

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH

NO.MAT/MUM/JUD/ 205 /2016
Maharashtra Administrative Tribunal
Pay & Accounts Barrack Nos.3 & 4,
Free Press Journal Marg,
Nariman Point, Mumbai 400 021.

Date :

18 JAN 2016

M.A. No. 383/2015 IN O.A. ST. No. 636/2015.

1. Shri Sakharam K. Ambekar & 01 Ors.,
C/o. Shri A.V. Shinde, Advocate for the Applicants.
Add. O/at. Gulestan Bldg., 3rd Floor, CAT, Bar Association G.T. Road,
Fort, Mumbai-01.

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

VERSUS

- 1 State of Maharashtra, Through the Secretary, Department of Food and Civil Supplies, Mantralaya, Mumbai-32. 2 The Collector, Ratnagiri District, Ratnagiri-415612.
- 3 The Commissioner (Supply) Konkan Division, Konkan Bhavan, Navi Mumbai.

...**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 15th day of **January, 2016** has made the following order:-*

APPEARANCE : Shri A.V. Shinde, Advocate for the Applicants.
Ms. N.G. Gohad, P.O. for the Respondents.

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

DATE : **15.01.2016.**

ORDER : Order Copy Enclosed / Order Copy Over Leaf.

Mukul
16/1/2016
**Research Officer,
Maharashtra Administrative Tribunal,
Mumbai.**

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI

MISC. APPLICATION NO.383 OF 2015
IN
ORIGINAL APPLICATION ST.NO.636 OF 2015

DISTRICT : RATNAGIRI

Shri Sakharam K. Ambekar & Ors.)...Applicants

Versus

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

Shri A.V. Shinde, Advocate for Applicants.

Ms. N.G. Gohad, Presenting Officer for Respondents.

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

DATE : 15.01.2016

ORDER

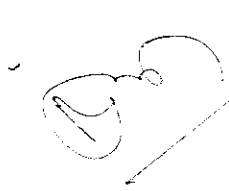
1. This Misc. Application seeks condonation of delay.



2. I have perused the record and proceedings and heard Shri A.V. Shinde, the learned Advocate for the Applicants and Ms. N.G. Gohad, the learned Presenting Officer for the Respondents.

3. The delay undoubtedly is enormous so to say (8 years or more).

4. Even if that be so, I find substance in the case of the Applicants who are now leading a retired life for last more than a decade. The issue relates to the quantum of pension which in turn relates to whether the earlier services could be counted as regular service. It seems that there were earlier orders passed by this Tribunal in case of similarly placed employees and also the orders made by the Hon'ble High Court in Writ Petition No.3690/2005 (Shri Anant S. Tambde & 7 others Vs. The Collector and 3 others, dated 19th December, 2006 which was followed by the Bench of the then Hon'ble Chairman of this Tribunal in OA 426/2006 (Shri Prabhakar S. Bagkar Vs. The State of Maharashtra and Anr., dated 16.3.2007). Similarly, in Writ Petition No.7458/2010 (Devidas B. Borkar and 2 others Vs. The State of Maharashtra and one another, dated 19th July, 2011) another Division Bench of the Hon'ble Bombay High Court followed Anant



Tambde (supra) and granted the same relief. Pursuant thereto, the necessary orders in the form of the G.R. came to be issued on 5th February, 2008 and 5th May, 2012.

5. It is indisputable and was not disputed before me also that the Applicants are so similarly placed as their counterparts in Writ Petitions and the Original Applications referred to hereinabove. However, it appears that the Respondents are so minded as to extend the relief only to those particular Applicants or Petitioners in whose case directions were given by the Hon'ble High Court and by this Tribunal. Somehow or the other, as a model employer, the Respondents do not seem inclined to apply the principles emanating from the binding case law to the similarly placed retired employees while it is the principle that is applicable and in this exclusive class of litigation, the State is not only quite free, but may be even duty bound not to drive its employees or ex-employees to litigation.

6. Be it as it may, in my view, though the delay in this matter appears to be exorbitant in the ultimate analysis, the Applicants are entitled to be extended the relief of at least their matter being heard on merit. They cannot be faulted, if they thought that the Respondents

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...acting, and therefore, at least in the present set of facts, it cannot be said that the conduct of the Applicant was contumacious and it is not as if they were scheming or moving with a design to take the benefit of something like a lottery. The claim is substantive, and therefore, without getting unduly influenced by the number of years, ultimately the interest of justice must prevail.

7. Therefore, the delay is condoned. The Misc. Application is allowed with no order as to costs. The Applicants and the office of this Tribunal are directed to process the OA further and get it registered, if there is no other office objection and get it placed before the Bench for being dealt with in accordance with law.

(Handwritten signature)
(R.B. Malik)
Member-J
15.01.2016

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01-16

Mumbai
Date : 15.01.2016
Dictation taken by :
S.K. Wamanse.

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TRUE COPY
Anand
16/1/2016
Asst. Registrar / Research Officers
Maharashtra Administrative Tribunal
Mumbai