

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2330 OF 2016

Prakash s/o Marotirao Shere,
Age : 71 years, Occu. Retired,
R/o "Akshay", Main Road,
Shivaji Chowk, Latur, Taluka
and District Latur

PETITIONER

VERSUS

The State of Maharashtra,
Maharashtra Medical and Health
Services, through its Secretary,
Mantralaya, Mumbai and others

RESPONDENTS

Mr. Gajanan G. Kadam, Advocate for the Petitioner
Mr. A.S. Shinde, A.G.P. for respondent Nos. 1,2,4 and 5

**CORAM : T.V. NALAWADE AND
SANGITRAO S. PATIL, JJ.**

DATE : 7th FEBRUARY, 2017

ORAL ORDER :

Heard the learned counsel for the petitioner
and the learned A.G.P., representing the State.

2. The petition is filed to challenge the order
dated 15th September, 2015, passed by the Maharashtra
Administrative Tribunal, Bench at Aurangabad in Original

Application No. 12 of 2012. The said Original Application was filed by the petitioner thereby challenging the order of his removal from service dated 18th January, 1991, passed by respondent No. 1.

3. The Maharashtra Administrative Tribunal, vide the impugned order, has held that there was considerable delay in filing the proceeding before it, which was filed after about ten years of the date of petitioner's removal from service and no application for condonation of delay of the said period was filed. By referring to some observations made by the Hon'ble Apex Court in the case of **Secretary to Government Vs. Shivram Mahadu Gaikwad 1995 Supp (3) SCC 231**, the Maharashtra Administrative Tribunal dismissed the Original Application.

4. The learned counsel for the petitioner submits that the office of the Maharashtra Administrative Tribunal had not raised objection in regard to limitation. The Original Application was admitted. In view of this, the Tribunal ought to have decided the matter on merit. He further submits that the petitioner

was making communications with the Government constantly with regard to the order passed against him and due to that, for all those years, he did not challenge the removal order.

5. Considering the submissions advanced on behalf of the petitioner and the record, we find that the order impugned in this petition cannot be interfered with. The petitioner had filed review applications before the Secretary to the Government for review of the removal order. He, however, did not challenge the removal order immediately by filing an appeal or the appropriate proceedings before the competent forum. While filing the Original Application, the petitioner was aware that there was delay of about ten years and still, he did not file Misc. Application alongwith the Original Application for condonation of delay, neither he could explain in the memo of Original Application the delay caused in filing the proceeding. This Court has gone through the reasoning given by the Maharashtra Administrative Tribunal while dismissing the Original Application. In that view of the matter, we hold that this is not a fit case to interfere in the impugned

order passed by the Maharashtra Administrative Tribunal.

5. In the result, the Writ Petition is dismissed.

No costs.

[SANGITRAO S. PATIL]
JUDGE

[T.V. NALAWADE]
JUDGE

npj/wp2330-2016