

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

**CIVIL APPLICATION NO.11801 OF 2019
IN
WRIT PETITION NO.12339 OF 2015**

Manohar s/o Kisanrao Wankhede
Age: 60 years, Occ: Nil,
R/o. Jyotinagar, Aurangabad
Tq. & Dist. Aurangabad

APPLICANT

VERSUS

The Chairman and Managing Director,
Central Bank of India,
Fort, Mumbai

RESPONDENT

Mr Harshad H. Padalkar, Advocate for the applicant;
Mr S.V. Warad, Advocate for respondent sole

**CORAM : PRASANNA B. VARALE &
AVINASH G. GHAROTE, JJ.**

DATED : 1st OCTOBER, 2019

ORAL ORDER:

This is an application seeking condonation of delay of 2 years and 328 days caused in filing the application, whereby restoration of the petition is prayed.

2. By order dated 5th August, 2016, the Division Bench of this Court was pleased to dismiss the petition for want of prosecution. Learned Counsel for the applicant made an attempt to submit before this Court that the delay caused is for *bona fide* reason and same was unintentional. Perusal of the order sheet shows that the petition was filed in the year 2015. The petitioner was an employee of the financial institution, namely, Central Bank of India and was subjected to a Departmental Enquiry, wherein punishment was awarded to the petitioner on serious charges.

3. Being aggrieved by the said order, the petitioner approached the reviewing authority. The reviewing authority, by order dated 17th June, 2015 found no favour with the petitioner. Resultantly, final order of the disciplinary authority, which was modified by the appellate authority, was confirmed, which was then

impugned in the writ petition.

4. Initially, notices were issued by this Court. In spite of notices being issued, office objections were not removed within stipulated period and by grant of opportunity of extended period, the objections were removed and the matter was placed before the Division Bench of this Court. On 5th August, 2016 as none appeared before this Court for the petitioner nor a request was made either for keeping back the petition or for an adjournment, the Division Bench of this Court was left with no choice but to dismiss the petition for want of prosecution.

5 On the backdrop of these facts, the reason assigned for condonation of delay in the application is as cryptic as it could be and same finds place in paragraph-5 of the application. It is stated in the application in one sentence that the Counsel who was

requested to do so by the Counsel for the petitioner, could not attend the matter and then it is stated in paragraph-5 as under :

"5. That, thereafter, the advocate of the applicant when came to know about dismissal of the writ petition No.12339/2015 for want of prosecution, he immediately informed the advocate clerk and instructed him to file the Civil Application for restoration.

That, at this point of time, the advocate of the applicant was under bonafide impression that, the Civil Application which was drafted is being presented to the Hon'ble High Court, but factual position was otherwise. It is under this background, the delay in filing restoration application has occurred which is required to be considered otherwise, very purpose of filing writ petition would stand frustrated. The applicant's important service rights are involved and therefore, the present Civil Application is required to be granted."

6. Thus, considering the reason assigned, by any angle, this Court is unable to arrive at a conclusion that inordinate delay of 2 years and 328 days was for some reason which could be considered as *bona fide* or of such a nature which would have prevented the Counsel to take necessary steps within reasonable period and only statement that Counsel had instructed his Clerk and Clerk failed to take necessary steps, cannot, by any stretch be treated as *bona fide* reason.

7. Considering all these facts, we are of the opinion that the application is thoroughly meritless and deserves to be dismissed at the threshold and same is accordingly dismissed.

[AVINASH G. GHAROTE, J.]

[PRASANNA B. VARALE, J.]