

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**MISC. APPLICATION NO.350 OF 2018  
IN  
ORIGINAL APPLICATION ST.NO.1565 OF 2018**

**WITH**

**MISC. APPLICATION NO.353 OF 2018  
IN  
ORIGINAL APPLICATION NO.1563 OF 2018**

**(Subject – M.A. for Condonation of Delay)**

-----  
**MISC. APPLICATION NO.350 OF 2018  
IN  
ORIGINAL APPLICATION ST.NO.1565 OF 2018**

**DISTRICT : AURANGABAD**

**Walmik Daulatrao Nikam,** )  
Age 32 years, )  
Occupation: Service (as Police Naik), )  
R/o Bhartiya Khel Pradhikaran )  
Vidyapith Parisar, Aurangabad. )...**APPLICANT**

**V E R S U S**

- 1) **The State of Maharashtra,** )  
through the Secretary, )  
Home Department )  
Mantralaya, Mumbai-400 032. )
- 2) **The Superintendent of Police,** )  
Aurangabad (Rural) District, )  
Aurangabad. )
- 3) **The Inspector General of Police,**)  
Aurangabad Range, Aurangabad. )...**RESPONDENTS**

**WITH**  
**MISC. APPLICATION NO.353 OF 2018**  
**IN**  
**ORIGINAL APPLICATION ST. NO.1563 OF 2018**  
**DISTRICT : AURANGABAD**

**Anil Laxman Chavan, age 33 years,** )  
Occupation: Service (as Police Naik), )  
R/o Bhartiya Khel Pradhikaran )  
Vidyapith Parisar, Aurangabad. )...**APPLICANT**

**V E R S U S**

- 1) **The State of Maharashtra,** )  
through the Secretary, )  
Home Department )  
Mantralaya, Mumbai-400 032. )
- 2) **The Superintendent of Police,** )  
Aurangabad (Rural) District, )  
Aurangabad. )
- 3) **The Inspector General of Police,**)  
Aurangabad Range, Aurangabad. )...**RESPONDENTS**

-----  
**APPEARANCE** : Smt. Amruta Paranjape-Menezes, learned  
Advocate for the Applicants.

: Shri B.S. Deovkar, Presenting Officer for the  
Respondents.

-----  
**CORAM : B.P. PATIL, MEMBER (J).**

**DATE : 22.01.2019.**  
-----

**COMMON - ORDER**

1. Facts and issues involved in both the matters are similar and identical, hence, both the applications need to be decided together by common order.

2. Both the applicants are serving as Police Naik. In the year 2016, they were serving at Police Headquarters, Aurangabad. On 31.12.2016, they have been transferred from Police Headquarters, Aurangabad to Local Crime Branch. They have been relieved on 28.04.2017. Thereafter, on the same day, they resumed their duties in the office of Local Crime Branch. Thereafter, on 6.5.2017, the Respondent No.2 cancelled their transfer order dated 31.12.2016 and reposted them at Police Headquarters, Aurangabad. The Applicants apprehended that the Respondent no.2 will take coercive action against them, if they challenge the transfer order and therefore, they have not approached the Tribunal immediately. But some of their colleagues, who were affected by the impugned order dated 31.12.2016, challenged the order before this Tribunal. This Tribunal allowed their O.A.Nos.463 and 464 of 2017 and set aside their transfer order dated 6.5.2017. The applicants came to know about the said order on 17.07.2018. Thereafter, they

filed the representations with the Respondent No.2 to consider their cases afresh. But the Respondent No.2 had not considered their representation. Therefore, they approached this Tribunal challenging the order dated 06.05.2017, cancelling their transfer order dated 31.12.2016 by filing these Original Applications. The delay of 130 days is caused for filing Original Applications. It is their contention that because of their reasonable apprehension, the delay has been occurred. The delay is not intentional or deliberate. It is their contention that because of genuine reason, they could not able to challenge their transfer order before this Tribunal within stipulated time. Therefore, they have filed the applications for condonation of the delay caused for filing the Original Applications.

3. Respondent Nos.1 to 3 have filed their affidavit-in-reply and resisted the contention of the applicants. It is their contention that the applicants have not explained the delay properly. The delay of 130 caused for filing Original Applications is inordinate and therefore, they prayed to dismiss the Misc. Applications and to reject the Original Application.

4. I have heard Smt. Smt. Amruta Paranjape-Menezes, Advocate for the Applicants and Shri B.S. Deovkar, Presenting Officer for the Respondents.

5. Admittedly, both the applicants are serving as Police Naik on the establishment of Respondent No.2. Admittedly, in the year, 2016 they were serving at Police Headquarter, Aurangabad. There is no dispute about the fact that on 31.12.2016, the Respondent No.2 issued order and transferred them from Police Headquarter to Local Crime Branch. In pursuance of the said order, both the applicants had been relieved from Police Headquarter on 28.04.2017 and thereafter, they joined the Local Crime Branch on the same date. Admittedly, the Respondent No.2 issued another order dated 6.5.2017 and cancelled the earlier order dated 31.12.2016 by which the Applicants have been transferred from Police Headquarter, Aurangabad to Local Crime Branch, Aurangabad. Admittedly, the Applicants have been relieved accordingly and they joined their new posting at Police Headquarter, Aurangabad. The applicants have not challenged the said order within stipulated time. There is no dispute about the fact that some other Police employees, who have been transferred by order dated 31.12.2016 to Local Crime Branch, Aurangabad and whose order has been cancelled by the Respondent No.2 by order dated 6.05.2017, approached this Tribunal and challenged the order dated 06.05.2017 by filing the Original Application Nos.463 & 464 of 2017. The said Original Applications came to be allowed

and order dated 06.05.2017 issued by the Respondent No.2 has been cancelled. Admittedly, after the decision in the said O.As., the applicants approached to the Respondent No.2 by filing representation and the same is still pending. The delay of 130 days is caused for filing the Original Applications.

6. Learned Advocate for the Applicants has submitted that the Applicants were serving under the Respondent No.2 at Police Headquarter, Aurangabad. The Respondent No.2 cancelled their earlier transfer order dated 31.12.2016 by issuing order dated 06.05.2017. She has submitted that since the Applicant were serving under the Respondent No.2, they apprehended that the Respondent no.2 will take coercive action against them, if they challenge the transfer order dated 06.05.2017 and therefore, they had not filed Original Application in time.

7. Learned Advocate for the Applicants has further submitted that some of the employees who were affected by order dated 06.05.2017 had filed Original Applications in this Tribunal and challenged the order passed by the Respondent No.2 on 06.05.2017 and their O.A.s came to be allowed by this Tribunal and this Tribunal has set aside the transfer order dated 06.05.2017 issued by the Respondent No.2 to their extend. She

has submitted that the applicants came to know about the said order passed by this Tribunal on 17.07.2018. Thereafter, they filed representation with the Respondent No.2, but the Respondent No.2 had not considered their case properly and thereafter they approached before this Tribunal. She has submitted that because of the above said genuine reason, the delay of 130 days has been caused in filing Original Application. The said delay is properly explained by the applicants and therefore, she prayed to allow the Misc. Applications and to condone the delay caused for filing the Original Applications.

8. Learned P.O. for the Respondents has submitted that the grounds mentioned by the Applicants in Misc. Applications are not sufficient to condone the delay. The Applicants have to challenge the order dated 06.05.2017 within stipulated time as they are aggrieved by it. They had intentionally avoided to challenge the order and therefore it is intentional and deliberate delay. The same cannot be condoned. He has further submitted that the delay cannot be condoned on the ground that they have waited for the decision in the O.A.s filed by their colleagues. He has submitted that the applicants have not explained the delay properly and satisfactorily. Therefore, he prayed to dismiss the Misc. Applications.

9. On perusal of record it reveals that that impugned order dated 06.05.2017 has been served on the applicants and accordingly they have been reposted at their earlier place of posting i.e. at Police Headquarter, Aurangabad. Had it been a fact that, the Applicants are really aggrieved by the said order, then they would have filed the Original Applications challenging the said order immediately and within stipulated time, but they kept mum. Only when they learned about the decision of this Tribunal in the O.A.Nos.463 & 464 of 2017 filed by their colleagues, they approached the Respondent No.2 with the request to cancel their transfer order dated 06.05.2017 and thereafter, they approached this Tribunal. This cannot be a good ground to condone the delay. On contrary, the facts show that the Applicants have not filed Original Applications challenging the impugned order dated 06.05.2017 intentionally and they waited for the decision of the Tribunal in the O.A.s filed by their colleagues. The delay caused in filing Original Applications is intentional and deliberate and therefore, the delay cannot be condoned. The Applicants have not explained the delay caused for filing Original Application by giving satisfactory reason and therefore the delay cannot be condoned. There is no merit in the Misc. Applications. Therefore, Misc. Applications deserve to be dismissed.

10. In view of the discussion in the aforesaid paragraphs, Misc. Application Nos. 350 and 353 of 2018 are dismissed with no order as to costs. Consequently, Original Application St. Nos.1565 and 1563 of 2018 are rejected.

**Sd/-**

**PLACE : AURANGABAD.**

**(B.P. PATIL)**

**DATE : 22.01.2019.**

**MEMBER (J)**

**SAS** S.B. M.A.No.350/18 in O.A.St.No.1565/2018 with M.A.No.353/18 in O.A.No.1563/28 Delay condonation.