



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 15118 OF 2023

THE EXECUTIVE ENGINEER UPPER PENGANGA PROJECT DIVISION
NO 1 AND OTHERS

....Petitioner

VERSUS

RAVINDRA PRABHAKAR BIKEKAR AND ANOTHER

.....Respondents

Mr. B. R. Survase, Advocate for Petitioner

Mr. A. B. Girase, Government pleader for the Respondent State

CORAM : RAVINDRA V. GHUGE &
Y. G. KHOBRAGADE, JJ.

DATE : 12th December, 2023

ORDER:

1. The Petitioner is aggrieved by the Order dated 06.03.2023 passed by the learned Maharashtra Administrative Tribunal allowing Misc. Application No. 194 of 2020 in Original Application No. 174 of 2020 and condoning purported delay of 9 years.

2. The learned Advocate for the Petitioner has strenuously canvassed the grounds formulated in the Petition. With his assistance, we have gone through the Petition paper book.

3. There is no dispute that the father of Respondent No.1 passed away while in service on 07.01.2010. An application for compassionate appointment was filed by him on 02.03.2010, which is within 60 days. The application was considered and his name was

included in the waiting list of the candidates eligible to be granted compassionate appointment. Respondent No. 1 waited for a long time expecting issuance of the compassionate appointment order. When he realized that time was running out on him, he approached the learned Tribunal, by preferring Original Application No. 174 of 2020 alongwith Misc. Application for condonation of delay.

4. Notwithstanding the strenuous submissions of the learned Advocate for the Petitioner, we find that once the name of an eligible candidate is enlisted as being eligible for compassionate appointment, it is purely a matter of time for him to await the issuance of the appointment order. This, according to us, is a continuous cause of action as his name has already been enlisted. It is for the Petitioner to deal with such applications with expediency and issue appointment orders, if the candidates are found to be eligible for compassionate appointment. This also depends upon the availability of the post.

5. If there were any deficiencies in the application of the Respondent, the Petitioner should have issued him a specific communication without any delay, directing him to remove the deficiency within the particular time line and if he failed in doing so, the application could have been rejected. The Petitioner did not issue such communication, expeditiously. Respondent No. 1 waited for the issuance of the order and after spending 9 years of waiting, he realized

that the application was not being considered. A communication was issued to him by the Petitioner, as late as on 07.02.2019 and it was after nine years, that certain non compliances were pointed. Therefore, he approached the learned Tribunal by preferring the Original Application.

6. In the peculiar facts and circumstance of this case, we do not find that the learned Tribunal has committed any error in condoning the purported delay. In fact, in our view, the Petitioner had only moved the Tribunal for an order that an appointment order be issued since he is already enlisted. This could hardly be said to be a delayed application. The inaction on the part of the Petitioner, compelled him to approach the Tribunal. We, therefore, conclude that the impugned order cannot be termed as being perverse or unsustainable.

7. The learned Advocate for the Petitioner submits that the original applicant is now 47 years of age and is age barred. In our view, this issue can be considered by the learned Tribunal and if there is any Government Resolution permitting relaxation in age, the learned Tribunal would consider the same.

8. In view of the above, **this Petition is disposed off.**

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)