

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

**MISC APPLICATION NO.499 OF 2023
IN
ORIGINAL APPLICATION NO.969 OF 2023**

Smita Dnyandeo Kamble)
Age – 43 years, Occ. Nil,)
R/o. Awase Vasti Amarai Degaonnaka Road,)
Solapur.).... **Applicant**

Versus

1. The State of Maharashtra, through)
The Ministry Revenue & Forest Department,)
Mantralaya, Mumbai 400 032.)
2. District Superintendent Land Records, Solapur)
Sidheshwar Peth, Solapur 413003.)
3. City Survey Office Solapur, Government Building)
Old Collector Office, Solapur.)
4. The Deputy Director, Land Records,)
Pune Division, Pune, 3rd floor, New Administrative)
Building opposite Council Hall, Agarkar Nagar,)
Pune, Maharashtra – 411001.) ...**Respondents**

Shri R. B. Vijaymane, learned Advocate for the Applicant.

Shri A. J. Chougule, learned Presenting Officer for the Respondent

CORAM : Ashutosh N. Karmarkar, Member (J)

DATE : 10.10.2024

ORDER

1. This M.A. is filed to condone the delay of six years and five months caused in challenging orders dated 28.05.2014 & 21.12.2018 passed by the Respondent No.4 whereby the claim of Applicant for compassionate appointment was rejected.

2. Applicant is seeking appointment to the post of 'Peon' on compassionate ground in Respondent No.3 and Respondent No.4 department. The Applicant's father Dnyandeo Kamble was permanent employee of Respondent No.4. He died on 25.07.2006. The Applicant's brother named 'Ajit' filed an application dated 04.09.2006 for compassionate appointment. His name was then taken in the waiting list. Then Applicant's brother got appointment in District Collector Office at Solapur as Typist. So Applicant's brother submitted application for substitution of name of this Applicant who is his sister. The Respondent No.4 has sought some documents. The Respondent No.4 intimated vide letter dated 16.07.2018 that necessary documents are not annexed. Learned Advocate further states that Respondent No.3 by letter dated 18.08.2018 replied by stating that as per GR dated 20.05.2015, the name of the Applicant cannot be substituted in place of her brother. Again, the Applicant forwarded representation dated 19.12.20218. It was rejected by the Respondents.

3. According to learned Advocate for Applicant, the Applicant was not aware that G.R. can be challenged before this Tribunal. Secondly, due to Covid-19 Pandemic Situation, the Applicant could not avail legal remedy. She filed W.P. No.8816/2021 on 04.10.2021 before the Hon'ble High Court. It was disposed of with liberty to avail remedy before this Tribunal.

4. The Respondents failed to file their reply. I have heard both the sides.

5. Learned Advocate for Applicant has submitted that Respondent has informed on 18.08.2018 that application of Applicant for substitution to get job on compassionate ground is rejected. Subsequently, there was Covid-19 Pandemic situation. According to learned Advocate for Applicant in view of judgment of Hon'ble Supreme Court the Applicant is entitled to exclude the period. He has also relied on the case of ***Purni Devi & Anr. V/s Babu Ram & Anr. In Special Leave Petition (Civil) No.17665 of 2018.***

6. I have also heard Shri A. J. Chougule, learned Presenting Officer for the Respondents.

7. It is undisputed fact that Applicant's brother Ajit Kamble had forwarded application for getting job on compassionate ground. It appears from correspondence on record that his name was included in the waiting list. The Applicant has just referred about rejection of prayer of substitution of this Applicant in place of her brother Ajit vide order dated 18.08.2018. It has to be noted that Applicant has forwarded application dated 18.06.2014 for substitution of name of the Applicant in place of brother Ajit on the ground of his appointment as 'Clerk' in the office of Solapur. The same document 'Exhibit-I' dated 26.11.2014 shows that decision of rejection of prayer pertaining to substitution was already intimated by the said letter. But this fact is not specifically mentioned in the application for delay condonation. The Applicant has just tried to

mention the date 18.08.2018 when subsequent similar representation was rejected. Since the prayer for substitution was rejected as per letter dated 26.11.2014, the Applicant should have filed petition before November 2015. Absolutely no grounds are mentioned by the Applicant for not filing petition since November 2015 till 2021 i.e. till filing of W.P. before the Hon'ble High Court.

8. According to learned Advocate for Applicant, the Applicant was not aware about the fact that GR can be challenged before this Tribunal. This ground cannot be said to be satisfactory when W.P. was already filed through Advocate.

9. The Covid-19 Pandemic period was started from March, 2021. The Applicant has not mentioned the grounds for not taking steps even after rejection of claim by order dated 18.08.2018 till March, 2021. So, the limitation for filing petition to challenge the order of rejection of substitution of name was already expired before Covid-19 Pandemic period. Therefore, the Applicant is not entitled for the relief of condonation of delay. The facts in case referred by Applicant in ***Purni Devi' case*** (cited above) appear to be different and it cannot be said to be helpful for the Applicant.

10. Even after rejection of prayer of substitution in November 2014, the Applicant seems to have proceed with filing representations in May, 2018 and December 2018. The Hon'ble Supreme Court in case of ***Naresh Kumar V/s Department of Atomic Energy & Others, (2010) 7 SCC 525*** in para 15 held that if an employee keeps making

representation after representation which are consistently rejected then the Applicant cannot claim any relief on that ground.

11. In view of above facts and circumstances, the Misc. Application for condonation of delay deserved to be rejected. Hence, the following order :-

ORDER

(A) Misc. Application is dismissed. Consequently, OA No.969/2023 is also dismissed.

(B) No Order as to Costs.

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

Place: Mumbai

Date: 10.10.2024

Dictation taken by: V.S. Mane

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