

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT NAGPUR

CIVIL APPLICATION (CAO) NO. 12 OF 2020
AND
MISC.CIVIL APPLICATION (REVIEW) ST.NO. 24969 OF 2019
IN
WRIT PETITION NO. 576 OF 2019 (D)

(JOINT DIRECTOR, HEALTH SERVICES DEPARTMENT, PUNE & OTH...VS.. GOPAL NAMDEORAO
MALASNE & 5 OTH.)

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

Court's or Judge's orders

Shri S.P.Deshpande, Advocate for Applicants/Petitioners

CORAM : Z.A.HAQ, J.
DATED : MARCH 05, 2021.

CIVIL APPLN.NO.12/2020.

Heard.

Original petitioners have filed application seeking review of the order passed by this Court in Writ Petition No.576 of 2019 on 28th January 2019, by which writ petition filed by the petitioner came to be dismissed.

In view of the order passed by this Court in Civil Application No.44 of 2018 in Misc. Civil Application (Stamp) No.17327 of 2017 in Writ Petition No.4974 of 2014 on 4th April 2018 and also the order passed by Division Bench of this Court (Z.A.Haq & Amit B. Borkar, JJ) in Civil Application (CAO) No.21 of 2021 in Misc.Civil Application (Stamp) No.5757 of 2020 in Writ Petition No.7009 of 2019(D), it is held that the provisions of the Limitation Act would not be applicable to the proceedings under Articles 226 or 227 of the Constitution of India, and as the application seeking review of

the judgment/order passed under Article 226 of the Constitution of India would also lie under Article 226 of the Constitution of India, the provisions of the Limitation Act, 1963 will not be applicable, and application praying for condonation of delay is not required to be filed, however, the applicant, seeking review of the judgment/order will have to explain the delay/latches in the review application itself.

The Civil Application No.12 of 2020 is **disposed** accordingly.

MISC.CIVIL APPLN.ST.NO.24969 OF 2019

Heard.

By the order dated 28th January 2019, the writ petition filed by the applicants/petitioners challenging the order passed by the Industrial Court came to be dismissed. The Industrial Court had allowed the complaint filed by the employees under Section 28 read with Items 5, 6 and 9 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 and directed the applicants/petitioners to regularize or absorbed the services of the complainant on their former posts in regular time scale from the date of their appointments and also to make available to the employees, monetary benefits from the date of filing of the complaint.

The applicants have not been able to point out anything on the basis of which it can be said that while passing the order dated 28th January 2019, any relevant document or evidence is not considered or there is any

apparent error in appreciation of any document or evidence on record.

The applicants had not sincerely attended the proceedings before the Industrial Court and had not cross-examined the witnesses of the complainant and had not led any evidence. While dismissing the petition this Court observed that nothing was placed on record to show that departmental action was taken against the erring employees who were responsible for attending the matter before the Industrial Court. In the review application, documents are filed to show that departmental action is initiated against the erring employees who committed default in attending the matter before the Industrial Court. However, the order passed by this Court on 28th January 2019 cannot be reviewed on the basis of the submission now made in the review application about initiation of the departmental proceedings. The writ petition was dismissed by order dated 28th January 2019. For the first time, show cause notice was issued to the erring officers/ employees on 20th May 2019. Again nothing is pointed in the review application to show any bonafide steps taken against the erring employees inasmuch as the progress of the enquiry is not pointed out in the review application. In the above facts, I find that filing of the review application is unjustified.

Hence, the Miscellaneous Civil Application is **dismissed** with costs of Rupees Ten Thousand to be deposited by the petitioners with High Court Legal Services Sub-Committee, Nagpur.

The amount of costs shall be deposited and receipt of it shall be produced on record of this Miscellaneous Civil Application till 5th May 2021.

JUDGE

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