumer Protection Dept. )  
Having office at Madam Cama )  
Road, Hutatma Rajguru Chowk) )  
Mantralya Extension, )  
Mumbai 400 032. )
2. The Finance Advisor and )  
Deputy Secretary, Food )



Civil Supply and Consumer )  
Protection Department, )  
Maharashtra State, having )  
Office at G.T Hospital Campus)  
Bldg, 8<sup>th</sup> floor, L.T Marg, )  
Mumbai 400 001. )...**Respondents**

Shri G.A Bandiwadekar, learned advocate for the Applicant.

Ms Neelima Gohad, learned Presenting Officer for the Respondents.

**CORAM : Shri Rajiv Agarwal (Vice-Chairman)**

**Shri R.B. Malik (Member) (J)**

**DATE : 13.04.2016**

**PER : Shri Rajiv Agarwal (Vice-Chairman)**

**ORDER**

1. Heard Shri G.A Bandiwadekar, learned advocate for the Applicant and Ms Neelima Gohad, learned Presenting Officer for the Respondents.

2. This Original Application has been filed challenging the order of the Respondent no. 1 dated

10.11.2015 declining to hear the appeal as there was delay of 114 days in filing the same.

3. Learned Counsel for the Applicant argued that the Applicant had filed appeal against the order dated 13.5.2015 stopping his two increments without cumulative effect passed by the Financial Advisor and Deputy Secretary, Food, Civil Supplies and Consumer Protection Department. This appeal was filed on 5.9.2015 before the Secretary of the Department. It was rejected only on the ground that an appeal has to be filed within 45 days as per Rule 19 of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979. As it was filed after 114 days, it was not entertained. Learned Counsel for the Applicant argued that generally the order of punishment in a D.E mentions that the delinquent Government servant can appeal against the said order within the time prescribed and the Appellate Authority is also mentioned. The Applicant sought guidance from the Respondent no. 2 regarding the Appellate Authority before whom the Applicant should file appeal. However, no reply was received. The Applicant made applications on 1.7.2015 and 5.8.2015, but communications dated 8.7.2015 and 12.8.2015 did not give this information.

4. Learned Presenting Officer (P.O) argued that it is not necessary to mention the period within which appeal has to be filed and the Appellate Authority in the

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order imposing punishment under Maharashtra Civil Services (Discipline & Appeal) Rules, 1979. The Applicant is making these allegations to hide his failure to file appeal in time. Though the Applicant claims in para 6.10 that he wrote to the Respondent no. 2 regarding the Appellate Authority on 1.7.2015 and 5.8.2015, these applications and replies thereto have not been placed on record. The order imposing penalty was passed on 13.5.2015. The appeal has to be filed within 45 days. The Applicant has entered into correspondence with the Respondent no. 2 on 1.7.2015, after expiry of that period. Learned Presenting Officer argued that the Applicant has not explained the reasons of delay in filing the Appeal before the Respondent no. 1 and therefore, this Original Application may not be entertained.

5. We agree with the Learned Presenting Officer that the Applicant has not raised any valid legal ground explaining the delay in filing the appeal before the Respondent no.1 against the order of the Respondent no. 2 dated 13.5.2015. The Respondent no. 2 was not duty bound to indicate the period of limitation or the Appellate Authority in the order of imposing penalty under the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979. The correspondence entered by the Applicant after expiry of limitation period with the Respondent<sup>no.</sup> 2 appears to be with a view to create justification for delay

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in filing the appeal. We do not appreciate the conduct of the Applicant.

6. It is, however, seen that there is a short delay of 69 days, excluding the permissible 45 days in filing the appeal before the Respondent no.1. We, are inclined to condone this delay in the interest of justice and therefore quash the order of the Respondent no. 1 dated 10.11.2015 and we direct him to consider the Appeal of the Applicant dated 5.9.2015 on merits. This Original Application is allowed accordingly with no order as to costs.

Sd/-

**(R.B. Malik)**  
**Member (J)**

Sd/-

**(Rajiv Agarwal)**  
**Vice-Chairman**

**Place : Mumbai**  
**Date : 13.04.2016**  
**Dictation taken by : A.K. Nair.**