

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

MISC. APPLICATION NO. 410 OF 2015

IN

ORIGINAL APPLICATION ST. NO. 1415 OF 2015

DIST. : PARBHANI

Yunus Patel Sk. Abdullah Patel **(DIED)**

Through L.Rs.

- (1) Salimabee w/o Yunus Patel,
Age. 50 years, Occ. Household,
R/o Patel Nagar, Adjacent to Dhakane
High School, Chikhalthana,
Aurangabad.
- (2) Anis s/o Yunus Patel
Age. 35 years, Occu. Riksha Driver,
R/o Patel Nagar, Adjacent to Dhakane
High School, Chikhalthana,
Aurangabad.
- (3) Rais s/o Yunus Patel,
Age. 28 years, Occu. Riksha Driver
R/o Patel Nagar, Adjacent to Dhakane
High School, Chikhalthana,
Aurangabad.

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APPLICANTS

VERSUS

- (1) The State of Maharashtra,
Through Secretary,
Home Department,
Mantralaya, Mumbai.
(Copy to be served on P.O.
M.A.T. at Aurangabad)

- (2) The Superintendent of Police,
Parbhani.
- (3) The Dy. Inspector General of Police,
Aurangabad Region, Aurangabad.
- (4) The Inspector General of Police,
Director General of Police,
D.G.P. Office, Fort, Mumbai,
Maharashtra State, Mumbai – 32. -- RESPONDENTS

APPEARANCE : Shri P.K. Palve, learned Counsel for the
Applicants.

: Smt. Resha S. Deshmukh, learned
Presenting Officer for the Respondents.

CORAM : Hon'ble Shri J.D. Kulkarni, Member (J)

JUDGEMENT

{Delivered on 29th August, 2016}

1. The original applicant - Yunus Patel Sk. Abdullah Patel – has filed the O.A. bearing St. No. 1415/2015 in which he has requested that the order dated 11.5.2005 (Annex. 4) issued by the res. No. 2 be modified. The said impugned order reads as under :-

“ORDER

In exercise of the powers vested in me vide rule no. 100 (b) of M.C.S. (Pension) Rules – 1982 I, Supdt.

of Police Parbhani do hereby sanctioned for the Payment of Compassionate Pension admissible (minimum) Rs. 375/- (Rs. Three hundred seventy five only) to Shri Sk. Yunus Patel Sk. Abdullah Patel Retd. A.S.I. M.T. Superusor of this office who compulsorily retired from service w.e.f. 1.5.1989 B.N.”

2. In the O.A. St. No. 1415/2015 the applicant has claimed relief as under :-

“B. The respondents be directed to modify the order dated 11.5.2005 at Exh.C, to the Original Application, and the applicant be granted equal and similar pension and other allowances to the extent of 50% salary amount in the light of order issued by respondent no. 1 dated 9.3.1995, at Exh. A to the Original Application with effect from 1.5.1989 along with interest and all other benefits.”

3. The O.A. has been filed by the applicant along with misc. application bearing No. 410/2015 for condonation of delay since there was delay in filing O.A. and the said M.A. is being disposed of by this order.

4. During the pendency of O.A. the original applicant - Yunus Patel Sk. Abdullah Patel – died and his L.Rs. i. e. widow Smt.

Salimabee w/o Yunus Patel and 2 sons viz. Shri Anis s/o Yunus Patel and Shri Rais s/o Yunus Patel are now prosecuting this application. For the purpose of convenience, the applicant – Yunus Patel Sk. Abdullah Patel – will be referred to as applicant hereinafter.

5. According to the applicant, there is delay of 8 years and 4 months in filing the O.A. The reason for delay is mentioned in para 3 of the Misc. Application, which reads as under :-

“3. The applicant is diabetic and hypertension and the lady residing with him is bed ridden since long, and paralytic and having other number of decease which is permanently incurable, for medical expenses of both near about 22000/- per month are required to be spent the applicant is residing in slum area and has to maintain his big family including earlier wife, unemployed sons, daughter in laws, and many grant sons and daughters and is become difficult to survive to them, in short amount toward compassionate pension. Though he is entitled to receive 50% pension in equal manner granted to other, due to above guanine difficulties, he could not prefer the original application immediately though he was submitted representation on 10.3.2015 to respondents requesting to grant him equal pension, same was not considered, thus original application is

within limitation from the date of representation, to avoid technicality the present application is filed Therefore if certain artificial delay is caused in filing original application, which is not intentional but accidental one, as because of action is running day today, since instance and recurring one. Hence present application.”

(reproduced as verbatim)

6. The res. No. 2 filed affidavit in reply. A separate affidavit in reply has been filed by res. Nos. 1 & 3. According to the respondents, the impugned order has been passed on 11.5.2005 and has not been challenged and no sufficient reason has been made out for condonation of delay caused in filing O.A.

7. Heard Shri P.K. Palve, learned Counsel for the Applicants and Smt. Resha S. Deshmukh, learned Presenting Officer for the Respondents. I have also perused the application, affidavits in replies filed by the respondents as well as various documents placed on record.

8. The only material point to be considered in this matter is whether the deceased applicant has made out the case for

condonation of 8 years & 4 months delay caused in filing the O.A. ?

9. From the facts on the record, it seems that the applicant - Yunus Patel Sk. Abdullah Patel - was working as a Assistant Police Sub Inspector under the Superintendent of Police, Parbhani while on duty in the year 1987. On 2.9.1987, the applicant along with other employee viz. Shri Vitthal Ramrao Sutare and Matinoddin Moinoddin had been to Aurangabad for official work and at Aurangabad the petitioner and said 2 other employees outraged the modesty of a lady constable viz. Smt. Geeta Gundelwar. It seems that there was due departmental enquiry in that regard and the minor punishment was imposed upon the applicant and he was removed from service.

10. Against the said order of removal from service, the applicant preferred appeal before the res. No. 3 - the Deputy Inspector General of Police, Aurangabad Range and the said appeal was rejected. The applicant thereafter filed second appeal before the res. No. 4 i. e. the Inspector General of Police Mumbai, which also came to be dismissed. The revision filed against the dismissal order was also rejected and, therefore, the fact remains

that the applicant was removed from service. It further seems that the applicant has further filed writ petition no. 1012/1991 before Hon'ble high Court against the said dismissal order and claimed the reinstatement, but said writ petition was also dismissed. It was, however, held that the applicant is entitled to claim benefit of rule 101 of M.C.S. (Pension) Rules, 1982.

11. In view of the said observations the compassionate pension was granted as per rule 101 of M.C.S. (Pension) Rules, 1982 on 11.5.2015 and Rs. 375/- per month was granted as compassionate pension to the applicant.

12. The only reason for challenging the said order dated 11.5.2005 as mentioned in para 3 of the M.A. is that the applicant was diabetic and suffering from hypertension. The contents of the said para are very vague. It is mentioned that one lady is residing along with the applicant and that said lady is also bedridden since long and having number of diseases. It is not known as to what is relation of the applicant with that lady and who was that lady. It is stated that by the applicant that he has to maintain his big family including earlier wife, daughters, sons and many grand sons and daughters.

13. However, this cannot be a ground to condone the delay. The impugned order is dated 11.5.2005 and it is challenged in the year 2015. It is also not known as to why the applicant has remained silent for so many years and merely because he was diabetic and was suffering from hypertension, the same cannot be said to be a sufficient ground to condone the delay of 8 years and 4 months in filing the original application.

14. Now the original applicant has died. Considering the facts and circumstances of the case as referred above, I am satisfied that the applicant has failed to bring on record sufficient and satisfactory reasons to condone the delay for challenging the order dated 11.5.2005 in the year 2015. Hence, I pass following order :-

ORDER

The misc. application for condonation of delay is dismissed. Consequently O.A. St. No. 1415/2015 also stands dismissed. There shall be no order as to costs.

MEMBER (J)