

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

922 CIVIL APPLICATION NO.7794 OF 2019
IN RAST/18667/2019

KAVIRAJ BHAGIRATH WAGH
VERSUS
ANNA DADA OHAL AND OTHER

Shri. A.S. Kale, Advocate, holding for Shri. S.B. Talekar,
Advocate, for applicant.

**Coram: T.V. NALAWADE &
K.K. SONAWANE, JJ.**

Date: 9 JULY 2019

ORDER:

1) The application is filed for condonation of delay of 112 days caused in filing review application. As the applicant is expected to make out case that there is sufficient cause for which the proceeding could not be filed in time and there is also some arguable case in the main matter, learned counsel for the applicant was asked to argue and make out the case for issuing notice.

2) Learned counsel for the applicant took this Court through the decision given by the learned Single Judge in Writ Petition No.3930 of 2009. He also took this Court through the order made in LPA No.283 of 2010. He took this Court through para 6 of the order and he submitted only order of oral termination was challenged before the Tribunal by the present applicant and only that order of the Tribunal which was passed in the proceeding filed by the present applicant could have been challenged before the learned Single Judge and it was not possible to give order of appointment in favour of Ohal.

3) This Court has already made necessary observations in that regard and it is observed that by allowing the writ petition simply the decision of the Tribunal could have been set aside and that would have been sufficient to restore the position which was there prior to the decision of the Tribunal. There was one post for which two persons were staking claim of that post. Learned Single Judge has come to the conclusion that Ohal was entitled to the said post and salary of that post. In one way the proceeding was in respect of one post. In

view of these circumstances this Court has dismissed LPA on the ground of tenability.

4) It appears that the present applicant had approached Apex Court and Special Leave petition (Civil) Diary No.9632/2019 was filed but it was withdrawn by making submission that the applicant wanted to file proceeding for review. Thus after approaching the Apex Court the present applicant again came before this Court. In view of the aforesaid circumstances this Court holds that the proceeding is not within the scope of review and so the application for condonation of delay cannot be allowed. In the circumstances, the application stands rejected.

Sd/-
(K.K. SONAWANE, J.)

Sd/-
(T.V. NALAWADE, J.)

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