

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**MISCELLANEOUS APPLICATION NO.334/2018
IN
ORIGINAL APPLICATION ST. NO.1291/2018**

DISTRICT: AURANGABAD

Pundlik s/o. Asaram Bodkhe,
Age : 68 years, Occu. : Pensioner,
R/o. Niwara Nagari, Vaijapur,
Tq. Vaijapur, Dist. Aurangabad.

...APPLICANT

V E R S U S

1) The State of Maharashtra,
Through Secretary,
Revenue Department,
Mantralaya, Mumbai-32.

2) The Divisional Commissioner,
Aurangabad.

3) The District Collector,
Aurangabad.

...RESPONDENTS

APPEARANCE :Shri C.R.Thorat, Advocate for the
Applicant.

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

CORAM : B. P. Patil, Acting Chairman

Reserved on : 18-11-2019

Pronounced on : 20-11-2019

O R D E R

1. By filing the present M.A., the applicant has sought condonation of delay of 1 year, 10 months and 24 days caused for filing the O.A.

2. The applicant has filed the O.A. claiming relief to extend the second benefit of Assured Career Progression Scheme ("ACPS" for short) to him w.e.f. 01-10-2006. It is contention of the applicant that he was appointed as Talathi initially on 12-01-1970. Thereafter, he was promoted as Circle Officer. On attaining age of superannuation, he retired on 31-05-2008 on the post of Circle Officer. It is his contention that he rendered 12 years continuous satisfactory service in the cadre of Talathi. Therefore, he was given benefit of first time bound promotion by order dated 01-12-1995 w.e.f. 01-10-1994. Thereafter, he completed 12 years' continuous service in the cadre of Circle Officer, and therefore, he was entitled to get second time bound promotion under the ACPS. He made several representations with the respondents claiming second benefit under ACPS but the respondents have not considered his representations. It is his

contention that the respondents granted time bound promotion to the similarly situated persons by order dated 02-06-2011 and 14-08-2017 but the said benefit is not granted to the applicant. As the respondents have not considered his representations, the applicant has filed the present O.A. It is his contention that the delay of 1 year 10 months and 24 days has been caused for filing the O.A. but the delay is not intentional or deliberate and it is caused because of pendency of the representations with the respondents. Therefore, he has prayed to condone the delay caused for filing the O.A. It is his contention that valuable rights of the applicant are involved in the matter. Therefore, he has prayed to allow the O.A.

3. Respondent no.3 has filed affidavit in reply and resisted the contentions of the applicant. It is his contention that the applicant has retired from the service from the post of Circle Officer on 31-05-2008. Initially, he was appointed as Talathi. After completion of 12 years' service on the said post, the applicant was extended first benefit of ACPS implemented by the Government as per the G.Rs. dated 15-10-1994 and 08-06-1995. Accordingly, the pay on promotional post of Circle Officer was granted by

order dated 01-12-1995 w.e.f. 01-10-1994. It is his contention that the applicant had retired on 31-05-2008 but he has not raised any grievance for extension of second benefit under the ACPS till 11-12-2015 and for the first time on 11-12-2015, the applicant made representation for extension of the said benefit. The applicant has not raised any grievance from the date of his eligibility i.e. from 2006 as well as after his retirement on 31-05-2008 till filing representation on 11-12-2015. There is an inordinate delay of more than 10 years for claiming the said benefit. The applicant has not approached this Tribunal within prescribed period of limitation. No just and sufficient cause is shown to condone the inordinate delay caused for filing the O.A. Therefore, he has prayed to reject the M.A.

4. I have heard Shri C.R.Thorat, Advocate for the applicant and Shri N.U.Yadav, Presenting Officer for the respondents. I have perused the documents placed on record by the parties.

5. Admittedly, the applicant was appointed as Talathi on 12-01-1970. On completion of 12 years' service, he was granted benefit under time bound promotion scheme by

order dated 01-12-1995 w.e.f. 01-10-1994. Admittedly, the applicant was promoted on the post of Circle Officer and he retired from the said post w.e.f. 31-05-2008. There is no dispute about the fact that the applicant completed 12 years' service from 01-10-1994 to 30-09-2006. There is no dispute about the fact that the applicant has not raised any grievance regarding second benefit under the ACPS till his retirement i.e. till 31-05-2008 though he was eligible on 30-09-2006. To get the second benefit he had not raised any grievance before the competent authority before his retirement and after his retirement also till 11-12-2015.

6. Learned Advocate for the applicant has submitted that the applicant made several representations for granting second benefit under ACPS after retirement but his representations were not considered by the respondents. He was waiting for the decision on the representations, therefore, he had not approached the Tribunal. He has argued that the similarly situated persons had received the similar benefits but the claim of the applicant has not been yet considered by the respondents. Therefore, he has approached this Tribunal. He has submitted that the delay of 1 year 10 months and 24 days

has been caused for approaching this Tribunal and for filing the O.A. from the date of last representation. He has submitted that the said delay has been occurred due to abovesaid reasons. He has submitted that valuable rights of the applicant are involved in the matter and therefore prayed to decide the O.A. on merit by condoning the delay caused for filing the O.A.

7. Learned P.O. has submitted that the cause of action to claim second benefit under the ACPS has been occurred to the applicant on 30-09-2006 but the applicant has not approached the Tribunal immediately thereafter. Not only this but he has not approached the respondents after his retirement i.e. after 31-05-2008 within time. For the first time, he has approached the respondents on 11-12-2015. Thereafter, also he had not approached the Tribunal in time. There is delay of more than 10 years in filing the O.A. but the said delay has not been explained by the respondents by giving sufficient cause or explanation. He has further argued that the delay caused for filing the O.A. is deliberate and intentional. Therefore, he has prayed to reject the M.A.

8. On perusal of record, it reveals that after getting the first time bound promotion on completion of 12 years' service, applicant was eligible to get benefit under the ACPS from 01-10-2006. Applicant has not raised grievance in that regard immediately. Not only this but he kept mum till his retirement. Even after his retirement he has not raised grievance before the respondents though he was aware of the fact that similarly situated persons received the said benefits. He has approached the respondents for the first time by filing representation dated 11-12-2015 and claimed the said benefit. He slept over his rights for a period of more than 10 years. Not only this but after filing the representation dated 11-12-2015, he had not approached this Tribunal within stipulated period as prescribed under the Administrative Tribunals Act, 1985. There is delay of more than 12 years in filing the O.A. from the date of cause of action arose to the applicant.

9. The applicant has not given plausible, sufficient and reasonable explanation explaining the inordinate delay caused for filing the O.A. In absence of sufficient explanation, inordinate delay of more than 12 years cannot

be condoned. There is no merit in the M.A. Hence, the M.A. deserves to be rejected.

10. In view of the foregoing paragraphs, M.A.No.334/2018 stands rejected. Consequently, registration of O.A. is refused. There shall be no order as to costs.

(B. P. PATIL)
ACTING CHAIRMAN

Place : Aurangabad
Date : 20-11-2019.