

Office Notes, Office Memoranda of Coram,
Appearance, Tribunal's orders or
directions and Registrar's orders

Tribunal's orders

04.06.2020

O.A 1038/2019

Shri A.N Bhalchandra ... Applicant
Vs.
The State of Maharashtra & Ors ... Respondents

1. Heard Shri K.R Jagdale, learned advocate for the applicant and Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents,

2. The applicant claims that he is to be promoted to the post of Joint Commissioner (Transport) from the post of Deputy Commissioner of Transport (Higher Grade). The said post of Deputy Commissioner of Transport (Higher Grade) is held by him since 1.8.2013. The post of Joint Commissioner (Transport) fell vacant on 31.12.2018 as Mr Mahajan, vacated the post due to his superannuation

3. The applicant was suspended on 19.12.2018 and he was reinstated on 9.5.2019. Enquiry conducted against the applicant was concluded in his favour by exonerating him from all the three charges by the Enquiry Officer on 14.8.2019. The said enquiry report is required to be accepted by the Appellate Authority.

4. The reply is filed by the Respondent-State. However, some documents are required to decide the issue.

- (a) The minutes and date of the meeting of the D.P.C for the years 2017-18 & 2018-19.
- (b) The reply given by the Respondent-State given to the representation made by the applicant dated 13.11.2018 and 16.9.2019.
- (c) The decision or remarks of the Appellate Authority on Enquiry Officer's report.

5. Matter is Part Heard and kept on 9th June, 2020. Hamdast granted.

Sd/-

(P.N Dixit)
Member (A)

Sd/-

(Mridula R. Bhatkar, J.)
Chairman

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date: 04.06.2020</p> <p style="text-align: center;">O. A. No. 243 of 2020</p> <p>H.G. HolmukheApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <ol style="list-style-type: none"> 1. Heard Shri Arvind A. Bandiwadekar, learned Advocate for the Applicant and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents. 2. Issue notice before admission returnable on 18.06.2020. 3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued. 4. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of Original Application. 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. 6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice. 7. In case notice is not collected within three days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record. In view of present COVID-19 pandemic situation private notice is allowed. 8. S.O. to 18.06.2020. <p style="text-align: right;">Sd/- (A.P. KURHEKAR) MEMBER (J)</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. _____ of 20 _____

I N

Original Application No. _____ of 20 _____

FARAD CONTINUATION SHEET No.

Office Notes, Office Memoranda of Coram. Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date: 04.06.2020</p> <p align="center">O. A. No. 242 of 2020</p> <p>H.G. HolmukheApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <p>1. Heard Shri Arvind A. Bandiwadekar, learned Advocate for the Applicant and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.</p> <p>2. Learned Advocate for the Applicant seeks permission to amend O.A. so as to challenge order dated 02.06.2011. He submits that the Applicant has already received pay and allowances for the period from 07.07.2009 to 12.01.2010. Therefore, states^{would} to challenge order dated 02.06.2011.</p> <p>3. Allowed to amend O.A., amendment be carried out within three days.</p> <p>4. Issue notice before admission returnable on 18.06.2020.</p> <p>5. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.</p> <p>6. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of Original Application. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.</p>

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7. 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.

8. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

9. In case notice is not collected within three days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record. In view of present COVID-19 pandemic situation private notice is allowed.

10. S.O. to 18.06.2020.

Sd/-

(A.P. KURHEKAR)
MEMBER (J)

NMN

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. _____ of 20 _____

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	<p>Date: 04.06.2020</p> <p align="center">O. A. No. 233 of 2020</p> <p>D.S. ManeApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <p>1. Heard Shri Arvind A. Bandiwadekar, learned Advocate for the Applicant and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.</p> <p>2. Learned C.P.O. on instructions states that suspension of the Applicant have been already revoked and he has been reinstated in service on 04.05.2019. However, she is unable to produce record to that effect due to COVID-19 pandemic situation.</p> <p>3. Whereas, as per submission of learned Advocate for the Applicant till date there is no service of order of revocation of suspension and reinstatement in service about ^{view} the Applicant.</p> <p>4. In view of above, learned C.P.O. is directed to call for the record so that O.A. can be disposed of as the Applicant already stands retired at end of May 2020.</p> <p>5. Learned Advocate for the Applicant submits till date no substance of allowance has been paid to the Applicant. Learned C.P.O. is directed to take instructions in this behalf and to apprise the Tribunal on next date.</p> <p>6. S.O. to 09.06.2020.</p> <p align="right">Sd/- <i>(A.P. KURHEKAR)</i> (A.P. KURHEKAR) MEMBER (J)</p> <p>NMN</p>

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	<p>Date: 04.06.2020</p> <p align="center">O. A. No. 238 of 2020</p> <p>N.K. MoreApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <p>1. Heard Shri K.R. Jagdale, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.</p> <p>2. The Applicant has challenged the suspension order dated 09.01.2020 whereby he was suspended in contemplation of D.E.</p> <p>3. The period of 90 days of the date of suspension is already over. In terms of G.R. dated 09.07.2019, suspension needs to be reviewed if D.E. is not initiated within the period of 90 days from the date of suspension. It appears that no D.E. is initiated within stipulated period.</p> <p>4. In view of above learned P.O. is directed to take instructions from the Respondent about initiation of D.E. and review of the suspension if any so that matter can be disposed of at the stage of admission.</p> <p>5. Issue notice before admission returnable on 09.06.2020.</p> <p>6. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.</p> <p>7. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of Original Application. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.</p> <p align="right">[PTO]</p>

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>8. 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.</p> <p>9. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.</p> <p>10. In case notice is not collected within three days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record. In view of present COVID-19 pandemic situation private notice is allowed.</p> <p>11. S.O. to 09.06.2020.</p> <p style="text-align: right;">Sd/- (A.P. KURHEKAR) MEMBER (J)</p> <p>NMN</p>

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	<p>Date: 04.06.2020</p> <p align="center">O. A. No. 247 of 2020</p> <p>P.B. GodambeApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <p>1. Heard Shri Arvind A. Bandiwadekar, learned Advocate for the Applicant, Shri A.J. Chougule, learned Presenting Officer for the Respondents No. 1 & 2 and Shri A.C. Gavnekar, Advocate holding for Shri C.G. Gavenkar, learned Advocate for the Respondent No.1.</p> <p>2. Issue notice before admission returnable on 11.06.2020.</p> <p>3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.</p> <p>4. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of Original Application. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.</p> <p>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.</p> <p>6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.</p>

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7. In case notice is not collected within three days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record. In view of present COVID-19 pandemic situation private notice is allowed.

8. S.O. to 11.06.2020.

9. Issue of interim relief is kept open.

10. Learned Advocate for the Applicant states that he has already served notice upon the Respondent and would file service of Affidavit on or before next date.

Sd/-

(A.P. KURHEKAR)
MEMBER (J)

NMN

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
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Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date: 04.06.2020</p> <p align="center">O. A. No. 253 of 2020</p> <p>Dr. S.A. TrimbakeApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <ol style="list-style-type: none"> 1. Heard Shri Arvind A. Bandiwadekar, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents. 2. O.A. can be disposed at the stage of admission in view of limited relief claimed by the Applicant. 3. The Applicant is serving as Medical Officer, and had given notice of voluntary retirement on 01.01.2020. However, it was not accepted on the ground that the issue of leave of 682 days is still pending. 4. The perusal of O.A. reveals that Respondent No.2 had already forwarded proposal to Respondent No.1 for appropriate order about leave of the Applicant but the issue of leave is not yet decided. 5. Material to note, that earlier also the Applicant had given notice of retirement on 29.03.2013 but the same was not accepted on the ground that the Applicant had not completed 20 years of qualified service under Rule 66(1) of Maharashtra Civil Service (Leave) (Rules 1981). The Applicant then had filed O.A. 885/14 which was decided by this Tribunal on 26.08.2016 whereby directions were given to consider the notice of voluntary retirement with specific finding that the Applicant had already completed 20 years of qualifying service. Despite this position no orders were passed on notice of voluntary retirement dated 29.03.2013. 6. Now the Applicant has again issued fresh notice on 01.01.2020 but it is not accepted in view of pending issue of leave of 682 days.

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7. In view of above, O.A. deserves to be disposed of with suitable directions.

8. O.A. is disposed of with direction to Respondents to pass appropriate order on the leave of the Applicant in accordance to Rules within two months from today in shall communicate the decision to the Applicant within two weeks thereafter from today.

9. No order as to costs.

^
Sd/-

v
(A.P. KURHEKAR)
MEMBER (J)

NMN

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	<p>Date: 04.06.2020</p> <p align="center">O. A. No. 248 of 2020</p> <p>Dr. Smt. N.V. PatilApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <p>1. Heard Shri Arvind A. Bandiwadekar, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.</p> <p>2. Matter was heard on 27.05.2020 and was adjourned on request of P.A. to take instructions on the point of interim relief and issue of jurisdiction.</p> <p>3. Applicant has challenged order dated 15.05.2020 passed by Collector, Pune, whereby his service were directed to be availed by Collector, Pune on deputation.</p> <p>4. The Applicant is serving as Chief Officer, Chakan Municipal Council, Shri Arvind A. Bandiwadekar seeks interim relief contending that impugned order is passed by the Collector without jurisdiction as the competent authority is Respondent No. 2, for transfer or deputation of the Applicant.</p> <p>5. Whereas learned P.O. sought to contend that Collector has exercised powers under Disaster Management Act, 2005.</p> <p>6. The perusal of section 25 of Disaster Management Act, 2005, reveals that district Disaster Management Authority is empowered to pass suitable order to prevent the disaster. The perusal notification dated 01.06.2006 shows that Government had constituted District Disaster Management Authority consists several person under the chairperson of Collector.</p>

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	<p>7. So far as to the facts of present case are concerned the impugned order has been passed by Collector alone and not by district Disaster Management Authority. Besides there is nothing to indicate that the impugned order has been ratified by the district Disaster Management Authority.</p> <p>8. The Applicant is serving as Chief Officer, Chakan Municipal Council, and for transfer or deputation competent authority is State Government i.e. Respondent No.2. Indeed the Collector, Pune, had already made reference with the Government for ratification of the impugned order dated 15.05.2020 but there is nothing on record to indicate that the impugned order has been approved by the Government as proposed by the Collector.</p> <p>9. As such there is no ratification to the impugned order either by district Disaster Management Authority or by the Government.</p> <p>10. By impugned order Collector had directed the Applicant to work in the office of Collector. As such even if it is assumed that Collector is empowered under Disaster Management Authority Act 2005, Collector alone is not competent to pass such order.</p> <p>11. I am therefore satisfied the impugned order is <i>prime-facie</i> without jurisdiction and deserved to be stayed.</p> <p>12. In view of above, interim relief is granted in terms of clause No. 10(a).</p> <p>13. S.O. to 25.06.2020 for reply.</p> <p style="text-align: right;">A. L. Sd/-</p> <p style="text-align: right;">(A.P. KURHEKAR) MEMBER (J)</p> <p>NMN</p>

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	<p>Date: 04.06.2020</p> <p>O. A. No. 255 of 2020</p> <p>A.R. ShaikhApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <ol style="list-style-type: none"> 1. Heard Shri Arvind A. Bandiwadekar, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents. 2. Issue notice before admission returnable on 23.06.2020. 3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued. 4. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of Original Application. 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. 6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice. 7. In case notice is not collected within three days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record. 8. In view of present COVID-19 pandemic situation private notice is allowed. 9. S.O. to 23.06.2020. <p style="text-align: right;">Sd/- (A.P. KURHEKAR) MEMBER (J)</p>

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	<p>Date: 04.06.2020</p> <p>O. A. No. 254 of 2020</p> <p>R.S. KadamApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <ol style="list-style-type: none"> 1. Heard Shri Arvind A. Bandiwadekar, learned Advocate for the Applicant and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents. 2. Issue notice before admission returnable on 30.06.2020. 3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued. 4. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of Original Application. 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. 6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice. 7. In case notice is not collected within three days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record. 8. In view of present COVID-19 pandemic situation private notice is allowed. 9. S.O. to 30.06.2020. <p style="text-align: right;">Sd/- (A.P. KURHEKAR) MEMBER (J)</p> <p>NMN</p>

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date: 04.06.2020</p> <p>O. A. No. 251 of 2020</p> <p>R.R. PolApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <ol style="list-style-type: none"> 1. Heard Shri Arvind A. Bandiwadekar, learned Advocate for the Applicant and and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents. 2. Issue notice before admission returnable on 30.06.2020. 3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued. 4. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of Original Application. 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. 6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice. 7. In case notice is not collected within three days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record. 8. In view of present COVID-19 pandemic situation private notice is allowed. 9. S.O. to 30.06.2020. <p style="text-align: right;">Sd/- (A.P. KURHEKAR) MEMBER (J)</p> <p>NMN</p>

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	<p align="center">Date: 04.06.2020</p> <p align="center">O. A. No. 252 of 2020</p> <p>V.D. BharaleApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <p>1. Heard Shri Arvind A. Bandiwadekar, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.</p> <p>2. The Applicant has challenged impugned order dated 11.05.2020 whereby the recovery of excess payment is sought to be made from the salary of the Applicant at the rate of Rs. 7280/- p.m.</p> <p>3. The Applicant is junior clerk and falls in group 'C' category and the period of excess payment made to the Applicant is from 13.08.2003 to 29.09.2020.</p> <p>4. In view of above, learned Advocate for the Applicant seeks interim relief to stay the recovery from the salary of the Applicant.</p> <p>5. Whereas, learned P.O. seeks time to file reply contending that Applicant being in service recovery of excess payment is permissible.</p> <p>6. It is crystal clear from impugned order dated 11.05.2020 that there was mistake on the part of department while fixation of pay in 2003 and it was noticed after 17 years. Applicant is admittedly group 'C' employee. In view of decision of Hon'ble Supreme Court in Civil Appeal No.11527/2014 (State of Punjab and others Vs. Rafiq Masih (White Washer), decided on 18th December, 2014, recovery of excess payment for the period of more than five years from group 'C' is not permissible. As such <i>prima-facie</i> recovery is not justified.</p> <p align="right">[P/O</p>

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	<p>7. In view of above, interim relief is granted in terms of para. 10 (a) of O.A.</p> <p>8. Issue notice before admission returnable on 30.06.2020.</p> <p>9. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.</p> <p>10. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of Original Application. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.</p> <p>11. 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.</p> <p>12. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.</p> <p>13. In case notice is not collected within three days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.</p> <p>14. In view of present COVID-19 pandemic situation private notice is allowed.</p> <p>15. S.O. to 30.06.2020.</p> <p style="text-align: right;">Sd/- </p> <p style="text-align: center;">(A.P. KURHEKAR) MEMBER (J)</p> <p>NMN</p>