

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI  
ORIGINAL APPLICATION NO.254 OF 2017**

**DISTRICT : NASHIK**

Smt. Ruhi D/o Ravindra Aher, )  
Age 29 years, R/o 15, Ramkrushna Apartment, )  
Manik Nagar, Gangapur Road, Nashik )..Applicant

Versus

1. The State of Maharashtra, )  
Through the Principal Secretary, )  
Water Resources Department, )  
Mantralaya, Mumbai 400032 )
2. The State of Maharashtra, )  
Through the Secretary (CAD), )  
Water Resources Department, )  
Mantralaya, Mumbai 400032 )
3. The Chief Engineer, )  
Water Resources Department, )  
North Maharashtra Region, MICO Circle, )  
Trimbak Road, Nashik 422002 )..Respondents

Shri A.V. Sakolkar – Advocate for the Applicant

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

CORAM : Shri Justice A.H. Joshi, Chairman  
Shri P.N. Dixit, Member (A)  
RESERVED ON : 12<sup>th</sup> September, 2018  
PRONOUNCED ON : 27<sup>th</sup> September, 2018  
PER : Shri P.N. Dixit, Member (A)

### **J U D G M E N T**

1. Heard Shri A.V. Sakolkar, learned Advocate for the Applicant and Smt. Archana B.K., learned Presenting Officer for the Respondents.
2. The Applicant has made a prayer to quash the impugned order dated 17.2.2016 passed by the Respondent No.2 rejecting her representation dated 5.2.2016 for permission to join her duties.

#### **Brief facts of the case:**

3. The Applicant had appeared for the examination for selection to the post of Assistant Engineer, Grade II (Civil), Group B. As the Applicant passed the examination successfully she was selected for the same post and an appointment order dated 9.3.2015 was issued in favour of her (page 28 of OA).
4. On 15.3.2015 Applicant communicated her inability to join at her place of posting (page 29 of OA) on account of her personal difficulties. According to the Applicant, she had been to the office of Respondent No.3 and submitted a letter dated 17.3.2015 stating that she had joined the duties on 17.3.2015 (page 30 of OA). According to the Applicant on 21.3.2015 she submitted required documents but there was no response from the office of Respondent No.3.

5. As per the claim of the Applicant, she got married and had to accompany her husband to UAE.

6. By her representation dated 5.2.2016 she requested Respondent No.2 to permit her to join the duties as she had to return to India since her husband lost the job and she was in dire need of the job due to financial difficulties and grave financial crises (page 31 of OA). In response to Applicant's request to permit her to resume duty, the impugned order dated 17.2.2016 was issued by Respondent No.2 mentioning that the request made by the Applicant is rejected (page 34 of OA).

7. According to the Applicant the post for which she was selected is still vacant. She contends that no reasons have been provided in rejecting her representation dated 5.2.2016. She, therefore, prays that sympathetic consideration may be given looking at her family problems and financial hardship.

8. The affidavit in reply filed on behalf of the Respondents points out that:

- (a) *The Respondents are unaware about the marriage of the Applicant as claimed by her.*
- (b) *As per the offer, it was necessary for the Applicant to join at the place of posting within a period of one month, which she has failed to do so.*
- (c) *Applicant has also failed to submit the representation seeking extension of time for joining, and Applicant's application dated 15.3.2015 stating that she is not willing to join is already on record.*

- (d) *The Applicant's claims that she has submitted joining report is not supported by any evidence to show that it was actually submitted. Any collateral evidence such as acknowledgment, inward number etc. is totally absent, so also fact that application was submitted on 17.3.2015 is not disclosed in her representation dated 5.2.2016.*
- (e) *The appointment of the Applicant stood automatically cancelled as she did not join within the prescribed time limit.*

Discussions and findings:

9. It is an admitted fact that Applicant is a meritorious candidate and had appeared for the examination followed by passing the same successfully. Following her marriage, the Applicant, it appears, was compelled by family members to submit a letter declining to accept the appointment. She was also necessitated to travel with husband to UAE, but due to global recession her husband lost his job and she had to come back to the country.

10. Applicant's plea that the post for which she was selected is still vacant is not disputed rather is impliedly admitted.

11. The circumstances mentioned by the Applicant deserve consideration as she had very little control over the matters narrated by the Applicant. Procedural requirement needs that the Applicant should have submitted an application requesting extension for joining. This is a procedural deficiency, which can be condoned taking humanitarian consideration and the policy of State based on constitutional mandate of integrity of institution of family and about woman empowerment.

12. In the premises discussed hereinbefore the Respondents ought to have considered Applicant's representation sympathetically and permitted her to join at the said post. The respondents are bound to be benefitted by permitting selected candidate to join because only against available work, post and long waiting, the post must have been created and after long drawn exercise Applicant was selected. The investment of long drawn process, time man hours could be used better by allowing the Applicant to join duty in public interest.

13. The delay in joining deserves to be condoned and she be permitted to join from the date on which she takes the appointment, without any claim for back wages and seniority from the date of offer. She would however be entitled to get seniority from the date of request for joining which application has been eventually rejected i.e. from 5.2.2016.

14. Hence, OA succeeds. Order is passed in terms of foregoing para No.13.

15. Parties are directed to bear own costs.

**Sd/-**  
**(P.N. Dixit)**  
**Member (A)**  
**27.9.2018**

**Sd/-**  
**(A.H. Joshi, J.)**  
**Chairman**  
**27.9.2018**

Dictation taken by: S.G. Jawalkar.