

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

CIVIL APPLICATION NO. 13547 OF 2019
IN
WRIT PETITION NO. 338 OF 2013

Nazir Ahmed Mohd. Hanif

.. Applicant

Versus

The State of Maharashtra,
through Secretary,
Health Department, Mantralaya,
Mumbai and ors.

.. Respondents

Mr B.M. Wavalkar and Mr M.B. Sandanshiv, Advocates for applicant
Mr K.N. Lokhande, A.G.P. for respondent-State

**CORAM : PRASANNA B. VARALE AND
ANIL S. KILOR, JJ.**

DATE : 18.12.2019

ORAL ORDER :

1. This is an application seeking condonation of delay of four years and 182 days in filing an application seeking restoration of the petition.
2. The reasons assigned for this inordinate delay of four and half years reflected only in a sweeping statement at paragraph 3 of the application. This statement firstly refers to a fact that during pendency of the proceeding, younger son of the petitioner expired who was lunatic. Now, this statement leads to a fact situation that the petitioner is not having the only son, as the reference is made to younger son.
3. The learned Counsel then orally made submission before this Court that even the other son of the petitioner was also indisposed. On a specific query put to the learned Counsel as to the constitution of

family of the applicant/petitioner, whether there are other members in the family, the learned Counsel at this stage submitted before this Court that he will take instructions to make statement to that regard. The learned Counsel was only insisting the submission that the petitioner is an old aged person. Thus, with such a casual approach, as it could be, the application is presented in this Court.

4. We thought it fit to consider if there is any merit in the petition itself so that this Court may take some liberal view on the aspect of condonation of delay. Accordingly, we proceeded to assess the merit of the petition and what reveals from the perusal of the petition is something more drastic than the application itself. It would be necessary for us to refer to the facts of the petition and the prayer sought for in the petition. The petitioner who had filed the writ petition in year 2012, at the age of 72 years is claiming the service benefits for the period i.e. from 1955 to 1959 in the year 2012 when the petition was prepared.

5. Interestingly enough, there is absolutely not a word in the petition itself for such an inordinate delay of nearly five decades for approaching this Court, seeking service benefits of years 1955 to 1959. Interestingly enough again, the petition nowhere refers to any right being floated from the provisions of law, but the entire petition is based on a statement of a colleague of the petitioner, who is 80 years of the age, when he provided some information to the petitioner. This is the material prompting the petitioner to approach this Court. Least we can say that no petition of such nature, which is full of ambiguity, full of delay and laches can be entertained by this Court only on a

single submission of the learned Counsel that the petitioner is an old aged person. Resultantly, we reject the application for condonation of delay, for the reasons referred above.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)

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