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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.4834 OF 2022

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Dinkar Jayawant Kolpe

... Petitioner

V/s.

The President Punyashlyok Ahilyadevi

Holkar Shikshan Sanstha & Ors

... Respondents

Mr. Nilesh Wable, for Petitioner.

Mr. Vipul K. Bodhare, for Respondent Nos.1 & 2.

Mrs. V. S. Nimbalkar, AGP, for State/Respondent Nos.3
to 5.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 8, 2024

P.C.:

1. The petitioner is an employee challenges the order passed by the Tribunal recalling application for condonation of delay of 6 years, 7 months, 13 days for filing an appeal under Section 9 of the Maharashtra Employees of Private School (Condition of Service) Regulation Act, 1977.

2. According to the petitioner, the petitioner was initially appointed as clerk by following due process on 16 June 2000. After completion of probation period, the Education Officer granted approval on 26 October 2007. On 1st January 2013, the Headmaster refused the petitioner from signing the muster. In the

month of August 2019, the petitioner filed an appeal before the School Tribunal for condonation of delay of 6 years, 7 months and 13 days.

3. The School Tribunal by the impugned order rejected the application holding that the petitioner himself pleaded in the plaint that respondent No.2 restricted him from signing the muster from 1st January 2013 and, therefore, the petitioner was terminated from service with effect from 1st January 2013. Section 9 of the Maharashtra Employees of Private School (Condition of Service) Regulation Act, 1977 provides limitation of 30 days for filing appeal.

4. The reason furnished by the petitioner in the application for condonation of delay is that, he was ill from 21 June 2012 to 21 December 2013. Except the aforesaid material, the petitioner produced on record communications dated 17 March 2020 and 23 January 2020.

5. On perusal of the impugned order, the School Tribunal has stated that except the reason of illness, the petitioner has failed to explain delay of 6 years, 7 months and 13 days.

6. According to the learned Advocate for the petitioner during termination period the petitioner performed election duty. However, such performance of duty cannot be termed as the performance as a post for which the petitioner was appointed.

7. Moreover, the petitioner, himself as stated in his application for condonation of delay that, he was not allowed to sign muster from 1 January 2013. Therefore, no fault can be found with the

exercised discretion by the School Tribunal rejecting application for condonation of delay.

8. The writ petition is, therefore, dismissed.

(AMIT BORKAR, J.)