

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

**MISC. APPLICATION NO.317 OF 2016
IN
ORIGINAL APPLICATION NO.253 OF 2015**

1. Narendra R. Burande & 3 Ors.)...**Applicants**
(Interveners)

Versus

Dilip Sudhakar Pohnerkar.)...**Ori. Applicant**

And

1. The State of Maharashtra & 6 Ors.)...**Respondents**

**Shri A.S. Deshpande with Shri V.P. Potbhare, Advocates for
Original Applicant & Interveners.**

**Shri K.B. Bhise, Presenting Officer for Respondents 1 to 3-
B.**

Ms. S.P. Manchekar, Advocate for Respondents 4 to 7.

**CORAM : RAJIV AGARWAL (VICE-CHAIRMAN)
R.B. MALIK (MEMBER-JUDICIAL)**

DATE : 11.01.2017

PER : R.B. MALIK (MEMBER-JUDICIAL)



ORDER

1. This Misc. Application (MA) for all practical purposes seeks the Applicants hereof to be substituted for the original Applicant of the Original Application (OA) who has since retired.

2. We have perused the record and proceedings and heard Mr. A.S. Deshpande with Mr. V.P. Potbhare, the learned Advocates for the original Applicant and Interveners, Shri K.B. Bhise, the learned Presenting Officer (PO) for the Respondents 1 to 3-B and Ms. S.P. Manchekar, the learned Advocate for the Respondents 4 to 7.

3. The relief claimed by the original Applicant in the OA was for a direction to the Additional Chief Secretary, PWD to take immediate remedial steps in order to remove disparity of opportunities to the graduate Engineers appointed as an Assistant Engineers, Grade-II (Class-II gazetted) on one hand and graduate Engineers appointed under the respective Zilla Parishads as Junior Engineers on the other. Further, direction is sought against the same Respondent asking him to address the grievance set out in this OA in right earnest to remove the disparity. The facts

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are pleaded which according to the original Applicant Shri Dilip S. Pohnerkar give him a cause of action.

4. Now, four Misc. Applicants have brought the present application mentioning inter-alia that the original Applicant has retired and the Misc. Applicants seek to intervene to this OA by stepping into his shoes for continuing the cause taken up by him to its logical end. They did not want to add or alter the contents of the OA and the contentions and pleadings thereof. In the OA, purely legal issues have been raised. The Misc. Applicants claim to be exactly identical placed as the original Applicant. They, therefore, seek permission to be impleaded to the OA as co-Applicants on payment of prescribed Court fees at the rate of Rs.50/- per head.

5. The Respondents 4 to 7 have filed an Affidavit-in-reply hereto objecting to the grant of the relief herein. It is alleged that by way of this MA, the relief to these Respondents was being sought to be postponed. According to these Respondents, the Misc. Applicants have got every right to bring a fresh OA, but they cannot do what they are longing to do hereby.

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6. Now, it is no doubt true that although the provisions of the Code of Civil Procedure are inapplicable to the proceedings before this Tribunal but the general principles under Order 1 Rule 18 read with Order 6 Rule 17 of CPC can be cautiously made applicable even hereto. The issue, however, is as to whether any amount of liberal approach could allow such an application to prevail. Much as the Misc. Applicants would say that they do not have any different case than original Applicant in fact, the same is bound to be there. Though it may not be necessary for us to closely examine the OA, but then there are averments which set out the personal details of the original Applicant. It may not be possible for us here and now at this stage itself to hold as to whether those details are completely irrelevant to the determination of the main issue which according to the Applicants is involved in the OA, but the other view also cannot be held conclusively. Further, in the MA, no details have been furnished as to in what way, the averments in the MA in view of their peculiar details are really similarly placed as the original Applicant. The personal details of the Misc. Applicants have not been set out at all.

7. Therefore, normally if it is possible to incorporate some facts or claim certain reliefs which arise from the



original pleadings and if a fresh parent proceeding lies, then other factors remaining constant, applications by amendment even by way of substitution can be allowed. But the above discussion must have made it quite clear that such is not the state of affairs and here, the objection raised by the Respondents 4 to 7 are not just a ritualistic refrain of a cantankerous litigant, but there is substance in that, and therefore, we are not so disposed as to allow this MA which is dismissed with no order as to costs.

Sd/-

(R.B. Malik)
Member-J
11.01.2017

Sd/-

(Rajiv Agarwal)
Vice-Chairman
11.01.2017

Mumbai

Date : 11.01.2017

Dictation taken by :

S.K. Wamanse.

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