

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

C.A.O. NO.345/2016 IN MCA ST. NO.2549/2016 IN W.P. NO. 2269/2007 (D)
(RAJU KESHAWRAO RAMTEKKAR VERSUS THE SECRETARY, TRANSPORT, PORT AND MOMADIC
TRIBE WELFARE DEPARTMENT, MUMBAI & OTHERS)

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

Court's or Judge's orders

Shri V.B. Bhise, counsel for the applicant.
Shri K.L. Dharmadhikari, A.G.P. for the R-1 & 3.
Shri S.G. Deshpande, counsel for the R-2.

CORAM : SMT. VASANTI A NAIK AND
KUM. INDIRA JAIN, JJ.

DATE : AUGUST 23, 2016.

By this civil application, the applicant seeks the condonation of delay of more than six years in filing the application for review of the order dated 20.03.2009 in Writ Petition No.2269 of 2007.

The applicant had claimed to belong to Halba Scheduled Tribe and after the caste claim of the applicant was invalidated in the year 2007, the applicant filed Writ Petition No.2269 of 2007, with which we are concerned. The applicant had not challenged the order of the Scrutiny Committee and had merely sought the protection of his services. Initially, by an interim order, this Court protected the services of the applicant. The writ petition was, however, dismissed by the order dated 20.03.2009. The applicant-petitioner accepted the order of this Court refusing the relief of protection. It is the case of the applicant that the applicant became aware about the judgment of the Full Bench, reported in **2015(1) Mh.L.J. 457** (*Arun Vishwanath Sonone Versus State of Maharashtra & Others*), by which protection was liable to be granted to the employees, who were appointed before the cut-off date and against whom,

no adverse observations were made by the Scrutiny Committee. In view of the judgment of the Full Bench, and specially paragraph 76 thereof, the applicant has filed the application seeking a review of the order dated 20.03.2009. In the peculiar facts of the case, the applicant has sought the condonation of delay in filing the review application. It is submitted that the delay cannot be said to be much, if the rendering of the judgment of the Full Bench is considered to be the starting point of limitation.

On the other hand, the learned counsel for the non-applicant no.2-BEST has vehemently opposed the prayer made in the application. It is stated that the delay caused in filing the review application is inordinate. It is stated that the huge delay in filing the review application may not be condoned solely on the ground that a cause of action for filing the review accrued to the applicant after the judgment of the Full Bench was reported in **2015(1) Mh.L.J. 457** (*Arun Vishwanath Sonone Versus State of Maharashtra & Others*).

On hearing the learned counsel for the parties, we find that a case is made out by the applicant for condonation of delay in filing the review application. The order in writ petition, dated 20.03.2009, was accepted by the applicant till the judgment was rendered by the Full Bench in the case of *Arun Sonone*, making it liable for an employer to protect the services of the employee, who was appointed before the cut-off date and where there was no observation in the order of the Scrutiny Committee that the applicant-claimant had fraudulently secured the benefits meant for the particular Scheduled Caste or Tribe.

Since the delay in filing the review application, after the judgment of the Full Bench was reported in the journals is not much, in the peculiar facts of the case, we condone the delay in filing the review application subject to payment of costs of Rupees Two Thousand to the High Court Bar Association, Nagpur within one week. The civil application is allowed in the aforesaid terms and disposed of.

The miscellaneous civil application be listed for orders, if the costs are paid.

JUDGE

JUDGE

APTE

CERTIFICATE

I certify that this Judgment/Order uploaded is a true and correct copy of original signed Judgment/Order.

Uploaded by: Rohit D. Apte.

Uploaded on : 24.08.2016.