

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

**MISC. APPLICATION NO.461 OF 2024
IN
REVIEW APPLICATION NO.8 OF 2024
IN
ORIGINAL APPLICATION NO.396 OF 2017**

DISTRICT: Sindhudurg

1) The State of Maharashtra, Through the)
Principal Secretary, (Revenue & Forest Dept.))
Mantralaya, Mumbai-32.)...**Applicant**
(Ori. Respondent No.1)

V/s

Shri Rajaram Subrao Patil)
R/o RFO Quarters, Forest Colony, At & Post)
Janvali, Tal. Kankavali, Dis. Sindhudurg.)... **Respondent**
(Ori. Applicant)

Formal Parties

- 2) Chief Conservator of Forest (T), Kolhapur Circle,))
Dist. Kolhapur.)...**Ori. Respondent No.2**
- 3) M.P.S.C. through its Secretary, Office at 5th floor)
Cooperage Telephone Exchange Bldg. M.K. Road,)
Mumbai.)..**Ori. Respondent No.3**

Smt. Kranti Gaikwad, learned Presenting Officer for the Applicant (Ori. Respondent).

Shri M. D. Lonkar, learned Advocate for the Respondent (Ori. Applicant).

CORAM : Smt. Justice Mridula Bhatkar, Chairperson

Shri A.M. Kulkarni, Member (A)

DATE : 09.12.2024.

PER : Justice Mridula Bhatkar (Chairperson)

ORDER

1. Heard Smt. Kranti Gaikwad, learned Presenting Officer for Applicants (Ori. Respondents) and Shri M. D. Lonkar, learned Counsel for the Respondent (Ori. Applicant).

2. Learned P.O. submits that there is a delay of three months in filing Review Application as order in O.A.396/2017 is passed on 14.03.2024 and Review Application was filed on 30.07.2024. The delay is on account of procedural requirement; hence she prays it is to be condoned.

3. Shri M. D. Lonkar, learned Counsel for Respondent (Ori. Applicant) points out 'Rule 18' of Maharashtra Administrative Tribunal (Procedure) Rules 1988 and submits that no Application for condonation of delay for review can be entertained.

4. Shri M. D. Lonkar, learned Counsel on the point of condonation of delay has submitted that some provisions of CPC are adopted and to be followed by the Tribunal which also includes provisions of 'Review'. Therefore, provisions as per 'Section 114' read with 'Order XLVII' of CPC are strictly to be followed in review. The limitation in filing 'Review Petition' is not mentioned in 'Section 114' nor in 'Order XLVII' of CPC. For that purpose, it is necessary to refer to the table i.e 3rd Division of the Limitation Act, 1963. Under Serial No.124 of 3rd Division table Part-I wherein '30 days' time is prescribed from the date of the decree or order for filing 'Review Application' against the judgment by the court other than the Supreme Court.

5. We reproduce relevant legal provisions incorporated under Section 22 of the Administrative Tribunals Act of 1985, which reads as under :

"22. Procedure and powers of Tribunals. - (1) A Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made by the Central Government, the Tribunal shall have power to regulate its own procedure including the fixing of places and times of its inquiry and deciding whether to sit in public or in private.

(2) A Tribunal shall decide every application made to it as expeditiously as possible and ordinarily every application shall be decided on a perusal of documents and written representations and [after hearing such oral arguments as may be advanced.]

(3) A Tribunal shall have, for the purposes of [discharging its functions under this Act], the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit, in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence of affidavits;

- (d)subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 ([1 of 1872](#)) requisitioning any public record or document or copy of such record or document from any office;
- (e)issuing commissions for the examination of witnesses or documents;
- (f)reviewing its decisions;
- (g)dismissing a representation for default or deciding it ex parte
- (h)setting aside any order of dismissal of any representation for default or any order passed by it ex parte; and
- (i)any other matter which may be prescribed by the Central Government.”

Thus, the period of limitation of 30 days is adopted by the legislature while framing rules and especially ‘Rule 18’ of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988. The ‘Rule 18’ of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 states specific prohibition as follows:

*“Rule 18 : Review application to be filed within thirty days.
No application for review shall be entertained unless it is filed within thirty days from the date of the order of which the review is sought.”*

6. Rule 18 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 states specifically the time limit of 30 days. Hence, the said limitation is to be applicable for computation of limitation for filing Review Application before the Tribunal.

7. On the aforesaid line, the learned P.O. argued that in view of the provisions of Section 22(3)(f) of Administrative Tribunals Act, 1985 read with the provisions of Section 5 of the Limitation Act of 1963, the Tribunal is empowered to consider application for delay occasioned in filing Review in the present case.

8. Incidentally, while arguing this point, other relevant issue whether the provisions in Code of Civil Procedure other than included in Sub-Section 3(a) to (f) of Section 22 the Act are applicable in the procedure followed by the Tribunal was cropped up and argued. In Section 22 of the Administrative Tribunals Act, the procedure and powers of the Tribunal are mentioned stating that Tribunal shall not be bound by procedure laid down in Code of Civil Procedure, 1908 and shall be guided by principles of natural justice and subject to other provisions of the Administrative Tribunal Act, 1985 and any Rule promulgated by the Central Government and also has

power to regulate its own procedure. Beside these provisions, the Tribunal entertains the applications for bringing 'Legal Representatives' on record which are similar to the application made under 'Order XXII' of Civil Procedure Code or filing of 'CAVEAT' mentioned under Section 148A of Code of Civil Procedure. These provisions are not mentioned in Sub-Section 3(a) to 3(f) of Section 22 of the Act. Similarly, under Section 151 of Code of Civil Procedure, the Court enjoys inherent powers to meet the ends of justice and also to prevent abuse of process.

9. We agree that some provisions /procedures which are similar to the provisions from the Code of Civil Procedure though are not mentioned in 'Section 22 of the Act', the Tribunal is expected to follow in view of the principles of natural justice. The principles of natural justice are akin to the term 'to meet the ends of justice' used in Section 151 of Code of Civil Procedure. On this line, it was argued by learned P.O. that Section 5 of the Limitation Act states about extension of period of limitation in appeals and applications under Section 5 of the Limitation Act. The Tribunal can use the same powers and by condoning delay, this Review Application can be allowed.

10. Though, we agree that the Tribunal has power to adopt its own procedure in the interest of natural justice which is akin to meet the ends of justice, we cannot take recourse of Section 5 of the Limitation Act for extending time of limitation in Review Petition in view of the special provision of 30 days mentioned in Rule 18 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988. Thus, Review Application which is filed beyond 30 days cannot be entertained and hence liable to be dismissed.

11. We refer here the Order dated 03.04.2017 passed by the Tribunal at Nagpur Bench in **C.A.No.177 of 2016 in R.A. St. No.741/2016 in O.A.No.779/2009 (Shri Gajanan S. Kale V/s State of Maharashtra & Anr.)** on identical issue raised herein is considered and decided in view of legislative intent of Rule 18 of Maharashtra Administrative Tribunal

(Procedure) Rules, 1988. We see no sufficient reason to take a different view than this Tribunal at Nagpur Bench.

12. In view of above discussion and reasons, the Misc. Application seeking condonation of delay in filing review, therefore stands dismissed. Consequently, the Review Application also does not survive and stands rejected with no order as to costs.

Sd/-
(A. M. Kulkarni)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place: Mumbai
Date : 09.12.2024
Dictation taken by: Vaishali Mane