

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

938 CIVIL APPLICATION NO.16477 OF 2022
IN RAST/29015/2022

CENTRAL PROVIDENT FUND COMMISSIONER AND OTHERS
VERSUS
KISHOR BHAURAO SONKUSARE AND ANOTHER

...
Advocate for Applicants : Mr. Chaudhari Nitin K
Advocate for Respondent No.1 : Mr. S.M. Kulkarni
.....

**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.
DATED : 3rd MARCH, 2023.**

PER COURT :-

1. This is an application for seeking condonation of delay of 1105 days caused in filing the review petition.

2. We have considered the pleadings of the Applicant department and the original complainant/Applicant, set out before the learned Central Administrative Tribunal.

3. The Applicant department has challenged the judgment and order of the learned Tribunal, dated 08.10.2018, delivered in Original Application No. 207 of 2018, by preferring writ petition No. 1075 of 2019, before this court (Coram: Sunil P. Deshmukh and S.M. Gavhane, JJ.). By the judgment dated 11.9.2019, the Writ Petition was dismissed. It was however, set out in paragraph No.18 that, "*in respect of submissions for fitment benefits, it is for appointing authority to take a proper call.*"

4. It appears from the Review Application filed by the Petitioner, that the understanding of the P.F. authorities, on the basis of the above reproduced paragraph 18, that the department is at liberty to decide as to whether the retiral benefits of the original Applicant should be granted or not, in the light of the law laid down by the Hon'ble Supreme Court in ***Chairman and Managing Director, Food Corporation of India and others vs. Jagdish Balaram Bahira and others, (2017) 8 SCC 670***. The Review application is filed for seeking interpretation of this clause.

5. Since the delay is quite large, we probed into the grounds set out in the Review Application. The learned advocate for the EPF. department submits that as the issue was left open, the EPF authorities have placed reliance upon the judgment of the Hon'ble Supreme Court in ***Chairman and Managing Director, Food Corporation of India and others (supra)*** and have already passed an order on 08.12.2022 and have deprived the original Applicant of the service benefits, since he claims to be belonging to a reserved category, he acquired the employment on a post, which was reserved for a particular category and he sought voluntary retirement only for evading the final decision of the competent authority under The Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000.

6. Since the Petitioner has already acted in furtherance of the order of the Division Bench of this Court, more specifically, in terms of paragraph 18, we called upon the learned advocate for the Petitioner to state as to whether the issue still remains open since the Department has already acted on that observation. He states that the department has acted on the order passed by this Court and has generated the order taking away service benefits of the original Applicant.

7. In view of the above, we do not find any purpose left in the review application which is rendered purely of an academic interest.

8. On delay, the learned advocate for the original Applicant has strongly opposed contending that there are hardly any pleadings to indicate as to why the delay of 1105 days has been caused.

9. Since we find that the Review Petition is rendered without any purpose as the department has already acted upon the judgment and the view taken by this Court, we do not see any purpose in condoning the delay, which even otherwise, is not properly explained by the Applicant. As such, the civil application stands rejected.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE , J.)

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