

**M.A.NO.189/2021 IN M.A.NO.536/2019 IN
O.A.ST.NO.2033/2019
(Usha w/o. A. Gaikwad&Ors.Vs.State of Maharashtra
&Ors.)**

CORAM :Hon'bleShriBijay Kumar, Member (A)

DATE : 02.09.2021

ORAL ORDER :

Heard ShriJ.M.Murkute, learned Advocate for the applicant and ShriB.S.Deokar, learned Presenting Officer for the respondents.

2. M.A.No.189/2021 is preferred by the applicants seeking leave to sue jointly.
3. For the reasons stated in the application and since the cause and the prayers are identical and applicants have prayed for same relief, and to avoid the multiplicity of litigation, leave to sue jointly is granted, subject to payment of court fee stamps, if not paid.
4. Accompanying O.A. be registered and numbered, after removal of office objections, if any. The present M.A. stands disposed of accordingly without any order as to costs.

MEMBER (A)

**M.A.NO.536/2019 IN O.A.ST.NO.2033/2019
(Usha w/o. A. Gaikwad&Ors.Vs.State of Maharashtra
&Ors.)**

CORAM :Hon'bleShriBijay Kumar, Member (A)

DATE : 02.09.2021

ORAL ORDER :

Heard ShriJ.M.Murkute, learned Advocate for the applicant and ShriB.S.Deokar, learned Presenting Officer for the respondents.

2. M.A.No.536/2019 has been filed by the Applicant for condonation of delay of about 1 year, 2 months and 7 days caused in filing O.A.

3. Cause of action of subject matter is continuous and recurrent. The delay caused in filing of accompanying O.A. is satisfactorily explained. Hence, delay caused in filing of O.A. is hereby condoned.

4. O.A. be registered and numbered after removal of office objections, if any.

5. Accordingly, M.A.536/2019 is disposed of without any order as to costs.

MEMBER (A)

**ORIGINAL APPLICATION ST.NO.2033/2019
(Usha w/o. A. Gaikwad&Ors.Vs.State of Maharashtra
&Ors.)**

CORAM :Hon'bleShriBijay Kumar, Member (A)

DATE : 02.09.2021

ORAL ORDER :

Heard ShriJ.M.Murkute, learned Advocate for the applicant and ShriB.S.Deokar, learned Presenting Officer for the respondents.

2. In view of disposal of M.A.No.536/2019 O.A. be registered and numbered, after removal of office objections, if any.

3. The learned P.O. submitted that affidavits in reply on behalf of respondent no.2 have been filed both in M.A. and O.A. and separate affidavit in reply on behalf of respondent no.1 and 3 are not required. The applicant does not wish to file rejoinder to the affidavit in reply, therefore the present case may be kept for final hearing on next date.

4. S.O. to 06-10-2021.

MEMBER (A)

**ORIGINAL APPLICATION NO.688/2019
(Sujit E. GordeVs. State of Maharashtra &Ors.)**

CORAM :Hon'bleShriBijay Kumar, Member (A)

DATE : 02.09.2021

ORAL ORDER :

Heard ShriA.B.Jagtap, learned Advocate for the applicant and Smt. DeepaliDeshpande, learned Presenting Officer for the respondents.

2. Learned P.O. has submitted photocopy of communication by Superintendent of Police, Ahmednagar dated 04-08-2017 addressed to the Director General of Police, Mumbai bearing no.आशा/१०७/४.३/अनुकंपा—नियुक्ती/गोर्डे/२०१७/१३५५, which is taken on record. Likewise, learned Advocate for the applicant has produced communication from one ShriGhanshyamPatil, First Appellate Authority-cum- Additional Superintendent of Police, Ahmednagar communicating the decision on the application made by the applicant under the Right to Information Act, 2005 that is also taken on record.

3. Learned Advocate for the applicant does not want to file rejoinder to the affidavit in reply filed by the respondents.

4. Pleadings are complete, matter be placed for final hearing.

5. S.O. to 07.10.2021.

MEMBER (A)

**ORIGINAL APPLICATION NO.233/2020
(ArunGhateVs. State of Maharashtra &Ors.)**

CORAM :Hon'bleShriBijay Kumar, Member (A)

DATE : 02.09.2021

ORAL ORDER :

Heard ShriV.G.Pingle, learned Advocate for the applicant,ShriM.P.Gude, learned Presenting Officer for the respondent nos.1 to 3 and ShriS.B.Mene learned Advocate for respondent no.4.

2. Affidavit in reply on behalf of respondent nos.1 to 3 has been filed on 11-01-2021. Copy has been received by other side.

3. Learned Advocate for the respondent no.4 adopts affidavit in reply filed on behalf of respondent nos.1 to 3.

4. Learned Advocate for the applicant seeks time to file rejoinder, if necessary.

5. S.O. to 06.10.2021.

MEMBER (A)

**ORIGINAL APPLICATION NO.433/2020
(Ajay LahotVs. State of Maharashtra &Ors.)**

CORAM :Hon'bleShriBijay Kumar, Member (A)

DATE : 02.09.2021

ORAL ORDER :

Heard ShriKakasaheb B. Jadhav, learned Advocate for the applicant and ShriS.K.Shirse, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant seeks time to file affidavit in reply on behalf of the respondents, if necessary. Time is granted.

3. S.O. to 05.10.2021.

MEMBER (A)

**ORIGINAL APPLICATION NO.445/2020
(NarsingMudirajVs. State of Maharashtra &Ors.)**

CORAM :Hon'bleShriBijay Kumar, Member (A)

DATE : 02.09.2021

ORAL ORDER :

Heard ShriV.B.Dhage, learned Advocate for the applicant and Smt. DeepaliDeshpande, learned Presenting Officer for the respondents.

2. Learned P.O. seeks time to file affidavit in reply on behalf of the respondents. Time is granted.

3. S.O. to 24.09.2021.

MEMBER (A)

**ORIGINAL APPLICATION NO.456/2020
(ParvatibaiMaliVs. State of Maharashtra &Ors.)**

CORAM :Hon'bleShriBijay Kumar, Member (A)

DATE : 02.09.2021

ORAL ORDER :

Heard ShriV.B.Dhage, learned Advocate for the applicant and Smt. SanjivaniGhate, learned Presenting Officer for the respondents.

2. Learned P.O. files affidavit in reply on behalf of respondent nos.1 and 2. It is taken on record. Copy thereof has been served on the other side. She seeks time to file affidavit in reply on behalf of respondent no.3.

3. Learned Advocate for the applicant to clarify whether first wife of the deceased is surviving. In case, she is not surviving whether she has children and if so then why they are not made party. In such case, amendment in O.A. may be required to that extent.

4. S.O. to 24.09.2021.

MEMBER (A)

**ORIGINAL APPLICATION NO.113/2021
(VaijinathNavandeVs. State of Maharashtra &Ors.)**

CORAM :Hon'bleShriBijay Kumar, Member (A)

DATE : 02.09.2021

ORAL ORDER :

Heard ShriV.B.Dhage, learned Advocate for the applicant and Smt. DeepaliDeshpande, learned Presenting Officer for the respondents.

2. Learned P.O. seeks time to file affidavit in reply on behalf of the respondent no.5. Learned Advocate for the applicant seeks time to file rejoinder to the reply of respondent nos.1 to 4.

3. Learned P.O. also seeks permission to rectify typographical mistake and correct the same on page 1 and page 2 of affidavit in reply and thereby making it clear that affidavit in reply is on behalf of respondent nos.1 to 4. Permission is granted.

4. S.O. to 24.09.2021.

MEMBER (A)

**ORIGINAL APPLICATION NO.283/2021
(GautamJadhavVs. State of Maharashtra &Ors.)**

CORAM :Hon'bleShriBijay Kumar, Member (A)

DATE : 02.09.2021

ORAL ORDER :

Heard ShriHarish S. Bali, learned Advocate for the applicant and ShriI.S.Thorat, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant states that he has not yet received copy of affidavit in reply filed by the respondent no.2.

3. Learned P.O. assures to provide copy of the same to the learned Advocate for the applicant on today itself. Learned P.O. has further clarified that the applicant through prayer clause XIII of O.A. does not seek any relief against the respondent no.1. Therefore, affidavit in reply on behalf of respondent no.1 is not required at this stage.

4. S.O. to 04.10.2021 for filing rejoinder, if necessary.

MEMBER (A)

**M.A.NO.505/2019 IN O.A.ST.NO.2039/2019
(EteshamuddinShaikhVs. State of Maharashtra &Ors.)**

CORAM :Hon'bleShriBijay Kumar, Member (A)

DATE : 02.09.2021

ORAL ORDER :

Heard ShriKakasaheb B. Jadhav, learned Advocate for the applicant and ShriI.S.Thorat, learned Presenting Officer for the respondents.

2. This matter was earlier handled by other Single Bench. This case may be placed before the same Bench.

3. S.O. to 14.09.2021.

MEMBER (A)

**M.A.NO.214/2021 IN O.A.NO.179/2021
(State of Maharashtra &Ors. V/s. UjjwalaDeshmukh)**

CORAM :Hon'bleShriBijay Kumar, Member (A)

DATE : 02.09.2021

ORAL ORDER :

Heard ShriV.R.Bhumkar, learned Presenting Officer for the Applicants in M.A. (Original Respondents) and ShriV.G.Pingle, learned Advocate for the Respondent (Original Applicant)

2. This matter was earlier handled by other Single Bench. This case may be placed before the same Bench.

3. S.O. to 04.10.2021.

MEMBER (A)

ORIGINAL APPLICATION NO. 364 OF 2021
(Vinayak K. Kalmbkar Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Bijay Kumar, Member (A)

DATE : 02.09.2021.

ORAL ORDER :

Heard Shri Vishal Bakal, learned Advocate holding for Shri V.S. Kadam, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. Learned Advocate Shri Vishal Bakal, holding for Shri V.S. Kadam, appearing for the applicant has argued the case of grant of interim relief in terms of prayer clause 17(C) and 17 (D) of the Original Application No. 364/2021, which reads as follows:-

“17 (C) Pending hearing and final disposal of this present Original Application, the Respondent Authorities may kindly be restrain from alleged recovery of Rs. 1,71,066/- towards excess payment from the retirement benefits and pensionary benefits of the applicant;

17(D) Pending hearing and final disposal of this present Original Application, the Respondent Authorities may kindly be directed to release the retirement benefits and pensionary benefits to the applicant as per the statement of pay-fixation dated 15.03.2019 and for that purpose issue necessary orders;”

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O.A. No. 364/2021

3. The learned Advocate for the applicant has made above prayers on following grounds:-

(a) Respondent No. 4, the Deputy Director, Pay Fixation Division, Accounts and Treasury Department, Aurangabad has totally overlooked the relevant Government Resolution and illegally, arbitrarily and contrary to the Government Resolutions, considered the date for granting 2nd time bound promotion as 29.09.2003 and consequently, considered benefit of 2nd time bound promotion w.e.f. 29.09.2015. Based on the said pay fixation, the respondent No. 3 has calculated Rs. 1,71,066/- as excess payment to the applicant and directed to recover the said amount from retirement and pensionary benefits of the applicant vide order dated 16.10.2020.

(b) Rural Development Department of State of Maharashtra has issued Circular dated 26.02.2019, thereby clarifying the facts that, if excess payment is made to Class-III and Class-IV employees, the recovery should not be carried out from their pensionary benefits.

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O.A. No. 364/2021

(c) Finance Department of Government of Maharashtra, by a Corrigendum No. शासन शुध्दीपत्रक क्रमांक : अप्रयो- १०१५/ प्र.क्र. १११/ २०१५/ सेवा- ३, दिनांक : २३.१२.२०१५ has issued following corrected instructions:-

“ या योजनेखालीपहिला / दुसराअथवादोन्हीलाभमंजूरकेल्यानंतरप्रत्यक्ष पदोन्नतीनाकारलेल्याअथवापदोन्नतीसअपात्र ठरलेल्याकर्मचा-यांना देण्यातआलेलेलाभकाढून घेण्यात येतील, मात्र दिलेल्यालाभांचीवसूलीकरण्यात येणारनाही.”

(d) The law laid down by the Hon'ble Supreme Court in the matter of State of Punjab and Others Vs. RafiqueMashi (White Washer) reported in AIR 2015 SC 696, it has been categorically held that, recovery due to wrong pay fixation of retired employees should not be carried out from retirement benefits.

(e) The respondents have not made recovery in similar cases of Shri G.P. Joshi and Shri B.M. Bhojar as detailed in Annexure A-7 (Page No. 77 of paper book).

(f) Learned Advocate for the applicant has produced a clear photo copy of extract of service book (ref. page No. 18 of paper book), which shows that the application of whitener was not with intension to

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O.A. No. 364/2021

manipulate any entry therein. It was assured by the applicant to provide a clear true copy of the same for record.

4. Learned Presenting Officer Shri V.R. Bhumkar, for the respondents has opposed the prayer of granting of interim relief in the instant matter as following grounds:-

(i) Corrigendum issued by the Finance Department, Government of Maharashtra dated 29.12.2015, deals with a different situation and does not cover the cause of action stated by the applicant.

(ii) The learned Presenting Officer has relied on three judgments of the Hon'ble High Court of Judicature at Bombay as detailed below:-

(a) W.P. No. 4919 of 2018, State of Maharashtra &Anr. Vs. SureshChandra S/o Dharamchand Jain and Ors. of the Hon'ble High Court of Judicature at Bombay, Nagpur Bench, Nagpur dated 23.07.2019.

(b) Judgment dated 13.02.2018 by the Hon'ble High Court of Judicature at Bombay, Bench at Aurangabad in W.P. No. 7885 of 2016, Walmik S/o S. Sirsath Vs. the State of Maharashtra and Ors.

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O.A. No. 364/2021

(c) Judgment dated 05.02.2020 by the Hon'ble High Court of Judicature at Bombay, Nagpur Bench, Nagpur in W.P. No. 2629/2017 in Mandeep Singh Kohli&Ors. Vs. Union of India through Secretary &Ors.

(iii) The learned Presenting Officer has argued that pay fixation was done subject to verification by Pay Fixation Unit for which the applicant had given undertaking to repay excess amount of payment, if any, determined after pay fixation. Learned Presenting Officer has, as instructed, submitted copies of four pages of a document comprising of a forwarding letter dated 30.08.2021 sent by the Executive Engineer, Nanded Irrigation Division (N), Nanded addressed to the C.P.O., M.A.T., Bench at Aurangabad and undertaking dated 11.02.2019 submitted by the applicant (Marked as document 'X' for the purpose of identification and enclosed at Page Nos. 107 to 110 of paper book).

5. It is on 30.08.2021, that the learned Advocate for the applicant asked for copies of the case laws relied upon by the learned Presenting Officer as elaborated in para No. 4 (ii) above and sought time to submit his say thereon. In view of this, passing of order on the point

of interim relief was deferred to 01.09.2021. The learned Presenting Officer furnished copies of the said case laws to the learned Advocate for the applicant. However, response to the same and a written note of arguments for interim relief have been received only on 01.09.2021. Therefore, passing of order as prayed for interim relief has been deferred to end of the day.

6. Analysis of Facts:-

(a) The applicant has referred to a Corrigendum issued by the Finance Department on 23.12.2015. But the same deals with contingency of declining actual promotion or being ineligible for actual promotion.

(b) The learned Advocate for the applicant has cited some cases of other employees in whose cases Pay Verification Unit did not raise objection despite facts being the same. However, comparison with so called similar cases of other employees may merit examination during hearing of Original Application, as it is not appropriate to base any interim relief on that basis.

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O.A. No. 364/2021

(c) Written note of argument for interim relief submitted by the learned Advocate for the applicant is now referred to. It is not explicitly stated in it that pay fixation after second time-bound promotion has been made taking the post of the applicant prior to the promotion as CRTE Majdoor as basis.

(d) On the other hand, the case laws cited above in para No. 4 (ii) and the gist of argument of learned Advocate for the applicant appear to, prima-facie, have the same ratio as is therein the instant matter.

(e) Learned Advocate for the applicant has raised the point of hearing not given to the applicant before computing amount of recovery and has prayed in the last para of the written note of argument that “the amount found due may be recovered from the pensioner (applicant) in installments so that the amount of pension is not reduced below the minimum fixed by Government.

(f) On considering all facts before me through written submissions and arguments made by two contesting sides, it is clear that, prima-facie, there is no merit in prayer for grant of interim relief as giving of

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O.A. No. 364/2021

undertaking by the applicant rejecting recovery of excess amount paid as determined by the Pay Verification Unit is a matter of record.

7. In view of above, I pass following order:-

ORDER

- (i) The prayer of interim relief in terms of prayer clause 17 (C) and 17 (D) of O.A. No. 364/2021 is hereby rejected.
- (ii) Action taken by the respondents in respect of prayer of the applicant will be subject to outcome of this Original Application.

8. S.O. to 28.09.2021.

MEMBER (A)

**ORIGINAL APPLICATION NO. 137 OF 2017
(Namdeo S. ArsaleVs. State of Maharashtra &Ors.)**

**CORAM :Hon'bleShri V.D. Dongre, Member (J)
AND
Hon'bleShriBijay Kumar, Member (A)**

DATE : 02.09.2021

ORAL ORDER :

We have heard Shri S.D. Joshi, learned Advocate for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents, at length.

2. The present matter is closed for orders.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 66 OF 2018
(Dnyaneshwar P. KadamVs. State of Maharashtra &Ors.)

CORAM :Hon'bleShri V.D. Dongre, Member (J)
AND
Hon'bleShriBijay Kumar, Member (A)

DATE : 02.09.2021

ORAL ORDER :

Heard ShriAvinash S. Deshmukh, learned Advocate holding for ShriKuldeep S. Patil, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. Learned Presenting Officer submits that as per the directions given by this Tribunal on last date i.e. on 24.08.2021, original file is produced by ShriOmprakashArashewar, A.S.O. from the office of respondent No. 2 i.e. M.P.S.C. today. The said original file is ordered to be kept in sealed cover with the office of learned C.P.O. or true Photostat copy of the said file be produced on record.

3. At this stage, learned Advocate for the applicant submitted that as regards the posting of ShriSachinDashrathWagh, the contention was raised by the applicant that he has not joined on the post of Food Safety Officer, Group-B and instead he has

joined on the post of NaibTahsildar. In this regard he seeks

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O.A. No. 66/2018

permission to produce on record short affidavit. Same is taken on record and copy thereof has been served on the other side.

4. At the request and consent of both the sides, S.O. to 04.09.2021 for final hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 29 OF 2020
(ShaikhAkhtarHussainMohd. HanifVs. State of Maharashtra &Ors.)

CORAM :Hon'bleShri V.D. Dongre, Member (J)

DATE : 02.09.2021

ORAL ORDER :

ShriP.B. Rakhunde, learned Advocate for the applicant (**Absent**).

Heard Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. At the request of learned Presenting Officer for the respondents, time is granted for filing affidavit in reply.

3. S.O. to 01.10.2021.

MEMBER (J)

ORIGINAL APPLICATION NO. 153 OF 2020
(Sagar W. SonavaneVs. State of Maharashtra &Ors.)

CORAM :Hon'bleShri V.D. Dongre, Member (J)

DATE : 02.09.2021

ORAL ORDER :

ShriD.M. Pawar, learned Advocate for the applicant (**Absent**).

Heard Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. The notices were not collected by the applicant.
3. As none present for the applicant, S.O. to 01.10.2021.

MEMBER (J)

ORIGINAL APPLICATION NO. 181 OF 2021
(Ravindra B. KanadeVs. State of Maharashtra &Ors.)

CORAM :Hon'bleShri V.D. Dongre, Member (J)

DATE : 02.09.2021

ORAL ORDER :

Heard ShriV.B.Wagh, learned Advocate for the applicant, Shri V.R. Bhumkar, learned Presenting Officer for the respondent No. 1, Shri A.D. Aghav, learned Advocate for respondent No. 2 and Shri S.N. Gaikwad, learned Advocate holding for Smt. Deepali D. Wagh, learned Advocate for respondent No. 3.

2. Record shows that affidavit in reply on behalf of respondent No. 3 is already filed on record.

3. Learned Presenting Officer submits that the affidavit in reply prepared on behalf of respondent No. 1 is pending for approval and therefore, he seeks time. One more last chance is granted.

4. S.O. to 23.09.2021.

MEMBER (J)

ORIGINAL APPLICATION NO. 211 OF 2021
(Sandu Y. DongreVs. State of Maharashtra &Ors.)

CORAM :Hon'bleShri V.D. Dongre, Member (J)

DATE : 02.09.2021

ORAL ORDER :

Heard Shri Sunil B. Jadhav, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. Record shows that affidavit in reply on behalf of respondent Nos. 2 & 5 is already filed on record.
3. Learned Presenting Officer submits that the affidavit in reply of other respondents is not necessary.
4. Learned Advocate for the applicant submits that applicant does not wish to file rejoinder affidavit.
5. In view of above, the present matter is admitted and it be kept for final hearing on 27.09.2021.

MEMBER (J)

**ORIGINAL APPLICATION NO. 388 OF 2021
(Navnath L. DhandeVs. State of Maharashtra &Ors.)**

CORAM :Hon'bleShri V.D. Dongre, Member (J)

DATE : 02.09.2021

ORAL ORDER :

Heard ShriAshishRajkar, learned Advocate holding for Shri K.B. Jadhav, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. At the request of learned Presenting Officer for the respondents, time is granted for filing affidavit in reply.

3. S.O. to 05.10.2021.

MEMBER (J)

**ORIGINAL APPLICATION NO. 416 OF 2021
(Dr. Ajit R. Kothari &Ors.Vs.State of Maharashtra &Ors.)**

CORAM :Hon'bleShri V.D. Dongre, Member (J)

DATE : 02.09.2021

ORAL ORDER :

Heard ShriS.S.Pidgewar, learned Advocate holding for Shri N.L. Choudhari, learned Advocate for the applicantsand Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. At the request of learned Presenting Officer for the respondents, time is granted for filing affidavit in reply.

3. S.O. to 05.10.2021.

MEMBER (J)

**M.A. St. 889/2021 with M.A. St. 890/2021 with
M.A. 111/2020 in O.A. St. 1964/2018
(Madhav B. Marde&Ors.Vs.State of Maharashtra &Ors.)**

CORAM :Hon'bleShri V.D. Dongre, Member (J)

DATE : 02.09.2021

ORAL ORDER :

ShriK.G. Salunke, learned Advocate for the applicants(**Absent**).

Heard Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondent Nos. 1 to 5.Shri G.N. Patil, learned Advocate for respondent No. 6, **absent**.

2. As none present for the applicant, S.O. to 20.09.2021.

MEMBER (J)

ORIGINAL APPLICATION NO. 493 OF 2020
(Prabhu G. ThakareVs. State of Maharashtra &Ors.)

CORAM :Hon'bleShri V.D. Dongre, Member (J)

DATE : 02.09.2021

ORAL ORDER :

ShriS.K. Chavan, learned Advocate for the applicant (**Absent**).

Heard Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. Record shows that affidavit in reply on behalf of respondent No. 2 is already filed on record.

3. As none present for the applicant, S.O. to 16.09.2021.

MEMBER (J)

**ORIGINAL APPLICATION NO. 369 OF 2020
(Uttam G. Salve Vs. State of Maharashtra &Ors.)**

CORAM :Hon'bleShri V.D. Dongre, Member (J)

DATE : 02.09.2021

ORAL ORDER :

Heard ShriAshishRajkar, learned Advocate holding for Shri K.B. Jadhav, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. Record shows that pleadings up to rejoinder are complete. The present matter is pertaining to benefit of Assured Career Progress Scheme.

3. In view of above, the present matter is admitted and it be kept for final hearing on 01.10.2021.

MEMBER (J)

ORIGINAL APPLICATION NO. 503 OF 2021
(Vilas V. Bari Vs. State of Maharashtra &Ors.)

CORAM :Hon'bleShri V.D. Dongre, Member (J)

DATE : 02.09.2021

ORAL ORDER :

Heard ShriV.B.Wagh, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. Issue notice to the respondents, returnable on 27.09.2021.

3. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

4. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

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O.A. No. 503/2021

6. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

7. S.O. to 27.09.2021.

8. Steno copy and Hamdast is allowed to both parties.

9. The present matter be placed on separate board.

MEMBER (J)

ORIGINAL APPLICATION NOS. 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881 & 882 ALL OF 2017
(ShriTulshidas K. Patil V/s. State of Maharashtra &Ors.)

CORAM :Hon'bleShri V.D. Dongre, Member (J)

DATE : 02.09.2021

ORAL ORDER :

Heard Shri M.K. Deshpande, learned Advocate for the applicant in all these O.As. and S/shri S.K. Shirse, V.R. Bhumkar, N.U. Yadav, M.P. Gude, D.R. Patil, B.S. Deokar, I.S. Thorat, Smt. Sanjivani K. Deshmukh-Ghate& Smt. Deepali S. Deshpande, learned Presenting Officers for the respective respondents in respective O.As.

2. At the request and by consent of both the sides, S.O. to 07.10.2021.

MEMBER (J)

**ORIGINAL APPLICATION NO.66 OF 2021
(Gajendra T. PatilVs. the State of Maha.&Ors.)**

CORAM :Hon'bleShriV.D. Dongre, Member (J)

DATE : 2.9.2021

ORAL ORDER

Heard ShriS.R.Patil, learned Advocate for the applicantandShriM.P. Gude, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant has filed rejoinder affidavit and the same is taken on record and copy thereof has been served on the learned Presenting Officer for the respondents.

3. S.O. to 27.9.2021.

MEMBER (J)

ORAL ORDERS 2.9.2021-HDD

**M.A.NO. 31/2021 IN O.A.ST.NO. 62/2021
(Ramkisan J. Nampalle&Ors.Vs. the State of
Maharashtra&Ors.)**

CORAM :Hon'bleShriV.D. Dongre, Member (J)

DATE : 2.9.2021

ORAL ORDER

Heard ShriV.B.Dhage, learned Advocate for the applicant and ShriD.R. Patil, learned Presenting Officer for the respondents.

2. At the request of learned Presenting Officer for the respondents, S.O. to 16.9.2021.

MEMBER (J)

ORAL ORDERS 2.9.2021-HDD

**M.A.NO. 249/2019 IN O.A.ST.NO. 1026/2019
(Madhukar K. JadhavVs. the State of Maha.&Ors.)**

CORAM :Hon'bleShriV.D. Dongre, Member (J)

DATE : 2.9.2021

ORAL ORDER

ShriVivek G. Pingle, learned Advocate for the applicant (**absent**). ShriB.S. Deokar, learned Presenting Officer for the respondents, present.

2. Since none appears for the applicant, S.O. to 29.9.2021.

MEMBER (J)

ORAL ORDERS 2.9.2021-HDD

**ORIGINAL APPLICATION NO. 447 OF 2020
(Vaishali V. HingeVs. the State of Maha.&Ors.)**

CORAM :Hon'bleShriV.D. Dongre, Member (J)

DATE : 2.9.2021

ORAL ORDER

Heard ShriS.D.Joshi, learned Advocate for the applicant and ShriM.P. Gude, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant has filed copy of decisions rendered by the Principal Seat of this Tribunal in O.A. Nos. 530/2020 and 300/2020 and the judgment delivered by the Hon'ble High Court of Judicature at Bombay in W.P. (St.) No. 2856/2021. The same are taken on record. Learned Presenting Officer has filed photo copy of original record and the same is also taken on record.

3. The present O.A. is heard at length and reserved for orders.

MEMBER (J)

**ORIGINAL APPLICATION NO. 506 OF 2021
(Ranjana A. BardeVs. the State of Maha. &Ors.)**

CORAM :Hon'bleShriBijay Kumar, Member (A)

DATE : 2.9.2021

ORAL ORDER

Heard Ms. Preeti R. Wankhade, learned Advocate for the applicant and Mrs. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. The present Original Application has been filed by the applicant challenging her transfer order dated 23.8.2021 (Annexure 'A-4', page-54 of paper book of O.A.), thereby transferring her from Police Station PethBeed to Ashti, Tq. & Dist. Beed. Learned Advocate for the applicant has submitted that the applicant is not relieved from Police Station PethBeed till date. Therefore, she submits that the status quo may be granted.

3. Learned Presenting Officer submits that she will try to get minutes of Police Establishment Board pertaining to the present case till tomorrow evening. In view of the same, status quo may be maintained till tomorrow.

3. S.O. to 3.9.2021.

MEMBER (A)

**ORIGINAL APPLICATION NO. 583 OF 2018
(Sahebrao A. SormareVs. the State of Maha. &Ors.)**

CORAM :Hon'bleShriBijay Kumar, Member (A)

DATE : 2.9.2021

ORAL ORDER

Heard ShriKakasaheb B. Jadhav, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. Both the sides have finished their arguments and assured to submit brief written notes of arguments inclusive of case laws on which they are relying upon, by the next date.

S.O. to 15.9.2021.

MEMBER (A)

ORAL ORDERS 2.9.2021-HDD

**ORIGINAL APPLICATION NO.282 OF 2019
(Deorao G. KaleVs. the State of Maha. &Ors.)**

CORAM :Hon'bleShriBijay Kumar, Member (A)

DATE : 2.9.2021

ORAL ORDER

Heard ShriHanumantP.Jadhav, learned Advocate for the applicant and ShriN.U. Yadav, learned Presenting Officer for the respondents.

2. Both the sides have finished their arguments and they are going to submit brief written notes of arguments. They are at liberty to file case laws on which they are relying, which may be discussed on the next date of hearing.

3. S.O. to 22.9.2021.

MEMBER (A)

ORAL ORDERS 2.9.2021-HDD

**ORIGINAL APPLICATION NO.189 OF 2018
(Dhiraj A. Salve Vs. State of Maharashtra & Ors.)**

**CORAM :Hon'bleShri V.D. Dongre, Member (J)
AND
Hon'bleShriBijay Kumar, Member (A)**

DATE : 02.09.2021

ORAL ORDER :

Heard Shri Rahul O. Awsarmol, learned Advocate for the applicant, Shri N.U. Yadav, learned Presenting Officer for the respondent Nos.1 to 3 and Shri V.B. Wagh, learned Advocate for the respondent Nos.4 to 8.

2. Affidavit-in-rejoinder filed on behalf of the applicant is taken on record and copy thereof has been served on the other side.

3. S.O. to 07.10.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.141 OF 2021
(Shubham A. PagareVs. State of Maharashtra & Ors.)

CORAM :Hon'bleShri V.D. Dongre, Member (J)
AND
Hon'bleShriBijay Kumar, Member (A)

DATE : 02.09.2021

ORAL ORDER :

Heard Shri S.D. Dhongde, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. At the request of learned P.O., time is granted for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 01.10.2021.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO.307 OF 2021
(Vaishali K. KordeVs. State of Maharashtra & Ors.)**

**CORAM :Hon'bleShri V.D. Dongre, Member (J)
AND
Hon'bleShriBijay Kumar, Member (A)**

DATE : 02.09.2021

ORAL ORDER :

Heard ShriJayant S. Deshmukh, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. At the request of learned P.O., time is granted for filing affidavit-in-reply on behalf of the respondents.
3. S.O. to 07.10.2021.

MEMBER (A)

MEMBER (J)

**C.P.NO.15 OF 2021 IN M.A.NO.91 OF 2020 IN
O.A.ST.NO.120 OF 2020
(Mahesh D. ShivankarVs. State of Maharashtra & Ors.)**

**CORAM :Hon'bleShri V.D. Dongre, Member (J)
AND
Hon'bleShriBijay Kumar, Member (A)**

DATE : 02.09.2021

ORAL ORDER :

Heard Shri S.L. Bhapkar, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. By this application, the applicant is alleging contempt of the order passed by this Tribunal on 15.12.2020 in M.A.No.91/2020 in O.A.St.No.120/2020.

3. It is grievance of the applicant that though he has been given temporary promotion to the post of Deputy Director, his representation dated 13.09.2019 referred in the said order is not decided.

4. In view of same, the learned P.O. to take instruction on that aspect.

5. S.O. to 7.10.2021.

MEMBER (A)

MEMBER (J)

**M.A.ST.NO.684/2021 WITH O.A.ST.NO.590/2021
(Jayant S. DeshmukhVs. State of Maharashtra & Ors.)**

**CORAM :Hon'bleShri V.D. Dongre, Member (J)
AND
Hon'bleShriBijay Kumar, Member (A)**

DATE : 02.09.2021

ORAL ORDER :

Heard Shri H.F. Pawar, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. Record shows that there is office objection about the jurisdiction.

3. Learned Advocate for the applicant seeks permission to withdraw the present M.A. and O.A. with liberty to file the same before the appropriate forum. Permission as prayed for is granted.

4. In view of above, the M.A.St.No.684 of 2021 and O.A.St.No.590/2021 are disposed of as withdrawn with liberty to the applicant to file the same before the appropriate forum. No order as to costs.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION ST.NO.947 OF 2021
(Dr. Sudam H. MogleVs. State of Maharashtra & Ors.)**

**CORAM :Hon'bleShri V.D. Dongre, Member (J)
AND
Hon'bleShriBijay Kumar, Member (A)**

DATE : 02.09.2021

ORAL ORDER :

Heard Shri Shamsundar B. Patil, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant seeks time for removal of office objection. Time is granted.

3. At the request of learned Advocate for the applicant, S.O. to 09.09.2021.

MEMBER (A)

MEMBER (J)

**C.P.NO.19 OF 2019 IN O.A.NO.226 OF 2016
(Shivram N. DhapateVs. State of Maharashtra & Ors.)**

**CORAM :Hon'bleShri V.D. Dongre, Member (J)
AND
Hon'bleShriBijay Kumar, Member (A)**

DATE : 02.09.2021

ORAL ORDER :

Heard Shri P.M. Shinde, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant submits that separate application is filed by the applicant against the order passed by the respondent no.2 dated 23.09.2019.

3. The said matter bearing M.A.No.282/2021 in O.A.St.No.1101/2021 is fixed on 27.09.2021.

4. Hence, the present matter be kept on that date i.e. on 27.09.2021.

MEMBER (A)

MEMBER (J)

**C.P.NO.21 OF 2019 IN O.A.ST.NO.1857 OF 2017
(Vasant N. PhadVs. State of Maharashtra & Ors.)**

**CORAM :Hon'bleShri V.D. Dongre, Member (J)
AND
Hon'bleShriBijay Kumar, Member (A)**

DATE : 02.09.2021

ORAL ORDER :

Heard Shri B.R. Kedar, learned Advocate for the applicant, Shri D.R. Patil, learned Presenting Officer for the respondent No.3 and Shri S.B. Mene, learned Advocate for the respondent nos.1 & 2.

2. At the request of learned Advocate for the applicant, S.O. to 20.09.2021.

MEMBER (A)

MEMBER (J)

**C.P.NO.50 OF 2019 IN O.A.NO.242 OF 2017
(Mohan R. ChaudhariVs. State of Maharashtra & Ors.)**

WITH

**C.P.NO.51 OF 2019 IN O.A.NO.648 OF 2017
(Bhaskar S. PatilVs. State of Maharashtra & Ors.)**

WITH

**C.P.NO.52 OF 2019 IN O.A.NO.878 OF 2016
(Nitinkumar T. AdheVs. State of Maharashtra & Ors.)**

WITH

CORAM :Hon'bleShri V.D. Dongre, Member (J)

AND

Hon'bleShriBijay Kumar, Member (A)

DATE : 02.09.2021

ORAL ORDER :

Heard Shri A.D. Sugdare, learned Advocate for the applicant in all these matters and S/shri M.P. Gude, N.U. Yadav& B.S. Deokar, learned Presenting Officers for the respective respondents in respective matters.

2. In farad sheet dated 17.06.2021 it is already recorded that the order in question dated 30.10.2018 commonly passed by this Tribunal in O.A.Nos.878/2016, 242/2017 &, 648 of 2017 is challenged by the respondents by filing Writ Petition No.10402/2019.

3. In view of same, S.O. to 25.10.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.464 OF 2019
(Dayanand F. GangeVs. State of Maharashtra & Ors.)

CORAM :Hon'bleShri V.D. Dongre, Member (J)
AND
Hon'bleShriBijay Kumar, Member (A)

DATE : 02.09.2021

ORAL ORDER :

Heard Shri A.B. Rajkar, learned Advocate for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents.

2. The present matter is pertaining to removal of the applicant from services by holding the departmental enquiry.

3. Pleadings are complete. The matter is admitted and it is fixed for final hearing on 18.10.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.385 OF 2020
(Rajinder Singh S/o Shobha Singh Kolhapure Vs. State of
Maharashtra & Ors.)

CORAM :Hon'bleShri V.D. Dongre, Member (J)
AND
Hon'bleShriBijay Kumar, Member (A)

DATE : 02.09.2021

ORAL ORDER :

Heard Shri R.D. Khadap, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicant, time is granted for filing affidavit-in-rejoinder.

3. S.O. to 08.10.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.435 OF 2020
(Ratikant R. SonwaneVs. State of Maharashtra & Ors.)

CORAM :Hon'bleShri V.D. Dongre, Member (J)
AND
Hon'bleShriBijay Kumar, Member (A)

DATE : 02.09.2021

ORAL ORDER :

Heard Shri V.G. Pingle, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. Record shows that affidavit-in-reply is filed on behalf of the Respondent Nos.1 to 3.

3. Learned Advocate for the applicant submits that affidavit-in-rejoinder is not necessary.

4. The matter is pertaining to termination of the applicant from the services due to not passing the departmental examination in four attempts.

5. The appointment of the applicant was on compassionate ground.

6. In view of above, the Original Application is admitted and it is fixed for final hearing on 14.10.2021.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO.22 OF 2021
(Nuktyarsing R. ThengVs. State of Maharashtra & Ors.)**

**CORAM :Hon'bleShri V.D. Dongre, Member (J)
AND
Hon'bleShriBijay Kumar, Member (A)**

DATE : 02.09.2021

ORAL ORDER :

Heard ShriAvinash S. Deshmukh, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. Pleadings are complete. The matter is admitted and fixed for final hearing on 13.10.2021.
3. Interim relief granted earlier to continue till then.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.204 OF 2021
(Ganesh G. Jaybhaye&Ors.Vs. State of Maharashtra & Ors.)

CORAM :Hon'bleShri V.D. Dongre, Member (J)
AND
Hon'bleShriBijay Kumar, Member (A)

DATE : 02.09.2021

ORAL ORDER :

Heard Shri S.D. Dhongde, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. By consent of both the sides, S.O. to 27.09.2021 for hearing.

MEMBER (A)

MEMBER (J)

**M.A.NO.262 OF 2019 IN O.A.ST.349 OF 2019
(DadasahebM.KewatVs. State of Maharashtra & Ors.)**

**CORAM :Hon'bleShri V.D. Dongre, Member (J)
AND
Hon'bleShriBijay Kumar, Member (A)**

DATE : 02.09.2021

ORAL ORDER :

Heard Shri V.G. Pingle, learned Advocate for the applicant, Shri D.R. Patil, learned Presenting Officer for the respondent Nos.1 to 3 & 5 and Shri S.D. Dhongde, learned Advocate for the respondent no.4.

2. Record shows that notices are issued in Misc. Application as well as Original Application.

3. Learned P.O. submits that affidavit-in-reply already filed on behalf of the respondent Nos.1 & 2 in M.A. be treated as affidavit-in-reply of Respondent Nos.1 & 2 in Original Application.

4. Learned Advocate for the respondent no.4 adopts the said affidavit-in-reply.

5. Affidavit-in-rejoinder is also filed by the applicant.

6. No affidavit-in-reply is filed in the Misc. Application which is made for condonation of delay.

7. In view of above, S.O. to 14.10.2021 for hearing.

MEMBER (A)

MEMBER (J)

M.A.NO.202 OF 2021 IN O.A.NO.639 OF 2019
(Ajit V. PawarVs. State of Maharashtra & Ors.)

CORAM :Hon'bleShri V.D. Dongre, Member (J)
AND
Hon'bleShriBijay Kumar, Member (A)

DATE : 02.09.2021

ORAL ORDER :

Heard Ms. AnaghPandit, learned Advocate holding for Shri S.B. Talekar, learned Advocate for the applicant, Shri S.K. Shirse, learned Presenting Officer for the respondent Nos.1 & 2 and Shri A.S. Mirajgaonkar, learned Advocate holding for Shri C.V. Dharurkar, learned Advocate for the respondent no.3.

2. At the request of learned P.O. for the respondent nos.1 & 2 and learned Advocate for the respondent no.3, time is granted for filing affidavit-in-reply.

3. S.O. to 11.10.2021.

MEMBER (A)

MEMBER (J)

**O.A.NO.320 OF 2021 WITHM.A.NO.245 OF 2021
(Amold.JeveVs. State of Maharashtra & Ors.)**

**CORAM :Hon'bleShri V.D. Dongre, Member (J)
AND
Hon'bleShriBijay Kumar, Member (A)**

DATE : 02.09.2021

ORAL ORDER :

Heard Shri A.V. Thombre, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. By order dated 12.08.2021 passed in farad sheet it is observed that we have to see whether this Tribunal is competent enough to grant relief claimed in O.A. as well as the relief sought to be brought on record in amendment application bearing M.A.No.245/2021.

3. Admittedly, the applicant is working as Assistant Teacher in ZillaParishad School, Bagdande, Tal. Shrivardhan, District-Raigad. The Original Application was filed challenging the impugned notice/letter dated 09.06.2021 issued by respondent no.3 and addressed to respondent no.4 for taking necessary action of termination of the applicant who was appointed on the basis of bogus freedom fighter certificate. The said issue was determined in the year, 2014. Pursuant to that, the respondent no.4 has issued show cause notice dated 29.07.2021 as to why the services of the applicant should not be terminated.

//2//

O.A.320/21 IN
M.A.245/2021

4. In that respect, the applicant has filed the present Misc. Application no.245/2021 seeking amendment in the Original Application No.320/2021 and also challenging the said letter/notice dated 29.07.2021.

5. In view of above, learned Advocate for the applicant and learned P.O. for the respondents were directed to address this Tribunal on the issue of jurisdiction.

6. Heard Shri A.V. Thombre, learned Advocate for the Applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

7. Learned Advocate for the applicant submits that necessary order may be passed.

8. Considering the abovesaid facts on record, it is evident that the issue as regards the legality of certificate of freedom fighter on which the applicant got the employment would fall within the jurisdiction of this Tribunal. But learned Advocate for the applicant submits that the said issue was decided in 2014. The Applicant has not challenged it. But some of the similarly situated persons had challenged the same but same was dismissed.

//3//

**O.A.320/21 IN
M.A.245/2021**

9. In view of above, the present litigation seems to be necessarily between the applicant who is working as Assistant Teacher in ZillaPartishadt School, Bagdande, Tal. Shrivardhan, Dist. Raigad i.e. Respondent No.4 and the said authority, which does not fall within the jurisdiction of this Tribunal. In this regard, there is no government notification under Section 15(2) of the Administrative Tribunal Act, 1985 making applicable that Act to the employees of local or other authorities and corporation.

10. In view of same, this Tribunal will have no jurisdiction to entertain and try the Original Application no.320/2021 as well as present M.A.No.245/2021.

11. In view of same, Original Application no.320/2021 as well as M.A.No.245/2021 both are disposed of for want of jurisdiction. The Applicant is at liberty to seek relief before the appropriate forum. No order as to costs.

MEMBER (A)

MEMBER (J)

SAS ORAL ORDERS 02.09.2021

ORIGINAL APPLICATION NO.946 OF 2017

(Namdeo L. More Vs. State of Maharashtra & Ors.)

CORAM :Hon'bleShri V.D. Dongre, Member (J)

AND

Hon'bleShriBijay Kumar, Member (A)

DATE : 02.09.2021

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. Due to paucity of time, S.O. to 24.09.2021 for final hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.618 OF 2018
(Sharad D. RautVs. State of Maharashtra & Ors.)

CORAM :Hon'bleShri V.D. Dongre, Member (J)
AND
Hon'bleShriBijay Kumar, Member (A)

DATE : 02.09.2021

ORAL ORDER :

Heard ShriAvinash S. Deshmukh, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. Due to paucity of time, S.O. to 20.09.2021 for final hearing.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO.790 OF 2018
(Vaishali M. PatilVs. State of Maharashtra & Ors.)**

**CORAM :Hon'bleShri V.D. Dongre, Member (J)
AND
Hon'bleShriBijay Kumar, Member (A)**

DATE : 02.09.2021

ORAL ORDER :

Heard Shri D.B. Thoke, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. Due to paucity of time, S.O. to 27.09.2021 for final hearing.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO.108 OF 2019
(Krushna R. RathodVs. State of Maharashtra & Ors.)**

**CORAM :Hon'bleShri V.D. Dongre, Member (J)
AND
Hon'bleShriBijay Kumar, Member (A)**

DATE : 02.09.2021

ORAL ORDER :

Heard ShriVinod N. Rathod, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. Due to paucity of time, S.O. to 27.09.2021 for final hearing.

MEMBER (A)

MEMBER (J)

**M.A.NO.277 OF 2021 IN O.A.ST.NO.1164 OF 2021
(Varsha V. Kulkarni & Ors. Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 02.09.2021

ORAL ORDER :

Heard Shri S.S. Jadhavar, learned Advocate for the applicants and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. By this application, the applicants are seeking permission to sue the respondents jointly.

3. The Applicants are working as Staff Nurse with the respondent no.3. In Original Application, they are challenging the order dated 23.02.2021 prepared and published by the respondent no.3, wherein the applicants said to have been placed at wrong position, ignoring their service from beginning i.e. from initial date of appointment.

3. For the reasons stated in the application, and since the cause and the prayers are identical and since the applicants have prayed for same relief, and to avoid the multiplicity, leave to sue jointly granted, subject to payment of court fee stamps, if not paid.

//2//

M.A.277/2021 In
O.A.St.1164/21

4. Accompanying O.A. be registered and numbered, after removal of office objections, if any. The present M.A. stands disposed of accordingly without any order as to costs.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION ST.NO.1164 OF 2021
(Varsha V. Kulkarni & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 02.09.2021

ORAL ORDER :

Heard Shri S.S. Jadhavar, learned Advocate for the applicants and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant submits that he has carried out the amendment in the Original Application as ordered on the last date i.e. on 30.08.2021.

3. Learned P.O. for the respondents submits that she has received the copy of the amended Original Application today.

4. The Original Application is filed for seeking to quash and set aside the order dated 13.08.2021 (Annex. 'A-14') issued by the respondent no.3 and for seeking direction to the respondent no.3 to prepare the seniority list of Staff Nurses by taking into consideration their initial date of appointments and by considering their service as bonded Nurse in order to effect further promotion and for the benefit of Assured Progression Scheme.

5. The Applicants have prayed for interim relief of restraining the respondent no.3 from acting upon the order dated 13.08.2021 and for granting of promotion to the Staff Nurses to the post of Parisevika i.e. Incharge Sister and seeking direction to the respondent no.3 to prepare correct seniority of the applicants on the basis of initial dates of appointment.

6. The applicants were appointed as bonded Staff Nurse on probation for the period of one year by the respective appointment orders in the year 2001. The Applicants were continued in service by orders issued by the respondent no.3 from time to time. The respondent no.3 granted permanency in service to the applicant no.1 & 2 in the year 2005, applicant nos.3 & 4 in the year 2003 and to the applicant no.5 in the year 2005. The respondent no.3 thereafter, granted continuity of services to the applicants by condoning breaks in the year 2007. However, for the purpose of seniority, the respondent no.3 considered the date of grant of permanency in service. It is further contended that in all other divisions of Health Department, the Staff Nurses have been granted seniority w.e.f. their initial date of appointment as bonded Nurses. However, only in Latur division, the service rendered as bonded staff nurse was not considered while granting seniority to the staff nurses though they have been granted continuity in service from the date of initial appointment.

7. The applicants approached the respondents through Union of Staff Nurses and made several representations requesting for correction in seniority list and for appropriate position of the Staff Nurses taking into consideration their service as bonded Nurses.

8. However, the respondent no.3 did not correct seniority list and did not grant benefit of seniority to the staff nurse w.e.f. their initial date of appointment.

9. The respondent no.3 issued the seniority list dated 23.02.2021 (Annex. 'A-10'). However, in the said seniority list, the applicants have been placed on the basis of date of grant of permanency and not on the basis of their initial date of appointment. The applicants raised grievance about the said seniority list. But the same is not considered.

10. Pursuant to that the respondent no.3 has issued order dated 24.06.2021 (Annex. 'A-13') taking steps for grant of promotion to the post of Parisevika from the cadre of Staff Nurse. In the said order, initial date of appointment of the candidates is not considered. Subsequently, the respondent has also issued order dated 13.08.2021 (Annex. 'A-14') for taking further steps for grant of promotion. In the said order junior candidates to the applicants are included ignoring seniority of the applicants.

11. In view of above, learned Advocate for the applicants submitted that the applicants are entitled for interim relief.

12. On the other hand, learned Presenting Officer objected for grant of interim stay stating that the impugned order of seniority is issued in pursuant to the outcome of previous litigation before the Hon'ble High Court and Hon'ble Supreme Court and in view of other circumstances.

13. To that, learned Advocate for the applicant submits that the said litigation referred to by the learned P.O. was pertaining to reservation in promotion.

14. Record shows that the regularization orders of bonded Staff Nurses from other regions namely Nashik and Aurangabad are produced at annex. 'A-5' collectively. These documents show that there is reference to meeting of selection committee and the date of appointments is considered to be same.

15. In these circumstances, we would like to know rules and regulations governing preparation of those seniority lists.

16. At this stage, either learned Advocate for the applicant or learned Presenting Officer have not been able to point out any specific rules governing the date of seniority.

17. In view of same, we are of the considered opinion that stay to the seniority list will have long standing *pros and cons* and therefore, we only order, ad interim relief of fate of the seniority list will be subject to outcome of the present O.A. That would suffice the purpose

18. Issue notice to the respondents, returnable on 08.10.2021.

19. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

20. Applicants are authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

21. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

22. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the

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O.A.St.1164/21

Registry before due date. Applicants are directed to file affidavit of compliance and notice.

23. S.O. to 08.10.2021.

24. Steno copy and Hamdast is allowed to both parties.

25. The present matter is placed on separate board.

MEMBER (A)

MEMBER (J)