

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**M.A.NO.218 OF 2020 IN O.A.ST.NO.456 OF 2020
(Subject:- Condonation of Delay)**

DISTRICT:-DHULE

Ashok S/o Baliram Pawar,)
Age:-48 years, Occu: Service as)
Laboratory Scientific Officer)
(Laboratory Technician),)
R/o: 147-A, Sudarshan Colony,)
Deopur Dhule.)...**Applicant**

V E R S U S

- 1. The State of Maharashtra,**)
Through: The Principal Secretary,)
Public Health Department,)
Mantralaya, Madam Kama Road,)
Mumbai-32.)
- 2. The Joint Director of Health Services)**
(Malaria & Fileriya),)
Maharashtra State, Pune-06,)
Arogya Bhavan, Opposite Vishrantwadi)
Police Station, Yerwada, Pune.)
- 3. The District Malaria Officer,**)
District Malaria Office,)
Dhule.)...**Respondents**

APPEARANCE : Shri Shri K.B. Jadhav, learned
Advocate for the Applicant.

: Shri N.U. Yadav, learned Presenting
Officer for the Respondents.

CORAM : **SHRI V.D. DONGRE, MEMBER (J)**

DATE : **15.03.2022.**

O R D E R

By this Misc. Application, the applicant is seeking condonation of delay of about 10 years caused in filing the Original Application under Section 19 of the Administrative Tribunals Act, 1985 seeking the relief of implementation of the order dated 02.07.2003 passed in Review Application No.29 of 2001 In O.A.No.410 of 2000 (Annex. 'A-4' in O.A.) and monitory benefits accrued to the applicant.

2. It is the contention of the applicant that as per order dated 02.07.2003 passed in the Review Application No.29/2001 in O.A.No.410/2000, the applicant has been granted regularization in service from the date of appointment. The applicant after passing of the said order dated 02.07.2003 filed various representations (Annex. 'A-8' and 'A-12' collectively in O.A.) from 2007 to 2009 seeking implementation of the said order. Pursuant to that the proposal dated 06.06.2009 (Annex. 'A-11' in O.A.) was sent by the respondent No.2 to the respondent No.1 for favorable consideration for granting of permanence and monitory

benefit w.e.f. 06.07.1998. The respondent No.1, however, did not consider the said proposal years together. It was not decided till filing of the abovesaid Original Application together with this delay condonation application. The applicant made his last representation dated 27.01.2020 (Annex. 'A-13' in O.A.). It is the specific contention of the applicant that the respondent authority has granted benefit to the similarly situated person namely Shri R.R Pathade who was working on the post of Laboratory Technician as per order of this Tribunal dated 17.02.2017 (Annex. 'A-14' in O.A. collectively) passed in the Original Application No.793 of 2016. The benefits are granted by the respondent No.2 to the said Shri R.R. Pathade by order dated 03.06.2017 (part of Annex. 'A-14' in O.A. collectively).

3. In the circumstances, according to the applicant there is no delay on the part of the applicant. He was waiting for the orders from the respondent No.1 accepting the proposal dated 06.06.2009 (Annex. 'A-11' in O.A.) submitted by the respondent No.2. Hence this application.

4. The application is resisted by the respondent Nos.1 to 3 by filing the affidavit-in-reply of one Anil Ramkrishna Patil working as the District Malaria Officer, Dhule, District Dhule. Thereby he

has denied the adverse contentions raised in the Misc. Application. The various orders referred by the applicant are not disputed. The proposal dated 06.06.2009 (Annex. 'A-11' in O.A.) was submitted by the respondent No.2 is rejected by the respondent No.1 vide order dated 12.11.2021 (Exh. 'R-1'). In view of the same, the Original Application filed by the applicant is without any foundation and devoid of merit. No satisfactory explanation has been given by the applicant for condonation of delay. The application is, therefore, liable to be rejected.

5. The applicant has filed his affidavit-in-rejoinder denying the adverse contentions raised in the affidavit-in-reply and reiterating his contentions on merit pleaded in the M.A. According to the applicant, the proposal is wrongly rejected. These documents will only show that the proposal was pending since 06.06.2009 till its decision on 12.11.2021. Therefore, the delay is not intentional.

6. I have heard the arguments advanced by Shri K.B. Jadhav, learned Advocate for the applicant on one hand and Shri N.U. Yadav, learned Presenting Officer for the respondents on other hand.

7. After having considered the facts of the case and documents on record, it is evident that the Original Application is filed for implementation of order dated 02.07.2003 passed in the Review Application No.29/2021 in Original Application No.410/2020 filed by the applicant previously. From the facts on record, it is evident that the applicant made representation from time to time seeking implementation of the said order. Positive proposal dated 06.06.2009 (Annex. 'A-11' in O.A.) was submitted by the respondent No.2 to the respondent No.1. Thereafter, also the applicant made representations dated 23.06.2009, 04.12.2009 (Annex. 'A-12' in O.A. collectively) and dated 27.01.2020 (Annex. 'A-13').

8. It is true that the applicant would have filed this Original Application after lapse of six months of his earlier representation dated 23.06.2009 (part of Annex. 'A-12' collectively) but that apart the said proposal was pending with the respondent No.1 for years together. It is decided only during pendency of this Original Application on 12.11.2021 (Exh. 'R-1'). In view of same, cause sought to be pleaded by the applicant is kept alive for years together.

9. In view of above, it cannot be said that delay in filing the abovesaid Original Application is deliberate and intentional. However, some negligence can be attributed to the applicant in not approaching the Tribunal in time. But the said negligence cannot be said to be deliberate or gross one.

10. It is a settled principle of law that the expression “sufficient cause” is to be construed liberally. I have already observed that there is no deliberate and intentional delay on the part of the applicant. However, there is some negligence. By delaying the proceeding, the applicant had nothing to gain. Refusing to give indulgence in the matter is likely to defect the cause of justice at the threshold.

11. In the circumstances as above, in my considered opinion, this is a fit case to condone the delay of 10 years by imposing moderate costs upon the applicant. I compute the costs of Rs.1,000/- (Rs. One Thousand only) on the applicant and proceed to pass the following order: -

ORDER

The Misc. Application No. 218/2020 in O.A.St.No.456/2020 is allowed in following terms:-

- (i) The delay of 10 years in filing the accompanying O.A. under Section 19 of the Administrative Tribunals Act, 1985 is hereby condoned subject to payment of costs of Rs. 1,000/- (Rs. One Thousand only) by the applicant. The amount of costs shall be deposited in the Registry of this Tribunal within a period of one month from the date of this order.
- (ii) Upon satisfaction of the costs as above, the accompanying O.A. be registered and numbered by taking in to account other office objection/s, if any.

(V.D. DONGRE)
MEMBER (J)

Place:- Aurangabad

Date :- 15.03.2022

SAS. M.A.218/2020 In O.A.St.456/2020