

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

**927 CIVIL APPLICATION NO.13719 OF 2018
IN WP/70/1994**

MADAN BHAGWANRAO DESHPANDE AND OTHERS
..APPLICANTS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. N. L. Jadhav, Advocate for the Applicants.
Mr. V. M. Kagne, A.G.P. for Respondent-State.
Mr. D. J. Choudhari, Advocate for Respondent No.5.

...

**CORAM : S. V. GANGAPURWALA &
MANGESH S. PATIL, JJ.**

DATED : 09th AUGUST, 2019.

PER COURT:-

1. This Civil Application is filed for restoration of Writ Petition dismissed for non-prosecution.

2. We have heard Mr. Jadhav, learned counsel for applicants and learned counsel for non-applicants.

3. In fact, writ petition was dismissed for non-prosecution for third time.

4. Mr. Jadhav, learned counsel for applicants submits that the present writ petition would now be limited to the extent of unpaid salary till the

date of their termination. No other relief would be claimed in the present matter.

5. The learned counsel for the non-applicant submits that thrice the matter has been dismissed for default. If at all the matter is to be restored, applicants be imposed with heavy cost.

6. It appears that, the matter was dismissed in default for three times. It is also trite that, for the negligence of the Advocate, the litigant can not be made to suffer. The matter was listed on the final hearing board. The matter is of the year 1994.

7. Considering the interest of applicants who were out of service at the relevant time and now the petition is restricted to the extent of claim of salary till the date of their termination, we pass the following order:

ORDER

1. The order dated 05.05.2015 dismissing the writ petition no.70/1994 in default is restored on following conditions:

i. The applicants shall pay the cost of Rs.10,000/- (Rs.Ten Thousand Only) to the non-applicant no.5 within a period of four weeks from today.

ii. In case, the claim of applicants is allowed, applicants would not be entitled for any interest on the said claim.

8. Civil Application is disposed of.

(MANGESH S. PATIL)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/August-19