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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CIVIL APPLICATION NO. 2652 OF 2014****IN****WRIT PETITION NO. 1737 OF 1995**

Dr. Keshav Kumar Singh

.....Petitioner

V/s.

The State of Maharashtra and others

.....Respondents

Mr. V. K. Bodhare i/b Mr. A. M. Joshi for the petitioner

Mr. Sandeep Babar AGP for respondent no. 1

**CORAM : SHANTANU KEMKAR AND
NITIN W. SAMBRE, JJ.****DATE : JULY 16, 2018.****P.C. (PER: NITIN W. SAMBRE, J.)**

The petitioner claims to be an academic and practical expertized person in atmospheric physics. According to him, he was appointed in the respondent Indian Institute of Tropical Meteorology as a research fellow by order dated 20/07/1987 having completed doctorate degree in atmospheric physics. Respondent no. 2 employer of the petitioner which is established for the purpose of identifying,

planning and conducting research programmes of national and international importance qua behaviour of climate, invite application for the post of Deputy Director and Assistant Director. According to him, the interviews were mandatory for selection and appointment on the said post, which was attended by the petitioner on 29/11/1994. According to him, respondent no. 3, though has not appeared in the interview, was selected for the post of Assistant Director on 15/03/1995. According to him, respondent no. 2 Institute, has acted in a biased manner and has favoured respondent nos. 3 and 5 and as such their selection and appointment becomes illegal.

2 The aforesaid petition was filed by the petitioner claiming following reliefs.

“A) A writ of mandamus or any other appropriate writ, order, direction be issued to Respondent no. 2 requiring him to consider the case of the petitioner against the background of his outstanding qualifications, merit and experience.

B) The Respondent no. 2 be directed to produce the minutes of the Selection Committee before this Honourable High Court.

C) Pending hearing and final disposal of this writ petition, Respondent no. 2, his agent or his servant or any other person on his behalf, be restrained from filling up the vacancy of the Assistant Director.

D) Interim relief in terms of sub clause (B) of the prayer clause.

E) Any other relief this Hon'ble High Court feels just and proper in the circumstances of the case.

F) Cost be awarded to the petitioner."

3 It is not in dispute that the petitioner stood superannuated.

4 The petition of the petitioner was listed on 24/03/2006 wherein the Division Bench of this Court noticed that the petitioner has neither taken any steps for removing office objections nor complied with earlier order dated 26/07/2004.

5 This Court then noticed that petitioner is not interested in pursuing the petition and as such dismissed the same.

6 Before the aforesaid order of dismissal dated 24/03/2006, on

one more occasion i.e. on 28/04/2005, the petition of the petitioner was restored which was dismissed earlier for similar cause.

7 In the aforesaid background, this application is taken out for condonation of delay, setting aside/recalling the order dated 24/03/2006 dismissing the petition.

8 Heard the learned counsel for the petitioner-applicant at length.

9 He submits that it is the default of the lawyer which has resulted into passing of the order of dismissal of the petition for which the petitioner should not be made to suffer. According to him, there is no delay, as from the date of knowledge, he has immediately moved this application in November 2014.

10 Considered submissions in the aforesaid factual background and also the conduct of the petitioner. At the outset, a judicial note can be taken of the fact that the petitioner has already stood

superannuated and as such, even if the petition is allowed, he cannot be selected and re-appointed to the said post under challenge.

11 Apart from above, the fact remains that the petitioner has in categorical terms, in para 4 submitted that since he was out of Mumbai for his employment for quite long time, he was unable to contact his lawyer. According to him, his lawyer expired and as such, there was communication gap.

12 It is very easy for the petitioner to blame his lawyer at this stage of the proceedings, particularly when such statement of the petitioner cannot be verified. Apart from above, the petitioner on his own has given admission in para 4 that he was not in touch with his advocate.

13 This Court has already shown indulgence once by restoring the petition vide order dated 28/04/2005.

14 Apart from passing on blame to the lawyer, there is hardly any convincing reason which warrants an order for condonation of delay of 8 years. The cause cited *qua* the prayer for condonation for delay and restoration are not bonafide. That being so, we hardly notice any cause which warrants interference.

15 Application is rejected.

[NITIN W. SAMBRE, J.]

[SHANTANU KEMKAR, J.]

Iresh
Siddharam
Mashal

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