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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.12306 OF 2015.**

Gajanan Vithal Sathaye ... Petitioner.
V/s.
State of Maharashtra and ors Respondents

Mr. Chandrakant T. Chandratre, for the
Petitioner.

Mr. N. C. Walimbe, AGP for the Respondent
State.

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

DATE : 25TH SEPTEMBER, 2017.

P.C. :

1. Heard learned counsel for the Petitioner and
learned AGP for the respondents.

2. Rule. By consent rule is made returnable forthwith
and matter is heard finally.

3. The petitioner was working as Superintending
Engineer. Departmental enquiry was initiated against
the petitioner. The enquiry officer recommended the
punishment of reduction of pay by one grade increment in his
time scale of his pay for four years with the said reduction
being not such as to result in postponing the future

increments. However, the Government enhanced the punishment given to the petitioner. By order dated 19.01.1988, the petitioner was reverted to the post of Executive Engineer.

4. In view of the reversion, the petitioner instituted Regular Civil Suit which came to be transferred to the Maharashtra Administrative Tribunal and it was numbered as Transfer Application No.41 of 1993. On 30th October, 2002, the said Transfer Application was dismissed for default. Thereafter the petitioner had preferred Misc. Application No.237 of 2013 to get the said order of dismissal set aside and to get said Transfer Application restored to file. The petitioner had also preferred Misc. Application No.238 of 2013 for condonation of delay. The Tribunal observed that the delay was of more than 10 years and for the reasons stated in the judgment dated 04.09.2014, dismissed both the Misc. Applications. Being aggrieved thereby, the present petition has been preferred.

5. For the delay of more than 10 years, the reason stated for the delay is health related. It was stated that the applicant suffered from Cardiac problems, diabetes and poor vision and by the time Misc. Application was heard he had

lost his eye sight.

6. Learned counsel for the petitioner submitted that such applications deserve to be treated with justice oriented approach rather than over dependence on technicalities. One can sympathetically accept that the petitioner was inflicted with bad health including heart problem, diabetes and vision problem. However, the question is whether the health reason put forward is sufficient to explain the long delay of more than 10 years. Ultimately, sufficient cause is something which is fact specific.

7. The decade long delay is not something that can be condoned liberally. After all, liberal approach has its own limitations. The events mentioned in the Transfer Application are more than three decades old. One is not sure if the important documents still exist and the crucial witnesses are still around and available if need be. The petitioner has also lost the original papers. In paragraph No.10 of the Misc. Application, he has averred that even the office of the Tribunal informed him that the record was maintained for five years.

8. We must visualize the scenario post restoration. After more than 3 decades getting the necessary documents and witnesses is almost impossible. In such case, the Tribunal

has rightly held that no practical purpose would be served by enlivening the dead T.A.

9. It ultimately transpires that for no fault of anybody and because of circumstances which have occurred on account of distance of time, the case of the petitioner would make no progress and precious time will be lost with nothing productive coming out. The Tribunal has taken into consideration all these aspects and thereafter rejected both the Misc. Applications.

10. In view of the above facts, we do not find any error with the order of the Tribunal in dismissing the applications for condonation of delay and restoration.

11. The Petition is dismissed. Rule is discharged.

[DR.SHALINI PHANSALKAR-JOSHI, J.]

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