

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
BENCH AT AURANGABAD**

MISC. APPLICATION NO.158 OF 2019

IN

MISC. APPLICATION NO.83 OF 2019

IN

ORIGINAL APPLICATION NO.905 OF 2018

(Subject :- M.A. for Restoration)

DISTRICT : PARBHANI

Dr. Sudhir s/o Rambhau Yadav)
Age:52 years, Occ: Service as Medical Officer,)
Civil Hospital Parbhani,)
R/o. Maharani Laxmibai road, Parbhani,)
Tq. & Dist. Parbhani.)...**Applicant**

V E R S U S

1. **The State of Maharashtra,**)
Through the Principal Secretary,)
Medical Education & Drugs Department)
Mantralaya, Mumbai.)
2. **The Deputy Director of Health Services)**
Aurangabad Region, Aurangabad.)
3. **The Civil Surgeon, Parbhani**)
Civil Hospital, Parbhani,)
Tq. & Dist. Parbhani.)
4. **The Chief Administrative Officer,**)
Civil Hospital, Parbhani,)
Tq. & Dist. Parbhani.) **....Respondents.**

Shri J.N. Ghuge, learned Advocate for the Applicant.

Shri V.R. Bhumkar, learned Presenting Officer for the Respondents.

CORAM : **B.P. Patil, ACTING CHAIRMAN**

RESERVED ON : **6.08.2019.**

PRONOUNCED ON : **7.08.2019.**

ORDER

1. The Applicant has filed the present Misc. Application No.158 of 2019 for restoration of M.A.No.83 of 2019 In O.A.No.905 of 2018 which was dismissed in default on 27.2.2019.

2. The Applicant had filed O.A.No.905 of 2018 which was dismissed on 21.1.2019. Therefore, he filed M.A.No.83 of 2019 for restoration of O.A.No.905 of 2018. The same was dismissed in default on 27.2.2019 as the Applicant and his Advocate remained absent on that date.

3. It is contention of the Applicant that he himself and his Advocate are from Parbhani and live at Parbhani. Therefore they could not able to attend this Tribunal on 27.02.2019. Consequently, the M.A.No.83 of 2019 In O.A.No.905 of 2018 came to be dismissed in default on 27.02.2019. It is his contention that his valuable rights are involved in the O.A. and therefore, he has prayed to quash and set aside the order of

dismissal passed in M.A.No.83 of 2019 by allowing the Misc. Application No.158 of 2019.

4. I have heard Shri J.N. Ghuge, learned Advocate for the Applicant and Shri V.R. Bhumkar, learned Presenting Officer for the Respondents. I have perused the documents on record.

5. Learned Advocate for the Applicant has submitted that he himself and Applicant are resident of Parbhani. They could not able to attend this Tribunal when the Misc. Application No.83 of 2019 has been called for and therefore, Misc. Application No.83 of 2019 came to be dismissed in default. He has submitted that in the interest of justice and for the reasons mentioned in the application, it is just to restore the Misc. Application No.83 of 2019. Therefore, he has prayed to allow the Misc. Application No.158 of 2019.

6. Learned P.O. for the Respondents has strongly opposed to allow the Misc. Application on the ground that the Applicant was not diligent and interested in conducting the matter. Therefore, O.A.No.905 of 2018 came to be dismissed in default. The Applicant moved Misc. Application No.83 of 2019 for restoration of O.A.No.905 of 2018. But it was also dismissed as the Applicant remained absent. He has submitted that as the

Applicant was negligent in conducting the matter, the M.A.No.83 of 2019 has been dismissed. He has argued that there is no sufficient ground for restoration of M.A.No.83 of 2019. Therefore, he has prayed to reject the Misc. Application No.158 of 2019.

7. On perusal of record it reveals that the Applicant filed O.A.No.905 of 2018 in this Tribunal. He had not complied with the direction given by this Tribunal in the order dated 14.12.2019. Therefore, the O.A. came to be dismissed in default on 21.1.2019. The Applicant filed Misc. Application No.83 of 2019 for restoration of O.A.No.905 of 2018. But he remained absent on 26.02.2019 and 27.2.2019 and therefore, the Misc. Application No.83 of 2019 has been dismissed. The Applicant has filed present Misc. Application No.158 of 2019 for restoration of M.A.No.83 of 2019 on the ground that he himself and his Advocate were out of station and therefore, they could not able to attend this Tribunal on 26.2.2019 and 27.2.2019. Reasons and cause mentioned in the application are not sufficient for restoration of Misc. Application No.83 of 2019. The record shows that the Applicant was negligent in conducting the matter and therefore, Misc. Application No.83 of 2019 came to be dismissed.

8. The Applicant has not given sufficient reason for restoration of Misc. Application No.83 of 2019. However, considering the facts that valuable rights of the Applicant are involved in the matter, in my view, in the interests of justice, it is just to allow the M.A.No.158 of 2019 subject to payment of cost.

9. In view of the discussion in foregoing paragraph, the Misc. Application No.185 of 2019 is allowed subject to payment of costs of Rs.5000/- by the Applicant. The Applicant shall deposit the amount of costs in the registry of this Tribunal on or before 21.08.2019. On depositing the costs, the order of dismissal passed in M.A.No.83 of 2019 is set aside and Misc. Application No.83 of 2019 be restored to its original number. On failure to deposit the amount of costs by the Applicant within stipulated time, the Misc. Application No.158 of 2019 stands dismissed automatically without reference to the Tribunal.

PLACE :- AURANGABAD.
DATE :- 7.08.2019

(B.P. PATIL)
ACTING CHAIRMAN

Sas. M.A.No.158/19 In M.A.No.83/2019 In O.A.No.905/2018.M.A. for restoration. BPP VC