

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

C.A.O.NO.1650 OF 2015 IN M.C.A.ST.NO.14903/2015
IN
W.P.NO.2438 OF 1997 (D).

Narendra Bhaskar Raut and others ..vs.. Collector, Amravati, and ors.

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

Court's or Judge's orders

Mr.M.M.Sudame, Advocate for the applicants.
Mr.C.A.Lokhande, AGP for resp.1 and 3.
Mr.R.Gaikwad, Advocate for resp.4 to 7.

**CORAM : B.P.DHARMADHIKARI AND
P.N.DESHMUKH, JJ.**

DATED : APRIL 18, 2016.

Prayer is to condone delay in filing application for review against the adjudication dated 30th of October, 2014 in Writ Petition No.2438 of 1997.

Shri Sudame learned counsel appearing for the applicants submits that because of observations in the judgment of which review is sought, the applicants who are otherwise continuing in service from 1997 may be adversely affected.

He has invited our attention to review application to urge that several posts are still vacant and not only four petitioners before this Court but review applicants can be legitimately continued in employment.

Nobody appears for respondent no.2 though it is served.

Shri Gaikwad, learned counsel appearing for original petitioners states that as on today there are sufficient vacancies and therefore if review applicants are

accommodated in employment without prejudice to rights of petitioners, the petitioners have no objection.

Learned Assistant Government Pleader appearing for respondent nos.1 and 3 is opposing prayer of condonation of delay in filing review application and also prayer for review of judgment dated 30th of October, 2014 in Writ Petition No.2438 of 1997.

While deciding Writ Petition on 30th of October, 2014, we have heard learned counsel then appearing for review applicants, who were intervenors in the matter. The contentions of intervenors have been reproduced in paragraph no.5 of the judgment and it is not the case of review applicants that any of their contentions has been lost sight of this Court. In the light of this material on record, this Court has in paragraph no.11 found that intervenors continued in employment from 4th of October, 1997 till 9th of October, 1997 i.e. only for a period of 5-6 days.

We find that there is no material on record that proper procedure was followed while recruiting them.

Even now review applicants are not in position to show that along with petition any material was produced to bring on record the fact that they were appointed as per law. The prayer for intervention was initially considered by this Court on 17th of August, 1998 and then application was kept pending for its consideration at the time of final hearing. Thus, application remained pending for sixteen years. The developments, if any, which have taken place over sixteen years have not been brought on record by intervenors.

If we accept contentions of review applicants, it appears that after their termination on 9th of October, 1997 they have been reappointed by Municipal Council and are

continuing in employment.

However, in this situation, when there is a prayer to condone delay of 243 days and also a prayer for review, in the light of finding which we have reached while deciding Writ Petition, it cannot be said that there is any error apparent on the face of record.

However, our judgment does not imply that review applicants need to be terminated and if there are vacancies against which they have been appointed as per law or are continuing, the Chief Officer of Municipal Council has to consider their rights in accordance with law.

Hence, keeping all contentions available to applicants before this Court open and with liberty to them to raise the same in appropriate Court, if occasion therefor arises, we dispose of the Civil Application No.1650 of 2015 as also M.C.A.(Review) St.No.14903 of 2015.

JUDGE

JUDGE

Chute.