

**CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI**

**ORIGINAL APPLICATION No.581/2019**

**Date of decision: 18.02.2020**

**CORAM:- R. VIJAYKUMAR, MEMBER (A).  
R.N. SINGH, MEMBER (J).**

1. Joginder Kumar S/o. Shri Ramdiya  
Age-32 years, Occupation-Unemployed,  
vpo-Purchasers, Tahsil-Bhawani Khe,  
District-Bhiwandi, Harayana Pin 127032.
2. Monu Kumar S/o Shri Ramesh Chander  
Age-29 years, Occupation: Unemployed  
Resi.VPO Samlo Khurd, Tehsil District,  
Jind, Haryana, Pin 126 102.
3. Rajendra Singh s/o Shri Satbir Singh,  
Age-23 years, Occupation: Unemployed,  
Residence-Dhnakalan, Tehsil Hansi,  
District-Hisar, Haryana, Pin 125 033.
4. Vijay S/o. Shri Sube Singh  
Aged-30 years, Occupation: Unemployed,  
Residence VPO Bahdwar,  
Tehsil Barwala, District Hisar,  
Haryana Pin 125 121.
5. Anil Kumar s/o Shri Rajbir,  
Aged-33 years, Occupation: Unemployed  
Residence of CPO Kharenty  
Tehsil-Julane, District-Jind,  
Haryana, Pin 126 102.
6. Mr. Kuldeep s/o. Shri Ram Niwas,  
Aged about 25 years,  
Occupation: Nil,  
Residential Address: VPO Budhain,  
Tehsil-NArvana, District-Jind,  
Haryana, Pin 126 115.
7. MR. Jasbir S/o. Shri Daya Kishan Sharma  
Aged about 25 years, Occ.Nil,  
Residential Address-VPO-Ugalan,  
Tehsil, District-Hisar, Haryana,  
Pin-125 038.



8. Rajkumar S/o. Ishwar Singh,  
Age 25 years, Occ. Unemployed,  
Residence at VPO Budhain,  
Tehsil, Narvana District,  
Jind Harayana,  
Pin 126 115.

... Applicants.

(By Advocate Shri Joe D'Souza)

**VERSUS.**

1. Union of India,  
Through the Secretary to  
Department of Posts,  
Communications & Information  
Technology, Sanchar Bhawan,  
New Delhi 100011.
2. The Chief Post Master General,  
Maharashtra Circle,  
Mumbai-400 001.
3. The Assistant Director,  
Postal Services (Recruitment), GPO,  
Maharashtra Circle,  
Mumbai 400001.

... Respondents.

(By Advocate Shri R. R. Shetty)

**ORDER (O R A L)**

**Per: R.N. SINGH, MEMBER (J)**

1. When the case is called out, Shri F. A. Khan, learned proxy counsel appeared for Shri Joe D'souza, learned counsel for the applicants.
2. Shri R. R. Shetty, learned counsel appeared for the respondents.
3. The learned proxy counsel for the applicants submits that the learned arguing counsel for the applicant has though preferred a



leave note to seek the adjournment, however, as issue is involved in which OA No.541/2019 is heard and is being disposed of today, the present OA can also be disposed of.

4. The applicants 08 in number have challenged the order no.ADR/2-DR-Allt-corr/2016 dated 25.11.2016 issued by the respondent no.2 canceling the result of the entire examination for direct recruitment to the post of Postman/Mail Guard held on 29.03.2015 and other examination of Multi-Tasking Staff (MTS) held on 03.05.2015 w.e.f. 25.11.2016 and also the subsequent letters issued to the selected applicants on above mentioned letters.

5. The applicants have prayed for the following reliefs:

"(A) This Hon'ble Tribunal be pleased to allow this application.

(B) This Hon'ble Tribunal be pleased to set aside the impugned order dated 26.11.2016 annexed as Annexure A/1 to the extent of the Applicants and subsequent letters issued to selected candidates and direct the Respondents to restore the appointment of the Applicants to the post for which each of the Applicant was selected.

(c) Any other relief which this Hon'ble Tribunal deems fit in the interest of justice and to



which the Applicants are found entitled to any be granted in favour of the Applicants."

6. The learned counsel for the applicants have argued that the identical issue has already been adjudicated by the Hon'ble High Court of Bombay, Bench at Aurangabad in WP No.12117/2016 titled Prakash Vs. Union of India and Ors with a batch of WPs No. (Annexure A-4).

7. The applicants have filed an MA No.540/2019 in the aforesaid OA seeking permission to file the aforesaid OA jointly. The learned counsel for the applicants submits that the applicants are similarly placed as the petitioners in the case of **Prakash (supra)** and they are praying for extension of benefit of the judgment in **Prakash (supra)** in the present OA.

8. In view of the averments made in the MA and keeping in view no objections from the learned counsel for the respondents, the MA is allowed.

9. The applicants have filed MA No.541/2019 in the aforesaid OA seeking condonation of delay of 957 days in filing of the aforesaid OA. The learned counsel for the applicants argue that the applicants were found



successful in the relevant selection process. However, the selection process has itself been canceled by the respondents and that cancellation was challenged by similarly placed persons before various Benches of this Tribunal and such challenge also came up before the Hon'ble High Court of Bombay, Bench at Aurangabad in WP No.12117/2016 and a Batch of Writ petitions, referred to above.

10. The learned counsel for the applicants very fairly submits that though the WP have been decided by the Hon'ble High Court of Bombay, Bench at Aurangabad, however, the said judgment of the Aurangabad High Court is subject matter of challenge before the Hon'ble Apex Court.

11. The respondents have filed reply to the MA and the learned counsel for the respondents with the assistance of the reply so filed vehemently opposes the prayer of the applicants seeking condonation of delay. He submits that the applicants being a fence sitter can rather claim the benefit of the judgment of the Hon'ble High Court, referred to herein above nor the limitation involved in the matter is required to be condoned.



12. We have considered the submissions made on behalf of the learned counsels for the parties. We are of the view that once it is admitted fact that the examination in which the applicants have appeared has been canceled and the same has not been found favour by the Hon'ble High Court in aforesaid WP and is still pending before the Hon'ble Supreme Court, the delay of the OA can be condoned as the applicants have prayed in the OA for extension of benefit of the judgment of the Hon'ble High Court in **Prakash (supra)**. In this regard, we may rely upon the law laid down by the Hon'ble Apex Court in case of K. C. Sharma Vs. Union of India, reported in 1998 (1) SLJ page 54 SC.

Accordingly, the application seeking condonation of delay deserves to be allowed. Accordingly, we allow the MA and delay in filing of the present OA is condoned.

13. On merit, the learned counsel for the applicants submits that the issued involved in the present OA has already been decided by the Hon'ble High Court of Bombay, Bench at Aurangabad in the aforesaid WP with a batch of other WP(s). However, he does not dispute that



the respondents have not taken a final decision as to whether the applicants are placed similar to the petitioners in the aforesaid WPs. Besides, it is also not in dispute that the judgment of the Hon'ble High Court of Bombay, Bench at Aurangabad is still subject matter of adjudication before the Hon'ble Apex Court in the Petition for Special Leave to Appeal(c) Nos.22969-22976/2019.

14. We have perused the pleadings on record and have considered the submissions made on behalf of the parties.

15. In view of the facts and circumstances, the OA is disposed of with directions to the respondent that the claim raised by the applicant shall be considered by the respondents keeping in view the judgment of the Hon'ble High Court in the case of **Prakash (supra)** and the respondents shall pass a speaking and reasoned order which shall be subject to outcome of the judgment of the Hon'ble Apex Court in SLP filed against the judgment of the Hon'ble High Court of Bombay, Bench at Aurangabad in the aforesaid WPs.

16. We make it clear that by the present



order, we have not adjudicated as to whether the applicants are similarly placed as the petitioners before the Hon'ble High Court of Bombay, Bench at Aurangabad.

17. The OA is disposed of in the aforesaid terms. However, in the facts and circumstances, no order as to costs.

(R. N. Singh)  
Member (J)

(R. Vijaykumar)  
Member (A)

V.

JD  
24/12/2020