

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7850 OF 2018

The Secretary, Irrigation Dept. & Anr. ... **Petitioners**

VS.

Popat Kisan Jadhav & Ors. ... Respondents

Mr. B.V. Samant, AGP for the State/petitioners.

Mr. Omkar Kulkarni for the respondents.

**CORAM :- DIPANKAR DATTA, CJ &
G. S. KULKARNI, J.**

DATE :- MARCH 4, 2021

PC :

1. The Secretary, Irrigation Department and the Executive Engineer, Irrigation Division, Khadakwasla, are the petitioners in this writ petition. They challenge the judgment and order dated October 15, 2013 passed by the Maharashtra Administrative Tribunal, Mumbai Bench, whereby Original Application No. 561 of 2012 filed by the respondents was allowed upon condonation of delay by holding that the respondents were eligible for grant of second benefit under the Assured Career Progression Scheme on the date of completion of 24 years on Converted Regular Temporary Establishment in terms of Government Resolution dated April 1, 2010.

2. The writ petition has been presented before this Court on March 19, 2018. Responding to our query as why it took the petitioners more than four years to invoke the writ jurisdiction of this Court, Mr. Samant, learned AGP appearing for the petitioners has drawn our attention to paragraph 18 of the writ petition. The contents of the said paragraph purport to be the explanation for the belated approach offered by the petitioners.

3. We have perused paragraph 18. We do not find any particulars of events happening after the petitioners obtained the certified copy of the impugned judgment and order in late October, 2013 till 2017 which would, with some degree of clarity, suggest where the file got stuck and who was responsible. The contents of the said paragraph clearly manifest the carelessness and negligence of the petitioners in arriving at a decision to challenge the judgment and order of the tribunal. Only on the ground of delay and laches, this writ petition is liable to be dismissed.

4. However, Mr. Omkar Kulkarni, learned advocate appearing for the original applicants/respondents in this

petition has placed before us the judgment and order of a co-ordinate Bench of this Court dated July 4, 2018 in Writ Petition No. 6011 of 2018 (The Secretary, Irrigation Department, Mumbai & Anr. vs. Mahadev Shivaji Jagtap). According to him, in similar facts, the co-ordinate bench spurned the challenge laid by the petitioners and upheld the order of the tribunal granting similar benefits which have been extended to the respondents in the present case.

5. We have perused the said judgment and order and find that the submission of Mr. Omkar Kulkarni is correct.

6. Mr. Samant is presently not in a position to say as to whether the Secretary, Irrigation Department, Mumbai, who was one of the petitioners in Writ Petition No. 6011 of 2018, had carried such order before the Supreme Court by a Special Leave Petition.

7. Even otherwise, we do not see any reason to take a view different from the one taken by the co-ordinate bench in its judgment and order dated July 4, 2018.

8. Accordingly, this writ petition stands dismissed both on the ground of delay and laches as well as on merits. There shall be no order as to costs.

9. We grant the petitioners two months' time to implement the judgment and order of the tribunal.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)