

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION 3370 OF 2010

Petitioner : Shri Ramrao s/o Jaiwantrao Jadhao,
Aged about 54 Years,
Occupation–Government Servant,
R/o Post Parshioni, Behind Irrigation Rest House,
Saoner Road, District Nagpur.

– Versus –

Respondents : 1. Government of Maharashtra,
Water Resource Department, Mantralaya,
Mumbai-32,
Through its Secretary.
2. Superintending Engineer,
Command Area Development Authority (C.A.D.A.)
Wainganganagar, Ajni, Nagpur.
3. Sub-Divisional Engineer,
Pench Irrigation Management,
Sub-Division, Parshioni, Distt. Nagpur.

=====

Mrs. Meenaxi Iyer, Advocate for the Petitioner.

Mrs. K.S. Joshi, Additional Government Pleader for the Respondents.

=====

CORAM: **ROHIT B. DEO AND M.W. CHANDWANI, JJ.**

DATE : **20th JUNE, 2023.**

J U D G M E N T : (Per M.W. Chjandwani, J.)

By the present writ petition, the petitioner challenges the order of
Maharashtra Administrative Tribunal, Nagpur (hereinafter referred to as

“MAT” for short) dated 23/09/2009, whereby the petitioner was non-suited by rejecting the application for condonation of delay.

02] The petitioner was appointed as a Cleaner on daily wage basis with respondent 2 on 01/07/1979. The petitioner was declared surplus on 01/10/1984. From 15/03/1985, the petitioner was given a fresh appointment as Driver on daily wages. After completion of five years service, he was brought in C.R.T.E. on the post of driver with effect from 16/03/1990. The respondents regularized the period from 01/10/1984 to 14/03/1985 as a period of duty with continuity of service from 01/07/1979. On 08/11/2004, respondent 3 sent a proposal to the Project Officer to bring the petitioner in C.R.T.E. with effect from 01/07/1984. Thereafter, various representations were made from 2005 to 2007 and departmental appeals were also filed by the petitioner. On 04/01/2008, the representation of the petitioner was rejected and, therefore, he moved to the Appellate Authority. Finding no development in the appeal, the petitioner filed O.A. No.308 of 2008 along with the application for condonation of delay before the MAT. By the impugned order, the MAT rejected the application for condonation of delay on the ground that there is an inordinate delay of 24 years, which has been assailed by way of the present writ petition.

03] We have heard the learned Counsel for the petitioner as well as the learned Additional Government Pleader for the respondents. We have gone through the record as well as the impugned order dated 23/09/2009.

04] Perusal of the record shows that continuity of service was granted to the petitioner on 08/11/2004 with effect from 01/07/1979. The relief, which was being claimed by the petitioner before the MAT, was to count his service from 01/07/1979 for bringing him in C.R.T.E. on the post of Driver with effect from 01/07/1984 and for extending the benefit of time bound promotion scheme. Thus, by no stretch of imagination, the petitioner prior to 08/11/2004 could have asked for bringing him in C.R.T.E. on the post of Driver with effect from 01/07/1984 and for time bound promotion with effect from 01/07/1979 for the simple reason that continuity of service was granted to the petitioner from 01/07/1979 only on 08/11/2004. Therefore, the cause of action arose for making such request only in 2004 first time. The MAT lost sight of this fact and erroneously held that the cause of action arose on 01/10/1984.

05] We find substance in the contention of the learned Counsel for the petitioner that there is no delay of 24 years. From the record, it appears that, after 2004, he was continuously approaching the Authority and even to the

Law and Judiciary Department, where his proposal was sent. In reply to the R.T.I. query, the petitioner was asked to move fresh representation, which he made accordingly in the year 2007. Ultimately, on 04/01/2008, the representation was rejected. We find that the petitioner was pursuing his cause. Having no fault of the petitioner, he was non-suited at the threshold treating the delay as of 24 years and, therefore, the order of the MAT does not stand. The same is required to be set aside. Hence, the following order is passed:

- I. The writ petition is allowed.
- II. The impugned order dated 23/09/2009 passed by the MAT is quash and set aside.
- III. The period of delay in approaching the MAT is hereby condoned.
- IV. Since, the original application before the MAT is of the year 2008, we request the MAT to decide the matter as early as possible preferably, within three months from the date of this order.
- V. Rule is made absolute in the aforestated terms with no order as to costs.

(M.W. CHANDWANI, J.)

(ROHIT B. DEO, J.)

**sandesh*