**Before The Hon'ble State Administrative Tribunal At Shimla**

OA No.:\_\_\_\_\_\_ of 2004

Applicant

Versus

Respondents

Application Under Section 19 of the Administrative Tribunals Act, 1985

Shimla Applicant

\_\_\_\_\_\_ Through, Advocate

Respectfully Sheweth :

1. Particulars of the Applicant:

As given in the Memo of Parties.

2. Particulars of the Respondents:

As given in the Memo of Parties.

3. Impugned Order:

That the applicants are aggrieved by the impugned action of the respondents whereby they are not going to give the similar benefit to the applicants as is being given to other junior persons on the basis of judgment of this Hon'ble Tribunal.

4. Jurisdiction:

That the applicant declares that the subject matter is within the jurisdiction of this Hon'ble Tribunal.

5. Limitation:

That the applicant further declares that the application is within the limitation.

6. Facts of the Case:

6.1 That the applicant No. \_\_\_\_\_\_ submits that he joined as a A Class Kanungo in the respondent department in \_\_\_\_\_\_ and thereafter after completing \_\_\_\_\_\_ years of on the job training successfully, the certificate of Efficiency for the post of Kanungo was issued to the applicant on \_\_\_\_\_\_\_\_ in favour of the applicant (Annexure A-1\_\_\_\_\_\_).

6.2 That the applicant passed the Departmental Examinations of Naib-Tehsildar on \_\_\_\_\_\_\_\_ (Annexure A-4).

6.3 That the respondent department convened the Departmental Promotion Committee for the appointment of Naib-Tehsildars on \_\_\_\_\_\_\_\_ to consider the names of eligible Kanungos for promotion as Naib Tehsildars. The Departmental Promotion Committee considered the names of about 18 Kanungos including the applicants were considered in the said DPC.

6.4 That "Naib Tehsildar Service Rules, 1973" provides that "No Kanungo shall be promoted as Naib Tehsildar unless he has passed the prescribed departmental examination for the post of Naib Tehsildar and has put in \_\_\_\_\_\_ years service regular and/or adhoc (rendered upto \_\_\_\_\_\_), if any." Further, the Foot Note 6 added in "HP Naib Tehsildari Service Rules" issued vide Addendum dated 26.8.1981 further provides that "In all cases where a junior person become eligible for consideration by virtue of his total length of service (including adhoc one) in the feeder post, all persons senior to him in the respective category shall be deemed to be eligible for consideration and placed above the junior persons in the field of consideration; Provided that all incumbents to be considered for promotion/confirmation shall possess the minimum qualifying service of at least three years or that prescribed in rules for the post which ever is less; Provided further that where a person becomes ineligible to be considered for promotion/confirmation on account of the requirement prescribed in the preceding proviso, the persons junior to him shall also be deemed to be ineligible for consideration of such promotion/confirmation."

6.5 That the DPC after considering the names of the applicant alongwith 15 other similarly situated persons, did not recommend their names for promotion to the post of Naib Tehsildar in view of the Foot Note despite being senior to some of the recommended persons, ie; S/Sh. \_\_\_\_\_\_ The names of the applicants and other 15 persons were deferred.

6.6 That against such arbitrary and illegal action of the respondent department the applicant made Appeal on \_\_\_\_\_\_\_\_ (Annexures A-6). Prior to this some other similarly situated persons, ie; S/Sh. \_\_\_\_\_\_ also filed Appeals on \_\_\_\_\_\_ which came to be decided and rejected by the respondent department on \_\_\_\_\_\_ (Annexure A-8\_\_\_\_\_). However, the appeals filed by the applicant remained pending adjudication and in the meantime Sh. \_\_\_\_\_\_ filed OA No. \_\_\_\_\_\_ titled as \_\_\_\_\_\_ Vs \_\_\_\_\_\_. As the matter became sub-judice, the respondent department pended the appeals filed by the applicant and other similarly situated persons during the pendency of the OAs as the matter in issue being substantially the same and similar.

6.7 That this Hon'ble Tribunal was pleased to decide both these OAs on \_\_\_\_\_\_ and the applicant was legitimately expecting that they will also be extended the similar benefits by the respondent department.

6.8 That the applicant learnt that in pursuance to the orders of this Hon'ble Tribunal the matter was taken up to give similar benefits to the remaining persons.

6.9 That the applicants in above OA are junior to the present applicants. They have not arrayed the present applicants as parties. As such the present applicants filed representations on \_\_\_\_\_\_ (Annexures A-\_\_\_\_\_) to grant the similar benefits to the applicants in view of the judgments passed by this Hon'ble Tribunal. No decision has been taken on these representations till date by the respondent department and the benefit is being given to only two persons.

GROUNDS

6.10 That feeling aggrieved by such an arbitrary, malafide, discriminatory and illegal actions of the respondents, the applicant seeks the indulgence of this Hon'ble Tribunal on the following grounds amongst others, which may be taken at the time of arguments, each one of which is without prejudice to and independent of others :-

(a) That the impugned order issued by the respondent is arbitrary, malafide, illegal, ultra vires, against the Articles 14 and 16 of the Constitution of India, dehors the rules and regulations and against the natural justice.

(b) That the applicant being a similarly situated person is entitled to be given similar benefits as is being given to the applicants in OA No. \_\_\_\_\_\_ and OA No. \_\_\_\_\_\_ . The appeals of the present applicant was pended till date as the matter has become sub-judice. Now by giving benefits to the junior persons, while pending the decision on the appeals of the applicants, will have far reaching consequences on the service career of the applicant.

(c) That the respondents are estopped due to their own act, deed and conduct. The principle of the Promissory Estopple applies against the respondents.

(d) That the impugned order is against the well settled principles of the law as laid down by the Hon'ble Supreme Court and this Hon'ble Tribunal in catena of cases.

7. Reliefs Sought:

That the applicant, therefore, prays that your Lordship be pleased to issue an appropriate writ, orders or directions to grant the following reliefs in favour of the applicant in the interest of justice:-

(a) Quash the impugned action of the respondent department whereby they are not giving the similar benefits to the present applicant as being given to the applicants in OA Nos. \_\_\_\_\_\_ and \_\_\_\_\_\_, their such action being arbitrary, malafide and illegal;

(b) Direct the respondents to grant the similar benefits to the present applicant as is being given to the applicants in OA Nos. \_\_\_\_\_\_ and \_\_\_\_\_\_ with all the consequential benefits;

(c) Direct the respondents to produce all the relevant documents for perusal by this Hon'ble Tribunal alongwith their reply;

(d) Allow the cost of this OA;

(e) Pass such other order or directions as deemed fit and proper in favour of the applicant.

AND FOR THIS ACT OF KINDNESS, THE HUMBLE APPLICANT AS IN DUTY BOUND, SHALL EVER PRAY.

8. Interim Orders, If Prayed:

Nil.

9. Details of Remedies Exhausted:

That the applicant submits that since the matter being of an urgent nature, there is no other alternative speedy and efficacious remedy available to him except to approach this Hon'ble Tribunal.

10. Matter Not Pending with any Other Courts Etc:

That the applicant further declares that the matter regarding which this application has been made, is not pending before any court of law or any other Authority or any other bench of this Hon'ble tribunal.

11. Particulars of Court Fees:

Court fees worth Rs 50/- is attached herewith.

12. Details of Index:

An index containing the details of the documents to be relied upon is enclosed herewith.

Shimla Applicant

\_\_\_\_\_\_ Through, Advocate

**BEFORE THE HON'BLE STATE ADMINISTRATIVE TRIBUNAL AT SHIMLA**

OA No.: \_\_\_\_\_\_ of 2004

Applicant

Versus

Respondents

Affidavit in support of OA under Section 19 of the Administrative Tribunals Act 1985.

I, \_\_\_\_\_\_, do hereby solemnly, affirm and declare as under :-

1. That the accompanying OA has been prepared under my instructions.

2. That the contents of paras 1 to 12 of the accompanying application are correct and true to the best of my knowledge.

3. That I further solemnly affirm and declare that this affidavit of mine is correct and true to the best of my knowledge and no part of it is false and nothing material has been concealed therein.

Affirmed at Shimla this the \_\_\_\_\_\_.

**BEFORE THE HON'BLE STATE ADMINISTRATIVE TRIBUNAL AT SHIMLA**

OA No.: \_\_\_\_\_\_ of 2004

Applicant

Versus

Respondents

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Shimla Applicant

\_\_\_\_\_\_ Through, Advocate

**BEFORE THE HON'BLE STATE ADMINISTRATIVE TRIBUNAL AT SHIMLA**

MA No. No. \_\_\_\_\_\_ of 2004 in OA No: \_\_\_\_\_\_ of 2004

Applicants

Versus

Respondents

Application Under Rule 4(4)(a) of HP Administrative (Procedure) Rules 1986 for permission to file joint application

Respectfully Sheweth :

1. That the Original applicants have filed OA in this Hon'ble Tribunal jointly.

2. That from perusal of the relief sought by the original applicants, it is evident that all the applicants have common cause which adversely affect the interests of the present applicants.

3. That the interest of justice demands that the present applicants are allowed to file the present OA jointly in the interest of justice.

4. It is, therefore, most humbly prayed that the present applicants may kindly be allowed to file the present OA jointly in the interest of justice. Such other orders be also passed as deemed fit and proper in the facts and circumstances of the case.

Shimla Applicants

\_\_\_\_\_\_ Through, Advocate

**BEFORE THE HON'BLE STATE ADMINISTRATIVE TRIBUNAL HP AT SHIMLA**

MA No.: \_\_\_\_\_\_ of 2004 in OA No.: \_\_\_\_\_\_ of 2004

Applicants

Versus

Respondents/Applicants

Affidavit in support of application under Rule 8 (3) of HP Administrative Tribunal Rules

I, \_\_\_\_\_\_, do hereby solemnly affirm and declare as under:-

1. That the accompanying application has been prepared under my instructions.

2. That the contents of paras 1 to 4 of the accompanying application are correct and true to the best of my knowledge.

3. That I further solemnly affirm and declare that this affidavit of mine is correct and true and no part of it is false and nothing material has been concealed therein.

Affirmed at Shimla this the \_\_\_\_\_\_.

**BEFORE THE HON'BLE STATE ADMINISTRATIVE TRIBUNAL H.P. AT SHIMLA**

MA No. \_\_\_\_\_\_ of 2004 in OA No.: \_\_\_\_\_\_ of 2004

\_\_\_\_\_\_

Versus

Respondents/Non-Applicants

Application under Section 21 (3) of the Administrative Tribunals Act condonation of delay in filing of OA.

Respectfully Sheweth :

1. That the above mentioned OA is filed in this Hon'ble Tribunal by the original applicant.

2. That on perusal of the contents of OA, its grounds and the documents annexed therewith it is evident that the applicant has a plausible case in his favour and the balance of convenience is also in favour of the applicant. The OA is likely to succeed.

3. That however, there has been delay in filing the OA due to the reasons as the respondent department has not decided the appeals of the applicant matter on the similar issue being already sub-judice. But for these good and sufficient reasons, the applicant would have come before this Hon'ble Tribunal within the stipulated time. However, it is submitted that the applicant stands to gain nothing by delaying the matter. No harm or prejudice will be caused to the respondent if the delay in filing the OA is condoned in the interest of justice.

4. It is, therefore, most humbly prayed that the present application may kindly be allowed and the delay in filing the OA may kindly be condoned in the interest of justice. Such other order may also be passed as deemed fit and proper in the facts and circumstances of the case.

Shimla Applicant

\_\_\_\_\_\_ Through, Advocate

**BEFORE THE HON'BLE STATE ADMINISTRATIVE TRIBUNAL H.P. AT SHIMLA**

MA No. \_\_\_\_\_\_ of 2004 in OA No. \_\_\_\_\_\_ of 2004

Applicant

Versus

Respondents

Affidavit in support of application under Section 21 (3) of the Administrative Tribunals Act condonation of delay in filing of OA

I, \_\_\_\_\_\_, do hereby solemnly affirm and declare as under:-

1. That the accompanying application has been prepared under my instructions.

2. That the contents of paras 1 to 4 of the accompanying application are correct and true to the best of my knowledge.

3. That I further solemnly affirm and declare that this affidavit of mine is correct and true and no part of it is false and nothing material has been concealed therein.

Affirmed at Shimla this the \_\_\_\_\_\_.