

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO.180/2022(S.B.)**

Smt. Yamunabai Wd/o Kisan Ujawne,  
Aged about 79 years, Occ: Household,  
R/o Indira Nagar, Beghar-wadi No.6,  
Tadumri Road, Pandharkawada,  
Tq. Kelapur, District: Yavatmal.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
through Its Secretary,  
Home Department,  
New Administrative Building, 12th Floor,  
Hutatma Rajguru Chowk, Mantralaya,  
Mumbai-400 032.
- 2) The Inspector General of Police,  
Office at Shahid Bhagatsingh Marg,  
Kulaba, Mumbai-400 001.
- 3) The Special General of Police,  
Amravati Division, Amravati,  
District:Amravati.
- 4) The Superintendent of Police,  
Yavatmal, District:Yavatmal.

5) The Deputy Inspector General of Police,  
Amravati Division, Amravati,  
District:Amravati.

**Respondents**

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Shri A.M.Tirukh, Ld. Counsel for the applicant.  
Shri M.I.Khan, Ld. P.O. for the respondents.

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**Coram:- Hon'ble Shri M.A.Lovekar, Member (J).**

**Dated: - 12<sup>th</sup>February, 2024.**

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**JUDGMENT**

**Judgment is reserved on 06<sup>th</sup>February, 2024.**

**Judgment is pronounced on 12<sup>th</sup>February, 2024.**

Heard Shri A.M.Tirukh, learned counsel for the applicant  
and Shri M.I.Khan, learned P.O. for the respondents.

2. Facts leading to this O.A. are as follows. Husband of the applicant was working as Police Constable. By order dated 05.10.1978 he was removed from service. The Appellate Authority maintained punishment of removal from service. However, liberty was given to him to apply for compassionate pension. On 13.10.1978 he applied for granting the same (Annexure A-9). He does not appear to have pursued it. He died on 24.10.2005 (Annexure A-10). Thereafter, the applicant made representations for grant of compassionate pension on 14.12.2010, 08.08.2011, 22.03.2016 and 18.06.2016 (Annexures A-2 to A-5). These representations went unheeded. The applicant is aggrieved by this inaction on the part of the respondents.

Hence, this O.A..

3. In their reply respondents 3 to 5 have stated-

***As the case is 39 years old the service book and other documents were searched but they were not found. Therefore, his compassionate retirement case could not be prepared and presented. The copy of letter dt. 10.8.2017 is annexed herewith and marked as Annexure R-1.***

Annexure R-I states-

परंतु, श्री. किसन मारोती उजवणे यांनी अनुकंपा निवृत्ती वेतन मिळण्याबाबत कोणतेही कागदपत्रे सादर करू शकले नाही व विनंती केल्याचे दिसून येत नाही.

I have already referred to application dated 13.10.1978 (Annexure A-9) made by husband of the applicant for grant of compassionate pension. I have also referred to stand of the respondents 3 to 5 that as the case is 39 years old, compassionate pension case papers could not be prepared and presented. However, the fact remains that various representations made by the applicant went unheeded and no decision was taken on it.

4. It was submitted by Advocate Shri A.M.Tirukhfor the applicant that respondent no.1 ought to have taken a decision on various representations received from the applicant and

determined whether this was a case deserving of special treatment as provided in Rule 101 of the M.C.S.(Pension) Rules, 1982. Said Rule reads as under-

**101. Grant of Compassionate Pension in deserving cases by Government-**

*(1) When a Government servant is removed or required to retire from Government service for misconduct or insolvency or is removed or required to retire from Government service on grounds of inefficiency before he is eligible for a Retiring or Superannuation Pension, Government may, if the case is considered deserving of special treatment, sanction the grant to him of a Compassionate Pension.*

*(2) A dismissed Government servant is not eligible for Compassionate Pension.*

To further strengthen this submission reliance was placed on **Anna Deoram Londhe deceased through his L.R. Smt. Indirabai w/o Anna Londhe Vs. State of Maharashtra [1998(3) Mh.L.J. 435]** wherein it is held-

***In our considered opinion, in terms of provision of Rule 101, the respondents ought to have considered the representation of the petitioner from a point of view if the case is deserving of a special consideration for grant of compassionate pension independently.***

In reply, it was submitted by learned P.O. Shri M.I.Khan that not only the applicant but also her deceased husband both were guilty

of laches, cause of action arose for the deceased to apply for compassionate pension in the year 1978, he did not do anything till his death in the year 2005 and thereafter his wife, present applicant further added to the laches. It was submitted by the P.O. that there is no reliable material to show that the applicant was diligent in pursuing the matter.

5. Advocate Shri A.M.Tirukh submitted that in the facts and circumstance of the case question of limitation, laches will not arise since the applicant is pursuing a cause of action which is continuing one. In support of this submission reliance was placed on **Shri M.L.Patil (Dead) Through LRs. Vs. State of Goa and Anr. AIR 2022 Supreme Court 2878.** In this case it is held that recovery of pension is a continuing cause of action.

6. In reply, it was submitted by the P.O. that this Tribunal should not direct the department to consider stale claim. To support this submission reliance was placed on **C. Jakob Vs. Director of Geology and Mining and Another (2008) 10 SCC 115.** In this case it is held that Court should be circumspect in issuing directions to the department to consider stale claim as it ultimately leads to consideration of case on merits at subsequent stages of litigation as if the cause of action stood revived due to fresh consideration. In the instant case cause of action is

continuing one. Therefore, ratio in C.Jakob (Supra) will not be applicable.

6. Admittedly, respondent no.1 has not taken any decision on various representations made by the applicant. Respondent no.1 will have to decide whether case of the applicant is a case deserving of special treatment. If respondent no.1, on facts of the case, comes to the conclusion that the case is deserving of special treatment, delay, if any, may also be condoned by it. Following directions to respondent no.1 shall meet ends of justice. Respondent no.1 shall decide representations made by the applicant within three months from today on its own merits and communicate the decision to the applicant forthwith. Respondent no.1, for the purpose of deciding whether this is a case deserving of special treatment, shall get service record of deceased husband of the applicant reconstructed. The O.A. is allowed in these terms. No order as to costs.

(M.A.Lovekar)  
Member (J)

Dated – 12/02/2024  
rsm.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Raksha Shashikant Mankawde  
Court Name : Court of Hon'ble Member (J).  
Judgment signed on : 12/02/2024.  
and pronounced on  
Uploaded on : 13/02/2024.