

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

***CIVIL APPLICATION NO. 34 OF 2015
ALONG WITH
WRIT PETITION NO. 2500 OF 1996***

Municipal Corporation of Gr. Bombay,
through its Electric Supply and
Transport Undertaking, Colaba,
Mumbai – 400 039.

...Applicant/
Petitioner

v/s

1. Mr.S.K. Kadam, Mumbai;
2. Mr.G.S. Baj, Member,
Industrial Court, Mumbai.

... Respondents

Mr.S.K.Talsania, senior advocate along with Ms.Kavita Anchan-Poojari i/by M.V.Kini & Co. for the applicant/petitioner.

Ms.Karuna Yadav i/by N.M.Ganguli for Resp. No.1.

CORAM: N.M. JAMDAR, J.

DATED : 11 FEBRUARY 2016

PC.:

By this civil application, the Petitioner Municipal Corporation seeks to restore Writ Petition No.2500 of 1996, which was dismissed for non-removal of office objections, on 27 June 1996.

2 The petition was disposed of on 27 June 1996 and the

application for restoration has been made on 14 October 2014. That there is gross delay in making the application cannot be disputed.

3 Learned senior advocate for the Petitioner submitted that the main reason why the Petitioner Corporation seeks restoration of the petition, even though the amount of Rs.1,79,390/- involved in this petition is not very large, looking at the cost of litigation, is that the impugned order and the position of law laid down therein will be utilized by other employees who may raise challenges of similar nature and for settling this position of law the petition needs to be restored. Learned counsel for the Respondent No.1 has strongly opposed the application contending that there are no cogent reasons for this gross delay of eight years but accepts the position that, all that the Respondent No.1 is concerned is, the benefit of the impugned order qua him and is not desirous of getting any position of law as settled as such. Learned counsel for the Respondent No.1 also accepts that the dues payable under the impugned order to the Respondent No.1 is Rs.1,79,390/-.

4 Considering the agreement between the parties, I am inclined to restore the writ petition by setting aside the order of the Registrar (Judicial), dated 27 June 1996 and dispose of the writ petition in the light of limited submissions made by the learned senior advocate on behalf of the Petitioner, on instructions.

5 Accordingly, the civil application is allowed. Writ Petition

No.2500 of 1996 is restored to the file by setting aside the order of Registrar (Judicial), dated 27 June 1996 and is taken up for final disposal forthwith.

5 Considering the position and contentions as above, no interference is warranted in the impugned order. However, it is clarified that, in case the foundation of the impugned order is utilized by any other employee in future against the Petitioner, the disposal of this petition will not come in the way of the Petitioner to agitate its contention on merits. All contentions of the Petitioner in that eventuality are kept open.

6 The writ petition is disposed of in above terms.

7 Learned senior advocate for the Petitioner, on instructions, state that the amount of Rs.1,79,390/- will be paid to the Respondent No.1 within a period of four weeks from today. This statement is accepted.

(N. M. JAMDAR, J.)