

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD****MISC. APPLICATION NO. 228 OF 2017
WITH
ORIGINAL APPLICATION ST. NO. 842 OF 2017****DISTRICT: AURANGABAD****Smt. Preeti Singh,**)
Age: 33 years, Occu. : Dentist,)
R/o B-10, Nipa Tenements-1)
Gorwa Refinery Road,)
Vadodare-390016.)**.. APPLICANT****V E R S U S**

- 1) **The State of Maharashtra,**)
(Through its Secretary,)
Medical Education and Research)
Department, Mantralaya, Mumbai.)
- 2) **The Director,**)
Director of Medical Education and)
Research, Mumbai -32.)
- 3) **The Joint Director,**)
Director of Medical Education and)
Research, Mumbai-32.)
- 4) **The Dean,**)
Government Medical College and)
Hospital, Aurangabad.)

.. RESPONDENTS

APPEARANCE : Ms. Bhavna Panpatil, Advocate holding for Shri
S.B. Talekar, Advocate for the Applicant.: Shri M.S. Mahajan, Chief Presenting Officer for
the Respondents.

CORAM : **HON'BLE SHRI B.P. PATIL, MEMBER (J)****DATE** : **18.04.2018.**

ORDER

1. The applicant has filed the Misc. Application No. 228/2017 for condonation of delay of 1019 days caused for filing the present Original Application St. No. 842/2017.

2. It is contention of the applicant that she was on maternity leave during the period from 11.09.2013 to 09.09.2014. After joining the services, she applied for extending the benefits to which she is entitled under the Maternity Benefit Act by filing the application dated 05.04.2015 with the respondent Nos. 3 & 4. Her application came to be rejected by the respondents. Thereafter, she had sent a legal notice to the respondent No. 2 on 05.02.2016, but no response has been received to her from the respondent No. 2. Therefore, she had filed reminder on 31.12.2016. It is her contention that thereafter, she has filed the present O.A. challenging the impugned orders dated 02.06.2015 & 09.07.2015 and prayed to direct the respondents to pay maternity benefit to her.

3. It is her contention that since he has filed the representations with the respondents and the respondents had not decided the same, the delay has been occurred in filing the present O.A. It is her contention that the delay is not deliberate and intentional. It is her further contention that there is merit in

O.A. and her valuable rights are involved in the said O.A. Therefore, she has prayed to condone the delay caused for filing O.A. by allowing the present Misc. Application.

4. The respondent Nos. 1 to 4 have filed their affidavit in reply and resisted the contentions of the applicant. It is their contention that the applicant had completed her Post Graduation from the Government Dental College on free seat and therefore, as per the relevant rules, she had executed the bond and undertook to serve Government Institution for a period of 1 year on completion of her Post Graduation course. As per the bond executed by the applicant, she has been appointed as Assistant Professor at Government Dental College, Aurangabad for a period of 1 year on 11.09.2013. It is their contention that the applicant cannot be considered as regular Government employee or as contractual Government employee or even as employee appointed on daily wages. The applicant had executed bond and therefore, it is mandatory on her part to serve the Government for a period of one year. Therefore, the provisions of Maharashtra Civil Services Rules including the Leave Rules are not applicable to the bonded candidate. All these terms and conditions had been mentioned in the appointment letter of the applicant. It is their contention that the request of the applicant to grant maternity leave has been rejected by the respondents on 16.12.2013.

Thereafter, she made representation on 05.03.2015 after 14 months. The respondents had given response to said representation and rejected her application by communication dated 02.06.2015 and 09.07.2015. It is their contention that the applicant has not put forth a just and reasonable ground for condonation of delay. The applicant ought to have filed the O.A. immediately after rejection of her application for leave on 16.12.2013. She has intentionally made delay in filing the present Original Application. Therefore, the delay, which is deliberate, inordinate and intentional cannot be condoned. On these grounds, they prayed to reject the present Misc. Application.

5. I have heard Ms. Bhavna Panpatil, learned Advocate holding for Shri S.B. Talekar, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents. I have perused the documents placed on record by both the parties.

6. Admittedly, the applicant was bonded candidate and appointed in pursuance of the bond executed by her. Admittedly, she has completed post-graduation course in the Government Dental College on free seat and therefore, as per the rules, she has to execute bond to serve the Government for one year. Admittedly, after completion of post-graduation course, she has been appointed as bonded candidate by appointment letter dated

05.09.2013. There is no dispute about the fact that the applicant remained absent on duties from 09.12.2013 to 09.07.2014 on account of pregnancy and delivery and thereafter, she joined the duties on 09.09.2014. Thereafter, she served the Government as per bond executed by her. Admittedly, the applicant filed the application on 07.12.2013 regarding her absence on duty on account of her ill health and claimed leave. Her application came to be rejected by communication dated 16.12.2013 by the respondents on the ground that she was not entitled to enjoy any kind of leave, as she was bonded candidate. Thereafter, she moved another application claiming same relief, but her application came to be rejected by the respondents by communications dated 02.06.2015 and 09.07.2015.

7. Admittedly, the applicant has challenged the subsequent orders dated 02.06.2015 and 09.07.2015 by filing the present O.A. and that too beyond the period of limitation.

8. Learned Advocate for the applicant has submitted that the applicant was on medical leave during the said period and after delivery, there were medical complications and therefore, the Doctors advised the applicant to take rest and therefore, she could not be able to file the present Original Application in time. She has submitted that there is merit in the O.A. The applicant is entitled to get maternity leave in view of the provisions of

Maternity Benefit Act and therefore, it is just to allow the present Misc. Application and to condone the delay. She has submitted that the Hon'ble Apex Court in case of **Shri Swami Vivekanand Shikshan Sansthechya Sevakanchi Patsanstha Maryadit v. Kumari Deepa Narayan Jadhav** reported in **2016 SCC Online Bom 2247**, has held that the Maternity Benefit Act, 1961 is a beneficial piece of legislation and its object is to ensure security of tenure for the working woman. She has submitted that in view of the said fact, it is just to condone the delay and to decide the O.A. on merit.

9. Learned Chief Presenting Officer has submitted that the applicant was bonded candidate and as per the bond executed by her, she has to serve the Government for one year after completion of her post-graduation course and accordingly, she has joined her duties as per bond executed by her on 11.09.2013. Thereafter, she remained absent from duty from 09.12.2013 on account of ill health and she has submitted her application to grant leave to the respondents on 07.12.2013, but her application was rejected on 16.12.2013 by the respondent No. 4 on the ground that she was bonded candidate and therefore, she was not entitled to claim leave of any type. He has argued that in spite of that the applicant had not challenged the same and again she has filed another application after joining the duties. The said

application has been rejected by the respondents by the communications dated 02.06.2015 and 09.07.2015. He has submitted that the applicant was aware about the fact that her application for leave had already been rejected by the respondents in the year 2013, but she had not challenged the said order in time and went on to make another application with the respondents. But the said application on 02.06.2015 and 09.07.2015 had been rejected by the respondents. She had not filed the O.A. in time from the date of rejection of her subsequent applications above. He has submitted that the applicant has not shown just and reasonable cause which prevented her to file the O.A. within time. He has submitted that there is no just and plausible explanation given by the applicant to condone the delay and therefore, he prayed to reject the Misc. Application for condonation of delay.

10. On going through the record, it reveals that the applicant joined her services on 11.09.2013 as bonded candidate. As per the terms and condition in the appointment order, she is not entitled to claim any kind of leave. On 07.12.2013, she moved an application to the respondent No. 4 for medical leave w.e.f. 09.12.2013, but her application was rejected by the respondent No. 4 on 16.12.2013 on the ground that she is not entitled to claim any kind of leave. The said communication was

served on the applicant, but she had not challenged the same within a stipulated time. Thereafter, she moved another application for granting medical leave in the year 2014 and thereafter, in the year 2015, but the said applications came to be rejected by the respondents by communications dated 02.06.2015 and 09.07.2015. Even though, she has not challenged the said order in time.

11. On going through the contention of the applicant, it is crystal clear that after delivery, she joined her duties on 10.07.2014 and thereafter, she served with the respondents as per the bond executed by her. It means since 10.07.2014, she was in good state of health. Therefore, contention of the applicant that she was prevented to file the O.A. challenging the impugned orders within stipulated time due to ill health is not acceptable. Except the ground of ill health, there is no other ground to condone the delay. The applicant has not established the sufficient cause, which prevented her to file the O.A. in time and therefore, in the absence of sufficient and just cause, the delay of 1019 days caused in filing the accompanying O.A. cannot be condoned. The delay caused in filing the O.A. seems to be intentional and deliberate. There is an inordinate delay of more than three and half years in filing the O.A., since her first application for grant of maternity leave has been rejected by the

respondents on 16.12.2013. There is an inordinate and intentional delay in filing the O.A. Therefore, in the absence of sufficient cause, same cannot be condoned.

12. In view of the above circumstances, in my opinion, it is not a fit case to condone the delay, as the applicant has not given sufficient and just reasons for condoning the same. Therefore, the M.A. deserves to be rejected.

13. Hence, the M.A. stands dismissed with no order as to costs. Consequently the O.A. stands rejected. There shall be no order as to costs.

PLACE : AURANGABAD.
DATE : 18.04.2018.

(B.P. PATIL)
MEMBER (J)

KPB/S.B. M.A. 228 of 2017 in O.A. St. No. 842 of 2017 BPP 2018 delay