

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10838 OF 2019

Mr.Dattatray Mahadeo Baraskar ... Appellant
Vs
State Of Maharashtra And Others ... Respondents.

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Mr. Shrishail Sakhare for the Appellant.
Mr. S.H.Kankal, AGP for State-Respondent No.1.

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**CORAM : NITIN JAMDAR, AND
MANJUSHA DESHPANDE, JJ.**

DATE : 1 December 2023.

P.C. :

The Petitioner herein is challenging the order passed by Maharashtra Administrative Tribunal in Misc.Application No.86/2018 with Original Application No.183/2017 which has been decided by the Tribunal on 6 August 2018.

2 It is the case of the Petitioner that he was appointed as junior clerk on 3 July 1973, in the Office of Sub Treasury, Mangalvedha, District Solapur. He was required to pass a Post Recruitment Ministerial Examination within three chances out of four successive examinations to be held immediately after his appointment, to retain his original seniority as per the Government Resolution issued by the Finance Department of

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the State of Maharashtra dated 18 January 1975. According to him he appeared and passed the said examination in the third successive chance. Therefore, he was eligible for promotion as a Senior Clerk. On 1 April 1984 the seniority list of Junior Clerk in the Treasury Office was published wherein the name of the Petitioner was placed at Serial No.12 as against one Mr.Kulkarni who was Junior to the Petitioner was shown at Serial No.3. In the subsequent seniority list of 4 April 1988 again the same Serial numbers of the Petitioner and Mr.Kulkarni were maintained. Therefore, the Petitioner has raised an objection in writing regarding his placement in the seniority list below Mr.Kulkarni who was Junior to him.

3 The Petitioner contends that though he had raised objection in writing that the placement of the Petitioner was below the placement of Mr.Kulkarni who was junior to him continued in the subsequent Seniority list, in spite of his objection. On 11 September 1995 the Treasury Officer had corrected the mistake only in the date of joining and number of chances taken by the Petitioner for passing the examination. He again reported to the authorities on 23 May 2006. According to the Petitioner he went on making representations to various authorities one of such representation was rejected by Director dated 20 October 2011. Last representation was rejected by the Director was on 12 March 2015. Therefore, the Petitioner has filed Original Application bearing No.827/2015 challenging the rejection of his claim by the authorities on 12 March 2015. However, the Petitioner has withdrawn the same with permission to file the fresh Original Application for the same reliefs. Later on Original Application No.183/2020 was filed. The order passed in

the said Original Application is impugned in this Petition. The said Original Application was heard by the Administrative Tribunal alongwith the Misc. Application for condonation of delay. The Original Application as well as Misc. Application have been decided by the Tribunal by Common order dated 6 August 2018. So far as the delay part is concerned it is observed by the Tribunal that the Applicant/Petitioner has kept on making representations from 28 April 1988 and though the concerned authorities have rejected his representations and the decision was conveyed on 11 September 1995, 10 June 2007 and 20 October 2011 the Petitioner went on making further representations. As all his representations have been rejected by the Competent Authority, he approached the Tribunal in 2015 for condonation of delay.

4 Respondent No.2 to 5 have opposed the said application contending that the Original Application has been filed after ten years of his retirement. Therefore, even if the delay is condoned, it would not alter the material fact that he has filed said Original Application ten years after his retirement. The Petitioner has also placed on record two judgments and the Hon'ble Supreme Court in support of his claim for condonation of delay. So also, the learned Presiding Officer has placed on record the Judgment of the Hon'ble Apex Court in *Naresh Kumar Vs. Department of Atomic Energy and Others* 2010(7) SCC page 525, wherein it has been laid down that if an employee keeps on making representation after representation, which are consistently rejected then the Appellant cannot claim any relief on that ground.

5 So far as present case is concerned the said decision would squarely apply to the case of the Petitioner since his representations have been decided and rejected from time to time. Therefore, merely because he had kept on making representations the same would not amount to extending the period of limitation. Therefore, learned Tribunal has rightly rejected the said Misc. Application.

6 The Tribunal has also been pleased to dismiss the Original Application since the Misc. Application itself has been rejected.

7 We do not find any error in the order passed by the Tribunal. It is undisputed that in spite of rejection of his representations the Petitioner did not bother to approach the Tribunal on rejection of his representation, but went on making representations to the authorities as a result he has approached the Tribunal ten years after his retirement, which is huge delay in approaching the Administrative Tribunal. Therefore, considering the consistent view taken by the various Courts and settled position of law that making representations would not extend the period of limitation. The order passed by the Administrative Tribunal does not deserve any interference, as a result Writ Petition is dismissed without any order as to costs.

(MANJUSHA DESHPANDE, J.)

(NITIN JAMDAR, J.)