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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 1658 OF 2023****Amit S/o Satish Kamble****.. Petitioner****Versus****The State of Maharashtra & Ors. .. Respondents**

Mr. Abhijeet A. Joshi for petitioner.

Mr. M. M. Pabale, AGP for State.

**CORAM: S. V. GANGAPURWALA, ACTING CJ. &
SANDEEP V. MARNE, J.****DATE: MARCH 28, 2023****P.C.:**

- 1.** Rule. Rule made returnable forthwith. By consent of parties, taken up for final disposal.
- 2.** The petitioner has filed Original Application against the order removing the petitioner from service. The petitioner was removed from service on 21st April, 2018. The petitioner filed original application before the Maharashtra Administrative Tribunal (hereafter "the Tribunal", for short) on 21st September, 2021. The Tribunal on the ground of delay rejected the original application.
- 3.** Mr. Joshi, learned counsel for the petitioner submits that though the petitioner computed delay in filing original application as 1221 days, the delay actually is of 885 days. According to the learned counsel because of Covid-19 pandemic and also circumstances existing at the domestic exigencies, the delay was caused.

4. The learned AGP submits that there is an abnormal delay. No proper reasons are given. The Tribunal has considered all the relevant aspects of the matter and rightly rejected the application for delay.

5. It would appear that the petitioner has one-year time to file original application challenging the order of removal. The petitioner was required to file original application on or before 20th April, 2019. The reasons pleaded for not approaching the Tribunal within time, are financial problems so also ailments suffered by his mother. It is also required to be considered that since March, 2020 menace of Covid-19 pandemic started and, therefore, matter could not be filed. The Supreme Court had also extended the limitation period. The pandemic continued for quite a long time. The petitioner was not to gain by delay.

6. It is trite that whenever the technical considerations and cause for substantial justice are pitted against each other, cause for substantial justice has to be sub served.

7. It appears that the petitioner was appointed on compassionate ground on Class III post. Because he did not pass departmental examination, he was removed from the service. It is contended that the petitioner has also requested that he could have been considered in lower post (Class IV post).

8. Be that as it may, the same has to be considered on merits.

9. Considering the fact that the delay is of 885 days and not of 1221 days as pleaded and also the reasons for delay and Covid-19 pandemic, we are inclined to accept the

contention of the petitioner.

10. The impugned order rejecting the original application and Misc. Application on the ground of delay is quashed and set aside. The Tribunal shall register the original application if it otherwise complied with all other requirements and proceed to decide the same on merits.

11. Rule is accordingly made absolute. No costs.

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)