

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4620 OF 2016

Shri Sunil s/o Poslya Gavit,
Age : 31 years, Occu. Nil,
R/o Plot No. 68,
Dakshata Police Housing Society,
Surat By-Pass Highway, Dhule,
Tq. and District Dhule

PETITIONER

VERSUS

1. The State of Maharashtra,
through its Secretary,
Home Department,
Mantralaya, Mumbai
2. The Collector,
Dhule, District Dhule
3. The Superintendent of Police,
Dhule, Tq. and Dist. Dhule

RESPONDENTS

Mr. Yogesh B. Bolkar, Advocate for the Petitioner
Mr. P.N. Kutti, A.G.P. for the respondents

**CORAM : S.S. SHINDE AND
SANGITRAO S. PATIL, JJ.**

DATE : 18th JULY, 2016

PER COURT :

Rule. Rule made returnable forthwith. With the
consent of the learned counsel for the petitioner and
the learned A.G.P., heard finally.

2. This petition takes exception to the order dated 22nd March, 2016, passed by the Maharashtra Administrative Tribunal, Mumbai, Bench at Aurangabad in Misc. Application No. 417/2015 in Original Application St. No. 1345/2015. The said Original Application was filed by the petitioner being aggrieved by the rejection of his application seeking appointment on compassionate ground.

3. Upon perusal of the facts of the case as summarised in the impugned order, it appears that the communication received by the petitioner about rejection of his application for appointment on compassionate ground is dated 5th July, 2012. However, it further appears that the petitioner filed Original Application in the year 2015. In the said Original Application, the petitioner filed Misc. Application No. 417/2015 for condonation of delay caused in filing the Original Application. The learned Maharashtra Administrative Tribunal rejected the said Misc. Application on the ground that the petitioner did not explain the delay of two years and 64 days properly and there is inordinate delay in filing the Original Application.

4. Upon careful perusal of the averments of Misc. Application No. 417/2015, which was filed by the petitioner for condonation of delay, it is mentioned that the petitioner did apply for succession certificate so as to strengthen his case that he is the successor of the deceased employee. The another ground raised is that no communication is made from the office of respondent No. 3 to the petitioner as well as to his mother, till submission of an application by the mother of the petitioner on 11th November, 2014 under the Right to Information Act. It is also stated by the petitioner/applicant that the delay is not intentional or deliberate.

5. Upon considering the averments in the Misc. Application for condonation of delay in its entirety, in our opinion, the learned Maharashtra Administrative Tribunal ought to have accepted the plausible explanation offered by the petitioner in support of his prayer for condonation of delay. Because of the delay in filing the Original Application, the petitioner has not taken any undue advantage. On the contrary, the petitioner himself is loser inasmuch as his claim for

the appointment on compassionate ground has been delayed because of the delay on his part in filing the Original Application. In our opinion, therefore, the delay caused in filing Original Application was neither intentional nor deliberate. It deserves to be condoned. Hence, we pass the following order :-

- (i) The writ petition is allowed.
- (ii) The order dated 22nd March, 2016, passed by the Maharashtra Administrative Tribunal, Mumbai, Bench at Aurangabad in Misc. Application No. 417/2015 in Original Application St. No. 1345/2015, is set aside. The delay caused in filing the Original Application St. No. 1345/2015 stands condoned.
- (iii) Original Application St. No. 1345/2015 is restored to its file. The learned Maharashtra Administrative Tribunal, Mumbai, Bench at Aurangabad to hear the said Original Application on its own merits.

(iv) The writ petition stands disposed of
accordingly.

(v) No costs.

[SANGITRAO S. PATIL]
JUDGE

[S.S. SHINDE]
JUDGE

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