

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

MISC. APPLICATION NO. 374 OF 2019
IN
ORIGINAL APPLICATION NO. 981 OF 2018

DIST. : PARBHANI

Sheetal d/o Vithalrao Bhosale,)
Also known as)
Sheetal w/o Shripati Mandale)
Age. 41 years, Occu. : Nil,)
R/o Sarfaraj Nagar, Parbhani,)
Tq. & Dist. Parbhani.) .. **APPLICANT**

V E R S U S

1. The State of Maharashtra,)
Through its Secretary,)
Home Department, Mantralaya,)
Mumbai - 32.)

2. The Superintendent of Police,)
Parbhani, Dist. Parbhani.) .. **RESPONDENTS**

APPEARANCE :- Shri H.P. Jadhav, learned Advocate for the
applicant.
: Smt. Deepali Deshpande, learned
Presenting Officer for the respondents.

CORAM : SHRI B.P. PATIL, ACTING CHAIRMAN
RESERVED ON : 19TH AUGUST, 2019
PRONOUNCED ON : 21ST AUGUST, 2019

O R D E R

1. The applicant has filed the present Misc. Application for review of the order dated 20.6.2019 passed by the Tribunal in O.A. no. 981/2018 by which the Original Application has been

disposed of as withdrawn in view of the submission made by the learned Advocate for the applicant. She has also prayed to condone the delay of about 19 days caused in filing the Misc. Application.

2. Applicant has filed Original Application no. 981/2018 before this Tribunal for challenging the order dated 12.9.2018 passed by the respondent no. 2 and prayed to quash the same and also challenged the seniority list of the eligible candidates to be appointed on compassionate ground maintained by the res. no. 2 on the ground that the applicant filed first application on 29.6.2015, but the res. no. 2 without considering the said application considered her second application dated 9.11.2017 and incorporated her name on 9.11.2018 in the seniority list in violation of the principles of natural justice.

3. It is contention of the applicant that after filing Original Application no. 981/2018 this Tribunal has passed the order on 2.1.2019 and the learned Advocate for the applicant sought time to produce on record relevant Government Resolution and therefore the matter was adjourned to 18.1.2019. On 18.1.2019 again the learned Advocate for the applicant sought time and the matter was adjourned to 4.2.2019. Thereafter it was adjourned to 14.3.2019, 29.4.2019, 20.6.2019 on the request of learned

Advocate for the applicant. The applicant was in-touch with her Advocate till 29.4.2019. On 29.4.2019 the matter was adjourned and posted to 20.6.2019 but the said date was not communicated to her by her Advocate and therefore she remained absent on 20.6.2019. She had not given any instructions to her Advocate. She was under impression that the matter was pending and she will get the relief in the matter. On 4.8.2019 she called her Advocate and enquired about the status of the matter and at that time her Advocate informed her that the matter has been withdrawn on 20.6.2019 and accordingly it was disposed of. The applicant was shocked and therefore she collected necessary documents and approached to another Advocate for legal assistance and at that time it was disclosed to her that the Original Application no. 981/2018 has been withdrawn by Shri A.P. Sonpethkar, who was not Advocate appointed by her. It is her contention that she never instructed her Advocate to withdraw the Original Application and because of misconception and miscommunication the matter has been disposed of as withdrawn. Therefore, she filed the present Misc. Application for review of the order dated 20.6.2019 passed by the Tribunal in the Original Application no. 981/2018 and prayed to restore the Original Application by setting aside the order of withdrawal by condoning

the delay of about 19 days caused in filing the present Misc. Application.

4. I have heard the arguments advanced by Shri H.P. Jadhav, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents. I have also gone through the documents placed on record.

5. Learned Advocate for the applicant has submitted that the applicant has engaged one Advocate viz. Shri P.N. Sonpethkar in O.A. no. 981/2018. He has submitted that in that Original Application the applicant has challenged the seniority list of the eligible candidates to be appointed on compassionate ground. It is his further submission that Advocate for the applicant has sought several adjournments for producing the necessary documents. He has argued that the applicant never instructed Shri P.N. Sonpethkar, Advocate to withdraw the Original Application no. 981/2018, but on 20.6.2019 Shri A.P. Sonpethkar, learned Advocate holding for Shri P.N. Sonpethkar, Advocate made a statement before this Tribunal that the applicant does not want to proceed with Original Application and therefore he sought leave of the Tribunal to withdraw the same. He has submitted that on the basis of submissions made by Shri A.P. Sonpethkar, Advocate, the matter was disposed of as withdrawn

by the Tribunal. He has argued that the applicant never instructed her Advocate to withdraw the matter, but due to misconception and miscommunication the above said submission has been made on behalf of the applicant and therefore the impugned order came to be passed. He has argued that submission was made on behalf of the applicant under misconception and therefore it is necessary to recall the order dated 20.6.2019 and to restore the Original Application no. 981/2018 to its original number in the interest of justice.

6. In support of his submissions he has placed reliance on the judgment of Hon'ble Supreme Court in case of **Ajitkumar Rath Vs. State of Orissa reported at 2000 AIR (SC) 85.**

7. Learned Advocate for the applicant has further submitted that the present case is covered by order passed by this Tribunal in case of **Shri Santosh s/o Ramnath Jagdale Vs. the State of Maharashtra & Ors.** (Review Application no. 01/2018 in Original Application st. No. 873/2018) decided on 3.5.2019, wherein similar relief has been granted to the similarly situated person and therefore he prayed to allow the present Misc. Application.

8. Learned Presenting Officer has submitted that there was no error on the part of the Tribunal in passing the order dated

20.6.2019 in Original Application no. 981/2018. She has submitted that the learned Advocate for the applicant namely Shri A.P. Sonpethkar made a statement before this Tribunal on the basis of instructions received to him and sought leave of the Tribunal to withdraw the Original Application. On the basis of submission made by him this Tribunal granted the leave to the applicant to withdraw the Original Application and consequently the Original Application was disposed of. There was no miscommunication or misconception in between applicant and her Advocate. On the basis of instructions received from the applicant, the submission has been made by her Advocate before the Tribunal on 20.6.2019. In absence of sufficient documents on record the contention of the applicant cannot be accepted. She has submitted that there is no just ground to review the order dated 20.6.2019 and therefore she has prayed to reject the Misc. Application.

9. On perusal of documents on record it reveals that the applicant filed Original Application no. 981/2018 before this Tribunal. The applicant has engaged Shri A.P. Sonpethkar, Advocate on her behalf. It was placed before the Tribunal for regular admission on 2.1.2019. On that date the learned Advocate for the applicant sought time to produce relevant

Government Resolution on the basis of which the applicant was claiming the relief and therefore it was adjourned to 18.1.2019, 4.2.2019, 14.3.2019, 29.4.2019 and 20.6.2019. On each and every occasion the learned Advocate for the applicant sought adjournments. On 20.6.2019 learned Advocate for the applicant has made submission, on instructions from the applicant, that she does not want to proceed with the Original Application and therefore he sought leave of this Tribunal to withdraw the same and therefore the matter came to be disposed of as withdrawn. There is nothing on record to show that there was miscommunication between the applicant and her Advocate and therefore the matter came to be disposed of. Not only this, but there was no error on the part of the Tribunal in disposing of the Original Application on the basis of submissions made by the learned Advocate for the applicant. Therefore, in absence of sufficient cause and just reason the order dated 20.6.2019 cannot be reviewed.

10. It is also material to note here that the applicant has not filed Misc. Application for review of order dated 20.6.2019 within the prescribed period of limitation. There is delay of about 19 days in filing the Misc. Application. No sufficient cause has been shown by the applicant for condoning the said delay. Not a single reason has been assigned by the applicant for not approaching the

Tribunal within the stipulated period. Therefore, in the absence of sufficient reasons the delay cannot be condoned.

11. I have gone through the decision of this Tribunal in case of **Shri Santosh s/o Ramnath Jagdale Vs. the State of Maharashtra & Ors. (Review Application no. 01/2018 in O.A. st. 873/2018)** decided on 3.5.2019 relied by the learned Advocate for the applicant. I have no dispute regarding the principles laid down therein. However, the facts in the said Review Application no. 01/2018 in O.A. st. no. 873/2018 are not identical to the facts of the present case and therefore the said decision is not useful to the applicant. Likewise, the decision of Hon'ble Supreme court in case of **Ajitkumar Rath Vs. State of Orissa** (supra) is not attracted in the present case as the facts in that case are not identical with the facts in the present case. Moreover, the applicant has not produced evidence to show that there was misconception on the part of her Advocate while making submission before this Tribunal on 20.6.2019. Therefore, the said decision is not much useful / helpful to the applicant in this case.

12. In view of above said facts in my view there is no just cause for review of the order dated 20.6.2019 passed in Original Application no. 981/2018. Therefore, the misc. application deserves to be rejected.

13. In view of the discussions in foregoing paragraphs, the Misc. Application No. 374/2019 stands dismissed. There shall be no order as to costs.

(B.P. PATIL)
ACTING CHAIRMAN

Place : Aurangabad
Date : 21st August, 2019

ARJ-M.A. 374-2019 IN O.A.981-2018 BPP (RESTORATION OF O.A.)