

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**MISCELLANEOUS APPLICATION NO.395/2017  
IN  
ORIGINAL APPLICATION ST. NO.1438/2017**

**DISTRICT: - JALNA**

-----  
Mohd. Suleman Abdul Gani,  
Age : 73 years, Occu. : Nil,  
R/o: C/o. B.G.Kharat, Nilkanth Nagar,  
Old Jalna, Jalna, Dist. Jalna.

...APPLICANT

**V E R S U S**

- 1) The State of Maharashtra,  
Through its Principle Secretary,  
Water Resources Department,  
Mantralaya, Mumbai-400 032.
- 2) The Superintending Engineer,  
Mechanical Circle, Nanded,  
Dist. Nanded.
- 3) The Executive Engineer,  
Mechanical Division No.2, Aurangabad,  
Dist. Aurangabad.
- 4) The Indian Audit & Account Department,  
Office of the Accountant General,  
(Accounts & Entitlement-1),  
Pratiksha Bhavan, Old C.G.O. Building,  
Maharshi Karve Marg, 2<sup>nd</sup> Floor,  
Mumbai.

...RESPONDENTS

-----  
APPEARANCE :Shri V.B.Wagh Advocate for Applicant.  
:Shri D.R.Patil Presenting Officer for the  
respondents.

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

-----  
DATE : 5<sup>th</sup> September, 2018  
-----

**ORDER**  
**[Delivered on 5<sup>th</sup> day of September, 2018]**

1. The applicant has prayed to condone delay of 18 years caused for filing the O.A. by filing the present Miscellaneous Application (M.A.).

2. At present, applicant is residing at Hyderabad and he is 74 years old. He is suffering from several ailments due to old age. It is his contention that respondent authorities have not granted compassionate pension to him and rejected his claim. It is his contention that claiming pension is recurring cause of action. It is his further contention that there is delay of near about 18 years in challenging the order of the respondents rejecting the application for compassionate pension. It is his contention that he was not keeping good health due to his old age, and therefore, he could not be able to approach this Tribunal in time. Not only this but because of financial problem he was not in a position to approach the Tribunal within time. It is averred by him that delay caused for filing O.A. is not intentional and deliberate and delay is caused due to abovesaid genuine reasons. He has contended that he has good case on merit and there is every possibility of success

in the O.A. Therefore, he has prayed to condone the delay by allowing the M.A.

3. Respondents have resisted contentions of the applicant by filing affidavit in reply. It is their contention that the applicant has not shown just and sufficient cause for condonation of inordinate delay caused for filing the O.A. It is their contention that the applicant was absent from duty for a considerable long period, and therefore, after enquiry he was removed from the service in the year 1990. Therefore, he was not entitled to get pension on compassionate ground. His claim was rejected long back. There is delay of more than 18 years. Said delay is inordinate and deliberate, and therefore, the same cannot be condoned. Therefore, they have prayed to reject the M.A.

4. I have heard Shri V.B.Wagh Advocate for Applicant and Shri D.R.Patil Presenting Officer for the respondents. Perused documents produced on record by the parties.

5. Admittedly, the applicant was serving as Clerk with the respondents. He remained absent on duty w.e.f. 07-05-1984 unauthorizedly. Therefore, an enquiry has been conducted against him. On conclusion of the enquiry,

he was removed from service w.e.f. 01-09-1990. Thereafter, proposal for granting pension to the applicant on compassionate ground was moved to the Government but the Government rejected the proposal on the ground that there was no sufficient reason to grant compassionate pension in view of Rule 101(1) of the Maharashtra Civil Services (Pension) Rules, 1982 and communicated the applicant accordingly on 23-11-2000. The applicant has challenged the said order by filing the O.A. on 21-09-2017. Admittedly, there was delay of near about 18 years in filing the O.A.

6. Learned Advocate for the applicant has submitted that the applicant could not able to challenge the impugned order dated 23-11-2000 before this Tribunal by filing the O.A. within prescribed period of limitation as he is residing at Hyderabad and he is suffering from ailments due to old age. He has submitted that financial condition of the applicant was not sound, and therefore, he could not able to challenge the impugned order in time. He has submitted that there is merit in the O.A. and the applicant has hope of success in the O.A. He has submitted that valuable rights of the applicant are involved in the O.A. Therefore, he has

prayed to allow the M.A. and condone the delay caused for filing the O.A.

7. Learned P.O. has submitted that no justifiable grounds have been mentioned by the applicant for condoning the inordinate delay of 18 years caused for filing the O.A. He has submitted that no sufficient documentary evidence has been produced by the applicant for condonation of delay. Therefore, in the absence of the sufficient cause, delay cannot be condoned. He has further submitted that delay is intentional and deliberate and therefore, he has prayed to reject the M.A.

8. On perusal of the documents on record, it reveals that proposal to grant pension to the applicant on compassionate ground sent by the respondent no.2 has been rejected by the Government by communication dated 23-11-2000 and the said decision has been communicated to the applicant by the respondent no.3 vide communication dated 18-12-2000. The applicant received the said communication but he has not challenged within stipulated time. He kept mum for about 18 years. This shows that the applicant has not challenged the impugned order deliberately and intentionally. Not only this but not a

single document has been produced by the applicant to show that because of illness, he failed to file the O.A. within time. In the absence of documentary evidence, it is difficult to accept the contention of the applicant that because of illness he could able to file the O.A. in time. Inordinate delay of 18 years is caused for filing the O.A. In the absence of sufficient cause and satisfactory reason, inordinate delay of 18 years cannot be condoned.

9. Therefore, in my opinion, no just and sufficient cause has been shown by the applicant to the satisfaction of the Tribunal to condone the delay. Therefore, M.A. deserves to be dismissed.

10. 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 : 05-09-2018.**