

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**MISC. APPLICATION NO.343 OF 2017  
IN  
ORIGINAL APPLICATION NO.885 OF 2016**

Shri Dinkarrao B. Patil. )  
/age : 74 Yrs, Occu.: Retired Naib )  
Tahsildar, Gaganbawada, )  
District Kolhapur and R/at Plot No.461, )  
R.K. Nagar Society No.6, Pachgaon, )  
Tal. Karvir, District : Kolhapur. )...**Applicant**

**Versus**

1. The District Collector. )  
Kolhapur, having office at Nagala )  
Park, Kolhapur. )
2. The Divisional Commissioner. )  
Pune Division, Old Council Hall, )  
Pune - 1. )
3. The State of Maharashtra. )  
Through Principal Secretary, )  
Revenue & Forest Department, )  
Mantralaya, Mumbai - 400 032. )...**Respondents**

**Mr. A.V. Bandiwadekar, Advocate for Applicant.**

**Mr. N.K. Rajpurohit, Chief Presenting Officer for Respondents.**

**P.C. : R.B. MALIK (VICE-CHAIRMAN)**



**DATE : 13.09.2017**

**JUDGMENT**

1. This Misc. Application is presented in an Original Application which was dismissed because the MA No.107/2017 for condonation of delay was rejected.
2. I have perused the record and proceedings and heard Mr. A.V. Bandiwadekar, the learned Advocate for the Applicant and Mr. N.K. Rajpurohit, the learned Chief Presenting Officer (CPO) for the Respondents. The Respondent No.1 is the District Collector, Kolhapur, the Respondent No.2 is the Divisional Commissioner, Pune Division and the Respondent No.3 is the State of Maharashtra in the Department of Revenue.
3. The Applicant retired as Naib Tahasildar way back in the year 2000. He presented an OA bearing No.885/2016 on 24.8.2016 and therein he made an application for condonation of delay. The application for condonation of delay came to be dismissed by me on 5.5.2017 by a detailed order. It was thereafter that this MA has been presented for suitable order or direction of this Tribunal for recalling/modifying the said order whereby in view of the rejection of the application for




condonation of delay, the OA was also dismissed. A request is made to hear the OA on merit and at the most restrict to monetary benefits for the period of three years.

4. It is mentioned in this application that the Applicant took exception to an order of 27.4.2016 whereby he was denied the benefit of Time Bound Promotion. Various grounds were urged in the OA. It is now pleaded by him that the case was of continuing wrong and in this set of facts, the above relief is sought.

5. In the dismissed MA No.107/2017, I considered every aspect of the matter including the Judgment of the Hon'ble Supreme Court in **Union of India Vs. Tarsem Singh : (2008) 2 SCC (L & S) 765**, I had discussed that Judgment in extenso and the same Judgment is again cited along with another Judgment in the matter of **Shiv Dass V/s. Union of India & Ors. : (2007) 9 SCC 274**. The principles laid down by the above referred case law came to be considered by me, and therefore, having signed the order in that particular MA and consequently the OA, this Tribunal has become *functus officio* and by way of another MA, the whole thing cannot be re-opened again.

6. Mr. Bandiwadekar relied upon **Sher Singh Vs. Union of India : Civil Writ Petition No.8840 of 2003**,

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**dated 7.3.2006 (Delhi High Court, DB)**. He relied upon this particular Judgment for the proposition that the power of recall of earlier order is distinct and separate from the power of review and can be exercised in limited circumstances. The facts and circumstances that obtained in **Sher Singh** (supra) were entirely different and now it is not permissible for me to re-examine the whole matter in another MA. The principles analogous to *res-judicata* are also formidable stumbling block in the way of the Applicant, and therefore, legally I find that it is not possible for me to re-open the whole matter all over again, even for a limited period of three years. The fact of the matter is that, by an order on the MA, I decided against condoning the delay though I was conscious of the legal position that such applications were to be liberally treated. Even then, no case was made out for condonation of delay, and therefore, now this Misc. Application must fail and is accordingly dismissed with no order as to costs.

Sd/-

**(R.B. Malik)**  
**VICE-CHAIRMAN**  
**13.09.2017**

13.09.17

Mumbai  
Date : 13.09.2017  
Dictation taken by :  
S.K. Wamanse.