

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4194 OF 2021

HEMLATA MANOHAR KUMBHAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. M.R. Wagh, Advocate for the petitioner.
Mr. K.N. Lokhande, A.G.P. for the respondents.

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**CORAM : C.V. BHADANG AND
SANDIPKUMAR C. MORE, JJ.**

DATE : 7 JULY 2022

ORDER :

The challenge in this petition is to the order dated 5 May 2017 passed by the Maharashtra Administrative Tribunal (Tribunal, for short) thereby refusing to condone the delay of about 2437 days in filing the Original Application challenging the refusal by the respondent – Authority to grant appointment on compassionate ground.

2. We have heard the learned Counsel for the petitioner and the learned A.G.P. for the contesting respondent. Perused record.

3. The petitioner had applied for appointment on compassionate ground in the place of her husband on 19 April 2005. The date of birth of the petitioner is 2 May 1966. It appears that the name of the petitioner was included in the waiting list. However, on account of the fact that the petitioner attained the age of 40 years on 1 May 2006, her name was removed from the waiting list, in view of the Government Resolution dated 22 August 2005 and the decision was communicated to her by letter dated 8 July 2008. However, the petitioner did not take any immediate steps to approach the Tribunal and made representations to the superior Officers and then to the Hon'ble Minister Incharge. The third respondent informed the office of the Minister about the earlier decisions dated 8 July 2008 and 25 December 2008 and it was also communicated that the name of the son of the applicant cannot be considered as there is no provision to substitute the name in the waiting list. This communication was on 4/10 August 2015. It is, thereafter, that the petitioner approached the Tribunal by filing M.A. No. 373/2016 claiming that there is no delay. However, alternatively she sought condonation of delay, if any.

4. The Tribunal, after considering the circumstances, has refused to condone the substantial delay of about 2437 days, which order is subject-matter of challenge in this petition.

5. Learned Counsel for the petitioner submitted that the petitioner, after receiving the communication in the year 2008 of

her name being deleted from the waiting list, had acted bonafidely by approaching the superior officers and thereafter the Minister Incharge, and therefore, it cannot be said that there was any delay or laches on the part of the petitioner in prosecuting her claim for compassionate employment. He, therefore, submitted that the Tribunal was in error in refusing to consider the matter on merits and rejecting the same at the threshold on the ground of limitation.

6. The learned A.G.P. has supported the impugned order. It is submitted that there is substantial and unexplained delay on the part of the petitioner from the year 2008 and the fact that the petitioner had approached the superior officers and / or the concerned Minister, cannot be said to be a sufficient cause for condoning the delay.

7. We have considered the circumstances and submissions made and we do not find that any case for interference is made out in the exercise of extraordinary / supervisory jurisdiction under Articles 226/227 of the Constitution of India. It can be seen that the name of the petitioner was deleted from the waiting list on account of the fact that she had completed the age of 40 years and even after this fact was communicated to her in the year 2008, the petitioner approached the Tribunal only in the year 2016. Even so far as the claim of substitution of the name of the son of the petitioner in the waiting list is concerned, there were no immediate steps taken and even after it was communicated to the petitioner in the year 2015 that the substitution was not permissible, the

petitioner only chose to approach the Tribunal in the year 2016. We have gone through the impugned order passed by the Tribunal and we do not find that it suffers from any infirmity so as to require interference.

8. The petition is without any merit and is accordingly dismissed.

SANDIPKUMAR C. MORE, J.

C.V. BHADANG, J.