

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

WRIT PETITION NO.2306 OF 2023

**SANDEEP VASANT GANAGE
VERSUS
THE STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS**

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Advocate for Petitioners : Mr. Parikshit P. Dawalkar
AGP for Respondents – State : Mr. S. G. Karlekar
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**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.**

DATED : 01st MARCH, 2023

PER COURT :

1. The petitioner is a 38 years old adult who states that he is still unmarried. He acquired his B.Sc. qualification. His father died on 30/12/1997 who was a Class-III Officer with the Irrigation Department. The mother of the Petitioner moved an application on 20/04/1999 seeking compassionate appointment. Her name was recommended for inclusion in the list of eligible candidates, on 11/10/1999. On 30/12/2002, the Petitioner became 18 years of age. He is therefore 38 years of age today.

2. When he was 19 years of age, he moved an application for removing the name of his mother and including his name in the list of eligible candidates for compassionate appointment. He sent a reminder on

04/10/2005. He received a communication on 23/07/2008 to produce documents as regards his educational qualifications. On 20/08/2009, he was conveyed that his name will not be entered in place of his mother's name and there will be no replacement. Since the Petitioner felt that the said communication was erroneous, he renewed his request with a fresh application on 23/09/2009. He sent another reminder on 29/07/2011 which was followed by requests dated 09/03/2017 and 22/03/2017. Since his request was turned down on 15/06/2018, he approached the learned Maharashtra Administrative Tribunal on 30/08/2019 by filing an original application along with an application for condonation of delay.

3. The Petitioner is before us challenging the order of the Tribunal dated 29/06/2022 by which the delay of 129 days has not been condoned.

4. The learned AGP submits that the delay caused in approaching the Tribunal seem to be too large, being more than 10 years. The fact remains that the case of the Petitioner for compassionate appointment will have to be considered after 25 years of the demise of the father. The Petitioner is 38 years of age today. In view of the recent judgments of the Hon'ble Supreme Court, compassionate appointment which is aimed at providing immediate financial succour to the bereaved family, would lose its purpose if compassionate appointment is treated as a source of employment without

competition with the public at large and by entertaining an application after 25 years when the Petitioner himself is 38 years of age. The widow gets a pension of Rs.9,000/- per month and had received Rs.95,000/- towards service benefits of her deceased husband.

5. We find from the record available before the learned Tribunal, in the light of the affidavit-in-reply filed by the respondents through Shri Prashant Bhalchandra Deshpande, Sub Divisional Officer, Jayakwadi Irrigation Sub-Division-14, that the Petitioner was communicated vide letter dated 31/08/2009 that his name will not be included in the list and his request is rejected. It was, therefore, brought to the notice of the Tribunal that the Petitioner has created an eyewash before the Tribunal by contending that the delay is of only 129 days, when in fact the delay was 10 years and 5 months.

6. We find that the Petitioner has shrewdly drafted the original application before the Tribunal to apply a gloss over the actual date of the cause action which is connected with the communication dated 31/08/2009, when he was informed that his claim is not accepted. He had reacted to the said communication by tendering the application dated 23/09/2009, putting forth a fresh request with a prayer that his case may be considered afresh.

7. It does not call for any debate that continued representations do

not extend the date of the cause of action. Merely because a litigant keeps on sending representations in the face of an earlier rejection, would not lead to a conclusion that the cause of action is deferred or is continuous in nature. When the Petitioner's claim was rejected on 20/08/2009, he kept on sending fresh applications on 23/09/2009, 09/07/2011, 29/07/2011, 01/10/2011, 09/03/2017 and 22/03/2017. Sending these many representations would not mean that the cause of action has arisen when the last representation was rejected. The cause of action arose when the first rejection was communicated to the Petitioner which he has acknowledged by his request letter dated 23/09/2009.

8. In view of the above, we do not find that the learned Tribunal has committed any error in concluding that the delay is actually 10 years and 5 months as is calculated from the date of the cause of action by virtue of the rejection of the claim of the Petitioner on 20/08/2009.

9. In view of the above, this Petition is devoid of merits and is, therefore, dismissed.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)