

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

**REVIEW APPLICATION NO.02 OF 2017
IN
MISC. APPLICATION NO.622 OF 2015
IN
ORIGINAL APPLICATION NO.1103 OF 2015**

Mr. Vitthal Revappa Sakate.)
Age : 62 Yrs, Occu. Service as Constable)
in State Reserve Police and R/o. House)
No.103, Panchashila Nagar, Mendhule)
Open Piece, Sangli - 16.)...**Applicant**

Versus

1. The State of Maharashtra.)
Through the Secretary,)
Home Department,)
Mantralaya, Mumbai - 400 032.)
2. The Commandant.)
State Reserve Police, Group No.2,)
Pune.)
3. The Director General of Police.)
M.S, Shahid Bhagat Singh Road,)
Colaba, Mumbai.)...**Respondents**

Mr. J.N. Kamble, Advocate for Applicant.

Mr. A.J. Chougule, Presenting Officer for Respondents.



P.C. : R.B. MALIK (MEMBER-JUDICIAL)

DATE : 22.03.2017

ORDER

1. This is an application for review of the order dated 5.1.2017 in M.A.No.622 of 2015 in O.A.1103/2015 and for all practical purposes, it seeks the same relief such as it was in the said MA.

2. The MA was for condonation of huge delay. I made it clear at the outset there that I was deeply conscious of the legal position that such applications were to be approached more with a view to advance the cause of justice rather than sacrifice the same at the altar of procedure. The events therein pertained to a period of 1976 to 1985 broadly so speaking. The Applicant apparently going by his own case fell ill. He was departmentally proceeded against for actionable absence from duty and was ultimately dismissed from service. By an order of 8th November, 1976, he preferred an appeal after about one year thereof, which was rejected on 14.8.1978 on the ground of it having become time barred. In 1981, he submitted a further appeal to the Hon'ble Chief Minister. He was informed that he should prefer an appeal to the Director General of Police. On 12.4.1983, he



preferred such an appeal which came to be rejected by the order of 16.11.1983. On 14.3.1990, the Applicant requested the Hon'ble Chief Minister for reinstating him, but he was informed by the DG that his appeal had already been rejected on 2.2.1985. It was not before 2013 that he moved this Tribunal with OA 982/2013. That OA was got withdrawn with liberty to file a fresh one on the same cause of action and he brought the OA in which he moved the MA for condonation of delay which on 5.1.2017, I rejected. I relied upon a Judgment of the Hon'ble Supreme Court in **Special Leave Petition (Civil) Nos.6609-6613 of 2014 (Brijesh Kumar Vs. State of Haryana and others, dated 24th March, 2014)**. Post rejection, the present RA is moved.

3. I have perused the record and proceedings and heard Mr. J.N. Kamble, the learned Advocate for the Applicant and Mr. A.J. Chougule, the learned Presenting Officer for the Respondents.

4. Now, even as there is a reference to the provisions of Section 114 which are to be read with order 47 of the Code of Civil Procedure and the relevant provisions of Administrative Tribunals Act, 1985 in support of the RA, but in effect and substantially, the same



facts are urged which I had already dealt with in deciding the MA above referred to. The jurisdiction of review is by no means an appellate one. There is a legal requirement of presence of certain facts to justify entertainment of and in a deserving case allowing of the Review Application. I need not get drawn into the academics of the matter. It is very clear that if in the name of review, the same set of facts are urged with some phreaseological variations here and there, but keep in the substance in-tact, then in my opinion, such an RA could not succeed. There has to be a clear distinction between the RA and the proceeding which could only be entertained by the forum of higher jurisdiction. That being the state of affairs, I am very clearly of the view that no case is made out for even entertaining this RA and technically even if, it has been entertained, it cannot succeed. The same is accordingly dismissed with no order as to costs.

Sd/-

(R.B. Malik)
Member-J
22.03.2017

Mumbai

Date : 22.03.2017

Dictation taken by :

S.K. Wamanse.

E:\SANJAY WAMANSE\JUDGMENTS\2017\3 March, 2017\RA.02.17 in M.A.622.15 in O.A.1103.15.w.3.2017.doc