

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5661 OF 2018

Ravikant s/o Ramakant Hadoltikar and Ors. ...Petitioners

Versus

The State of Maharashtra and Ors. ...Respondents

Mr. P.R. Tandale, Advocate holding for
Miss. Juee K. Palekar, Advocate for Petitioners
Mr. S.K. Tambe, Assistant Government Pleader for
Respondent No. 1
Mr. G.N. Patil, Advocate for Respondent Nos. 2 to 4

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.**

DATE : 26th MARCH, 2019

ORAL ORDER:

1. The application filed by the petitioner for condonation of delay is rejected by Maharashtra Administrative Tribunal, Aurangabad.

2. Mr. Tandale, the learned Counsel for the petitioner submits that in fact, it is an obligation of the State Government to provide benefit as per the Government Resolution and the circular. The limitation period would not be counted for the obligation to be performed by the respondent-State Government. The learned Counsel submits that the liberal approach be taken.

3. Mr. G.N. Patil, the learned Counsel for the respondents and the learned Assistant Government Pleader support the order passed by the Tribunal.

4. The benefit of the 2nd ACPS was provided under the Resolution of the year 2010. The petitioner No.2 stood retired in the year 2009. The petitioner No. 1 is too retired in the year 2015.

5. It is trite that when technical considerations and cause of substantial justice are pitted against each other, the cause of substantial justice has to be subserved. At the same time, the concept of sufficient cause cannot be stretched to an extent that the term itself would become redundant.

6. Considering the service matter and the nature of the relief claimed, so also, the obligation of the respondents in case the petitioner is entitled to, we are inclined to consider and entertain the Petition and allow the petitioner to contest the original application on merits subject to equitable conditions.

7. The impugned order rejecting the application of the petitioner for condonation of delay in filing the original application is quashed and set aside.

8. The application for condonation of delay is allowed.

9. In case the Tribunal holds the petitioner entitled for the 2nd ACPS benefit as claimed by the petitioner, then the petitioner would not be entitled for the actual monetary benefits. However, the pay scale shall be notionally fixed and they may get retiral benefit and the benefit in pension. In case, there is no other impediment, then the pay may be fixed. As it is the petitioner No. 2 stood retired in the year 2009, so, no question arises of he getting any monetary benefits.

10. The Writ Petition is disposed of. No costs.

[A. M. DHAVAL]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

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