

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11662 OF 2016
(Bhausahab Murlidhar Mote Vs. The State of Maharashtra
and others)

Mr. K.D. Mote, Advocate for the Petitioner
Mrs. A.V. Gondhalekar, A.G.P. for the respondent/State

CORAM : S.V. GANGAPURWALA AND
SANGITRAO S. PATIL, JJ.

DATE : 5th APRIL, 2017

ORAL ORDER :

Heard.

2. Mr. Mote, the learned counsel for the petitioner submits that the petitioner was appointed as an Overseer on 1st January, 1964. Thereafter, the petitioner came to be transferred on 7th April, 1964 on the post of Junior Engineer in the office of respondent No.3. The petitioner suffered from asthmatic attack and was not in a position to work for a longer time. The learned counsel submits that the petitioner tendered notice of voluntary retirement on 24th November, 1973. The said notice was accepted on 22nd April, 1974. According to the learned counsel, the service tenure of

the petitioner is more than ten years and as such, he is entitled for pension and retiral benefits. The petitioner made an application/representation on 17th December, 2013. The same is not considered. As such, he filed Original Application before the Maharashtra Administrative Tribunal ("Tribunal", for short) alongwith Misc. Application for condonation of delay. The said Original Application is rejected on the ground of delay.

3. The learned counsel for the petitioner submits that there is no delay in filing the Original Application as no order was passed on the representation of the petitioner given to the respondents on or about 17th December, 2013. The cause of action is continuing one. As no final order has been passed by the Government or other Authority competent to pass the order, the Original Application filed before the Tribunal is within limitation. According to the learned counsel, the petitioner was suffering from Asthmatic attack and as such, could not prosecute his grievance earlier. All these grounds were stated before the Tribunal; however, the same have not been considered.

4. We have heard the learned A.G.P. also.

5. The petitioner accepts the fact that his notice for voluntary retirement was accepted on 24th February, 1974 and for almost forty years, the petitioner did not take any step and on 17th December, 2013, submitted a representation to the respondents for sanctioning the pension. The application, which is submitted after a period of forty long years, certainly could not have been considered. The right accrued to the petitioner, if any, to claim the pension, was in the year 1974 itself. The medical certificate produced on record of the year 1973 states that the petitioner was under treatment of the Doctor for one year and unable to walk for longer distance. For forty years, the petitioner had not taken any step for claiming the pension. It cannot be said to be a continuing cause of action as the right accrued to the petitioner in the year 1974 could not have been stretched to such a long period of forty years. The learned counsel for the petitioner submits that the Limitation Act is not applicable to the present case. However, Sections 20 and 21 of the Administrative

Tribunals Act, 1985 itself lays down about the period of limitation for filing the Original Application.

6. The Tribunal, after such a long slumber, could not have considered the case of the petitioner. The Tribunal has not committed any error while passing the impugned order. In the result, the Writ Petition is dismissed. No costs.

[SANGITRAO S. PATIL]
JUDGE

[S.V. GANGAPURWALA]
JUDGE

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