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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13684 OF 2019

Ashok s/o Bhanudas Wagh PETITIONER

VERSUS

The State of Maharashtra and Others RESPONDENTS

.....

Mr. Avishkar S. Shelke, Advocate for the petitioner
Mrs. M. A. Deshpande, AGP for respondent - State

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[CORAM : DIPANKAR DATTA, CJ &
RAVINDRA V. GHUGE, J.]

DATE : JUNE 15, 2021

ORDER :

1. The petitioner is aggrieved because his original application bearing O.A. No. 202 of 2017, on the file of the Maharashtra Administrative Tribunal, Aurangabad Bench, has been dismissed on the ground that the same is barred by *res judicata*.
2. We have heard learned counsel appearing for the parties and perused the materials on record.
3. The Tribunal itself has recorded in the impugned order dated August 7, 2019 that the previous rounds of litigation initiated by the petitioner against the respondents terminated with orders passed for consideration of the claim of the petitioner. There being no adjudication on the merits of the

petitioner's claim, either by the Tribunal or by the High Court, question of *res judicata* and/or analogous principles does not and cannot arise and, therefore, the Tribunal was manifestly in error in dismissing the original application on the ground it did.

4. We, accordingly, set aside the order dated August 7, 2019 of the Tribunal and remit the matter to it for fresh consideration with the result that O.A. No. 202 of 2017 shall revive for fresh adjudication in accordance with law.

5. Needless to observe, all contentions are kept open for the parties to urge before the Tribunal.

6. The writ petition stands allowed to the aforesaid extent. No costs.

[RAVINDRA V. GHUGE, J.]

[CHIEF JUSTICE]