

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8551 OF 2013

Sujata Baban Kadam	...	Petitioner
V/s.		
State of Maharashtra & ors.	...	Respondents

Ms. P.B. Badadare i/b. Mr. P.R. Arjunwadkar for the petitioner.
Mr. P.P. Kakade, AGP for the State.

**CORAM : NARESH H. PATIL AND
A.S. GADKARI, JJ.**

2nd February, 2015.

P.C.

Heard learned Counsel for the parties.

2. The petitioner is wife of deceased Baban Kadam, a clerk working in the office of Sales Tax Department, Bandra, Mumbai. It is submitted that the deceased husband had put in about 23 years service. Due to illness he failed to report to the duties. It had come on record that he was absent from duties in the year 2002. A departmental enquiry was initiated against him as he did not respond to the notices issued. A public notice in the newspaper was also published by the respondent-employer but the petitioner's husband preferred not to participate in the departmental enquiry. Finally the enquiry was completed exparte and petitioner was removed from service under exercise of powers under Rule 5(1)(8) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979, by the Additional Sales Tax Commissioner on 5th June, 2006.

3. The petitioner states that her husband died due to illness on 20th January, 2009. After collecting certain documents and instructions the petitioner preferred an appeal alongwith application for delay condonation before Maharashtra Administrative Tribunal.

4. By an order dated 24th June, 2013 the Tribunal dismissed the original application. The petitioner challenges the said order before this Court.

5. The learned Counsel appearing for the petitioner has placed on record copy of original application filed before the Tribunal for our perusal alongwith annexures which includes medical reports, pathology reports concerning the treatments taken by the husband of the petitioner during the said period. It is submitted that petitioner's husband had obtained some loan from third party and was unable to pay loan, so he did not disclose his address to anybody. Due to this reason he failed to accept notice issued by the respondent-department.

6. It is submitted that the petitioner is not getting any monetary relief from the State Government due to removal order. She was not aware of other remedies to be resorted to in connection with the service benefits. The learned Counsel prays that in case delay is condoned, the petition could be heard on merits.

7. The learned Counsel appearing for respondent submits that petitioner's husband failed to report to duties from 2002 to 2006. He was ultimately removed from service after holding departmental enquiry in which he did not participate. The delay in approaching the Tribunal is abnormal.

8. We have perused the record placed by the petitioner before the Tribunal. Considered the submissions advanced. Some communication was made by the petitioner's husband to the respondent-employer. From the record we find that petitioner failed to make out a case for condonation of delay. The reasoning adopted by the Tribunal does not call for any interference.

9. Learned Counsel appearing for the petitioner on instructions of the petitioner present in Court submits that an appropriate representation would be submitted to the respondents for grant of service benefits in accordance with the Maharashtra Civil Services Rules framed for the said purpose. In case such a representation is filed, we direct the State Government to take decision on the said representation in accordance with law and the service rules.

10. Without expressing any opinion on merits of the case, writ petition stands disposed of.

(A.S. GADKARI, J.)

(NARESH H. PATIL, J.)