

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

C.A.O.NO. 221/2014 WITH M.C.A.ST.NO.21438/2013
IN W.P.NO. 2701/2012.

Shri Parmeshwar Arvindrao Deshmukh and others.

VERSUS

State of Maharashtra and others.

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

Court's or Judge's orders.

CORAM : B.P. DHARMADHIKARI
& A.P. BHANGALE, JJ.

DATED : JANUARY 14, 2015.

Heard Shri Dhore, learned Counsel holding
for Shri O.Y. Kashid, learned Counsel for
applicants/petitioner, Shri D.M. Kale, learned A.G.P.
for respondent nos. 1 and 2 and Shri A. Deshpande,
learned Counsel for respondent no.3. Nobody appears
for respondent no.4 Management.

Prayer in the main writ petition is to hold
that the petitioners cannot be subjected to modified
pension scheme which has come into effect on
31.10.2005. Petitioners claim that they were selected

and joined as Shikshan Sevak prior to that date.

On 17.12.2012, this court directed the petitioners to remove office objections within a period of four weeks. It was a conditional order. As objections were not removed, Writ Petition came to be dismissed automatically.

Applicants have filed present proceedings for restoration of Writ Petition and for condoning delay of 293 days in moving the application for restoration.

Shri Deshpande, learned Counsel as also learned A.G.P. invites attention to the contents of the application to show that there is no explanation for such huge delay.

Shri Dhore, learned counsel for petitioner submits that, in any case it was a mistake on the part of counsel representing the applicants and as such rights of applicants cannot be allowed to be defeated. He also argues that as the controversy has not been gone into on merits, the applicants may file second petition raising similar contentions.

The applicants have engaged an Advocate

and it appears that the office of the said Advocate did not or could not attend the matter after conditional order dated 17.12.2012. Matter has been dismissed in default thereafter, otherwise in original writ petition, this court has after hearing the concerned counsel, issued Notice to respondents to show cause.

In this situation, as we do not see any fault on the part of the applicants, we are inclined to condone the delay, but, the same shall be subject to payment of costs of Rs. 2000/- to respondent nos. 1 to 3. Amount of Rs. 1000/- shall be paid to respondent nos. 1 and 2 and remaining amount of Rs.1000/- to respondent no.3.

If costs are so paid within a period of three weeks from today, Misc. Civil Application shall stand allowed, and the order dated 17.12.2012 shall also stand recalled and Writ Petition No. 2701/2012 shall stand restored back to file.

Both the Applications are thus allowed and disposed of.

JUDGE

JUDGE

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