

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6574 OF 2022

Maruti s/o Iranna Govindwar,
Age 56 years, Occ. Junior Clerk
(Terminated), R/o. C/o. Shri Karbhari,
House of Mr. Mohan Gungarde
Laxman Bhau Nagar, Paithan Road
Chitegaon, Tq. Paithan,
District Aurangabad

...Petitioner

versus

1. The State of Maharashtra
Through Secretary
Public Works Department,
Mantralaya, Mumbai 32
(Copy to be served on G. P.
In the High Court of Bombay
Bench at Aurangabad)

2. The Superintending Engineer,
(Vigilance & Quality Control
Circle PWD, Aurangabad)

...Respondents

.....
Mr. S. D. Joshi, advocate for the Petitioner
Mr. S. G. Sangle, A.G.P. for Respondents
.....

**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.**

**Date of Reserving : 03.01.2023
the Order**

**Date of pronouncing : 03.04.2023
the Order**

ORDER (PER SANJAY A. DESHMUKH, J.):

1. The Petitioner has prayed for compassionate pension as

well as a direction to quash and set aside the judgment and order dated 23.02.2022, passed by the learned Maharashtra Administrative Tribunal, Mumbai, Bench at Aurangabad, in Original Application No.1101 of 2019.

2. The Petitioner contended that he was working with the Public Works Department in the office of Superintending Engineer (Vigilance and Quality Control) Circle, Aurangabad, since 1986, as a Junior Clerk-cum-Typist. He served there for 13 years, till 31.12.1999.

3. A departmental enquiry was initiated against the Petitioner for accepting an amount of Rs.35,000/- from one Ganesh Sakharampant Lakras, for securing a job in the Public Works department. During the course of departmental enquiry, said Ganesh Lakras submitted an application before the Divisional Commissioner that the said amount of Rs.35,000/- is given back to him by the Petitioner. Therefore, he is willing to withdraw the complaint. However, the departmental enquiry proceeded and at the conclusion of the said enquiry, the Petitioner was held guilty for misconduct. After that, on 31.12.1999, the Petitioner was removed from service. He could not approach the Maharashtra Administrative Tribunal immediately. In the year 2013, the Petitioner approached the Maharashtra Administrative Tribunal by filing an Original Application alongwith Misc. Application No. 233 of 2013, for condonation of delay. However, the said Misc. Application for condonation of delay was rejected by the learned

Maharashtra Administrative Tribunal. The Petitioner challenged that order by filing Writ Petition No. 5325 of 2018 in this Court. The said Writ Petition was dismissed on 07.06.2018. Thereafter, the Petitioner has filed this Petition for compassionate pension.

4. The contentions raised by the Petitioner are totally denied and objected by the Respondents. It is contended that in the departmental enquiry, the Petitioner was held liable for accepting an amount of Rs.35,000/- illegally and a major punishment of termination from service was imposed. The said order was challenged before the Maharashtra Administrative Tribunal alongwith an application for condonation of delay. However, the said application for condonation of delay was rejected. The Petitioner was involved in the illegal activity of demanding and accepting Rs.35,000/- for securing a job. It is a serious misconduct. It shows serious moral turpitude. Therefore, the compassionate pension cannot be granted to him. Lastly, it was prayed that the Petition be dismissed.

5. We have perused the documents filed on record, particularly, the judgment and order of the Maharashtra Administrative Tribunal, Mumbai, Bench at Aurangabad in Original Application No. 1101 of 2019.

6. During the course of arguments, the learned advocate for the Petitioner submitted that the Petitioner's case can be considered

sympathetically, as he has served for 13 years and in view of Rule 101 of the Maharashtra Civil Services (Pension) Rules, 1982, the compassionate pension can be granted to him for his livelihood, because his family members are depending upon him and now he is old aged person. Lastly, he prayed that the Petition be allowed.

7. The learned A.G.P., on behalf of Respondents, submitted that the moral turpitude of the Petitioner is proved in the departmental enquiry and therefore, major punishment was awarded to him. Considering the serious nature of misconduct of the Petitioner, the learned Maharashtra Administrative Tribunal has rightly rejected the application. There is no ground to interfere in the impugned order.

8. The issue before the Tribunal was as regards condonation of delay. After 13 years, the Petitioner has approached the Tribunal. The delay has not been properly explained. There are no justifiable reasons to be considered for condoning the delay. 13 years delay is a long period and the same cannot be condoned on grounds of sympathy.

9. The learned advocate for the Petitioner has placed reliance upon the judgment of this Court in ***Anna Deoram Londhe deceased through his L.Rs.) Smt. Indirabai Anna Londhe vs. State of Maharashtra, 1998-EQ (Bom)-0-290***, and prayed that this Court should consider his case for compassionate pension. In the said case, it is held that the alleged misconduct was not connected with the service of the

Petitioner and he rendered service over 30 years and therefore, he is entitled for the compassionate pension.

10. Admittedly, the Petitioner was held guilty for serious misconduct of receiving Rs.35,000/- on the assurance of securing a job to said Ganesh Sakharampant Lakras. The Petitioner is, therefore, held guilty of serious moral turpitude and terminated from the service. The said order was not challenged by him. Considering the serious nature of misconduct of moral turpitude, the law laid down by this court in ***Anna Deoram Londhe (deceased through his L.Rs.) Smt. Indirabai Anna Londhe (supra)*** cannot be made applicable to the case of the Petitioner, as the facts of this case are different i.e. serious moral turpitude.

11. In view of the above, the arguments advanced on behalf of the Petitioner are not acceptable. We do not find any substance in the contentions of the Petitioner. No sympathy can be shown to him. The Petition, therefore, deserves to be dismissed. The Writ Petition is accordingly dismissed.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)

rlj/