

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

WRIT PETITION NO. 3530 OF 2012

The State of Maharashtra & Anr.	...Petitioners
Versus	
Adv. Jaydev Yashwant Gangawane	...Respondent

Mr. O. M. Kulkarni – AAGP for Petitioners – State.
Mr. Jaydev Gangawane - Respondent present in person.

**CORAM: SMT. V. K. TAHILRAMANI, Acting C. J. &
M. S. SONAK, J.**

DATE : 25 APRIL 2018

P. C. :

1] Heard Mr. Kulkarni – AAGP for the State and Mr. Gangawane – respondent, in person.

2] The challenge in this petition is to the order dated 5th August 2011 made by the Maharashtra Administrative Tribunal (MAT) in review application no. 16 of 2011 in misc. application no. 403 of 2010 in original application no. 99 of 2011.

3] By misc. application no. 403 of 2010 in OA No. 99 of 2011, the respondent had applied for condonation of delay

of almost 9 years in instituting OA No. 99 of 2011 questioning the termination of his service. The misc. application was in fact dismissed by the MAT by order dated 20th January 2011 by holding that there was no sufficient cause to condone the delay. However, the respondent instituted review application no. 16 of 2011 and the MAT, by impugned order dated 5th August 2011, has allowed such review application and condoned the delay in the institution of OA No. 99 of 2011.

4] Since, the OA No. 99 of 2011 is pending consideration before the MAT, we do not deem it appropriate at this stage, to entertain the present writ petition. However, in case, OA No. 99 of 2011 is decided against the petitioners – State, and the petitioners – State choose to institute a petition to question the final judgment and order in OA No. 99 of 2011, then, we grant the petitioners – State express liberty to challenge the order dated 5th August 2011 in review application no. 16 of 2011. Similarly, even if OA No. 99 of 2011 is dismissed and the respondent challenges such dismissal before this Court, even at that stage, we reserve the liberty to the petitioners – State to challenge the order

dated 5th August 2011 in review application no. 16 of 2011, in the petition which might be instituted by the respondent herein, without, the necessity of even instituting any separate writ petition.

5] We however make it clear that OA No. 99 of 2011 will have to be decided on its own merits and in accordance with law without being influenced by any observations in the order dated 5th August 2011 in review application no. 16 of 2011.

6] All contentions of all parties are therefore kept open for determination by the MAT.

7] With express liberty as aforesaid, we dispose of the present writ petition. There shall be no order as to costs.

8] The parties to appear before the MAT on 5th June 2018 at 11.00 a.m. and produce authenticated copy of this order.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)

CHANDKA