

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

916 WRIT PETITION NO.7945 OF 2016

Ganesh s/o. Abasaheb Deshmukh

Age : 38 yrs, Occ. Nil,

R/o. Karpe Estate, Oppo. Sarvmat Office,
Rahuri, Tq. Rahuri, Dist. Ahmednagar.

... PETITIONER

VERSUS

1. The State of Maharashtra
2. Shri. Shivaji Shikshan Prasarak Mandal,
Shri. Shivajinagar, Rahuri, Tq. Rahuri,
Dist. Ahmednagar
3. Arts Commerce and Science College Rahuri,
Tq. Rahuri, Dist. Ahmednagar
4. The Registrar,
S.P. University of Pune
Ganeshkhind Road, Pune-7
5. The Joint Director of Higher Education
17, Dr. Ambedkar Road, Near Saint Mathews
Marathi Church, Oppo. Lal Deul, Pune Camp,
Pune
6. Shri. Achyut s/o. Raghunath Popalghat
Age : Major, Occ. Registrar,
Arts Commerce and Science College Rahuri,
Tq. Rahuri, Dist. Ahmednagar. ... RESPONDENTS

Shri. Satej S. Jadhav, Advocate for the petitioner

Shri. S. P. Sonpawale, AGP for the respondent/State Nos. 1
and 5

Shri. V. P. Patil, Advocate for respondent Nos. 2 and 3

CORAM : M. G. SEWLIKAR, J.

DATED : 29th July, 2021

JUDGMENT :-

1. Rule. Rule made returnable forthwith. At the stage of admission, heard finally with the consent of the parties.

2. Petitioner was working as Registrar in respondent No. 3-College. He was appointed on 21st April, 2008. He services came to be terminated on 16th April, 2012 on the complaint of one Shri. Popalghat, Junior Clerk.

3. The petitioner approached University Tribunal against his termination after committing delay of 811 days. It was the contention of the petitioner before the University Tribunal that petitioner approached Grievance Committee with the hope that his grievances would be redressed before that committee. However, petitioner did not get any favourable result from the Grievance Committee. He ought to have

approached immediately University Tribunal. However, he could not do so because of deteriorating health of his mother. She had acute cardiac problems. She had also annexed certificate from the treating doctor. After improving health of his mother, petitioner approached University Tribunal. In that process, delay of 811 days was committed.

4. Respondent No. 3 opposed the application tooth and nail before the University Tribunal. It contended that the petitioner, despite being fully aware of the fact that grievance committee could not redress his grievance, approached Grievance Committee. It was further contended that delay was not properly explained. Illness of mother was not substantiated by necessary documents. It had, therefore, prayed for rejection of the application.

5. Learned University Tribunal rejected the application on the ground that petitioner approached wrong forum despite being aware that Grievance Committee could redresses

grievance. It further made some observations on the merits of the matter to the effect that petitioner was appointed in contravention of the circular of the Government. On this ground learned University Tribunal rejected the application for condonation of delay.

6. Heard Shri. Jadhav, learned counsel for the petitioner and Shri. V. P. Patil, learned counsel for the respondent Nos 2 and 34.

7. Learned counsel Shri. Jadhav for the petitioner submitted that petitioner and respondent No. 3 are having talks of settlement and they are likely to be fructified in the near future. Learned counsel further submitted that respondent No. 6 had taken objection for condonation of delay on account of the right accrued to him because of the termination of the petitioner. He states that before the University Tribunal respondent No. 6 has withdrawn his objection. He states that because of wrong advice petitioner

approached Grievance Committee. He urged that wrong advice is a sufficient cause for condonation of delay. In addition to that, his mother was having cardiac trouble on account of which she was bed ridden. Petitioner was required to attend to her owing to which he could not challenge his termination immediately. For these reasons, delay of 811 days has been committed in preferring appeal to University Tribunal. He, therefore, prayed for condonation of delay.

8. Learned counsel Shri. Patil for respondent Nos. 2 and 3 admits that compromise talks are going on. He also contends that respondent No. 6 had withdrawn his objection. He strongly opposed to condone the delay. He argued that petitioner was aware that Grievance Committee had no authority to redress the grievance of the petitioner. Petitioner was terminated from service. Grievance Committee cannot have any role in such matters. He knowingly approached Grievance Committee. Now he can not turn around and complain that he had approached the forum. He further

submitted that petitioner was appointed against Government circular. Therefore, no fruitful purpose will be served even if delay is condoned.

9. It is not in dispute that petitioner approached Grievance Committee. He approached Grievance Committee because of the wrong advice. The petitioner has produced certificate to show that his mother was having cardiac problems. He has produced several discharge summaries indicating that she was required to be hospitalized quite often. She was first admitted on 11th July, 2010 and last admission was on 14th June, 2015 and she was discharged from the hospital on 19th June, 2015. Therefore, there is substance in the contention of the petitioner that his mother was ailing and he was required to attend to her. Learned counsel Shri. Patil submitted that if delay is condoned the petitioner be saddled with costs.

10. Having regard to the facts and circumstances of the

case, I deem it appropriate to condone the delay in preferring the appeal. In view of this delay is condoned subject to cost of Rs. 10,000/- (Rupees Ten Thousand). Deposit of cost is a condition precedent. Shri. Patil states that this amount be paid to Bar Library.

11. In the light of above, following order is passed:

- (i) Petition is allowed. Order of learned University tribunal dated 10th March, 2016 in M.A. No. 6/2014(P) is set aside.
- (ii) On deposit of cost it be transferred to Bar Library.
- (iii) Parties to appear before the University Tribunal on 25/08/2021.
- (iv) These observations are made only for the disposal of this application. University Tribunal can come to its independent conclusion.

12. Writ petition is disposed of. Rule is made absolute in the above terms.

[M. G. SEWLIKAR, J.]

ssp