

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH

NO.MAT/MUM/JUD/1020/2017
Maharashtra Administrative Tribunal
Pay & Accounts Barrack Nos.3 & 4,
Free Press Journal Marg,
Nariman Point, Mumbai 400 021.

Date : 7 March 2017

M.A. No. 257/2016 IN O.A. No. 897/2015.

(Sub :- Deemed Date of Promotion)

- 1 Shri Sharad M. Sagvekar,
R/at. Bldg. No. 04/597, Sarkari Vasahat, Bandra (E), Mumbai-51.

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

VERSUS

- 1 The State of Maharashtra, Through
Secretary, Tourism & Culture Dept.,
Mantralaya, Mumbai-32.
- 2 The Secretary, State Performance
Scrutiny Board, Maharashtra
Shasan, Barrack No. 18, Behind
Sachivalaya Gymkhana, Backbay
Reclamation, Mumbai-21.
- 3 Dilip C. Waghmare, The
Superintendent State Performance
Scrutiny Board, Maharashtra
Shasan, Barrack No. 18, Behind
Sachivalaya Gymkhana, Backbay
Reclamation, Mumbai-21.

...**RESPONDENT/S**

Copy to : The C.P.O. M.A.T., Mumbai.

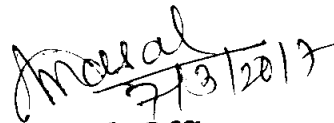
The applicant/s above named has filed an application as per copy already served on you, praying for reliefs as mentioned therein. The Tribunal on the 02nd day of **March, 2017** has made the following order:-

APPEARANCE : Mr. S.S. Dere, Advocate for the Applicant.
Mrs. A.B. Kololgi, P.O. for the Respondents No. 1 & 2.
Mr. C.T. Chandratre, Advocate for the Respondent No. 3.

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

DATE : **02.03.2017.**

ORDER : Order Copy Enclosed / Order Copy Over Leaf.


Research Officer,
Maharashtra Administrative Tribunal,
Mumbai.

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

**MISC. APPLICATION NO.257 OF 2016
IN
ORIGINAL APPLICATION NO.897 OF 2015**

DISTRICT : MUMBAI

Shri Sharad M. Sagvekar.

)...Applicant

Versus

1. The State of Maharashtra & 2 Ors. **)...Respondents**

Mr. S.S. Dere, Advocate for Applicant.

Mrs. A.B. Kololgi, Presenting Officer for Respondents 1 & 2.

Mr. C.T. Chandratre, Advocate for Respondent No.3.

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

DATE : 02.03.2017

ORDER

1. This is an application for condonation of delay in bringing the Original Application (OA) which in turn seeks the relief of deemed date of promotion to the post of Senior



Clerk from the date on which the 3rd Respondent was given promotion.

2. I have perused the Misc. Application (MA) and to the extent necessary the OA and heard Mr. S.S. Dere, the learned Advocate for the Applicant, Mrs. A.B. Kololgi, the learned Presenting Officer for the Respondents 1 and 2 who is being instructed by Mr. Santosh P. Khamkar, Secretary, State Performance Security Board and Mr. C.T. Chandratre, the learned Advocate for Respondent No.3.

3. At the time of somewhat animated debate at the Bar even at the stage of MA, reference was freely made to certain facts which strictly fall within the domain of the OA. The scope at the moment is severely restricted to this MA which is for condonation of delay. I must, therefore, make it very clear that none of my observations in this particular order will conclude any party in so far as the OA is concerned. All arguments and stand, etc. in that behalf are left open to be considered in the OA, were this application to be allowed.

4. The sum and substance of the case of the Applicant is that as per the document of the 2nd Respondent which is at Exh. 'M-1' (Page 5 of the Paper



Book (PB)) which is undated, but in any case, the recitals therein would show that it is of a date subsequent to 11th September, 2014, there was material to suggest that the Applicant was confirmed w.e.f.01.09.1994. The learned PO on instructions informs that this document was a part of the meeting of the DPC held on 9.12.1994. Therefore, let me proceed on the basis that it was a document dated 9.12.2014. That is a concrete material to suggest the *terminous-a-quo* for the purposes of the counting for the purpose of limitation. That being the state of affairs, in fact, the OA lodged in October, 2015 is within limitation. Mr. Chandratre points out, however, that this confirmation was for the post of Peon and not either Junior Clerk or Senior Clerk. Now, if that were to be so, in my view, the case of the Applicant gains further fortification because obviously, for the lowermost post, the document is of December, 2014 then the event subsequent for the higher post would be still later and there will be no question of any bar of limitation.

5. In any case, even if there was such a vice of limitation guided as I am by a number of binding judicial precedents, such applications should be approached more with a view to advance the cause of justice than to insist on narrow technicality, and therefore, examining it from

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any angle, this application has to be allowed even if it was held that there was delay, it will have to be condoned. The Office and the Applicant shall take all steps necessary to get this OA listed before the appropriate bench for disposal. The Misc. Application is allowed in these terms with no order as to costs.

sd/- 2-3-17
(R.B. Malik)
Member-J
02.03.2017

Mumbai

Date : 02.03.2017

Dictation taken by :

S.K. Wamanse.

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TRUE COPY

Malik
 2/3/2017
 Asstt. Registrar/Research Officer
 Maharashtra Administrative Tribunal
 Mumbai.