

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO. 1738 OF 2022

Shri Shahaji Jagannath Gorge. ... Petitioner.
V/s.
The State of Maharashtra. ... Respondent.

Mr.B.S.Nayak with Ms.Smita Solwat for the Petitioner.
Mr.N.K.Rajpurohit, AGP for the Respondent.

CORAM : NITIN JAMDAR, ACJ AND
SANDEEP V. MARNE, J.

DATE : 9 June 2023.

P.C. :

Heard the learned counsel for the parties.

2. The Petitioner is aggrieved by the order passed by the Maharashtra Administrative Tribunal dated 14 January 2021 dismissing the Miscellaneous Application No.483/2019 taken out by the Petitioner for condonation of delay in filing Original Application No.872/2019.

3. The Petitioner had sought condonation of delay of three years and two months in filing the original application. In the original application, the Petitioner had sought to question the order of the Petitioner's removal from service.

4. The perusal of the impugned order indicates that earlier when the application came up for consideration, the advocate for the Applicant/ Petitioner herein had requested that he wanted to prepare himself. Thereafter the advocate for the Applicant submitted that the Applicant had undergone cataract operation and was not in a position to give instruction. The order further indicates that the Tribunal did not find it as an adequate reason not to argue the matter and thereupon the Tribunal looked into the record and rejected the application.

5. Perusal of the impugned order shows that it is the advocate of the Petitioner who did not argue the matter and that the Tribunal had to look into the record to pass the order. We do not intend to suggest that the course adopted by the Tribunal was unwarranted, but the fact remains that the Applicant is deprived of the opportunity to put forth his case through oral arguments, even after engaging an advocate.

6. We are of the opinion, that considering the fact that the Petitioner stands removed from the service and that he is a Class-IV employee and it is stated before us that he is suffering from financial crisis, an opportunity needs to be given to the Petitioner/ original Applicant to have its application considered on merits. Therefore, in these circumstances, the order 14 January 2021 is set aside and the miscellaneous application as well as original application filed by

the Petitioner stand restored to the file of the Tribunal. We refrain from making any observation on the merits of the miscellaneous application and the original application.

7. The learned counsel for the Petitioner states that the Petitioner would not seek needless adjournment and will address the Tribunal when the application is listed on board. We accept this assurance given on behalf of the Petitioner.

8. Writ petition is disposed of in the above terms.

SANDEEP V. MARNE, J.

ACTING CHIEF JUSTICE