

7.4.2016

Shri A.L. Gupta, Advocate for the appellant.

Shir Anoop Nair, Advocate for the respondent
No.1.

Heard counsel for the parties on admission.

This petition is directed against the order dated 10.2.2016 passed in W.P. No.4107/2015 vacating the interim order which was operating in favour of the appellant since 29.9.2015, at the instance of the respondents on an application formally filed in that behalf.

Learned Single Judge in the impugned order has found as of fact that admittedly there was no acknowledgment on record to indicate that the petitioner had filled in a form in the prescribed format and within the specified time.

Reliance placed on the decision of the same learned Single Judge dated 18.12.2014 in W.P. No.15492/2014 and for that matter even on the decision of the Division Bench of this Court dated 7.4.2015 in W.A. No.150/2015 is of no avail to the appellant. In the decision dated 18.12.2014 there is nothing to indicate that the fact situation of the case before the Court was identical to that

of the petitioner.

In the present case, it has been found that there is no acknowledgment on record to indicate that the petitioner had filled in the form in the prescribed format within the specified time. In the case before the Division Bench, the Court had noted the argument and found that requisite formalities were completed by the concerned employee within the extended period. That is not the plea taken in the present matter. Reliance placed on any other decision, which is appended to the writ petition will also be of no avail, keeping in mind the distinction made by learned Single Judge on facts of the present case. No fault can be found with the said approach of the learned Single Judge, nor any interference is warranted in exercise of writ appeal jurisdiction.

We are conscious of the fact that it is well settled position that if in similar fact situation co-ordinate Bench grants any relief, the same relief must enure to person similarly situated. However, as aforesaid, in the present case, fact situation has been distinguished by the learned Single Judge, in the impugned order itself.

The next argument of the petitioner was that the appellant has been making representations to the

concerned Authorities. That also does not commend to us. Making representation is not the something as completing formalities of filling of form in the prescribed format and within the specified time. The appellant having failed to substantiate that position, no fault can be found with the view taken by the learned Single Judge for vacating the interim order, which was erroneously granted on the assumption that the fact situation of the present case and the case in which the interim order was granted was same.

Hence, **Dismissed.**

(A. M. Khanwilkar)
Chief Justice

(Sanjay Yadav)
Judge

*Khan**