

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH**

NO.MAT/MUM/JUD/2202/2016  
 Maharashtra Administrative Tribunal  
 Pay & Accounts Barrack Nos.3 & 4,  
 Free Press Journal Marg,  
 Nariman Point, Mumbai 400 021.  
 Date :

28 JUN 2016

**M.A. No. 159/2016 IN O.A. No. 245/2010.**  
**(Sub :- Time Bound Promotion)**

- 1 Shri Bandu N. Gavande, Since deceased heirs and legal Representatives,  
 1. Smt. Sushila B. Gavande, Widow of the Deceased Govt. Servant  
 2. Shri Nitin B. Gavande, Both are  
 R/o. Laxmi Narayan Bunglow, Kamat Wada, Jadhav Sankul, CIDCO,  
 Nasik.

**....APPLICANT/S. (Heirs & Legal Representative of deceased Petitioner)**  
**VERSUS**

1. The Treasury Officer, District Treasury Office, Nashik.

**...RESPONDENT/S**

Copy to : The C.P.O. M.A.T., Mumbai.

The applicant/s above named has filed an application as per copy already served on you, praying for reliefs as mentioned therein. The Tribunal on the 23<sup>rd</sup> day of **June, 2016** has made the following order:-

APPEARANCE : Shri B.A. Bandiwadekar, Advocate for the Applicants.  
 Shri A.J. Chougule, P.O. for the Respondents.

CORAM : **HON'BLE SHRI R.B. MALIK, MEMBER (J).**

DATE : **23.06.2016.**

ORDER : Order Copy Enclosed / Order Copy Over leaf.

  
**Research Officer, I.A.R.**  
**Maharashtra Administrative Tribunal,**  
**Mumbai. 27.6.2016.**

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI

MISC. APPLICATION NO.159 OF 2016  
IN  
ORIGINAL APPLICATION NO.245 OF 2010

DISTRICT : NASHIK

Shri Bandu Narayan Gavande. )  
Since deceased, heirs and legal )  
Representatives : )  
1. Smt. Sushila Bandu Gavande & Anr.)...**Applicants**

**Versus**

The Treasury Officer, District Treasury )  
Office, Nashik. )...**Respondent**

**Shri B.A. Bandiwadekar, Advocate for Applicants.**

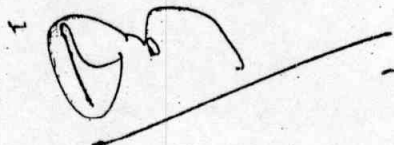
**Shri A.J. Chougule, Presenting Officer for Respondent.**

**P.C. : R.B. MALIK (MEMBER-JUDICIAL)**

**DATE : 23.06.2016**

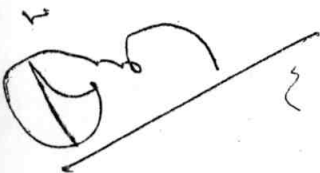
**ORDER**

1. This Misc. Application is made by the widow and son of the deceased Applicant for being impleaded as party Applicants as heirs and LRs of the said deceased.



2. This OA was brought by the said deceased on 11.12.2009. This was one OA along with a few others which constituted a fasciculus of OAs. In fact, another similar application being MA 158/2016 in OA 1520/2009 was allowed a short while ago by an order rendered by me. The said OAs were apparently kept in sine-die list and there was, therefore, some king of a lethargy which perhaps was inevitable though there cannot be any approving the same. The said deceased died on 20<sup>th</sup> March, 2011 and this MA was presented on 5.4.2016 which was a little more than five years after his demise. Pertinently, in the meanwhile, the OAs other than this OA and OA 1520/2009 came to be disposed of and it is in this context that the facts will have to be appreciated although it needs to be noted quite clearly that even without there being an Affidavit-in-reply on the record, despite my order of 5.5.2016, the learned P.O. Shri Chougule availed to his very best the opportunity and occasion to contest this MA. He pointed out *inter-alia* that the delay is too enormous to be condoned and there are no valid reasons to do so.

3. Now, the perusal of this MA with particular reference to Paras 4 and the subsequent ones would show that it was in January, 2016 that a colleague of the deceased, one Shri Deshpande who was one of the original

A handwritten signature, possibly 'S. Deshpande', is written in black ink. Below the signature is a long horizontal line with a small squiggle at the end.

Applicants in that group, enquired of the first Applicant as to whether she had received copy of any order from her Advocate in Mumbai in respect of the matter of the said deceased. It was thereupon that in fact Mr. Deshpande contacted the learned Advocate at Mumbai on phone wondering as to the fate of the OA of the said deceased and it was at that time in fact that the learned Advocate was informed about the demise of the said deceased. Legal advice was given to forward the names of the details of the heirs and LRs of the said deceased along with the copy of Death Certificate.


4. It was in these circumstances that the delay was caused which no doubt cannot be dismissed as insignificant. However, equally true is the fact that the basic tenet that if the course of action does no violence to any express provision of law or any other authoritative document having force of law and case law, then other factors remaining constant the approach should be informed with a view to advance the cause of justice rather than sacrificing the same at the altar of procedure. The Applicants after-all were themselves not the Government servants such as their legal ascendant was. The State in which the OA lay has already been mentioned hereinabove and most importantly, regardless of whatever ultimately happens in the OA, the discharge of responsibility as far as



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the Respondents are concerned are not just contractual, but has got a constitutional hue, and therefore, in my opinion, it can by no stretch of imagination be said that any inalienable right has accrued to the Respondent by the, "indolence" of the Applicants. The said "indolence" is in my view not inexcusable regardless of the delay being a little more than five years. After-all, even while counting number of years substance of the cause assigned has got to be examined and the MA judged accordingly.

5. Therefore, I have no hesitation to reject the contention to the contrary made by Mr. Chougule, the learned P.O. and I unhesitatingly condone the delay whatever be its duration and allow this MA with a direction that the Applicants be impleaded for the deceased Applicant by an appropriate amendment to be effected within two weeks from today. The abatement is consequently set aside. The OA post amendment be put up for hearing on 14<sup>th</sup> July, 2016. No order as to costs.

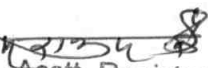
  
sd/-  
**(R.B. Malik)**  
**Member-J**  
**23.06.2016**

23.06.16

Mumbai  
Date : 23.06.2016  
Dictation taken by :  
S.K. Wamanse.

E:\SANJAY WAMANSE\JUDGMENTS\2016\6 June, 2016\M.A.159.16 in O.A245.10.w.6.2016.doc

TRUE COPY

  
Asstt. Registrar/Research Officer  
Maharashtra Administrative Tribunal  
Mumbai. 27.6.2016.