

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO. 1132 OF 2015**

**DISTRICT :MUMBAI**

Shri Arun Ramchandra Chavan,       )  
Jr.Clerk, office of Executive Engineer)  
National Highway Division, Kolhapur)  
and residing at R.S.No.165/2,       )  
Shantinagar, Panchagaon               )  
Taluka Karveer, Dist. Kolhapur.     )**...Applicant**

**VERSUS**

1. Government of Maharashtra,       )  
through Principal Secretary,       )  
Public Works Department,        )  
Mantralaya, Mumbai - 400 032.    )
2. The Chief Engineer,                )  
National Highway, Konkan Bhavan, )  
5<sup>th</sup> Floor, Navi Mumbai.            )
3. The Superintending Engineer,     )  
National Highway Circle, Kalanagar, )  
Near Nanda-Deep Garden,         )  
Bandra (East), Mumbai.            )
4. The Executive Engineer,            )  
National Highway Division,         )  
Tarabai Park, Kolhapur.            )**....Respondents**

Shri M.D. Lonkar, learned Advocate for the Applicant.

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

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**CORAM : Shri Rajiv Agarwal, Vice-Chairman**

**DATE : 3.05.2016**

**ORDER**

1. Heard Shri M.D. Lonkar, learned Advocate for the Applicant and Ms. N.G. Gohad, learned Presenting Officer for the Respondents.

2. This Original Application has been filed by the Applicant seeking relief that his representation dated 31.10.2015 may be decided by the Respondent No.1.

3. Learned Counsel for the Applicant argued that the Applicant has joined Government service on 1.4.1987 as 'Major' on the work charged Establishment of Public Works Department. After 5 years, he was taken on Regular Temporary Establishment (RTE). Though the Applicant was appointed as 'Major', he was actually working as Higher Grade Stenographer. In terms of G.R. dated 29.9.2003, he was eligible to be given designation of Higher Grade Stenographer and was also entitled to get the pay of that post. The Applicant was, however, absorbed by order dated 10.11.2003 as Clerk. The Respondent No.1 issued directions to the Respondent No.3 to collect information about the employees given benefit of G.R. dated 29.9.2003, who were not given designation as per work done by them by letter dated 2.9.2005. The Respondent No.3 asked the Respondent

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No.4 to submit proposals in respect of such person, which was submitted on 7.10.2008. The information was submitted by the Respondent No.3 to the Respondent No.1 by letter dated 7.2.2009 but was not accepted by the Respondent No.1 as is seen by letter dated 29.4.2010. As no action was taken by the Respondents, the Applicant submitted representations on 19.3.2014, 5.6.2014 and 31.10.2015 but he received no reply. The Applicant is seeking direction that the Respondent No.1 may decide his representation dated 31.10.2015.

4. Learned P.O. argued that cause of action in this case arose on 10.11.2003 when the Respondent No.4 issued orders to give the Applicant designation of Junior Clerk. If the Applicant had a claim that he should have been given designation of Higher Grade Stenographer, he should have made representation then. The Applicant has not stated in the O.A. that he made any such representation at that time. He didnot approach this Tribunal. Now relying on selected correspondence, the Applicant is trying to revive a state and dead cause of action. Learned P.O. relied on the judgment of Hon'ble S.C. in the case of C. Jacob Vs. Director of Geology and Mining reported in AIR - 2009 SC 264 where Hon'ble S.C. has held that courts should desist from directing consideration of matters which have become state or barred by limitation.

5. It is seen that the Applicant was given benefit of G.R. dated 29.9.2003, by order dated 10.11.2003 when he

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was absorbed as Junior Clerk on CRTE. The Applicant, apparently held the qualifications for the post of Higher Grade Stenographer. The Applicant claims that he was working as Higher Grade Stenographer as per 'Designation as per work and pay as per Designation' he should have been absorbed as Higher Grade Stenographer. This is denied by the Respondents in para 2.2. of the affidavit in reply dated 24.2.2016. It is stated that the Applicant was in fact working as Junior Clerk. It is also stated that the Applicant did not fulfil the age requirement and experience to be appointed as Higher Grade Stenographer at the relevant time. There is no sanctioned post of Higher Grade Stenographer in the office of Executive Engineer. The representation of the Applicant dated 1.10.2003 was rejected by the Superintending Engineer on 6.8.2005. The Respondent no.1 has also informed the Superintending Engineer, Kolhapur by letter dated 5.9.2006 that the demand of the Applicant was illegal. From all these facts, it is clear that the Respondent No.1 by letter dated 5.9.2006 has finally rejected the claim of the Applicant. If the Applicant was aggrieved, he could have approached this Tribunal then. He, however, waited till 2014 for making a fresh representation. By seeking directions from this Tribunal to consider his representation, he is seeking to revive a stale claim, barred by time.

6. Hon'ble Supreme Court in the case of C. Jacob (supra) has held that:-

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"The Tribunal/High Courts routinely allow or dispose of such applications/petitions (many a time even without notice to the other side), without

examining the matter on merits, with a direction to consider and dispose of the representation. The courts/Tribunals proceed on the assumption, that every citizen deserves a reply to his representation. Secondly they assume that a mere direction to consider and dispose of the representation does not involve any 'decision' on rights and obligations of parties. Little do they realize the consequences of such a direction to 'consider'. If the representation is considered and accepted, the ex-employee gets a relief, which he would not have got an account of long delay, all by reasons by the direction to 'consider'. If the representation is considered and rejected, the ex-employee files an application/writ petition, not with reference to the original cause of action of 1982, but by treating the rejection of the representation given in 2000, as the cause of action. A prayer is made for quashing the rejection of representation and for grant of the relief claimed in the representation. The Tribunal/High Courts routinely entertain such applications/petitions ignoring the huge delay preceding the representation, and proceed to examine the claim on merits and grant relief. In this manner, the bar of limitation or the laches get obliterated or ignored."

The Applicant is acting in exactly similar manner, and no directions to consider his representation can be given.

7. Having regard to the aforesaid facts and circumstances of the case, this O.A. is dismissed with no order as to costs.

Sd/-

**(RAJIV AGARWAL)**  
**(VICE-CHAIRMAN)**

Date : 3.05.2016

Place : Mumbai

Dictation taken by : SBA

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