

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8042 OF 2013

Arun Waman Khadtale,	]	
Age : 58 years,	]	
Building No.43, Flat No.32,	]	
Naval Civilian Housing Colony,	]	
Pawai, Bhandup, Mumbai-400078.	]	 Petitioner

Versus

1. Union of India,	]	
Through the Flag Officer,	]	
Commander-in-Chief,	]	
Western Naval Command,	]	
Shahid Bhagat Singh Road, Mumbai.	]	 Respondent
	]	
2. Madhavendra Singh,	]	
Vice Admiral, Flag Officer,	]	
Commanding-in-Chief,	]	
Western Naval Command,	]	 <i>[Dismissed as per order</i>
Shahid Bhagat Singh Road, Mumbai.	]	<i>dated 30th October 2014.]</i>

Mr. Ganesh Murthy, i/by Mr. Jating S. Jamkhandi, for the Petitioner.

Mrs. Neeta V. Masurkar for the Respondent-UOI.

**CORAM : SMT. V.K. TAHILRAMANI &
DR. SHALINI PHANSALKAR-JOSHI, J.J.**

DATE : 7TH AUGUST, 2017.

ORAL JUDGMENT : [Per Smt. V.K. Tahilramani, J.]

. Rule. Rule made returnable forthwith. Heard finally, by consent of the parties.

2. Heard Mr. Murthy, learned counsel for the Petitioner, and Mrs. Masurkar, learned counsel for the Respondent-UOI.

3. The Petitioner has preferred this Petition against the order dated 13th January 2012 passed by the Central Administrative Tribunal, Mumbai, in O.A. No.336 of 2002 preferred by the Petitioner.

4. In the said O.A. No.336 of 2002, the Petitioner had impugned the order dated 24th November 1998 passed by Respondent No.2 rejecting his appeal against the order of his removal from service. By order dated 13th January 2012, the Tribunal has dismissed O.A. No.336 of 2002 preferred by the Petitioner; hence, this Petition.

5. The Petitioner was initially appointed in Naval Dockyard as a 'Casual Labour' in 1975. He was confirmed as 'Permanent Labour' on 7th December 1980. While the Petitioner was working in Naval Dockyard, he was proceeded against for unauthorized absence and was removed from service vide order dated 18th February 1998. This order of removal was challenged by the Petitioner by filing an Appeal dated 20th March 1998. The said Appeal was rejected by the Appellate Authority on 24th November 1998. Hence, Petitioner approached the Tribunal by preferring O.A.

No.336 of 2002 against this order dated 24th November 1998. As stated earlier, the Tribunal has dismissed the said O.A. preferred by the Petitioner.

6. It is seen that the order of removal from service is dated 18th February 1998. Appellate Authority rejected the Appeal preferred by the Petitioner on 24th November 1998. Being aggrieved thereby, the Petitioner approached the Tribunal by preferring O.A. No.336 of 2002. However, it is noticed that the said O.A. was preferred by the Petitioner on 3rd April 2002, i.e. almost after a period of 3½ years after his Appeal came to be rejected by order dated 24th November 1998. The Tribunal has observed that, *'the said O.A. suffers from delay and laches and on this ground alone, the O.A. deserves to be dismissed'*.

7. Indeed, there has been an inordinate delay and laches on the part of the Petitioner in preferring O.A. The grounds made out by the Petitioner, that he did not have financial capacity to engage an Advocate and that he was unwell, would not cover the period of almost 3½ years. As far as not having financial capacity to engage an Advocate is concerned, the Petitioner could always have sought legal aid. Hence, this ground cannot be considered as sufficient ground. As far as the other ground of

Petitioner suffering from health problem is concerned, it cannot be said that for 3½ years, Petitioner was suffering from medical problem so as to stop him from filing O.A. Thus, it is seen that no sufficient ground was made out for condonation of delay caused in filing O.A.

8. Hence, we cannot find any error in the order of the Tribunal, wherein it is held that, *'the O.A. suffers from delay and laches and on this ground alone, the O.A. deserves to be dismissed'*. Looking to the facts of this case, no interference is called for. Hence, the Petition is dismissed.

9. Rule is discharged.

[DR. SHALINI PHANSALKAR-JOSHI, J.]

[SMT. V.K. TAHILRAMANI, J.]