

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 394 OF 2015

Mangal w/o Jagannath Khetre
Age 40 years, Occ. Nil,
R/o. C/o. Sumanbai Khetre,
G-1, Building, Room No.22,
Ghati Hospital, Aurangabad
Tq. and District Aurangabad

...Petitioner

versus

1. The State of Maharashtra

(Copy to be served on the Government
Pleader, high Court, Bench at
Aurangabad)

2. The Joint Director of Technical
Education, Divisional Office
Aurangabad

3. The Principal,
Government Engineering College,
Aurangabad

...Respondents

.....
Mr. C.V. Dharurkar h/f Mr. H.S. Bali. Advocate for Petitioner
Mr. D.B. Bhange, AGP for Respondents
.....

**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATED : 23rd JULY, 2015

JUDGMENT (PER S.V. GANGAPURWALA, J.):

1. Rule. Rule returnable forthwith. By consent of the parties, heard finally.

2. Mr. Dharurkar, the learned counsel for the petitioner submits that, in fact, while challenging the impugned order before the Tribunal, there was no delay. The order dated 19.3.2014 was being assailed in the Original Application filed before the Tribunal. The Original Application is filed on 19.11.2014. It is only by way of abandon precaution, as the objection was raised by the Registry of the Tribunal, Miscellaneous Application was filed. The learned counsel submits that the delay cannot be counted from the date of death of husband of the petitioner but when the order is being assailed before the Tribunal and limitation would start from the date of the said order.

3. Mr. Bhange, the learned A.G.P. submits that application was made by the petitioner seeking appointment on compassionate ground after delay of 11 years. The learned A.G.P. submits that the Tribunal has rightly considered the said aspect and rejected the Miscellaneous application. There is no sufficient cause stated for condoning the delay of 11 years.

4. We have considered the submissions canvassed by the learned counsel for the respective parties.

5. The petitioner was assailing the order dated 19.3.2014 passed by the Principal, Government Engineering College, Aurangabad. The said order was assailed in the Original Application. The Original Application is filed on 19.11.2014. From the date of passing of the order, the Original

application was filed within limitation. Whether the petitioner would be entitled for any relief in the Original Application or whether application before the authority seeking appointment on compassionate ground was tenable or delayed is a different matter altogether, which the Tribunal would consider while dealing with the Original Application. The Original application is within limitation from the date of order passed by the authority.

6. In the light that the order dated 17.12.2014 is quashed and set aside. In fact, there was no reason to file Misc. application for condonation of delay. Miscellaneous application bearing No. 378 of 2014 is allowed. In case there is no other impediment or objection, Original Application (St.) No. 1290 of 2014 be registered by the Tribunal.

7. Rule made absolute in the above terms. Writ petition is disposed of. No costs.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

rlj/