

Pradnya Bhogale

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2000 OF 2019**

Pradip Sudhakar Bhore

... Petitioner

Vs.

The Superintendent of Police Sangli and Ors.

... Respondents

Mr. B.A. Bandiwadekar for the petitioner.
Ms. R.M. Shinde, AGP for State.

**CORAM : RANJIT MORE &
M. S. KARNIK, JJ.**

DATE : 6th NOVEMBER, 2019.

P. C. :

Heard learned counsel appearing for the respective parties.

2. The petitioner by filing this petition under Articles 226 and 227 of the Constitution of India is seeking quashing and setting aside the order dated 24.10.2018 passed by the Learned Member (A) of the Principal Bench of the Maharashtra Administrative Tribunal, Mumbai in Miscellaneous Application No.389 of 2018 in Original Application No.580 of 2018 whereby application for condonation of delay is dismissed.

3. The petitioner was compulsorily retired by respondent No.1 by office order dated 23.07.2013. The petitioner preferred an Appeal before respondent No.2, however, the same also came to be dismissed on

31.12.2013. The petitioner thereafter preferred Revision Application before the respondent No.3, however, the same was dismissed on 10.04.2017.

4. The petitioner thereafter filed Original Application No.580 of 2018 on 27.06.2018 before the Maharashtra Administrative Tribunal challenging the order of compulsory retirement as well as orders in Appeal and Revision Application. When the petitioner realised that there is a delay in filing the Original Application, he filed separate application bearing Miscellaneous Application No.389 of 2018 for condonation of delay and this application is dismissed by the order impugned in this petition.

5. Admittedly, the limitation period for filing original application in Maharashtra Administrative Tribunal is one year from the date of the order impugned. The respondent No.3 dismissed the petitioner's Revision on 10.04.2017, however, the petitioner has filed Original Application on 27.06.2018.

6. The petitioner has stated that he was served with copy of the order dated 10.04.2017 passed by the respondent No.3 on 26.05.2017. This fact is not disputed by the respondent No.3 and therefore limitation period would start from 26.05.2017. As stated above, the petitioner has

filed Original Application on 27.06.2018. In these circumstances, we find that there is delay of one month in filing the Original Application.

7. Learned Member of the Maharashtra Administrative Tribunal while dismissing the petitioner's said application has concluded that there is delay of three months. This finding in the light of the above stated facts appears to be incorrect.

8. The petitioner has explained the said delay of one month by making necessary averments in the Original Application. In Para 3 of the said application the petitioner stated that after receipt of the Revision order, he suffered from mental shock and he was required to look after his health which consumed a lot of time. The petitioner has also stated that being without any source of income, he had to look after the welfare of his family with the financial help from his relatives and friends. In Para 4 of the said application the petitioner stated that it is only in January-February 2018, he could become stable. The petitioner was thereafter advised to file Original Application in the Maharashtra Administrative Tribunal. It is the specific contention of the petitioner that he received advise from the Friend Officer/Defence Assistant only in the month of May 2018. In Para 5 the petitioner has further stated that he approached the lawyer at Mumbai in the first week of June 2018 and not prior thereto as the Court was closed for summer vacation. He has further stated that his lawyer

advised him to collect more papers. The petitioner collected required papers and then approached the lawyer in the second week of June 2018. Thereafter, the lawyer drafted the Original Application and the same came to be filed on 27.06.2018.

9. As stated above there is delay of one month and in the light of averments which are reproduced above made by the petitioner, we are of the opinion that the said delay explained by the petitioner is sufficient to condone the delay.

10. Learned Member of the Maharashtra Administrative Tribunal proceeded on the basis that there is three months delay. Learned Member has not accepted the explanation which the petitioner had given in the application which we find to be sufficient to condone the same.

11. In the above facts and circumstances, we are of the opinion that the impugned order can not be sustained and the same deserves to be quashed and set aside. One month's delay in filing Original Application stands condoned. The Maharashtra Administrative Tribunal shall decide the petitioner's Original Application No.580 of 2018 on its own merits. Miscellaneous Application No.389 of 2018 is allowed with no order as to costs.

12. Writ Petition is disposed of in the above terms.

[M. S. KARNIK, J.]

[RANJIT MORE, J.]