

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

WRIT PETITION NO.4015 OF 2020

Rajendra s/o Vasantrao Marale

.. Petitioner

Versus

The State of Maharashtra and ors.

.. Respondents

Mr P.R. Wankhede, Advocate for petitioner

Mrs V.N. Patil – Jadhav, A.G.P. for respondent-State

**CORAM : S.V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 16th March 2020

ORAL ORDER :

1. The petitioner had filed Original Application along with application for condonation of delay. The application for condonation of delay is rejected. Aggrieved thereby, the present petition.

2. Mr Wankhede, learned counsel for petitioner strenuously contends that petitioner had given reasons for the delay. The reasons would depict sufficient cause for the petitioner in not approaching the Tribunal earlier. The Tribunal without issuing notice, rejected the application for condonation of delay.

3. Learned Counsel for petitioner submits that in the year 2010, the Second Appeal filed by the petitioner was dismissed on the ground that it is not maintainable. Thereafter, the petitioner had filed review. All these aspects raised were required to be considered by the Tribunal. The petitioner was prosecuting his grievance with the respondents – authorities. On merits, the petitioner has a good case. The co-delinquent along with the petitioner was imposed punishment of stoppage of one increment only whereas the petitioner is imposed with the punishment of stoppage of three increments permanently. The same forms major punishment. Even the charges are not proved.

4. We have heard the learned A.G.P.

5. The punishment was imposed upon the petitioner upon conclusion of departmental enquiry in 2008. The appeal filed by the petitioner against the same is dismissed in 2009. The petitioner contends to have filed Second Appeal, though it was not tenable, the same is also dismissed in 2010. Once the Second Appeal is dismissed as not maintainable, no question arises of filing review.

6. It is not the case that the petitioner was unaware of the punishment. The petitioner subsequently had also prosecuted another Original Application before the Tribunal challenging his transfer order. The same was also disposed of on merits. At that time also, the petitioner did not challenge the punishment imposed upon in the departmental enquiry. The delay is of more than eight years. The same is inordinate one. The petitioner on one hand filed Original Application challenging his transfer and on the other hand did not challenge the punishment imposed in the departmental enquiry.

7. Considering all the aforesaid aspects, the Tribunal has not committed any error.

8. In view of that, Writ Petition disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V. GANGAPURWALA, J.)

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