

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.3836 of 2014

(Sudhakar Chandrabhan Wanzare v. State of Maharashtra, through
Secretary for Rural Development Department, Mumbai, and others)

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

Court's or Judge's orders

Shri S.M. Vaishnav, Advocate for Petitioner.
Shri M.M. Ekre, AGP for Respondent Nos.1 and 2.
Shri Amol Deshpande, Advocate for Respondent No.3.

Coram : R.K. Deshpande, J.

Date : 29th February, 2016

The appeal filed by the petitioner under Rule 14 of the Maharashtra Zilla Parishad (Appeal & Discipline) Rules, 1964 has been dismissed on the ground that it was filed after a period of 5 years and 6 months from the date of the order impugned passed on 31-8-2007. There is no dispute that the Commissioner has power to condone the delay. The stand taken by the petitioner was that he was placed under suspension in the year 2002 and was reinstated in service on 27-9-2012.

By an order dated 31-8-2007, the punishment was imposed, debarring the petitioner from getting two increments. The discussion about the rejection of the application for condonation are stated in the order as under :

“ Perusal of the record of the Lower Court reveals that the Appellant while holding the post of Gram Sewak at Panchayat Samiti, Mangrulpir, the abovesaid four charges were framed against him and accordingly, a Departmental Enquiry was conducted against the Appellant. In the said Departmental Enquiry, the Appellant was found to be guilty partly for the charge nos.3 and 4. However, the charge nos.1 and 2 are not proved against the Appellant. Hence, the Respondent has awarded the punishment of withholding two increments of the Appellant permanently and also treated the suspension period as suspension vide his Order dated 31.8.2007 and the copy of the said Order seems to have been given to the Appellant as it is proved from the fact that the Appellant had made representations for reviewing the said Order vide his representations dated 15.11.2007 and 25.6.2010. It means that he was well aware of the said Order. In pursuance of the said representations of the Appellant, the Respondent had replied to the Appellant on dated 3.8.2010, thereby communicated to the Appellant to file an Appeal before the Divisional Commissioner, Amravati. Even though there is such communication to the Appellant on dated 3.8.2010, he has filed an Appeal before this Authority on 8.3.2013. It means that the Appellant has slept over his right in challenging an Order of the Respondent dated 31.8.2007 for long period of time. He

has filed this Appeal late by a period of more than 5 years and six months. Under these circumstances, the plea of the Appellant that he has got the knowledge of the said Order on 23.12.2012 under the Right of Information cannot be accepted. The Appellant should have filed an Appeal within a period of 90 days from the date of Order of the Respondent as provided under the provisions of Maharashtra Zilla Parishad & Panchayat Samittee (Discipline & Appeal) Rules, 1964. However, he failed to do so. Considering these facts of the case, the Application of the Condonation of delay cannot be allowed.”

The reason stated by the petitioner that he was not aware of the order dated 31-8-2007, which he came to know for the first time after reinstatement in service, is found to be absolutely false. I do not find any reason to interfere in the order impugned in this petition.

The petition is dismissed.

Judge.