

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AURANGABAD**

CIVIL APPLICATION NO. 84 OF 2016

IN

WRIT PETITION NO. 2027 OF 2007

Gokul s/o Jotiba Chikundre

...Applicant

VERSUS

The State of Maharashtra & ors.

...Respondents

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Shri S.D.Tawshikar, advocate for applicant

Shri Y.G.Gujarathi, A.G.P. for respondent nos. 1 & 3

Shri S.S.Jadhavar, advocate for respondent no.2

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CORAM : S.V.GANGAPURWALA & K.L.WADANE, JJ.

DATED : 20th January, 2017

O R D E R :-

The present Civil Application is filed for restoration of Writ Petition dismissed in default in the year 2010. The reason given is that the advocate who was appearing for the present applicant in Writ Petition has subsequently died. The said reason for restoration can be considered to be a genuine reason, however, it was also the

duty of the applicant to know the proceedings of his petition. For more than 4 years the applicant also did not bother to know the proceedings.

2. Learned counsel for the respondent no.2 and the learned A.G.P. opposed the application on the ground that no sufficient cause is shown for the delay in the application.

3. However, considering the fact that the petition deals with the claim of the applicant for retiral benefits, we are inclined to exercise our discretion in favour of the applicant, however, the applicant will have to pay the costs.

4. Civil Application is allowed. The order, dated 21.4.2010 is recalled. The Writ Petition No. 2027 of 2007 is restored to its original position, on the condition that the applicant pays costs of Rs.5,000/- to non-applicant no.2 by 8.2.2017.

5. Place the matter on 8.2.2017.

(K.L.WADANE, J.) (S.V.GANGAPURWALA, J.)

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