

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH

NO.MAT/MUM/JUD/2532/2016
Maharashtra Administrative Tribunal
Pay & Accounts Barrack Nos.3 & 4,
Free Press Journal Marg,
Nariman Point, Mumbai 400 021.

Date : 16 JUL 2016

**M.A. No. 144/2016 IN R.A. No. 08/2016 IN
O.A. Nos. 289/2015 & 620/2015.
(Sub :- Selection & Promotion)**

1. Shri Sandeep B. Pawar & 03 Ors.,
C/o. Shri A.A. Desai, Advocate for the Applicants.

....**APPLICANT/S.**

VERSUS

- | | |
|---|--|
| 1 State of Maharashtra, Through
Chief Secretary, Mantralaya,
Mumbai-32. | 2 Additional Chief Secretary, Home
Dept., Mantralaya, Mumbai-32. |
| 3 The Chairman, M.P.S.C., Fort,
Mumbai. | 4 Commissioner of Transport, 4 th
Floor, Admini. Bldg., Govt. Quarters
Bandre (E), Mumbai-51. |
| 5 Nilesh s. Jagtap, Flat No. 14,
Shivshakti Plaza, Dhamalwadi,
Phursungi, Tal. Haveli, Pune-08. | 6 Sharadchandra A. Wadkar, R/o.
648/26, B-ward, Rauraj Residency,
Mamndlik Vasahat, Mangalwar
Peth, Kolhapur-416 012. |
| 7 Nilesh S. Patil, A/P. Gothhindi,
Tal. Walwa, Dist. Sangli-416 301. | 8 Aniket C. Takalkar, A/P. R.S. No.
1076, "A" Ward, Takalkar Colony,
Radhanagari Road, Kolhapur. |
| 9 Mangesh M. Gaware, A/P. Malad,
Gaware Phata, Tal. Baramati,
Dist. Pune. | |

...**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 14th day of July, 2016 has made the following order:-

APPEARANCE : Shri A.A. Desai, Advocate for the Applicants.
Smt. K.S. Gaikwad, P.O. for the Respondents Nos. 1 to 4.
Smt. P. Mahajan, Advocate for the Respondents Nos. 5 to 9.

CORAM : **HON'BLE SHRI RAJIV AGARWAL, VICE-CHAIRMAN.
HON'BLE SHRI R.B. MALIK, MEMBER (J).**

DATE : **14.07.2016.**

ORDER : Order Copy Enclosed / Order Copy Over Leaf.

[Signature]
**Research Officer, T.A.R.
Maharashtra Administrative Tribunal,
Mumbai. 16.7.2016.**

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IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI

MISC. APPLICATION NO.144 OF 2016
IN
REVIEW APPLICATION NO.8 OF 2016
IN
ORIGINAL APPLICATION NO.289 & 620 OF 2015

1. Sandeep B. Pawar & 3 Ors.)...Applicants

Versus

1. The State of Maharashtra 8 Ors.)...Respondents

Shri A.A. Desai, the learned Advocate for the Applicants.

Smt. K.S. Gaikwad, the learned Presenting Officer for the Respondents 1 to 4.

Smt. Punam Mahajan, the learned Advocate for Respondents 5 & 9.

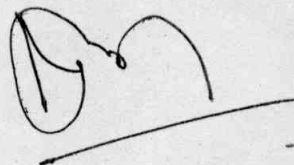
**CORAM : RAJIV AGARWAL (VICE-CHAIRMAN)
R.B. MALIK (MEMBER-JUDICIAL)**

DATE : 14.07.2016

PER : R.B. MALIK (MEMBER-JUDICIAL)

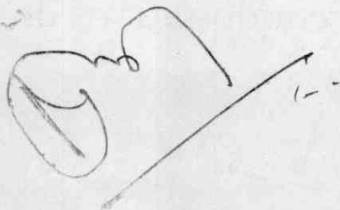
ORDER

1. The Applicants who have brought these two Original Applications hereby seek condonation of delay



which they have quantified as 127 days.

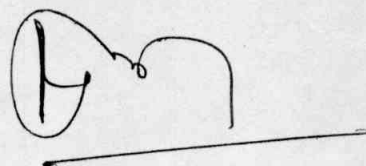
2. We have perused the record and proceedings and heard Shri A.A. Desai, the learned Advocate for the Applicants, Smt. K.S. Gaikwad, the learned Presenting Officer for the Respondents 1 to 4 and Smt. Punam Mahajan, the learned Advocate for Respondents 5 & 9. The other Respondents are served but are neither present nor represented.
3. The point is as to whether the delay, "if any" needs to be condoned and our finding thereon is in the affirmative for the following reasons.
4. We make it very clear that we are severely restricting ourselves to this application for condonation of delay and we are not going to consider at all any fact relevant either to the RA or even the OA. This much needs to be said, however, that by the order made by this Bench in the two OAs detailed above, the appointments to the Respondents 4 to 27 in OA 289/2015 and Respondents 5 to 19 in OA 620/2015 were quashed and set aside and the MPSC was directed to prepare a revised merit list and to fill up the posts horizontally reserved merit list in the manner therein indicated. Now, according to the Applicants, it was



on 26th February, 2016 that the 3rd Respondent published the revised merit list which has affected them and Mr. Desai, the learned Advocate apprehended that the Applicants may end up losing the posts. It was thereafter that the matter was carried to the Hon'ble High Court by way of **Writ Petition No.3308/2016 (Sandeep B. Pawar & ors. Vs. The State of Maharashtra & ors.)**. The Division Bench of the Hon'ble the Chief Justice by the order of 17th March, 2016 dismissed the said Writ Petition as withdrawn at the request of the learned Advocate for the Petitioners with liberty to approach the appropriate forum. It is thereafter that on 29th February, 2016.

5. The learned P.O. told us that the time will begin to run from the date of the order in the OAs, and therefore, the delay is not just 127 days or whatever. Without prejudice to her rights to assail the case of the Applicants in the R.A, the delay was condoned. Smt. Mahajan, the learned Advocate for the two private Respondents opposed this MA.

6. The facts hereinabove discussed, would make it quite clear that for the reasons which we need not discuss in this order or whatever the Applicants were not the parties to the OAs and as far as they are concerned, we

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tend to agree with Mr. Desai that the cause of action would arise on the day the revised merit list was published. Thereafter, the matter was carried to the Hon'ble High Court and then ultimately after the withdrawal of the Writ Petition, the present proceedings were initiated. Now, even if there is a delay and this is an assumption still on the sufficiency of cause aspect of the matter, a case for condonation is anyhow made out. In such applications, the judicial forum does not just act on the existence of delay but as to whether there is cause for condonation thereof and we are so disposed as to conclude for the Applicants in that behalf.

7. The Misc. Application is hereby allowed. The delay is condoned. The Applicants and the Office are directed to process the application for review, so as to be placed for regular hearing. No order as to costs hereof.

sd/
14.7.16
(R.B. Malik)
Member-J
14.07.2016

sd/
(Rajiv Agarwal)
Vice-Chairman
14.07.2016

Mumbai

Date : 14.07.2016

Dictation taken by :

S.K. Wamanse.

E:\SANJAY WAMANSE\JUDGMENTS\2016\7 July, 2016\M.A.144.16 in R.A.8.16 in O.A.289 & 620.15.doc

TRUE COPY

[Signature]
Asstt. Registrar/Research Officer
Maharashtra Administrative Tribunal
Mumbai. 16.7.2016