

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

MISC APPLICATION NO.136 of 2020
In
ORIGINAL APPLICATION NO.201 OF 2020

DISTRICT: Kolhapur

Smt. Indubai Rangarao Shahapurkar)
Age: 68 yrs, Occ: Nil.)
R/at Shivaji Chauk, Nadives Road,)
Gadhinglaj, Taluka Gadhinglaj,)
District Kolhapur, Pin Code 416 502.)...**Applicant**

VERSUS

- 1) The Conservator of Forest, through)
Department of Forest Kolhapur at Kolhapur.)
- 2) The State of Maharashtra, through the)
Principle Chief Conservator of Forest,)
Maharashtra, Kolhapur 416 003.)..**RESPONDENTS**

Shri R. A. Naik, learned Advocate for the Applicant.

Smt. Archana B. K., learned Presenting Officer for the Respondents.

CORAM : Shri Ashutosh N. Karmarkar, Member (J)

DATE : 17.10.2024

J U D G M E N T

1. This is an application for condonation of delay of 7 Years and 3 Months. The Applicant's husband was employee of Respondents. On 13.08.1981, he was removed from service by giving reasons of his continuous absence without giving any show cause notice.

2. Learned Advocate for Applicant has submitted that the Applicant is illiterate and was not aware about legal procedure and provisions in respect of family pension. She is also not aware about removal or dismissal of her husband from service. It is also contended by learned Advocate for Applicant that due to removal/dismissal from service of Applicant's husband, he was in depression and never used to talk to anybody. The Applicant's husband deceased Rangarao was not keeping well and died on 11.06.1995. The Applicant was entirely depended on income of her husband. She has sent letter to Respondents but she did not get any reply since 2018. She approached the Respondents to get amount of gratuity and family pension, but Respondents did not respond.

3. The Respondents have filed their Affidavit in Reply and denied contents of Applicant. According to them, the alleged sufficient cause for delay is after thought. It is not made clear as to from which date limitation period began to run. According to them, the Applicant's husband was continuously absent from duties and so he has been removed from service on 09.08.1981. The said order of removal was never challenged till the death of Applicant's husband. It is about that the Applicant's husband was removed without giving show cause notice. It is also denied that the Applicant was not aware of legal proceeding and provision regarding family pension and that she is illiterate. The contentions of Applicant are self-contradictory. The Applicant has not pointed out any details about date wise correspondence.

4. I have heard both the sides. Shri R. A. Naik, learned Advocate for Applicant has submitted as per contentions of application. He has relied on correspondence by Chief Conservatory of Forest, Kolhapur (Page 55 of OA). According to him, in 2012, Applicant's 1st representation is on record (Exhibit 'F' at Page 42 of OA). In support of his case, he relied in case of **Union of India and Another Versus Tarsem Singh 2008 (8) SCC 648.**

5. On the other hand, Smt. Archana B. K., learned Presenting Officer for Respondents has submitted that in the life time Applicant's husband has not challenged his removal/dismissal from service till his death in 1995. Secondly, the Applicant or her husband have never taken steps for getting compensatory pension, if any. According to her, the ground for condonation of delay is not satisfactory. It is not disputed that the Applicant's husband – deceased Rangarao was Forest Guard. The recital in application reveals that he was removed from service due to continuous absence from duty. It is also not disputed that Applicant's husband was removed from service on 09.08.1981 until he died on 11.06.1995.

6. In Original Application, the Applicant is seeking relief to get family pension along with amount of gratuity.

7. The Applicant has mainly raised ground about her illiteracy. Secondly, she was not aware of removal or dismissal of her husband from service. But at the second moment, she has contended that due to

removal from service, her husband was in depression. So, both these contentions in application are self-contradictory. The reason that Applicant was not aware about legal proceeding and about provision to get family pension cannot be said to be a sound reason for condonation of delay.

The Applicant has tried to contend that her husband was removed without issuance of show cause notice. It is not a case of the Applicant that after removal from service of her husband in 1981, her husband has challenged the order of removal till his death in 1995. The Applicant has also not contended that her husband has any time claimed compensatory pension.

8. According to learned Presenting Officer, the Circular of Government dated 22.01.1991 (Page 40 of OA) is applicable to the employees who were removed or dismissed from service before 15.08.1982. This Circular is not applicable to present case as Applicant's husband was removed from service in 1981.

9. Learned Presenting Officer has further submitted that first representation was forwarded by Applicant in 2012 and its correspondence 'Exhibit F' is filed. The Applicant has not made clear as to when & from whom she got knowledge of relevant provisions as she was unaware about it. So, it is difficult to rely on her contentions about absence of knowledge of legal provisions. It is pertinent to note that even after death of her husband in 1995, no early steps were taken to claim relief.

10. Learned Presenting Officer has already invited my attention to Government Circular dated 22.01.1991 at page 40 of OA which is about 'Family Pension' which can be allowed only in case employee is removed from service after 15.08.1982 and the compensatory pension was already allowed to the said employees. It is not made clear in the application as to whether compensatory pension was allowed to the Applicant's husband. It is clear from the letter dated 04.07.2012 at Exhibit 'I' that Applicant is not entitled for family pension as her husband was not given compensatory pension. Even after rejection of said claim in 04.07.2012, she did not approach the Tribunal at an earliest. It is clear that Government Circular dated 15.07.1995 was referred in the said letter at Exhibit 'I'. So it cannot be said that Applicant was diligent in filing petition. The Applicant has forwarded another representation. It appears that rather than to approach the Tribunal, the Applicant has repeatedly forwarded representations. In that connection, it is appropriate to rely on the judgment of the Hon'ble Supreme Court in case of **Naresh Kumar V/s Department of Atomic Energy & Others, (2010) 7 SCC 525** in para 15 in which it is 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. The learned Advocate for Applicant has also relied on the case of **Tarsem Singh's case (cited above)**. The facts in that case appear to be different. In **Tarsem Singh's** case the Respondent was Indian Army personnel who was declared invalid from army service on 13.11.1983.

However, he approached the Hon'ble High Court in 1999. He was found entitled for disability pension which was not granted to him. But in present matter, Applicant's husband never challenged the order of removal from service. It is made clear that he had not claimed compensatory pension during his lifetime. So this case can be distinguished on facts.

12. 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.201/2020 is also dismissed.

(B) No Order as to Costs.

Sd/-

(Ashutosh N. Karmarkar)
Member (J)

Place: Mumbai

Date: 17.10.2024

Dictation taken by: V.S.Mane

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