

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

CAO NO. 1675/2014 AND MCA ST. NO. 24488/2014 IN
WRIT PETITION NO. 1755 OF 2013

(Shri Devanand s/o Galomal Nichwani vs. Bank of Maharashtra thr. GM & Ors.)

AND

CAO NO. 207/2015 AND MCA ST. NO. 23772/2014 IN
WRIT PETITION NO. 1755 OF 2013

(Bank of Maharashtra thr. GM & Ors. vs. Shri Devanand s/o Galomal Nichwani)

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

Court's or Judge's orders.

CORAM : B.P. DHARMADHIKARI &
A.S. CHANDURKAR, JJ.
FEBRUARY 03, 2015.

Heard Shri Dani, learned counsel for the applicant in CAO No. 1675/2014 and for the respondent in CAO No. 207/2015 and Shri Kulkarni, learned counsel for Bank of Maharashtra.

These applications for condonation of delay are filed by the original petitioner (employee in Writ Petition No. 1755 of 2013) as also the respondent – employer therein. The petition has been disposed of on 01.08.2014. The employee as also the employer point out that a material amendment effected to Service Regulations on 03.09.2003, inadvertently could not be pointed out by them to this Court. The Service Regulations vide clause 48 contemplate a bar on initiation of Departmental Inquiry for a cause of action or a misconduct which occurred more than four years before its institution. Here, the alleged misconduct is of

the year 2004-05 and the employee has retired voluntarily on 12.09.2008. His petition challenging the disciplinary proceedings was disposed of without disturbing the proceedings as initiated but by directing the employer to pay him provisional pension.

The respective counsel state that new provision mentioned supra has been amended and a Departmental inquiry is not allowed to be instituted in respect of an incident which took place four years prior to such institution. The respective counsel have got their own interpretations on this amended provision or its effect. It is also pointed out to this Court that other employees involved in the very same misconduct have approached this Court in Writ Petition No. 4082 of 2014 and 4084 of 2014 and this Court has admitted those petitions for final hearing and the departmental inquiries have also been stayed.

In this situation, considering the fact that both parties are before this Court pointing out their inadvertence, we condone delay. Applications are allowed.

With the consent of parties, MCA St. No. 24488 of 2014 and MCA St. No. 23772 of 2014 are taken up for hearing. The prayer is to recall the judgment dated 01.10.2014 in Writ Petition No. 1755 of 2013.

The discussion above, while condoning delay also holds good for granting the prayers made by both

sides. Accordingly, the judgment dated 01.10.2014 is recalled and Writ Petition No. 1755 of 2013 is restored to file.

The respective counsel waive notice for the parties.

List Writ Petition for admission on 23.02.2015.

Interim orders granted in CAO No. 1675 of 2014 to continue till then.

JUDGE

JUDGE

*G.S.