

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

MISCELLANEOUS APPLICATION NO.202/2017
IN
ORIGINAL APPLICATION ST. NO.322/2017

DISTRICT: - NANDED

Venkat Marutirao Methe,

Age : 63 years, Occu. : Nil-Pensioner,

R/o. Bhakti Niwas, Rajesh Nagar,

Taroda Naka, Nanded 431 605.

...APPLICANT

V E R S U S

1) The State of Maharashtra,
Through the Principle Secretary,
Revenue & Forest Department,
Mantralaya, Mumbai-400 032.

2) The Settlement Commissioner &
Director of Land Records,
New Administrative Building,
In front of Council Hall,
Pune 411 001.

...RESPONDENTS

APPEARANCE :Shri Ajay Deshpande Advocate for
Applicant.

:Shri N.U.Yadav Presenting Officer for the
respondents.

CORAM : B. P. Patil, Member (J)

DATE : 13th August, 2018

O R A L O R D E R
[Delivered on 13th day of August 2018]

1. The applicant has filed this Miscellaneous Application for condonation of about 20 years delay caused for filing the O.A.

2. It is contention of the applicant that he joined service with the respondents as District Inspector of Land Records on 01-10-1980. He was entrusted with the additional charge of Tahsildar – Survey (Rewriting), Beed. During that period, a bill of reimbursement of medical expenses of one Shri B.D.Kekan for Rs.5,760/- was forwarded under his signature and it was disbursed to concerned employee. Thereafter a criminal prosecution came to be launched against the responsible persons. Name of the applicant was not included as an accused in that case. Said case bearing R.C.C. No.438/1997 ended in acquittal of those accused on 09-10-2015 in the court of Chief Judicial Magistrate, Beed.

3. It is contention of the applicant that a departmental enquiry had been initiated against him in that regard on 20-11-1991. The Enquiry Officer submitted report in the month of March, 1995. It was kept in the cold storage for

18 years. Meanwhile, applicant stood retired on attaining the age of superannuation on 30-09-2012. Final order was passed in the departmental enquiry on 17-11-2015 and punishment of deduction of 3% amount from his pension for the period of one year came to be inflicted on him in view of Rule 27 of the Maharashtra Civil Services (Pension) Rules, 1982.

4. It is contention of the applicant that because of the pendency of the disciplinary proceedings his claim was not considered but many other junior officers came to be promoted as Superintendent of Land Records and thereafter as Deputy Director of Land Records on 11-03-1996 and 03-06-2006, respectively. It is his contention that the departmental enquiry against him was pending for 24 years and because of the pendency of the departmental enquiry his case for promotion was not considered, and therefore, he could not able to file O.A. in time. It is his contention that the delay caused for filing O.A. was not deliberate and intentional and it was caused due to above said factual reasons. Therefore, he prayed to condone the delay caused for filing the O.A. by allowing the present M.A.

5. Respondents have resisted the M.A. by filing their affidavit in reply. It is their contention that the applicant was involved in sanctioning medical reimbursement bill of Rs.5760/- to Shri B.D.Kekan. Therefore, FIR was registered against all the responsible persons including the applicant on 19-11-1991 for commission of offence during the period from 10-08-1987 to 1988. The departmental enquiry was initiated against the applicant. The full-fledged enquiry was conducted by the department through Enquiry Officer, and thereafter, the Enquiry Officer submitted report in the departmental enquiry. It is their contention that due to the fire in the Mantralaya, papers in the departmental enquiry were destroyed. As the papers were destroyed, file of the departmental enquiry of the applicant was re-constructed. On 20-05-2013 notice was served on the applicant along with the report in the enquiry. The applicant submitted his reply to the notice on 05-08-2013. Thereafter, respondent no.1 passed the order dated 17-11-2015 imposing punishment on the applicant.

6. It is their contention that after scrutinizing the service record and Annual Confidential Reports (ACRs) of the concerned employees, Departmental Promotion Committee

(DPC) had taken decision from time to time regarding promotion as per seniority and other eligibility criteria. As the applicant was not eligible for promotion, DPC had taken conscious decision not to promote the applicant as per G.A.D. circular dated 02-04-1976. The applicant has not challenged the decision of the DPC till his retirement i.e. till 30-09-2012. Final order had been passed in the departmental enquiry on 17-11-2015. The applicant was not eligible for promotion till his retirement. The applicant never challenged the decision of the DPC. It is their contention that the applicant has deliberately avoided to challenge the decision of the DPC and filed the present O.A. after lapse of about 20 years. It is their contention that the delay caused for filing the O.A. is inordinate and no sufficient and just explanation has been given by the applicant for condonation of delay. Therefore, they have prayed to reject the M.A. for delay condonation.

7. I have heard Shri Ajay Deshpande Advocate for Applicant and Shri N.U.Yadav Presenting Officer for the respondents. Perused documents produced on record by the parties.

8. Learned Advocate for the applicant has submitted that the promotion to the applicant had been denied merely on the ground that the departmental enquiry was pending against him. He has submitted that final report in the departmental enquiry was submitted by the Enquiry Officer in the year 1995 but the respondents had not taken decision on it till 17-11-2015. The report was kept in the cold storage for the reasons best known to the respondents. Meanwhile, the applicant retired w.e.f. 30-09-2012. Thereafter, in the year 2015, respondents issued show cause notice to the applicant on the basis of enquiry report in the departmental enquiry and the applicant submitted his reply to it. Thereafter, respondent no.1 passed the order of imposing punishment on the applicant on 17-11-2015. He has submitted that as the respondents had not taken decision in the departmental enquiry, applicant could not able to claim promotion and his promotion was withheld because of the pendency of the departmental enquiry. He has submitted that as soon as the departmental enquiry was completed, the applicant became eligible to claim promotion.

9. It is further submitted on behalf of the applicant that delay has been caused due to said technical difficulty and there is no deliberate or intentional delay on the part of the applicant. He has submitted that valuable rights of the applicant are involved in the O.A. Therefore, he prayed to condone the delay by allowing the M.A.

10. Learned P.O. has submitted that the DPC had denied promotion to the applicant long back in the year 1996 but the applicant had not challenged the said decision till filing the present O.A. He has submitted that DPC had taken conscious decision denying the promotion to the applicant because of the pendency of the departmental enquiry as per the G.R. dated 02-04-1976 but the applicant had not challenged the same within the stipulated time. Not only this but departmental enquiry was finally concluded on 17-11-2015 and the applicant was held guilty of the charges and he was punished accordingly. But the said decision had also not been challenged by the applicant in time, and therefore, delay caused for filing the O.A. is inordinate and unreasonable and therefore the same cannot be condoned. Therefore, he prayed to reject the O.A.

11. On perusal of the record it reveals that the chargesheet in the Departmental Enquiry had been issued to the applicant in the year 1991 for allegation of disbursement of reimbursement of medical bill to one Shri B.D.Kekan when he was holding additional charge of Tahsildar – Survey (Rewriting), Beed. The enquiry was conducted by Enquiry Officer in that regard. Because of the pendency of the departmental enquiry, promotion was denied to the applicant. The DPC took decision in that regard. The applicant was aware about the said fact but he never challenged the decision of the DPC till his retirement and thereafter also when the departmental enquiry was concluded on 17-11-2015. He was punished accordingly in view of Rule 27 of the Maharashtra Civil Services (Pension) Rules, 1982. The applicant has not challenged the said order within reasonable time and he kept mum.

12. More than 20 years has been lapsed but the applicant has not raised his grievance about the same before the competent authority. Not only this but the applicant has also not challenged the order imposing punishment on him in the departmental enquiry before the competent authority. No sufficient and just cause has been shown by

the applicant explaining the inordinate delay of more than 20 years caused for filing the O.A. Delay seems to be intentional and deliberate on the part of the applicant. In the absence of just and sufficient cause inordinate delay of 20 years cannot be condoned. Therefore, I do not find merit in the M.A. Consequently, M.A. deserves to be dismissed.

13. In view of the above facts and circumstances of the case M.A. stands dismissed. As the M.A. for condonation of delay is dismissed, registration of O.A. stands refused. There shall be no order as to costs.

(B. P. PATIL)
MEMBER (J)

Place : Aurangabad
Date : 13-08-2018.