

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY:**

**NAGPUR BENCH : NAGPUR**

**Writ Petition No. 5525 of 2019**

**[Ravindra Prabhakar Khobragade Vs. State of Mah., Chief Secretary, Deptt. Of Scheduled Tribes Development, Mumbai & others]**

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Office Notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and Registrar's orders.

Court's or Judge's orders

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Mrs. Gauri Venkatraman, Adv., for the petitioner.  
Mr. Uke, AGP for respondents.

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**CORAM : PRADEEP NANDRAJOG,  
CHIEF JUSTICE AND  
R. K. DESHPANDE, J.**

**DATE : 16th August, 2019**

**P.C. :**

**01.** Heard learned counsel for the parties.

**02.** The petitioner comes from a socially and economically backward segment of the society, evidenced from the fact that he sought appointment as a Safai Kamgar when an advertisement was issued by the respondent no.3 to fill up the post of Safai Kamgar. Successfully clearing the interview on 28th January, 2008, a letter offering appointment to the petitioner was issued. He accepted the appointment. He was posted at Government Ashram School at Chak Ballarpur. To the

misfortune of the petitioner, after he joined service some candidates who were unsuccessful at the recruitment process approached the Civil Court and filed Regular Civil Suit No. 8 of 2008 in the Court of the Civil Judge [Senior Division], Chandrapur. An ex-parte ad-interim injunction was issued by the Civil Court on 15th March, 2008. The order of injunction restrained the Department from implementing the appointment orders. Overlooking the fact that by the time the order dated 15th March, 2008 was issued by the Civil Court the petitioner had already joined the Govt. Ashram School in Chak Ballarpur on 01st February, 2008, the petitioner was made to work as a labourer on daily basis as per the order dated 31st March, 2008. The obvious legal effect was that petitioner's appointment pursuant to the selection process got converted to that as one of a daily wage employee.

**03.** The suit filed by the unsuccessful candidates was ultimately dismissed on 31st January, 2014. The petitioner learnt about the said fact and made a representation to give him employment on a permanent basis. The cries of the petitioner not being heeded to, led him to approach the Maharashtra Administrative Tribunal at its Bench at Nagpur. He filed Original Application No.68 of 2016. The humble petitioner could engage a lawyer commensurate to his means, and by no means, we comment upon the legal acumen of the lawyer; but it is apparent that the lawyer remained

negligent. The Petitioner informed the lawyer that he was assured of being made permanent and, therefore, the Original Application should be withdrawn. The lawyer innocently conveyed the thoughts of the petitioner. The Tribunal wanted confirmation from the Department whether any such assurance was made. Obviously, such kind of assurances of mode are never accepted before the Courts. Neither the petitioner nor the counsel appeared and the fate was the Original Application was dismissed in default on 30th November, 2017. The petitioner claims that he remained under the impression that his lawyer withdrew the Original Application. His hopes of being given a permanent employment being dashed, he went back to the Tribunal and filed two applications - one seeking restoration of his Original Application and the other to condone the delay of one year, one month and eight days in seeking restoration. Once again, the counsel engaged conveyed the thoughts of the petitioner in the application seeking delay to be condoned in a disjointed manner by pleading that the petitioner was under medical treatment, but filed medical treatment papers pertaining to medical aid given in the month of December, 2018.

**04.** Vide impugned order dated 27th February, 2019, the Maharashtra Administrative Tribunal dismissed the application seeking delay to be condoned.

**05.** From the impugned order, it is apparent that the

reason was the default took place on 30th November, 2017 and the first proof of medical treatment pertained to the month of December, 2018.

**06.** We have noted the merits of the controversy for the reason law relating to condonation of delay as it has evolved in India requires Courts to be liberal, for the reason procedural laws are subservient to the substantive laws and the meritorious cases should not be sacrificed on the anvil of procedural laws. The Court needs to be more liberal when a litigating party comes from the marginalized sections of the society. Further, it is hard to get public employment in this country.

**07.** Accordingly, we dispose of the Writ Petition by setting aside the impugned order dated 27th February, 2019. We allow the application filed by the petitioner seeking delay to be condoned in seeking restoration of Original Application No. 68 of 2016. We simultaneously allow the application seeking restoration of the Original Application filed by the petitioner, meaning thereby, Misc. Civil Application Nos. 1 and 2 of 2019 filed by the petitioner before the Tribunal are allowed.

**08.** Original Application No. 68 of 2016 is restored for adjudication on merits before the Maharashtra Administrative Tribunal, Bench at Nagpur.

**09.** Since the counsel for petitioner and respondents

are present, we notify the date when the Original Application No. 68 of 2016 shall be listed before the Registrar of the Tribunal. The date is 16th September, 2019. Without an application being filed before the Registrar, upon production of the present order, Registrar of the Tribunal would formally restore Original Application No. 68 of 2016 and place it before the Tribunal.

**10.** Costs made easy.

**Judge**

**Chief Justice**

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