

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 2405/2015

(MAHADEO SAMPATRAO PAKALE **VERSUS** THE STATE OF MAHARASHTRA & OTHERS)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

None for the petitioner.

Mrs B.H. Dangre, Government Pleader for the respondents.

CORAM : SMT. VASANTI A. NAIK AND
A.I.S. CHEEMA, JJ.

DATE : AUGUST 25, 2015.

By this petition, the petitioner impugns the order of the Maharashtra Administrative Tribunal, dated 08.10.2014 dismissing the original application filed by the petitioner as barred by time.

The petitioner had filed an original application before the Maharashtra Administrative Tribunal challenging the order dated 10.11.2010 refusing to grant deemed date promotion to the petitioner from 01.04.1985 by expunging the adverse entries for the years 1982-83, 1983-84 and 1984-85.

The petitioner was promoted with effect from 01.04.1987. According to the petitioner, he was entitled to promotion from 01.07.1985 and, hence, he made representations to the respondents seeking deemed date promotion from 01.07.1985 by expunging the adverse remarks. Though the representations of the petitioner were not decided within a reasonable time, the petitioner did not file an original application seeking a direction against the respondents to decide the representations until he filed Original Application No.387 of 2010 seeking a direction to the respondents to decide the representation. The representation of the petitioner was decided and the same was rejected by an order dated 10.11.2010. The petitioner challenged the rejection order in Original Application No.157 of 2011. By the impugned order dated

08.10.2014, the original application was dismissed on the ground of limitation.

On hearing the learned Government Pleader for the respondents and on a perusal of the impugned order, it appears that the impugned order is just and proper and calls for no interference. The petitioner was promoted on 01.04.1987. Though according to the petitioner he was entitled to be promoted from 01.07.1985 and he had made representations to the respondents to expunge the adverse entries for the three years preceding his promotion, the petitioner was inactive for more than twenty years. The petitioner for the first time filed Original Application No.387 of 2010 seeking a direction to the respondents to decide his representations and expunge the adverse entries. The representation was decided and the respondents refused to expunge the adverse remarks. The petitioner then filed the present original application challenging the order rejecting the representation. The Tribunal rightly found that the original application was liable to be dismissed as time barred. If the representation of the petitioner for expunging the adverse entries was not decided within a reasonable time after his promotion in the year 1987, it was necessary for the petitioner to file appropriate proceedings within a reasonable time for the refusal on the part of the respondents to decide the representations. The petitioner waited for more than twenty years to file the first original application bearing Original Application No.387 of 2010 seeking a decision on his representation for expunging the adverse remarks. The first original application ought to have been filed by the petitioner either before 1990 or within a couple of years after 1990. The petitioner was negligent in prosecuting the matter and he slept over his rights for more than twenty years. The Tribunal rightly held that the petitioner was making a stale claim that was more than twenty years old by filing the original application in the year 2010 for expunging the adverse entries of the years 1982-83, 1983-

84 and 1984-85. We do not find any illegality in the order of the Tribunal, much less, any serious illegality calling interference. The Tribunal was also justified in holding that in the first original application itself, the petitioner ought to have sought a deemed date promotion from the year 1985 and/or a direction to the respondents to expunge the adverse remarks. The Tribunal applied the principles akin to the principles of Constructive Res-Judicata while dismissing the original application.

Since the order of the Tribunal is just and proper, the writ petition is dismissed with no order as to costs.

JUDGE

JUDGE

APTE