

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

**MISC APPLICATION NO.196 OF 2024
IN
ORIGINAL APPLICATION NO.399 OF 2024**

**DISTRICT: THANE
SUB : Compassionate Appt.**

Shri Amar Ramdas Kachare)
Age – 29 years, Occ. Nil,)
R/o. Sahara C. H. S., Room No.1, near Eva)
High School, Hedutane, Badlapur,)
Tal. Ambarnath, Dist. Thane.).... **Applicant**

Versus

1. The State of Maharashtra, through)
Additional Chief Secretary, Home Dept.)
O/at Madam Cama Road, opp. Mantralaya)
Mumbai 400 032.)
2. The Director General and Inspector General)
Of Police, (M.S.) Mumbai, having office at)
Old Council Hall, Shahid Bhagatsingh Marg,)
Mumbai 400 039.)
3. The Superintendent of Police, Sangali, having)
Office at Sangali.) ...**Respondents**

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

Shri A. D. Gugale, learned Presenting Officer for the Respondent

CORAM : A. N. Karmarkar, Member (J)

DATE : 04.09.2024.

JUDGMENT

1. This M.A. is filed to condone the delay of one year and ten months caused in challenging orders dated 04.01.2019, 10.01.2019 and 01.03.2019 passed by the Respondent No.1 to 3 respectively whereby the claim of the Applicant for compassionate appointment was rejected.

2. Learned Advocate for Applicant submits that Applicant has taken objection with the impugned orders dated 04.01.2019, 10.01.2019 and 01.03.2019 passed by Respondent No.3 under which they denied the Applicant's claim for compassionate appointment. The period of limitation is 1 year from the date of last impugned order dated 01.03.2019. The said period was expired in last week of March 2020. There was complete lockdown on account of outbreak of Covid-19 Pandemic Situation from March 2020 to May 2022. As per order of the Hon'ble Apex Court, the said period needs to be excluded while considering limitation.

The Applicant has raised the ground about illiteracy of his mother. The Applicant was in search of job to maintain his mother so he could not be vigilant to approach this Tribunal. Secondly, the Applicant acquired necessary qualification in October 2020 to get compassionate appointment.

3. According to Respondents, the period of delay mentioned by Applicant is misleading. The period of limitation expired on 01.03.2020. According to them, only the period from 15.03.2020 to 14.03.2021 needs to be excluded in view of the judgment of the Hon'ble Supreme Court on the background of outbreak of Covid-19.

4. In Rejoinder, the Applicant has placed on record the copy of order of the Hon'ble Apex Court in M.A.No.21/2022 in Suo Motu W.P.(C) No.3/2020, dated 10.01.2022 which states that in the matters of delay

condonation the period of statutory limitation available for any litigant before any Court or the Tribunal stood extended to 31.05.2022.

5. In Sur Rejoinder filed on behalf of Respondent No.3, the Respondent has filed copy of order passed in M.A. No.665/2021 in SMW (C) No.3/2020, dated 27.04.2021 and contended that period from 15.03.2020 to 14.03.2021 is to be excluded.

6. Heard Shri A. V. Bandiwadekar, learned Counsel for the Applicant and Shri A. D. Gugale, learned Presenting Officer for the Respondents. Both the parties have submitted as per their respective contentions. They have also referred to order of the Hon'ble Apex Court. The Applicant has also relied on the decision of the Hon'ble Supreme Court in (***Esha Bhattacharya V/s Managing Committee of Raghunathpur Nafar Academy & Ors.***) **2013 (12) SCC 649**. According to learned Advocate, there should be liberal approach while considering such relief. It is also held by the Hon'ble Supreme Court in case of ***Esha Bhattacharya's*** (cited above) that conduct, behavior and attitude of a party relating to its inaction and negligence are relevant factors to be taken into consideration.

7. The Applicant had challenged impugned order dated 01.03.2019 by which his application for appointment on compassionate ground was rejected as it was filed after more than two years. Learned Advocate for Applicant has submitted that Applicant got this impugned order in last week of March 2019. But he has not placed any satisfactory evidence in support of it.

8. On the contrary, Respondent No.3 has filed copy of impugned letter/order dated 01.03.2019 (Exhibit SR-2) along with their Sur-Rejoinder on which signature of Applicant is appearing. Said letter also shows one signature at the bottom and date 05.03.2019 is written. It can be said that Applicant received said letter on 05.03.2019. Therefore, the Original Application should have been filed before 04.03.2020.

9. The Applicant has tried to raise a ground about complete lockdown from 15.03.2020 on account of outbreak of Covid-19. Further, the Applicant has referred to order of the Hon'ble Apex Court in M.A. No.21/2020 dated 10.01.2022. As per the said Judgment/Order, the period from 15.03.2020 to 28.02.2022 is to be excluded for purpose of limitation. Even if it is accepted for a moment that Applicant has got impugned order dated 01.03.2019 after 15.03.2019, still he has not specifically contended about facts which prevented him from taking steps to challenge the order from date of impugned order i.e. 01.03.2019 to 14.03.2020. So, there is inaction on part of Applicant to challenge impugned order for long time.

Even after 28.02.2022, the Applicant has not taken immediate steps to challenge impugned order. It is contended that the Applicant was in search of job to maintain his illiterate mother and in that process, he could not be vigilant to challenge impugned order. Except contents in Affidavit, there is no satisfactory material to substantiate the said contents.

10. The Applicant has also raised contention that he wanted to claim appointment in Group -C post and he acquired requisite qualification in October 2020. The Applicant has placed on record his applications to Superintendent of Police, Sangali dated 09.02.2016 and 29.04.2016 31.12.2016 & 10.07.2017 for getting compassionate appointment. Those applications do not reveal that Applicant's intention was to get job of Group -C post. Actually, the Applicant was informed by office of Superintendent of Police vide letter dated 03.02.2017 that his application for compassionate appointment is rejected as filed after requisite period. So, the Applicant could have challenged the said order immediately after 03.02.2017 which he has not done.

11. Secondly, the letter of Superintendent of Police, Sangali addressed to Home Department, Mantralaya, Mumbai dated 06.09.2017 shows that in the year 2013 qualification for getting compassionate appointment to the post of Clerk or Grade -IV post was SSC and 4th Standard respectively. The Applicant has attained the age of majority on 13.12.2012. It appears that Applicant has passed HSC in the year 2015. The copy of letter filed by the Applicant dated 18.10.2017 page 51 of OA shows that Applicant got knowledge of entitlement to get compassionate appointment on 09.02.2016. It appears that Applicant has forwarded the application on 09.02.2016 and 29.04.2016 to Superintendent of Police, Sangali for getting job on compassionate ground. In response to those letters, the Applicant was already communicated vide letter dated 03.09.2017 i.e. application is rejected. Rather than to challenge the said order the Applicant continued to move same kind of applications.

12. The discussion in forthgoing paras lead me to say that there is total inaction on part of Applicant to challenge impugned order for a long time. There are lack of bonafides on the part of Applicant. It does not reveal that Applicant was diligent. The Applicant failed to establish sufficient cause for delay in filing application. Thus, the judgment referred to by learned Advocate for Applicant in case of **Esha Bhattacharya's** (cited supra) is not helpful for him. Therefore, the Original Application deserves to be rejected. Hence, the following order :-

ORDER

(A) Misc Application is dismissed. Consequently, OA No.399/2024 is also dismissed.

(B) No order as to costs.

Sd/-
(A.N. Karmarkar)
Member (J)

Place: Mumbai

Date: 04.09.2024

Dictation taken by: V.S. Mane

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