

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

Tribunal's orders
Date : 15.04.2019.

M.A. No.76 of 2019 in O.A.No.63 of 2019

B. S. RautApplicant
Versus
The State of Maharashtra & Ors. ...Respondents.

1. Heard Shri M. B. Kadam, learned Advocate for the Applicant and Shri N.G. Gohad, learned Presenting Officer for the Respondents. Shri A.V. Bandiwadekar, learned Advocate for the Applicant in O.A. No.63 of 2019.
2. O.A.No.63/2019 is filed by Shri Pravin Kumthekar being aggrieved by the order dated 12.09.2018 passed by the S.D.O., Daund-Purandar, District Pune whereby the decision not to continue the post of Police Patil of village Valhe in view of Government Circular dated 30.09.1986. The present M.A. is filed by Shri B. S. Raut for permission to implead as Respondent on the ground that it is on his complaint, S.D.O. initiated enquiry and passed the impugned order dated 12.09.2018. The Applicant therefore contends that it is necessary and appropriate to implead him as a party Respondent for the adjudication of O.A. No.63/2019.
3. Learned Advocate for the Applicant in O.A.No.63/2019 submitted that the Applicant has no locus standi to be joined or impleaded as Respondent in the present O.A. and for this purpose he referred the decision passed by this Tribunal in M.A.139/2010 decided on 17.06.2010. In so far as the decision in M.A. No.139/2010 is concerned, it is a transfer matter wherein the complainant sought intervention on the ground that it is on their complaint the concerned authority transferred the government servant and, therefore, requested to implead him as Respondent. The Tribunal rejected the M.A. on the ground that it would set dangerous precedent and secondly in transfer matter the scope of judicial interference is limited to the evidence of existence and broad relevance of the administrative ground. In so far as the present matter is concerned, it pertains to Police Patil, village Valhe where obviously all villagers are interested to have good Police Patil in their village. Furthermore, the impugned order dated 12.09.2018 makes it quite clear that enquiry was initiated on the basis of complaint made by the Applicant. As such, the decision in M.A. No.139/2010 is quite distinguishable and not of any assistance to the learned Advocate for the Applicant in O.A. 63/2019.
4. In my opinion, the Applicant can be termed as proper party though not necessary party. Hence the Applicant be impleaded as the Respondent No.4. He should file his reply within a week.
5. S.O. to 23.04.2019.

Sd/-

(A.P. Kurhekar)
Member(J)

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI

Original Application No.

of 20

DISTRICT

..... Applicant/s

(Advocate

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 15.04.2019.</p> <p style="text-align: center;">O.A.No.63 of 2019</p> <p>P. G. KumthekarApplicant Versus The State of Maharashtra & Ors. ...Respondents.</p> <p>1. Heard Shri A.V. Bandiwadekar, learned Advocate for the Applicant and Shri N.G. Gohad, learned Presenting Officer for the Respondents.</p> <p>2. Today, learned Advocate for the Applicant has filed Rejoinder. It is taken on record.</p> <p>3. The matter is adjourned for reply of newly added Respondent No.4.</p> <p style="text-align: center;">S.O. to 23.04.2019.</p> <p style="text-align: center;">Sd/- (A.P. Kurhekar) Member(J)</p> <p>vsm</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

Original Application No. _____ of 20 _____ DISTRICT _____
..... Applicant/s

(Advocate

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 15.04.2019.</p> <p style="text-align: center;">O.A.No.342 of 2019</p> <p>S.P HadkeApplicant Versus The State of Maharashtra & Ors. ...Respondents.</p> <p>1. Heard Shri K. R. Jagdale, learned Advocate for the Applicant and Smt. Archana B. K., learned Presenting Officer for the Respondents.</p> <p>2. As observed by this Tribunal in order dated 08.04.2019, the retiral benefits of the Applicant has been withheld for more than 2 ½ years. It has also been observed that the responsibility of maintaining of the service book is of the department and, therefore, ought to have been reconstructing the service book in case the same is incomplete or missing.</p> <p>3. Learned Advocate for the Applicant has pointed out that only provisional pension for one year and provisional gratuity was paid but still amount of GIS, leave encashment and final gratuity and regular pension are withheld.</p> <p>4. Whereas, learned P.O. sought to contend that the service book was destroyed in the fire broke out in Mantralaya and, therefore, now steps are being taken for reconstructions of service book and the matter is under process, which is nothing but lame excuse.</p>

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>5. In so far as the destruction of service book in fire is concerned that took place in 2012 and the department out to have taken steps for reconstructions of service book at the earliest in any case before the retirement of the Applicant. This definitely shows negligence and lethargy on the point of concerned person who is dealing with the subject. Even till date, there is no satisfactory progress to release the retiral benefits and the matter is stuck up for want of reconstruction of service book.</p> <p>6. In view of above, the Respondent is directed to file affidavit explaining the steps taken by the department date-wise for reconstructions of service book as well as for releasing retiral benefits so that the responsibility of the concerned person for negligence can be fixed and liability of payment of interest as well as the cost of this litigation can be fixed upon the concerned person.</p> <p>7. Needless to mention that such person would be held responsible to pay the cost and interest from his salary.</p> <p>8. In view of above, two weeks time is granted to the Respondents to file detailed affidavit explaining the steps taken for reconstruction of service book date-wise and also to mention the name of the concerned official dealing with the subject. In the meantime, the Respondent is directed to expedite the process of reconstruction of service book.</p> <p>9. S.O. to 22.04.2019.</p> <p style="text-align: right;">Sd/- (A.P. Kurhekar) Member(J)</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

Original Application No. _____ of 20 _____ DISTRICT _____ Applicant/s

(Advocate

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders Date : 15.04.2019.
	<p style="text-align: center;">O.A.No.255 of 2019</p> <p>V. B. WaghmareApplicant Versus The State of Maharashtra & Ors. ...Respondents.</p> <p>1. Heard Shri M. B. Kadam holding for Shri J. N. Kamble, learned Advocate for the Applicant and Shri A. J. Chougule, learned Presenting Officer for the Respondents.</p> <p>2. On the last date i.e. 12.04.2019, the Tribunal has passed speaking order giving direction to the learned P.O. to take instructions from the department to apprise the Tribunal as to why retiral benefits are not paid and direction were also issued to call Shri Sunil Chavan, Administrative Officer along with the record to explain the position. However, Shri Sunil Chavan is absent.</p> <p>3. Learned P.O. had tendered copy of the letter dated 11.04.2019 issued by Dean, J. J. Hospital, Mumbai addressed to Direction Medical Education Research wherein attempt has been made to blame the Applicant for incomplete service book. It further shows that the service book was forwarded to Pay Verification Unit on 14.12.2018 but it is not returned back.</p> <p>4. The Applicant stands retired w.e.f. 07.02.2018 and, therefore, the process for finalizing the pension, completion of service book, etc. ought to have been taken before two months of the retirement so that retiral benefits could be released immediately after retirement. However in the present case, the Respondent No.3 did not take timely action and because of lethargy on his part, the Applicant has been deprived from getting retiral dues till date.</p>

Office Notes, Office Memoranda of Coram,
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5. As such, no sufficient explanation is forthcoming from the Respondent No.3 to delay the retiral benefits i.e. gratuity, pension, etc. There is obviously administrative lapse on part of the Respondent No.3 for which the Respondent No.3 will be liable for interest.

6. In view of above, the Respondent No.3 is directed to file Affidavit explaining the steps taken to release the retiral benefits date-wise since beginning so that necessary orders for negligence and discharging of duty and delay in payment of retiral dues can be passed along with the cost of the application. The Respondent No.3 should note that if the department is found guilty for lapses, interest and cost will be recovered from the person concerned responsible from his salary.

7. One week's time is granted to Respondent No.3 to file Affidavit explaining above aspects and in the meantime should take all necessary steps to release the retiral benefits as per Applicant's entitlement.

8. S.O. to 22.04.2019.

Sd/-

(A.P. Kurhekar)
Member(J)

vsm

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

Original Application No. _____ of 20 _____ DISTRICT _____
..... Applicant/s

(Advocate)

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..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 15.04.2019.</p> <p style="text-align: center;">O.A.No.336 of 2018</p> <p>R. D. AkrupeApplicant</p> <p>Versus</p> <p>The State of Maharashtra & Ors. ...Respondents.</p> <p>1. Heard Smt. Punam Mahajan, learned Advocate for the Applicant and Ms N. G. Gohad, learned Presenting Officer for the Respondents.</p> <p>2. In terms of order passed by this Tribunal on 11.04.2019, today the learned P.O. has tendered the copy of order dated 15.04.2019 issued by the Government whereby the Applicant has been posted on reinstatement in service. The copy of order dated 15.04.2019 is taken on record.</p> <p>3. On the request of learned Advocate, the matter is adjourned for hearing on 25.04.2019.</p> <p>4. S.O. to 25.04.2019.</p> <p style="text-align: right;">Sd/- (A.P. Kurhekar) Member(J)</p> <p>vsm</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

Original Application No. _____ of 20 _____ DISTRICT
..... Applicant/s

(Advocate)

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram. Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 15.04.2019.</p> <p align="center">O.A.No. 383 of 2019</p> <p>S. S. JadhavApplicant Versus The State of Maharashtra & Ors. ...Respondents.</p> <p>1. Heard Smt. Punam Mahajan, learned Advocate for the Applicant and Shri A. J. Chougule, learned Presenting Officer for the Respondents.</p> <p>2. Today, the matter is taken on board by way of circulation for grant of interim relief in view of stay to the suspension order of the Applicant as passed by this Tribunal in O.A.No.387/2019. Learned Advocate has also placed on record the copy of interim order dated 12.04.2019.</p> <p>3. In view of stay to the suspension, learned Advocate for the Applicant sought interim relief in O.A.No.383/2019 wherein the challenge is to the transfer order dated 10.04.2019.</p> <p>4. Whereas the learned P.O. submitted that the transfer was effected not only on account of conviction in Criminal Case but it was necessary in view of the guidelines of Election Commission of India. He wants to file the reply to O.A.</p> <p>5. In view of above, next date of O.A. is preponed and instead of 02.06.2019, it be kept on 25.04.2019.</p> <p>6. S.O. to 25.04.2019.</p> <p align="right">Sd/- (A.P. Kurhekar) Member(I)</p> <p align="left">vsm</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

Original Application No. _____ of 20 _____ DISTRICT
..... Applicant/s

(Advocate)

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram. Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 15.04.2019.</p> <p>M. A. No.424 of 2018 in O.A.No.916 of 2017</p> <p>S. N. ShirodeApplicant</p> <p>Versus</p> <p>The State of Maharashtra & Ors. ...Respondents.</p> <p>1. The Applicant and his Advocate both are absent. Heard Shri A. J. Chougule holding for Smt. Archana B. K., learned Presenting Officer for the Respondents.</p> <p>2. This matter was called out in morning session but due to absence of the Applicant and his Advocate it is kept in second session. However, in afternoon session also the Applicant and his Advocate both are absent.</p> <p>3. The M.A. is filed for condonation of 18 years delay in filing O.A.No.916/2017. As the Applicant and his Advocate are absent, it appears that they are not interested in continuing with the matter.</p> <p>4. Hence, M.A. is dismissed in default.</p> <p style="text-align: right;">Sd/- (A.P. Kurhekar) Member(J)</p> <p>vsm</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

Original Application No. _____ of 20 _____ DISTRICT _____ Applicant/s

(Advocate)

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 15.04.2019.</p> <p>M. A. No.481 of 2018 in O.A.No.842 of 2018</p> <p>S. A. PatilApplicant</p> <p>Versus</p> <p>The State of Maharashtra & Ors. ...Respondents.</p> <p>1. Heard Shri D. A. Jogdeo, learned Advocate for the Applicant and Smt. Kranti Gaikwad, learned Presenting Officer for the Respondents.</p> <p>2. Today, the learned P.O. for the Respondents has filed reply to M.A. It is taken on record.</p> <p>3. The matter is adjourned for hearing on M.A.</p> <p>4. S.O. to 30.04.2019.</p> <p style="text-align: right;">Sd/- (A.P. Kurhekar) Member(J)</p> <p>vsm</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

Original Application No. _____ of 20 _____ DISTRICT _____ Applicant/s

(Advocate)

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 15.04.2019.</p> <p align="center">O.A.No.305 of 2019</p> <p>M. P. PadvalApplicant Versus The State of Maharashtra & Ors. ...Respondents.</p> <p>1. Heard Shri S. S. Ghogare, learned Advocate for the Applicant and Shri A. J. Chougule, learned Presenting Officer for the Respondents.</p> <p>2. Today, this matter is taken on board by way of circulation for grant of interim relief on the ground that the recovery is still being made from the salary of the Applicant though same is not permissible in view of the judgment of the Hon'ble Apex Court in <i>Civil Appeal No.11527/2014 (State of Punjab and others Vs. Rafiq Masih (White Washer), decided on 18th December, 2014.</i></p> <p>3. Learned P.O. for the Respondents stated that he would file reply in the matter on next date and the matter can be decided on merit shortly.</p> <p>4. In the present O.A., the challenge is to the recovery of the alleged excess payment made to the Applicant during the period from 2003 to 2009 which is prima-facie not permissible in view of judgment of the Apex Court in <i>Rafiq Masih's Case.</i></p> <p>5. In view of above, interim relief is granted in terms of prayed clause no.10(c) to the extent of deduction from salary for the month of April and onward.</p> <p>6. S.O. to 25.04.2019 for filing reply.</p> <p align="right">Sd/- (A.P. Kurhekar) Member(J)</p>

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

Date : 15.04.2019.

O. A. No. 369 of 2019

H. H. Dabade

....Applicant

Versus

The State of Maharashtra & Ors.

...Respondents.

1. Heard Shri A. V. Bandiwadekar, learned Advocate for the Applicants and Smt. Kranti Gaikwad, learned Presenting Officer for the Respondents.
2. Issue notice before admission returnable on 24.04.2019.
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 O.A.. 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. S.O. to 24.04.2019.
9. The Issue of interim relief is kept open.

Sd/-

(A. P. Kurhekar)
Member(J)

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

Tribunal's orders

O.A. No.1127 of 2018

S.B. Kadam ..Applicant
Vs.
The State of Maharashtra & Ors. ..Respondents

Heard Shri S.T. Bhosale, learned Advocate for the Applicant and Ms. Neelima Gohad, learned Presenting Officer for the Respondents.

2. Issue notice returnable on 10.6.2019.
3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need 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 O.A. 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 seven days and if service report on affidavit is not filed three days before returnable date, OA shall stand dismissed without reference to Tribunal and papers be consigned to record.

Sd/- —

(P.N. Dixit)
Member (A)
15.4.2019

(sgl)

DATE: 15/4/2019

CORAM:

Member Justice Shri A. H. Joshi (Chairman)

Member Shri M. P. Dixit (Member) A

APPEARANCE:

Shri/Smt S. T. Bhosale

Advocate for the Applicant

Shri/Smt MS. Neelima Gohad

U.C.P.O./P.O. for the Respondent/s

AG To: Issue notice returnable

on 10/6/2019.

File

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

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

IN

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: <u>15/4/2019</u></p> <p>CORAM: Hon'ble Justice <u>Shri A. H. Joshi</u> (Chairman) Hon'ble Justice <u>P.N. Dixit</u> (Member) A</p> <p>APPEARANCE: <u>K.R. Jagdale</u> Advocate for the Applicant <u>Ms. Neelima Gohad</u> C.P.O./P.O. for the Respondent/s</p> <p>Adj. To: <u>13/6/2019</u></p> <p style="text-align: right;"><i>File</i></p>	<p style="text-align: center;"><u>O.A. No.43 of 2019</u></p> <p>G.P. Deshmukh ..Applicant Vs. The State of Maharashtra & Ors. ..Respondents</p> <p>Heard Shri K.R. Jagdale, learned Advocate for the Applicant and Ms. Neelima Gohad, learned Presenting Officer for the Respondents.</p> <p>2. Ld. PO states that she will provide unaffirmed copy of proposed affidavit in reply to the Ld. Advocate for the applicant. Ld. PO further mentions that reply would be affirmed and filed within a week. Ld. Advocate for the applicant seeks time to file rejoinder.</p> <p>3. S.O. to 13.6.2019.</p> <p style="text-align: right;">Sd/- (P.N. Dixit) Member (A) 15.4.2019</p> <p>(sgj)</p>

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p style="text-align: center;"><u>O.A.340/18 with 342, 343 & 131 /18</u></p> <p>Shri R.M. Shivsharan & Ors. ... Applicants Vs. The State of Mah. & ors. ... Respondents</p> <p>1. Heard Shri A.V. Bandiwadekar, learned Advocate for the Applicants and Ms. N.G. Gohad, Mrs. A.B. Kololgi, and Mr. A.J. Chougule, learned P.O. holding for Ms. S.P. Manchekar, learned C.P.O. for Respondents.</p> <p>2. These O.As. pertain to appointment of Police Patil. The Applicants seem appointed to the post of Police Patil temporarily from time to time, and therefore, they are claiming regular appointment in terms of G.R. dated 28.06.2011.</p> <p>3. As noted by this Tribunal by order dated 18.03.2019 that the reply of Respondent No.1 is essential in view of proposal to amend the G.R. dated 28.06.2011 in respect of Clause No.3(a), so that the persons who have worked temporarily for more than two years on the post of Police Patil can be appointed on regular basis. On last date, the learned P.O. was directed to make their stand clear and liberty was given to file reply on next date.</p> <p>4. However, today, the learned P.O. is unable to tell anything. All that he stated that nobody has come from Department to give instructions. This state of affairs is nothing but appalling and it shows disregard of Respondent No.1 to the orders as well as observations made by the Tribunal in order dated 18.03.2019 which needs to be viewed seriously.</p> <p>5. The learned P.O. therefore, directed to keep Joint Secretary, Home Department present in the Tribunal tomorrow with concerned file, so as to appraise the Tribunal about the finalization of the proposal to amend the G.R. dated 28.06.2011 or its status, so that the present O.As can be decided expeditiously.</p> <p>6. S.O. to 16th April, 2019. Hamdast granted.</p> <p style="text-align: right;">Sd/- (A.P. Kurtekar) Member-J 15.04.2019</p> <p>(skw)</p>