

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**MISC. APPLICATION NO. 258 OF 2017
WITH
ORIGINAL APPLICATION ST. NO. 910 OF 2017
DISTRICT: JALGAON**

Smt. Seema w/o Arun Patil,)
Age: 54 years, Occu. : Service,)
R/o 9, Mundada Nagar,)
Near Ramanand Police Station,)
Jalgaon, Dist. Jalgaon) .. **APPLICANT**

V E R S U S

- 1) **The State of Maharashtra,**)
Through its Secretary,)
Technical Education Department,))
Mantralaya, Mumbai-32.)
- 2) **The Director of Technical**)
Education,)
Maharashtra State,)
3, Mahapalika Marg,)
Post Box No. 1967,)
Mumbai – 400 001.)
- 3) **The Joint Director Technical**)
Education,)
Government Polytechnical campus))
Post Box No. 219, Samangaon)
Road, Nashik Road,)
Nasik – 422 101.)
- 4) **The North Maharashtra**)
University,)
Post Box No. 80, Umavinagar,)
Jalgaon- 425 001)
Through its Registrar,)
- 5) **The Controller of Examinations,**)
Exam Department,)
North Maharashtra University,)
Umavinagar, Jalgaon-425 001.)

6. **The Principal,**)
Government Engineering College,)
National Highway No. 6,)
Jalgaon -425 002.)
7. **Mr. S.O. Dahad,**)
The Dean,)
Academic Planning and Monitoring,)
Extc. Government Engineering)
College, Jalgaon – 425 002.)
8. **Mrs. M.S. Phalak,**)
Portfolio-Exam Form,)
Revaluation Exam (Theory),)
Appl Sci. Government Engineering)
College, National Highway No. 6,)
Jalgaon – 425 002.)

.. **RESPONDENTS**

APPEARANCE : Shri Gajanan Kadam, Advocate for the
Applicant.

: Shri D.R. Patil, Presenting Officer for the
Respondent Nos. 1 to 3 & 6.

: Shri Parag Shahane, Advocate for Respondent
No. 8.

: None appeared for respondent Nos. 4, 5 & 7.

CORAM : **B.P. PATIL, MEMBER (J)**

DATE : **31.07.2018.**

ORDER

1. Heard Shri Gajanan Kadam, learned Advocate for the Applicant, Shri D.R. Patil, learned Presenting Officer for the Respondent Nos. 1 to 3 & 6 and Shri Parag Shahane, Advocate for Respondent No. 8. None appeared for respondent Nos. 4, 5 and 7.

2. The applicant has filed the present Misc. Application for condonation of delay of 110 days caused in filing the accompanying O.A. challenging the order dated 18.09.2015 issued by the respondent No. 6 for recovery of amount.

3. It is contention of the applicant that the respondent No. 6 has passed the order dated 18.09.2015 and directed to recover an amount of Rs. 1,03,250/- from her in 35 installments of Rs. 2,950/- per month. It is her contention that after issuance of said order, she has filed representation with the respondents immediately, but the respondents have not decided it. Thereafter, she made several representations with the respondents, but they have not decided it. She has lastly received communication dated 12.09.2016 from the respondent No. 3 informing her that he will take proper action only after the response of the respondent No. 6 is received. Since the respondents had not decided her representations and as she was hoping that they will take proper decision on her representations, she could not file O.A. in time. Therefore, delay of 110 days has been caused in filing the accompanying O.A. The said delay is not intentional and deliberate. Her valuable rights are involved in the matter and therefore, she prayed to allow the present Misc. Application and to condone the delay.

4. Respondent Nos. 1 to 3 and 6 have filed their affidavit in reply and resisted the contention of the applicant on the ground that the applicant has not explained the delay by showing sufficient cause. The delay of 1 year 11 months has been caused in filing the accompanying O.A. and the said delay is an inordinate and therefore, they prayed to reject the Misc. Application.

5. Learned Advocate for the applicant has submitted that the applicant has filed the O.A. challenging the impugned order dated 18.09.2015, by which the respondent No. 6 directed the applicant to deposit the amount of Rs. 1,03,250/- and also directed to recover the same in 35 installments of Rs. 2,950/- per month. He has submitted that immediately after the order, the applicant has filed representations with the respondent No. 3 challenging the said order, but the respondent No. 3 had not decided it and called document and record from respondent No. 6 and there was further communication between them. The applicant has made several representations with the respondent No. 3 in that regard, but the respondent No. 3 had not taken decision on it. Lastly on 12.09.2016, respondent No. 3 informed her that he will take proper action only after getting response from the respondent No. 6. He has submitted that the applicant

hoped that the respondent No. 3 will take decision on her representation and therefore, she waited for long time and due to this reason, the delay of 110 days has been caused in filing the accompanying O.A. Therefore, he prayed to allow the M.A. and condone the delay caused in filing the accompanying O.A.

6. Learned Presenting Officer has submitted that delay caused for filing the O.A. is an inordinate and the applicant has not explained the delay properly. He has submitted that the delay of 1 year 11 months has been caused, since the impugned order has been passed. The applicant ought to have filed the O.A. within one year from the date of impugned order dated 18.09.2015, but the applicant thereafter has filed the O.A. along with the present Misc. Application for condonation of delay after 11 months. The O.A. is barred by limitation in view of Section 21 of the Administrative Tribunal Act, 1985 and therefore, he prayed to dismiss the M.A., as well as O.A.

7. On perusal of the record, it reveals that the respondent No. 6 passed the order dated 18.09.2015 and directed to recover an amount of Rs. 10,3250/- from the applicant in 35 installments of Rs. 2,950/- per month. Immediately after passing of the order, the applicant has filed representations with the respondent No. 3 dated 24.09.2015 and

1.12.2015 and challenged the impugned order. But neither the respondent No. 3, nor respondent No. 6 had decided the applicant's representations in view of the provisions of Section 21 (1) of the Administrative Tribunals Act, 1985. If the representation is made with the concerned authority, the period of limitation starts after expiry of period of six months. It means the period of limitation for filing of the present O.A. starts after expiry of period of 6 months from the date of filing of representation dated 01.12.2015. The said period expired on 01.06.2016. Thereafter, within one year the applicant ought to have filed the present O.A. It means the applicant ought to have filed the O.A. on or before 01.06.2017, but the applicant has filed the present O.A. on 12.07.2017. It means that the delay of about 42 days has been caused in filing the accompanying O.A. The applicant had not received any communication from the respondent No. 3 regarding decision on her representation. There was correspondence between the respondent Nos. 3 and 6. The applicant has received last communication dated 12.09.2016, by which the respondent No. 3 informed her that he will take proper action in the matter only after receiving response from the respondent No. 6. This shows that the matter remained pending with the respondent No. 3, as the respondent No. 6 has

not supplied the necessary information to him. Therefore, I find that there is good reason for the applicant to wait for the decision on her representation/s. As the applicant waited for the proper action on the part of the respondent No. 3 on her representation, the delay has been caused. The said delay has been properly and satisfactorily explained by the applicant. Therefore, in my opinion, it is just and proper to condone the delay caused in filing the accompanying O.A. to advance substantial justice to the applicant. The applicant's valuable rights are involved in the present O.A. and therefore, the O.A. requires to be decided on merit. Therefore, it is just and proper to condone the delay caused for filing the accompanying O.A. by allowing the present M.A.

8. In view of the discussions in foregoing paragraphs, the M.A. is allowed and the delay of 110 days caused in filing the accompanying O.A. is hereby condoned. The Registry is directed to register the O.A. after due scrutiny. There shall be no order as to costs.

PLACE : AURANGABAD.

DATE : 31.07.2018.

KPB/S.B. M.A. 258 of 2017 in O.A. St. No. 910 of 2017 BPP 2018 delay

(B.P. PATIL)

MEMBER (J)

FARAD CONTINUATION SHEET**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI, BENCH AT AURANGABAD****ORIGINAL APPLICATION ST. NO. 910/2017**
(Su. Seema A. Patil V/s. State of Maharashtra & Ors.)**OFFICE ORDER****TRIBUNAL'S ORDERS****CORAM : B. P. PATIL, MEMBER (J).****DATE : 31.07.2018.****ORAL ORDER :**

Heard Shri Gajanan Kadam, learned Advocate for the applicant, Shri D.R. Patil, learned Presenting Officer for respondent Nos. 1 to 3 & 6. None appeared for respondent Nos. 4, 5 & 7.

2. Upon registration, issue notices to the respondents, returnable on 03.09.2018.

3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.

4. Applicant is authorized and directed to serve on respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

//2// O.A. St. 910/2017

5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

6. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

7. In case notice is not collected within 7 days or service report on affidavit is not filed 3 days before returnable date, O.A. shall stand dismissed without reference to Tribunal and papers be consigned to record.

8. Reply be filed on or before 3.9.2018.

9. S.O. 03.09.2018.

10. Steno copy and hamdust is allowed to both the sides.

MEMBER (J)