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LOKNARAYAN PANDE AND ORS.

v.

STATE OF MAHARASHTRA AND ORS.

OCTOBER 7, 1996

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[K. RAMASWAMY AND G.B. PATTANAİK, JJ.]

Service Law :

C *Maharashtra Subordinate Police Service—Head Constables—Regularisation—Consideration for promotion as Sub-Inspector—Held, petitioners did not file their willingness within the prescribed period—On their own inaction, they have committed default—Government was right in not considering their claims.*

D CIVIL APPELLATE JURISDICTION : Special Leave Petition (C) No. 19487 of 1996.

From the Judgment and Order dated 10.5.96 of the Maharashtra Administrative Tribunal, Nagpur in O.A. No. 492 of 1994.

E G.L. Sanghi, N.R. Choudhury, Deepak Bhattacharjee and Somnath Mukherjee for the Petitioners.

The following Order of the Court was delivered :

This petition has been filed against the order of the Maharashtra Administrative Tribunal made on 10.5.1996 in OA No. 492/94 and batch.

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The petitioners are Head Constables in Maharashtra Subordinate Police Service and on the earlier occasion when they had filed writ petitions in the High Court, the High Court by order dated 30.4.1991 had directed that it would be open to the petitioners to participate in the regularisation process of the candidates who appeared in the year 1991 provided they filed their willingness within two months from the date of the order. The marks secured in the written examinations conducted in 1984-85 would be restored and the marks secured in the interview etc. would be taken into account. In case they were found eligible on merit, they were to be placed in the merit list and considered according to rules for promotion as
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H Sub-Inspector. Admittedly, the petitioners had not filed the willingness

within two months as directed by the High Court. They filed a special leave petition against the order and this Court had dismissed the same. We are informed that they filed their undertakings within two months thereafter. When they were not being considered and requisition was sought to be made, the Government did not accept their applications. Thus, they have filed the present petition.

Shri Sanghi, learned senior counsel appearing for the petitioner, has brought to our notice a circular issued by the Government in which permission was granted to conduct the interview afresh. It would appear that another batch of candidates has approached the Tribunal and obtained the same order from the Tribunal on the basis of which the Government have issued the aforesaid order. Placing reliance thereon, it is contended that since the Government have given three months' time in the said circular, the petitioners are also entitled to avail of that benefit of appearing for regularisation. It is also contended on the basis of the instructions issued across the Bar by the instructing counsel that the Director General of Police had not conducted the examinations even for the year 1991 as pointed out by the High Court and, therefore, the petitioners cannot be denied of the right to appear for *viva voce* as directed by the Division Bench.

We cannot give any acceptance to the contention for the reason that when the High Court had prescribed the time limit of two months and when the petitioners had approached this Court against the direction given by the High Court, the necessary consequence would be that either they should have sought for extension of time from the High Court or they should have sought further time from this Court for giving written undertaking. Unfortunately, they did not seek such extension of time. The Government, therefore, was right in not considering their claims after filing the writ petition. Mere fact that another batch of people had approached the Tribunal and obtained similar orders directed by the High Court and the Government had directed them to avail of that remedy as per the circular, would not furnish any further cause of action to the petitioners to avail of that remedy. On their own inaction, the petitioners have committed default and they have to face the consequences.

The special leave petition is accordingly dismissed.