

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Civil Application (CAO) No. 926 of 2019 in M.C.A.Stamp No.3910 of 2019
Pralhad Warhokar Vs. State of Maharashtra

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

Court's or Judge's orders

Mr. S.P.Palshikar, Advocate for the petitioner
Mrs. Mruanl Naik, AGP for the respondent

CORAM : MANISH PITALE, J.

DATED : FEBRUARY 21, 2020

These are the applications seeking restoration of the writ petition and for condonation of delay in moving the application for restoration. In these applications, it is stated that the writ petition stood dismissed due to failure in removing office objections and that due to mistake on the part of the counsel for the petitioner, the dismissal of the writ petition by an order of the learned Registrar could not be noticed in reasonable time. It is contended that as soon as the fact was noticed, the said applications were moved before this Court.

2. By the writ petition, an order of the Maharashtra Administrative Tribunal dated 01/09/2015, has been challenged. It concerns the claim of the petitioner of entitlement to promotional post on the basis of having allegedly satisfied the requirements of the relevant Rules. In the impugned order, the Tribunal has observed that although the petitioner has completed the minimum required

years of service, but, he does not hold the necessary qualification for the promotional post. This is disputed by the petitioner herein by filing the writ petition.

3. But, a perusal of the record shows that this writ petition challenging order dated 01/09/2015, passed by the Tribunal, was filed in November 2015. As noted above, it stood dismissed due to failure in removing office objections as per order passed by the learned Registrar in March / April 2016. The applications for restoration and for condonation of delay in filing application for restoration have been moved on 14/02/2019, before this Court. Although the applications state that restoration of the writ petition would be in the interest of justice because the petitioner ought not to suffer due to mistake of the counsel, this Court finds it surprising that the petitioner did not care to pursue the writ petition and to enquire from his counsel regarding status of the writ petition from November 2015, till the dismissal of the writ petition was noticed by the counsel himself in February 2019. It is also surprising that after having filed these applications, it took one full year for the applications to be listed before this Court, thereby indicating that the petitioner was least concerned about the fate of the writ petition. All this while the writ petition and the application have been shown as matters pending on the docket of this Court.

4. Considering the aforesaid situation, this Court is of the opinion that even if the contentions raised on behalf of the learned counsel appearing for the applicant / petitioner are to be accepted that the petitioner ought not to suffer due to mistake of the counsel, this Court finds that the petitioner himself has been careless and he has shown scant interest in pursuing the present writ petition. It is only with a view that the petitioner can be granted an opportunity to raise contentions on merits as against impugned order dated 01/09/2015, passed by the Tribunal, that this Court in the interest of justice is inclined to allow the applications conditionally.

5. In view of above, the applications are allowed. Consequently, delay is condoned and the writ petition is restored subject to office objections being removed within a period of two weeks from today and the petitioner depositing amount of Rs.25,000/- towards costs with the High Court Bar Association, Nagpur, within the aforesaid period of two weeks.

6. It is made clear that unless and until the petitioner satisfies both the aforesaid conditions, the writ petition shall not be restored.

JUDGE