

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.**

WRIT PETITION NO. 6949 OF 2017

Lalchand Dhanraj Patil

... Petitioner

VERSUS

The Union of India & Ors.

... Respondents

.....
Mr Swapnil S. Patil, Advocate for the petitioner
Mr Manish Navandar, Advocate for respondents
.....

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVAL, JJ.**

DATE : 15TH JANUARY, 2018.

ORDER:

1. We have heard learned counsel for the petitioner and the learned counsel for respondents.

2. The petitioner was found guilty of the charges in the Departmental Enquiry and punishment was imposed upon the petitioner reducing pay scale to the lowest for two years. The petitioner preferred an appeal. The appeal is not entertained on the ground that it is filed beyond the prescribed period of limitation.

3. The learned counsel for the petitioner submits that as the petitioner was transferred to Khandwa, the petitioner could not submit the appeal in time. The appeal was submitted to Inspector, Jalgaon Thana, who forwarded it to respondent no. 3 to be presented to respondent no. 4. According to learned counsel, the appeal of the petitioner has not been entertained on merits and it has been dismissed only on the ground of delay. The petitioner be given an opportunity to file an application for condonation of delay stating the grounds for the delay.

4. Mr Navandar, the learned counsel for respondents submits that, as per Section 9 of the Railway Protection Force Act, 1957 the petitioner has to file an appeal within 30 days. There was a delay of 2½ months. No reasons were given. As such, the authority has rightly passed the order.

5. It appears that the petitioner did not file an application for condonation of delay along with the appeal showing sufficient cause for not filing appeal within limitation as required u/s 9 of the Railway Protection Force Act. Proviso to sub-section 2 of Section 9 empowers the authority to entertain the appeal after the expiry of the period of 30 days, if it is satisfied that the appellant was prevented by

sufficient cause from filing the appeal in time.

6. The present petitioner along with the appeal did not file an application for condonation of delay and put forth his grounds for delay. We deem it appropriate to grant one opportunity to the petitioner to put forth grounds for delay before the appellate authority.

7. In light of the above, the impugned order is quashed and set aside. The petitioner is given liberty to file an application for condonation of delay putting forth the grounds for delay. The appellate authority shall thereafter consider the grounds put forth by the petitioners for delay and take decision upon it on its own merits. The application shall be filed by the petitioner within four weeks from today.

8. The writ petition is, accordingly, partly allowed. No costs.

[A. M. DHAVALA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE