

Thankyou

No. MA/MUM/JUD/3176/16

29 AUG 2016

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL**

**MUMBAI**

**MISC. APPLICATION NO.73 OF 2016**

**IN**

**ORIGINAL APPLICATION NO. 164 OF 2016**

**DISTRICT :Kolhapur**

Shri Vinayak Vishwanath Londhe, )  
Aged 33 yrs, Working as Deputy )  
Director, Industrial Safety and )  
Health, Having Office at )  
Bandra-Kurla Complex, )  
Kamgar Bhawan, Bandra [E], )  
Mumbai - 400 051. )  
R/O. A/P. Shirdhon, Tal. Shirol, )  
Dist. Kolhapur. )  
Address For Service of Notice: )  
As above. )...**Applicant**

**VERSUS**

1. The State of Maharashtra, )  
Through Principal Secretary, )  
Industries, Energy and Labour )  
Department, )  
Having Office at Mantralaya, )  
Mumbai - 400 032. )  
2. The State of Maharashtra, )  
Through Principal Secretary )  
[Services], General )  
Administration Department, )  
Having Office at Mantralaya, )  
Mumbai - 400 032. )....**Respondents**

Shri A.V. Bandiwadekar, learned Advocate for the Applicant.

Smt. Archana B.K., learned Presenting Officer for the Respondents.

RB

**CORAM : Shr' Rajiv Agarwal, Vice-Chairman**

**DATE : 24 08.2016**

**ORDER**

1. Heard Shri A.V. Bandiwadekar, learned Advocate for the Applicant and Smt. Archana B.K., learned Presenting Officer for the Respondents.
2. This Misc. Application is filed for condonation of delay by the Applicant, who claims that the delay is of 5 months.
3. Learned Counsel for the Applicant argued that the Applicant is challenging order dated 6.9.2014, from the Respondent No.1, in which his request for grant of deemed date of promotion to the post of Deputy Director, Industrial Safety and Health from 14.5.2012, as against the actual date of promotion viz. 26.2.2014 was rejected. Learned Counsel for the Applicant stated that the Applicant could not challenge the impugned order earlier, as he was given charge of the post of Deputy Director, Industrial Safety and Health at Chiplun, Dist. Ratnagiri in addition to his own charge. As he was busy in his official work, he could not file the O.A within the time limit. The present O.A. was filed in February 2016, and there is a short delay of 5 months, which may be condoned.

*RA*

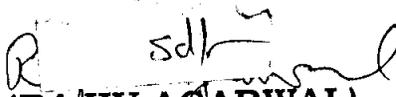
4. Learned Presenting Officer (P.O.) argued that a new office of the Deputy Director (Industrial Safety & Health) was opened at Chiplun, Dist. Ratnagiri on 30.7.2014. An officer from Pune was given additional charge of the post at Pune. However, the Applicant requested for transfer to Chiplun and he was given additional charge of the post at Chiplun. Learned P.O contended that the Applicant was given the charge of the post of Deputy Director on his own request and the fact that he was holding additional charge of that post can not be a ground to justify delay in filing the O.A. Learned P.O. stated that during the period from August 2014 to October 2015, when the Applicant was holding charge of the post of Deputy Director at Chiplun, he hardly attended his office in Mumbai. Therefore his claim that he was 'extremely' busy holding two charges is not correct. Learned P.O. argued that the Applicant has not been able to point out any credible reason for delay in filing this O.A.

5. On carefully going through the material on record, it does appear that the Applicant is making too much of the fact that he was given additional charge of the post of Deputy Director at Chiplun. It appears that during that period, the Applicant was concentrating on Chiplun and he hardly did any work in Mumbai. However, it is also true that there is a short delay of 5 months in filing the present O.A. In the case of Esha Bhattacharjee Vs. Managing Committee of Reghunathpur Nafar Academy and Others reported in (2013) 12 SCC 649, Hon'ble S.C. has held that substantial justice should be considered paramount and pivotal and technical



considerations should not be given undue and uncalled for emphasis. In the present case, there is nothing to indicate that the Applicant can be said to be guilty of gross negligence in filing the O.A. A liberal, pragmatic, justice oriented and non-pedantic approach is required to be taken.

6. Considering the facts in totality, I am of the opinion that this is a fit case for condonation of delay. Misc. Application is accordingly allowed and delay in filing the O.A.No.164/2016 is condoned. There will be no order as to costs.

  
**(RAJIV AGARWAL)**  
**(VICE-CHAIRMAN)**

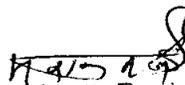
Date : 24.08.2016

Place : Mumbai

Dictation taken by : SBA

D:\savita\2016\August\M.A. 73 of 2016 in O.A.No.164 of 2016 Vc. Delay.doc

TRUE COPY

  
Asstt. Registrar/Research Officer  
Maharashtra Administrative Tribunal  
Mumbai. 29/8/2016