

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 5328 /2015

(Shri Bhavsing s/o Dalusing Rathod vs. State of Maharashtra and others)

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Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders
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Court's or Judge's order

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Shri A.P. Wachasunder, Advocate for the petitioner
Shri D.B.Patel, Asst. Government Pleader for Respondent No.1

**CORAM : SMT. VASANTI A. NAIK &
A.I.S. CHEEMA, JJ.**

DATED : 6th October, 2015.

Heard.

By this petition, the petitioner impugns the order of the Maharashtra Administrative Tribunal Nagpur, dated 23.09.2014, refusing to condone the delay in filing the Original Application.

The petitioner retired as a Deputy Engineer from the Public Works Department in the year 2006. On 18.10.2012, the petitioner filed an Original Application before the Tribunal seeking expunging of the adverse entries for the year 1989-90 and for permitting the petitioner to cross the efficiency bar from 1.4.1991, instead of 1.4.1995. Though according to the petitioner, the cause of action accrued to the petitioner on 17.11.2011 when the respondents communicated

that the prayer made by the petitioner for the aforesaid relief was rejected, the Tribunal held that the Original Application was hopelessly barred by time as the cause of action for making the two prayers accrued to the petitioner in the year 1991 and 1996. The order of the Tribunal is impugned in the instant petition.

On hearing the learned counsel for the parties and on a perusal of the impugned order, it appears that the Tribunal was justified in rejecting the Application of the petitioner for condonation of delay in filing the Original Application. By the Original Application, the petitioner was seeking expunging of the adverse entry for the year 1989-90. The Tribunal rightly held that the cause of action had accrued to the petitioner for seeking the said relief on 25.5.1990, when the prayer for expunging of the adverse remarks was rejected. The Tribunal rightly held that mere making of representations by the petitioner for a period of nearly 22-years, would not stop the period of limitation. The Tribunal found that the petitioner had made representations long back and if his representations were not favourably considered, it was necessary for the petitioner to file appropriate proceedings immediately. The petitioner had issued a legal notice to the respondents seeking the aforesaid relief on 21.1.2004 and the petitioner stood retired on

superannuation some time in 2006. The Tribunal considered the various judgments of the Hon'ble Supreme Court and this Court, to hold that the inordinate delay of nearly 15-20 years could not have been condoned. If the petitioner was permitted to cross the efficiency bar with effect from 1.4.1995 by the order dated 22.1.1996, the petitioner ought to have immediately filed appropriate proceedings for allowing the petitioner to cross the efficiency bar from 1.4.1991, if his representations were not decided within a reasonable time. The order of the Tribunal appears to be just and proper and the same cannot be interfered with in exercise of the writ jurisdiction.

The judgment reported in *AIR 1961 SC page 794 : (M/s Jethanand and Sons vs. State of Uttar Pradesh)* and relied on by the learned counsel for the petitioner cannot be made applicable to the facts of this case. In fact, the judgment is not relevant for the purpose of deciding the issue involved in this Writ Petition.

Since the order of the Tribunal is just and proper, the Writ Petition is dismissed, with no order as to costs.

JUDGE

JUDGE