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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4202 OF 2016

Dr. Vijaykumar R. Salunkhe ... Petitioner
Vs.
The State of Maharashtra and ors. ... Respondents

Mr. P.B. Deo for the Petitioner.
Mr. V.B. Thadani, AGP for the Respondent - State.

CORAM : V. M. KANADE, AND
M. S. SONAK, JJ.

DATE : JULY 25, 2016

P. C.

1] The petitioner challenges the order dated 7 December 2015 made by the Maharashtra Administrative Tribunal (MAT), Mumbai, declining to condone the delay of three years and forty nine days in instituting Original Application (St) No. 285 of 2015.

2] Mr. P.B. Deo, learned counsel for the petitioner, by advertng to the last three lines of paragraph '6' of the impugned order has submitted that the MAT had in fact, accepted that there was sufficient cause for not instituting the original application until the year 2014, i.e., 6 April 2014, the date of demise of the petitioner's

father. Mr. Deo submitted that this means that the delay was of hardly one year and the petitioner had made out sufficient cause explaining such delay. Mr. Deo further submitted that there was no material produced by the respondents to indicate that any third party rights have been created. In absence of any such material, the MAT has erred in declining to condone the delay on the ground that the third party rights may have been created in the meanwhile. For these reasons, Mr. Deo submitted that the impugned order may be interfered with and the delay in instituting the original application, condoned.

3] We have considered the aforesaid submissions of Mr. Deo. We have also perused the record and the impugned order. We are satisfied that in the facts and circumstances of the present case, there was inordinate delay of over three years in institution of the original application and there was no satisfactory explanation, insofar as such delay was concerned. The MAT has also evaluated the cause shown by the petitioner and thereafter concluded that such cause was by no means sufficient to explain such inordinate delay. There is no jurisdictional error or perversity in the record of such finding of fact.

4] The record indicates that the petitioner had been appointed on contract basis. However, even if it is assumed that the petitioner was appointed on ad-hoc basis, the record indicates that the petitioner was transferred from Karad to Ratnagiri in September 2010

or thereabouts. It is the case of the petitioner that since his father was unwell and there was no other person to take care of his father, the petitioner could not report to Ratnagiri. The petitioner claims to have applied for leave with pay and thereafter, leave without pay. Admittedly, no such leave was ever sanctioned to the petitioner. The petitioner, however, failed to join at Ratnagiri on account of unauthorised absenteeism /abandonment, the services of the petitioner, which in any case, were only on ad-hoc basis, came to be terminated on 17 March 2011, though with effect from 25 September 2010.

5] The petitioner claims to have sent several representations in the matter of termination of his services, the last being representation dated 28 January 2015. In the original application or in the application seeking condonation of delay, no details of such representation have really been set out. In any case, the mere address of representations, is by no means sufficient explanation for the inordinate delay of over three years.

6] The impugned order does not accept that there was sufficient cause for not instituting the original application upto 6 April 2014, i.e., the date of demise of the petitioner's father. The impugned order merely notes that even after 6 April 2014, there was delay of over one year in instituting the original application, for which, there was no sufficient cause indicated by the petitioner. The impugned

order has to be read in its entirety. Thus read, it is clear that the MAT was not satisfied that any sufficient cause was shown by the petitioner for condonation of delay of over three years. Upon perusal of the application seeking condonation of delay and the other materials on record, we also satisfied that there was no case made out for condonation of such inordinate delay.

7] For all the aforesaid reasons, we dismiss the present petition. There shall however, be no order as to costs.

[M. S. SONAK, J.]

[V. M. KANADE, J.]