

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3135 OF 2014**

Mr. Rohidas N. Bodke

.. Petitioner.

vs.

The Deputy Commissioner
of Police, Zone-1, Mumbai and anr.

.. Respondents.

Mr. N.P. Dalvi for the Petitioner.

Mr. C.P. Yadav, AGP for the Respondents.

**CORAM: D.H. WAGHELA, C.J. AND
M.S.SONAK, J.**

DATE : 8 MARCH 2016

P.C.:

1] The petitioner challenges the order dated 31 July 2012 made by the Maharashtra Administrative Tribunal (MAT) declining to condone the delay of well over five years in instituting Original Application No. 625 of 2012 seeking some reliefs in respect of period between 29 July 1995 to 14 December 1999, during which the petitioner had been placed under suspension pending departmental proceedings.

2] Mr. Dalvi, learned counsel for the petitioner, has submitted that the representations made by the petitioner were rejected by the order dated 9 October 2006. Against the same, the petitioner instituted an appeal before the appellate authority. However, the appellate authority, by order dated 29 December 2010 dismissed the appeal, not on merits, but by observing that no such appeal is maintainable. Thereafter, the petitioner instituted

original application on 25 June 2012. Mr. Dalvi submitted that the petitioner has neither been indolent nor can he be said to have waived rights by passage of time or inaction. The petitioner was pursuing his remedies in the matter. Mr. Dalvi submitted that the appeal instituted by the petitioner was in fact maintainable and in any case the principles contained in Section 14 of the Limitation Act, ought to have been applied in the present matter. For all these reasons, Mr. Dalvi submitted that the MAT erred in declining to condone the delay in instituting the original application.

3] Upon due consideration of submissions made by Mr. Dalvi and perusal of the record, we find that the petitioner was placed under suspension between the period 29 July 1995 and 14 December 1999. Upon conclusion of departmental proceedings, it is the case of the petitioner that such period should be treated as '*on duty*'. In this regard, the petitioner made representation to the respondents, which was rejected by detailed order dated 9 October 2006. However, even if some allowance has to be granted to the petitioner in respect of the period during which the petitioner was pursuing the departmental appeal, it must be noted that this appeal was disposed of on the ground of maintainability on 29 December 2010. There is, however, no explanation whatsoever as to what prevented the petitioner from instituting the original application within some reasonable period thereafter. In this case, the petitioner has instituted the original application only on 25 June 2012, i.e., after delay of almost eighteen months. Further, the MAT, in the impugned order has made reference to

the petitioner having been informed as early as on 21 March 2007 that no appeal lay against the order dated 9 October 2006 and despite such information, the petitioner, insisted upon pursuing with his appeal till the year 2010. Since, the order challenged in the original application was originally made on 9 October 2006, the delay is of over five years. Even if, some allowance is made for the period spent in pursuing an appeal, which did not lay, the delay is of over eighteen months, for which there is no explanation. The MAT in such circumstances, cannot be faulted for exercising discretion and not condoning such inordinate and unexplained delay.

4] There is no jurisdictional error in making of the impugned order. The discretion in the present case, has not been exercised arbitrarily or unreasonably.

5] This petition is therefore, dismissed. There shall however, be no order as to costs.

(CHIEF JUSTICE)

(M.S.SONAK, J.)