

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 417 OF 2013 (S.B.)**

Shri Shivdas S/o Champat Tamgadge,  
Aged about 64 years, Occupation – Retired Naib Tahsildar,  
Narkhed, R/o Master Colony,  
Sawangi Meghe, Wardha (M.S.)

**Applicant.**

**Versus**

- 1) State of Maharashtra, through the Secretary,  
Ministry of Revenue & Forest Department,  
Mantralaya, Mumbai-32.
- 2) The Commissioner (Revenue),  
Nagpur Division, Nagpur-400 001.
- 3) The Collector, Nagpur District,  
Nagpur-400 001.
- 4) The Indian Audit & Accounts Deptt. office of  
Accountant General (Accounts & Entitlement)  
-II, Pension Wing, Old Building,  
Nagpur-440 001.
- 5) The Tahsildar,  
Narkhed.

**Respondents**

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**Shri A.S.Moon, the Id. Adv. for the applicant.**

**Shri S.A.Sainis, the Id. P.O. for the respondents.**

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**Coram :- Hon'ble Shri J.D. Kulkarni,  
Vice-Chairman (J).**

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**JUDGMENT**

**(Delivered on this 22<sup>nd</sup> day of January, 2018)**

Heard Shri A.S.Moon, the learned counsel for the applicant and Shri S.A.Sainis, the learned P.O. for the respondents.

2. The applicant in this O.A. has prayed for directions to the respondents for condoning the break in the services and for considering the said break for counting towards pensionary benefits. The applicant was temporarily appointed for the period from 20/11/1973 to 1978, he got retired on superannuation on 30/09/2007. It is prayed that the said period will be treated as regular service.

3. A detailed order was passed on 10/01/2014 by this Tribunal wherein it was observed that the earlier, applicant has filed O.A. No. 121/2009 for same prayers as putforth in the present O.A. The said O.A. was disposed of by this Tribunal on 30/07/2013, observing that everything would turn on the nature of appointment of the applicant which was made in the year 1973, and, therefore, the orders related to his initial appointment as well as order issued in 1978; regularizing his services needs to be brought on record and examined. It seems from the said order that the applicant did not enclose the vital documents with the application and, therefore, the application came to be rejected and

liberty was granted to the applicant to approach the Tribunal. In view of this the applicant filed this O.A.

4. It seems from the order dated 10/01/2014 that the matter was heard by the Tribunal on 07/08/2013 and on that day the Id. counsel for the applicant undertook to file copies of the various orders of applicant's initial appointment on a temporary basis from 1973 onwards with reference to para no. 4 of the Tribunal's order dated 30/07/2012. It was intimated to the Tribunal that the applicant's query under Right to Information Act was pending; but consequently it was informed that the matter is more than 40 years old. The relevant documents were not available. The applicant therefore, sought amendment of the O.A., the said amendment was carried out. In para no. 4 of the said order dated 10/01/2014, it was observed by this Tribunal as under:-

"We take note of the facts that the applicant's earlier O.A. No. 421/2009 was rejected by this Tribunal on the ground that he failed to produce vital documents related to his appointment made for the period from 1973 onwards as also on a regular basis in 1978 and we are also of the clear view that it is up to the applicant to produce these documents to make out a convincing case about granting him regularity of the period of his regular service. In case the applicant is unable to produce these documents, the present O.A. will require to be rejected. As the Id. counsel for the applicant is absent today, **S.O. 4 weeks** for final disposal."

5. The matter was therefore, adjourned from time to time and the applicant sought time again-and-again for producing the record.

6. In the order dated 09/02/2017, a reference was made to the order dated 10/01/2014 passed by this Tribunal and it was observed

that, though the applicant was directed to produce the documents, it were not produced. It was observed that the applicant was not quite regular in the matter of attendance and, therefore, the matter be kept for dismissal on 03/03/2017. On 03/03/2017 and, thereafter, on 18/03/2017 none appeared for the applicant and, therefore, the O.A. was dismissed in default. Thereafter, the applicant filed miscellaneous civil application for restoration of the O.A. and for condonation of delay. In the interest of justice; both these M.C.A's i.e. M.C.A.52 and 53 of 2017 were allowed vide order dated 07/12/2017 and the O.A. was restored to its original file and this being a matter of 2013; was kept for final hearing. The matter came up for final hearing on 10/01/2018 and on that day also nobody appeared for the applicant and it was kept on the next day for final hearing. Subsequently, Ms. L. Junghare appeared for the applicant and requested for marking her presence and the matter was kept on 12/01/2018. On 12/01/2018, Shri A.S.Moon appeared for the applicant and the matter was heard and closed for orders.

7. In the order dated 10/01/2014, it was clearly observed that for the similar relief, the applicant has filed earlier O.A. 421/2009 and it was disposed of with liberty to applicant to file documents. In spite of such liberty, though the applicant has filed O.A.417/2013 for the same relief, he did not produce on record the documents. Thus, the relevant

documents such as initial appointment order of the applicant as well as the order whereby his services are being regularized; are not placed on record. In the absence of relevant documents it is not clear to on what date the applicant was appointed initially and where he was posted and on what terms and conditions. It also cannot be stated as to on what conditions and on what date his services were regularized and he came to be appointed on regular terms. In the absence of such documents; no relief can be granted to the applicant and hence the following order :-

**ORDER**

1. O.A. stands dismissed.
2. No order as to costs.

**Dated :-22/01/2018**

**(J.D. Kulkarni)  
Vice-Chairman (J).**

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