

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**MISCELLANEOUS APPLICATION NO.440/2019  
IN  
ORIGINAL APPLICATION ST. NO.1823/2019**

**DISTRICT: LATUR**

-----  
Laxman Hunnu Rathod,  
Age : 62 years, Occu. : Retired Police Inspector,  
R/o. Vasantnao Naik Nagar, Station Road,  
Akkalkot, Tq. Akkalkot, Dist. Latur. ...APPLICANT

**V E R S U S**

- 1) The State of Maharashtra,  
Through Secretary,  
Home Department,  
Mantralaya, Mumbai-32.
- 2) The Superintendent of Police,  
Latur, Shivaji Chowk, Latur,  
Tq. & Dist. Latur-413512. ...RESPONDENTS

-----  
APPEARANCE :Shri V.D.Godbharle, Advocate for the  
Applicant.  
:Shri B.S.Deokar, Presenting Officer for the  
respondents.

-----  
CORAM : B. P. Patil, Acting Chairman

-----  
Reserved on : 16-01-2020  
Pronounced on : 20-01-2020  
-----

**O R D E R**

1. By filing the present M.A., the applicant has sought  
condonation of delay of 2 years, 9 months and 17 days  
caused for filing the O.A. challenging the impugned order

dated 24-11-2015 passed by the respondent no.2 cancelling the earlier order dated 18-09-2015 rejecting his claim for leave encashment.

2. The applicant was serving as Police Inspector. On attaining age of superannuation, he retired on 31-05-2015. In the year 2012 a crime was registered against him under the Prevention of Corruption Act. Therefore, he was suspended on 19/21-08-2012. At the time of retirement, trial was pending against him. After retirement, the respondent no.2 sanctioned leave encashment to the applicant by order dated 18-09-2015 but on 24-11-2015 he passed the impugned order cancelling the earlier order and rejected the claim of the applicant for encashment of leave. It is contention of the applicant that as per rules gratuity amount has been withheld by the respondents. Provisional pension is sanctioned to him during the pendency of the judicial proceedings. It is his contention that due to the impugned order, he was under depression and he lost hope for retiral benefits. At that time, his daughter attained age of marriage. He was busy in searching match for her. Provisional pension amount was not sufficient for his survival and his financial condition was not sound. He

borrowed money from friends and relatives and approached this Tribunal at the earliest. Due to said reasons delay has been caused for challenging the order. Delay caused for filing the O.A. is not deliberate and intentional. His valuable rights are involved in the matter. Therefore, he prayed to condone the delay caused for filing the O.A. by allowing the M.A.

3. Respondent nos.1 & 2 have filed affidavit in reply and resisted the contentions of the applicant. They have denied that the applicant was under depression due to the impugned order and he lost hopes of getting retiral benefits. They have denied that the applicant's daughter attained age of marriage and he was searching match for her. They have denied that the applicant's financial condition was not sound, therefore, he was not able to file O.A. in time. They have denied that the delay is not deliberate and intentional. It is their contention that the applicant has not filed the O.A. within one year from the date of the impugned order i.e. 24-11-2015. There is an inordinate delay of more than 2 years 9 months and 17 days for filing the O.A. The applicant has not approached this Tribunal within the prescribed period of limitation. No just and sufficient cause

is shown by the applicant to condone the inordinate delay caused for filing the O.A. Therefore, they have prayed to reject the M.A.

4. I have heard Shri V.D.Godbharle, Advocate for the applicant and Shri B.S.Deokar, Presenting Officer for the respondents. I have perused the documents placed on record by the parties.

5. Learned Advocate for the applicant has submitted that the applicant has retired w.e.f. 31-05-2015. At the time of his retirement he was under suspension as criminal case was pending against him for the offences punishable under the Prevention of Corruption Act. He has argued that the provisional pension was granted to the applicant but it was not sufficient for his survival. The applicant was facing financial crunches therefore he was not able to file O.A. in time. He has argued that the respondent no.2 had sanctioned leave encashment by order dated 18-09-2015 but thereafter cancelled the same by another order dated 24-11-2015. The applicant could not able to challenge the said order due to the reasons that his daughter had attained age of marriage at the time of his retirement and applicant was searching match for her and his financial

condition was not sound. Therefore, he could not able to file O.A. in time. Due to the said just reasons, applicant was prevented from approaching this Tribunal in time. He has submitted that the applicant has explained delay properly. Therefore, he prayed to condone the delay caused for filing the O.A.

6. Learned P.O. has submitted that the delay of more than 2 years 9 months and 17 days has been caused for filing the O.A. The applicant was intimated about the impugned order dated 24-11-2015 but the applicant has not approached this Tribunal within prescribed period of limitation. He has submitted that the applicant has not explained the delay by showing plausible 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.

7. On perusal of record it reveals that the impugned order has been passed on 24-11-2015. Applicant ought to have filed O.A. before this Tribunal on or before 24-11-2016 but he filed the present O.A. on 11-09-2019. There is delay of more than 2 years, 9 months and 17 days. The delay has not been satisfactorily explained by the applicant by

giving plausible explanation. There is nothing on record to show that the applicant was busy in searching match for his daughter who attained marriageable age at the time of retirement and he was in financial crunches. In the absence of sufficient documents in that regard, applicant's version in that regard cannot be relied upon.

8. There is an inordinate and deliberate delay in filing the O.A. Applicant has not explained the delay by giving just and proper reasons. In the absence of sufficient and plausible explanation, delay caused for filing the O.A. cannot be condoned. There is no merit in the M.A. Hence, the M.A. deserves to be rejected.

9. In view of the foregoing paragraphs, M.A.No.440/2019 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 : 20-01-2020.**