

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

M.A. No. 69/2016 in O.A. St. No. 132/2015
(Smt. Shantabai Wd/o Baburao Bidve V/s. the State of Mah. & Ors.)

**CORAM : HON'BLE SHRI J.D. KULKARNI,
VICE CHAIRMAN (J).**

DATE : 24.08.2017.

ORDER

1. Heard Shri S.D. Dhongde, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for respondents.

2. The applicant belongs to SC category and was appointed as against leave vacancy as Sweeper on 6.6.1977 for a period of 30 days. She was continued by issuing different appointment orders till she attains the age of 60 years on 11.3.2013 and therefore, she has put in more than 30 years continuous service as Sweeper on temporary basis.

3. According to the applicant, this Tribunal has passed orders in number of Original Applications and lastly on 9.7.1999 directing the respondents to prepare the seniority list of all employees like the applicant. The name of the applicant stood at Sr. No. 3 in the said list. From the final list, the same was deleted. The Government issued G.Rs. on 11.8.2006 and 21.10.2011

and thereafter, on 1.10.2013 and 26.02.2014. According to the applicant, as per these G.Rs., the applicant was entitled to be regularized and it was necessary to include her name in the final list. Her grant-son was entitled to get appointment on compassionate ground. Accordingly, her grant-son has applied for appointment on compassionate ground on 4.7.2014. However, nothing has been done.

4. The applicant is claiming following reliefs in the Original Application:-

- “A) This original application may kindly be allowed with costs.*
- B) The respondents be directed to include the name of the applicant in the list finalized on 9.7.1999 as per the directions of this Honourable Tribunal for grant of permanency and grant such benefits of permanency to the applicant since the said date as she deserves to be placed at Sr. No. 2 in the said list on the basis of her initial appointment.*
- C) The respondents may kindly be directed to grant further consequential benefits to the applicant including grant of pension and pensionary benefits on the basis of her regularization of services.*

D) The respondents be further directed to grant appointment to her grandson on compassionate grounds in accordance with recommendations of Lad/Page committee.”

5. Learned Advocate for the applicant has submitted that there is a delay of two years at she got knowledge on 31.03.2013. It is material to note that even though, it is stated that there is delay of two years, the Misc. Application is filed on 5.2.2016 i.e. almost after two years and 11 months.

6. The applicant has also claimed that there is delay of 14 years for considering her claim for inclusion of her name in the seniority list of badly workers of the year 1999.

7. According to the applicant, the number of workers have already been regularized by the respondents, who were junior to her. The applicant has therefore, claimed that the delay for filing accompanying O.A. be condoned.

8. The respondent Nos. 2 & 3 have strongly objected for contention of the applicant by filing affidavit in reply. It is stated that the applicant's claim is after

retirement and the delay is not properly explained. Since the applicant has been retired, she has no *locus-standi* to claim regularization.

9. From the pleadings, it seems that the applicant is claiming multiple directions in O.A. St. No. 132/2015. The main claim is that her name be included in the list of permanent badly workers finalized on 9.7.1999. There is no reason as to why such claim is being made for the first time in the year 2015. The other reliefs claimed by the applicant are based on granting or non-granting of relief of inclusion of her name in the final list dated 9.7.1999. It seems that if the applicant's name is included in the final list on 9.7.1999, she will be claiming permanency and benefits of permanency and also consequential reliefs regarding grant of pension and pensionary benefits etc. and thereafter, appointment for her grant-son on compassionate ground.

10. In the Misc. Application, no reasonable explanation has been given as to why the applicant remained silent from 1999 till her retirement or even thereafter for three years. Had it been a fact that the applicant was not regularized and her name was not

included in the final list of badly workers, who were made permanent in the year 1999, she should have immediately approached this Tribunal or should have filed her claim before the competent authority. It is stated that the applicant got knowledge for the first time about her various claims on 31.03.2013, but the pleadings are silent regarding this particular date of knowledge.

11. It seems that the applicant has earlier filed M.A. No. 39/2015 in O.A. St. No. 132/2015, which was withdrawn with liberty to file fresh O.A. along with application for condonation of delay. The order in this regard was passed by this Tribunal on 15.01.2016 and therefore, the present Misc. Application is filed for condonaiton of delay. As already stated, there is absolutely no convincing reason for making such application after 14 years also for including her name in the final seniority list of 1999. The seniority list is published every year. The applicant got retired on 11.3.2013 on attaining the age of 60 years. She was having opportunity to challenge the so-called seniority list, which she has challenged in the present O.A. in the year 2016, from 1999 till 2013. No convincing reason has been made out for not challenging the seniority list and not

including her name in the said seniority list since 1999 to 2015 or 2016. I am therefore, satisfied that the Original Application is hopelessly barred by limitation, since the applicant was never included in the seniority list of badly permanent workers, other reliefs such as consequential claims will be out of question. Hence, I pass following order:-

ORDER

The M.A. No. 69 of 2016 for condonation of delay stands dismissed. Consequently, O.A. St. No. 132/2015 also stands dismissed. There shall be no order as to costs.

VICE CHAIRMAN (J)

KPB/S.B. M.A. 69 of 2016 in O.A. St. No. 132 of 2015