

Thakur.

[Spl/MAT/F-5/E]

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH**

NO.MAT/MUM/JUD/2694 /2016  
Maharashtra Administrative Tribunal  
Pay & Accounts Barrack Nos.3 & 4,  
Free Press Journal Marg,  
Nariman Point, Mumbai 400 021.

Date : 27 JUL 2016

**M.A. No. 32/2016 IN O.A. No. 58/2016.**  
**(Sub :- Time Bound Promotion)**

- 1 Smt. Pramila P. Thakur,  
R/o. A/P. Darpale-Pali, Tal. Vasai, Dist. Palghar.

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

**VERSUS**

- 1 The Secretary, Maharashtra State Vocational Education Board, Having Office at Govt. Polytechnic Bldg., 2<sup>nd</sup> Floor, A.J. Marg, Kherwadi, Bandra (E), Mumbai-51.
- 2 The Director of Education, Skill Development & Entrepreneurship, M.S., Having Office at 3, Mahapalika Marg, P.B. No. 10036, Mumbai-01.
- 3 The State of Maharashtra, Through Principal Secretary, Skill Development & Entrepreneurship, Having office at Mantralaya, Mumbai-32.

...**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 26<sup>th</sup> day of July, 2016 has made the following order:-*

APPEARANCE : Shri A.V. Bandiwadekar, Advocate for the Applicant.  
Ms. Archana B.K., P.O. for the Respondents.

CORAM : **HON'BLE SHRI RAJIV AGARWAL, VICE-CHAIRMAN.**

DATE : **26.07.2016.**

ORDER : Order Copy Enclosed / Order Copy Over Leaf.

*Amal*  
27/7/2016  
**Research Officer,**  
**Maharashtra Administrative Tribunal,**  
**Mumbai.**

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**MISC APPLICATION NO 32 OF 2016  
IN  
ORIGINAL APPLICATION NO 58 OF 2016**

**DISTRICT : PALGHAR**

Smt Pramila Prakash Thakur, )  
[since before marriage -Kum Pramila)  
P. Mhatre, Occ - Nil, )  
Retd as Clerk-Typist from the office )  
of the Secretary, Maharashtra )  
State Vocational Education )  
Examination Board, having office )  
At Government Polytechnic Bldg, )  
2nd floor, A.J Marg, Kherwadi, )  
Bandra [E], Mumbai-51. )  
R/o: A/P Darpale-Pali, )  
Tal-Vasai, Dist-Palghar. )...**Applicant**

**Versus**

1. The Secretary, )  
Maharashtra State Vocational )

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- Education Examination Board )  
 Having office at Government )  
 Polytechnic Building, 2<sup>nd</sup> floor )  
 A.J Marg, Kherwadi, Bandra [E])  
 Mujmbai 400 051. )
2. The Director of Education, )  
 Skill Development and )  
 Entrepreneurship, [M.S], )  
 Having office at 3, Mahapalika )  
 Marg, P.B No. 10036, )  
 Mumbai 400 001. )
3. The State of Maharashtra, )  
 Through Principal Secretary, )  
 Skill Development and )  
 Entrepreneurship, having )  
 Office at Mantralaya, )  
 Mumbai 400 032. )...Respondents

Shri A.V Bandiwadekar, learned advocate for the Applicant.

Ms Archana B.K learned Presenting Officer for the Respondents.

**CORAM : Shri Rajiv Agarwal (Vice-Chairman)**

**DATE : 26.07.2016**

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**ORDER**

1. Heard Shri A.V Bandiwadekar, learned advocate for the Applicant and Ms Archana B.K learned Presenting Officer for the Respondents.

2. This Misc Application has been filed by the Applicant seeking condonation of delay of 11 months in filing the Original Application no 58/2016.

3. Learned Counsel for the Applicant argued that the Applicant has applied to the Respondent no. 1 to extend the benefit of judgment dated 10.4.2013 in O.A no 1034/2012 to her as she was a similarly situated person as the Applicants in that O.A. The issue involved is regarding counting of ad hoc service before regularization for the purpose of Time Bound Promotion. Judgment of this Tribunal dated 10.4.2013 in O.A no 1034/2012 was delivered in the Original Application filed by colleagues of the Applicant in the offices working under the control of Director, Vocational Education & Training, Maharashtra State, Mumbai. There was no reason to deny the same benefit to the Applicant. The Respondents on their own were obliged to extend the same benefit to the Applicant. However, now that the matter regarding counting of ad hoc service for Time Bound Promotion is finally decided by Hon'ble Bombay High Court, ~~and~~ The Applicant, who retired from service on 30.4.2010, ~~and~~ was not aware of

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the development in this regard, has approached this Tribunal. When she came to know that her colleagues had got these benefits, she approached the Respondents, who informed her on 25.2.2014 that the decision of the Tribunal was applicable to those who had approached this Tribunal. This stand of the Respondents is not legally correct. The Applicant has approached this Tribunal somewhat late, but considering all the facts, she should not be denied justice for a small delay in approaching this Tribunal.

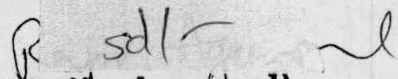
4. Learned Presenting Officer (P.O) argued that the Applicant retired on 30.4.2010. She never approached the Respondents or this Tribunal, till 1.11.2013, when she approached the Respondents to extend benefit which were extended to her colleagues pursuant to the judgment of this Tribunal in case of Smt Bhate, Parab etc. That request was turned down by letter dated 25.2.2014. The Applicant, by her own admission, did not take any steps till then and waited for months together before filing this O.A no 58/2016. Learned Presenting Officer argued that reasons for delay have not been explained by the Applicant and no case has been made out for condonation of delay.

5. The Applicant has not given any specific details as to why she did not approach this Tribunal within limitation. Her main contention is that issue

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involved in the Original Application is not limited to the employees who had earlier approached this Tribunal. The judgments given by this Tribunal had application in 'rem and the stand of the Respondents that they are applicable in personam' is legally untenable. This is an important issue raised by the Applicant. If the earlier judgment of this Tribunal is held to be a judgment in rem, the Applicant cannot be denied benefit of that judgment. To settle that issue, the Original Application is required to be heard on merits and the technical hurdle of delay in filing the Original Application has to be removed.

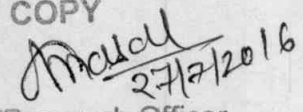
6. In the interest of justice, delay of 11 months in filing the Original Application is condoned and Misc Application is allowed with no order as to costs.

  
**(Rajiv Agarwal)**  
**Vice-Chairman**

**Place : Mumbai**  
**Date : 26.07.2016**  
**Dictation taken by : A.K. Nair.**

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27/7/2016  
Asstt. Registrar/Research Officer  
Maharashtra Administrative Tribunal  
Mumbai.