

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3246 OF 2014

Chandrakant Bhalchandra Kadam .. Petitioner
Vs.
The State of Maharashtra and ors. .. Respondents

Mr.Ajay V. Shinde, for the Petitioner.
Mr.O.M. Kulkarni, AAGP, for Respondent No.1 – State.
Mr.Vinod Joshi, for Respondent No.4.

**CORAM : SMT. V.K.TAHILRAMANI &
M.S.KARNIK, JJ.**

20th NOVEMBER, 2017

ORAL ORDER (PER SMT. V.K.TAHILRAMANI, J.) :

1. Heard learned Counsel for the petitioner, learned AGP for respondent No.1 and Mr.Joshi, learned Counsel for the respondent No.4.

2. This Petition is directed against the judgment and order dated 22/08/2013 passed by the Maharashtra Administrative Tribunal, Mumbai.

3. It is the case of the petitioner that he was appointed as a temporary painter in the office of Deputy Engineer, Marine Construction Sub-Division, Ratnagiri on 21/07/1970. On 27/01/1977, the petitioner was declared as a permanent government servant vide Coastal Engineer's Office Order No. 22 dated 27/01/1977. Thereafter even according to the petitioner, he was absent from duty from 16/06/1988 to 31/03/2002 i.e. the date on which he superannuated. The petitioner's period of absence from 16/06/1988 to 31/03/2002 which is more than 4000 days was regularized vide order dated 02/04/2004. The said order was cancelled vide order dated 07/02/2006. Being aggrieved thereby the petitioner approached the Tribunal in the year 2013 by preferring OA 82/2013. As there was delay in preferring the OA, the petitioner preferred Misc. Application No. 49 of 2013 for condonation of delay. By judgment and order dated 22/08/2013, the said Misc. Application came to be dismissed. Hence, the present Petition.

4. Learned Counsel for the petitioner submitted that in

fact the petitioner was diligently taking steps in relation to the order dated 07/02/2006 cancelling the order dated 02/04/2004 which regularized the unauthorised absence of 4271 days of the petitioner as extra ordinary leave. He submitted that after order dated 07/02/2006 was passed, he submitted an application before Lokayukta, Maharashtra and since the year 2006, he has been prosecuting the case in that forum. On 02/09/2010, the Lokayukta closed his case without adjudicating anything on merits. Subsequently, he made representations dated 21/07/2011 and 10/08/2011. Thereafter, he preferred OA 1212/2012 on 21/12/2012 with MA 559/2012 for condonation of delay. On 08/01/2013, the said OA was allowed to be withdrawn with liberty to file a fresh OA since according to the petitioner, he had not made some relevant averments as well as not annexed certain documents. Accordingly, MA 559/2012 was also disposed of as it did not survive. Thereafter, the petitioner preferred OA 82/2013. As there was delay, the petitioner preferred Misc. Application No. 49 of 2013 for condonation of delay. As stated earlier, the said Application came to be

dismissed.

5. It is the case of the petitioner that Lokayukta closed his case without adjudicating anything on merits on 02/09/2010 we find this contention to be incorrect. The Lokayukta has considered the case of the petitioner on merits and thereafter disposed of the proceedings. In any event, the proceedings were disposed of by Lokayukta on 02/09/2010. Thereafter also the petitioner did not immediately approach the Tribunal and he approached the Tribunal on 21/12/2012 and he preferred OA 1212/2012, we find no plausible explanation has been given by the petitioner for the period from 02/09/2010 to 21/12/2012. Even otherwise, it is an admitted fact that the petitioner was absent from duty for almost 14 years. Learned Counsel for the petitioner submitted that delay on the part of the petitioner has occurred on account of medical problem. However, it is seen that in the delay application preferred by the petitioner before the Tribunal, no such ground has been taken by the petitioner. No medical certificates were produced before the Tribunal to substantiate the claim that the delay had occurred on account of

ill-health of the petitioner. The Tribunal has taken into consideration all these aspects and thereafter dismissed the application for condonation of delay. Looking to the facts of the case, we are not inclined to interfere in the matter. Writ Petition is dismissed.

(M.S.KARNIK, J.)

(SMT. V.K.TAHILRAMANI, J.)