

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

Writ Petition No.702 of 2015

Shirish s/o Prabhakar Pande

Vs.

State of Mah. Through its Principal Secretary, Revenue & Forest Department, Mantralaya,
Mumbai and 7 others.

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 &
P.N. DESHMUKH, JJ.**

DATE : 27th April, 2016.

Order of Maharashtra Administrative Tribunal (for short MAT) dated 27.8.2014 on C.A. No.108/2013 in O.A. No. 649/2011 rejecting the application for condonation of delay has been questioned by petitioner. The delay is in excess of 10 years.

Advocate S.Y. Deopujari submits that petitioner joined employment in 1993 and in 1994 his juniors were promoted to the post of Tahsildar. However, no grievance before any forum was raised and only representation was made. When a seniority list was published in 2009 and in the cadre of Deputy Collector petitioner was shown below all his juniors, further representation was made and it was not

decided, as per provisions of Section 21 of the Administrative Tribunals Act, 1985, the Original Application No. 649/2011 came to be filed. He is relying upon judgment of Division Bench of this court in **2013 (3) Mh.L.J. 389** (Basawant Devidas Nandgavali vs. Secretary, Water Resources Department and others) and earlier judgment reported in **2004 (4) Mh.L.J. 761** (Gulabrao Dharma Pol Vs. Union of India and others).

Learned AGP points out that MAT has considered relevant material including provisions of law and found that submission of unwarranted representation does not constitute a sufficient cause for condoning delay. Similarly, making successive representations by itself has been held not to be a sufficient ground.

Petitioner was superseded initially in the year 1994 and petitioner did not take any steps. That supersession, therefore, continued and when the seniority list of cadre of Deputy Collectors was published in the year 2009 it was only a consequent of said supersession. The petitioner therefore suffered the supersession by his juniors for over period of 15 years and there was/is no new cause of action.

Today prayer is not to disturb those juniors but only to give petitioner his due seniority in the cadre of Deputy Collector. Shri Deopujari submits that petitioner does not claim any monetary benefit if his claim is accepted of his placement in seniority list in the correct place.

Learned AGP has pointed out that seniority has operated for over 15 years and it cannot be corrected on such a ground. The representation must be prescribed in statute to furnish a cause of action. Here, representation has been made in 2011 and thereafter present O.A. has been filed.

The Hon'ble Apex Court has already held that submission of unwarranted representation does not furnish a cause of action. Similarly, it has also been held that successive representations do not extend the period of limitation. The law on the point is looked into by the MAT.

The Division Bench Judgment of this court in Basawant Devidas Nandgavali vs. Secretary, Water Resources Department and others considers case of petitioner whose caste claim remained pending since 1982 for no fault on his part. The said judgment, therefore, has no relevance in the present

matter. Similarly, in the case in Gulabrao Dharma Pol Vs. Union of India and others, the petitioner got knowledge after the communication and it is in that backdrop, the Division Bench has corrected the year of allotment.

As we do not find any jurisdictional error or perversity in the order, we find no case made out warranting interference in extra ordinary jurisdiction. Petition is, therefore, rejected. No costs.

JUDGE

JUDGE

Hirekhan