

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION NO.985 OF 2018

V. G. Tambe

)Applicant

Versus

The State of Maharashtra & Ors.

)Respondents

Shri S. S. Dere, Advocate for Applicant

Shri A. J. Chougule, Presenting Officer for the Respondents

CORAM : SHRI A. P. KURHEKAR, MEMBER (J)

DATE : 18.01.2019

ORDER

1. Heard Shri S. S. Dere, learned Advocate for the Applicant and Shri A. J. Chougule, learned Presenting Officer for the Respondents.

2. In the present Original Application, the applicant has challenged the order dated 24.10.2018 on the ground that though it is mid-term and mid-tenure transfer, the mandatory provision of Section 4(4)(ii) and 4(5) of the ROT Act, 2005 are not followed.

3. While granting interim relief, this Tribunal in order dated 02.11.2018 observed that prima-facie, the transfer is in violation of mandatory provision of ROT Act, 2005, as there is no approval of Hon'ble Chief Minister.

4. Learned P.O. for the respondents submitted that there was complaint before the Hon'ble Lokayukta and in view of the recommendation made by the Hon'ble Lokayukta, the applicant has been transferred to Non-Executive post. The applicant was earlier kept under suspension but after revoking the suspension, he was reinstated on Executive post. This posting on Executive post was the reason for

complaint before the Hon'ble Lokayukta. He fairly concedes that the mandatory provision of Section 4(4) (ii) and 4(5) of ROT Act, 2005 are not followed.

5. In fact, as per Circular dated 20.04.2013 issued by the G.A.D., in case of revocation of suspension and reinstatement in service, the concerned employee needs to be reinstated on Non-Executive post.

6. Thus, prima-facie, the impugned order dated 24.10.2018 is not in consonance with the provision of ROT Act, 2005. The order seems to have been passed on the recommendation made by the Hon'ble Lokayukta.

7. Now, the respondents realized that the impugned orders are not passed after following due procedure contemplated in ROT Act, 2005. They are at liberty to take remedial measures and to pass appropriate orders in accordance to law.

8. Today, the learned P.O. has filed Affidavit-in-Reply. It is taken on record.

9. The matter is adjourned for hearing on 15.02.2019.

Sd/-

(A.P. KURHEKAR)
MEMBER (J)

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION NO.911 OF 2015

S.M. Chikhale & Ors.

)Applicants

Versus

The State of Maharashtra & Ors.

)Respondents

Shri K. R. Jagdale, Advocate for Applicants

Shri A. J. Chougule, Presenting Officer for the Respondents

CORAM : SHRI A. P. KURHEKAR, MEMBER (J)

DATE : 18.01.2019

ORDER

1. Heard Shri K. R. Jagdale, learned Advocate for the Applicant and Shri A. J. Chougule, learned Presenting Officer for the Respondents.
2. In fact, this O.A.No.911/2015 is nothing but the execution of order passed in the first round of litigation i.e. O.A.Nos.587, 674, 675 & 845 of 2010 which has been decided by this Tribunal on 22.04.2014, whereby the respondents were directed to consider the proposal of Respondent No.2, dated 15.09.2010 regarding deemed date of promotion to the applicants within three months from the date of order. In pursuance of it, on 17.11.2014, the office of Director General of Police passed the order giving deemed date of promotion to the applicants as shown in the chart annexed to the order but monetary benefits are not released. Therefore, the applicants have again approached this Tribunal.
3. Subsequently, by order dated 13.12.2017, the office of DGP disallowed the monetary benefits referring to Rule 32 of Maharashtra Civil Services (General Conditions of Services) Rules, 1981.

4. Learned P.O. for the respondents on instructions from Smt. Shradha Lokhande, Desk Officer, Mantralaya, Mumbai stated that the file is in process for reconsideration. In file nothing shown to me, it is stated that in similar situation, the decision made by the Tribunal for grant of deemed date (Matter of Manda Deshmukh) has been challenged by the Government before the Hon'ble High Court. On this background, the department thought it proper to wait for the decision of the Hon'ble High Court and thereafter appropriate decision will be taken.

5. Thus, as per the stand taken by the respondents, the matter was kept in abeyance in view of the challenge to the decision of the Tribunal in Manda Deshmukh's case. However, the learned P.O. has fairly conceded that the Writ Petition pertains to Manda Deshmukh's case has been decided on 14.09.2018 and the order of the Tribunal has been confirmed.

6. In view of the above, the learned P.O. submitted that as the decision of Manda Deshmukh's case has attained finality, he will take instructions from the department and appropriate decision will be taken in this O.A.No.911/2015 also.

7. For this purpose, the learned P.O. has requested for short time.

8. S.O. to 22.01.2019.

9. Hamdast and steno copy is allowed.

Sd/-
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(A.P. KURHEKAR)
MEMBER (J)

**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 Date : 18.01.2019.
	<p>O. A. No. 220 of 2018</p> <p>S. M. WaradeApplicant</p> <p>Versus</p> <p>The State of Maharashtra & Ors. ...Respondents.</p> <p>1. Heard Shri C. T. Chandratre, learned Advocate for the Applicant and Ms S. Suryawanshi, learned Presenting Officer for the Respondents.</p> <p>2. Learned P.O. for the respondents submits that the Affidavit-in-Reply will be filed during the course of the day. Statement is accepted. Affidavit-in-Reply be taken on record during the course of the day.</p> <p>3. As the pleadings are complete, Original Application is admitted.</p> <p>4. Matter is adjourned for final hearing.</p> <p>5. S.O. to 25.02.2019.</p> <p style="text-align: right;">Sd/- v (A.P. Kurhekar) Member(J)</p> <p>vsm</p>

**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 : 18.01.2019.</p> <p>O. A .No. 860 of 2018</p> <p>S. B. KambleApplicant</p> <p>Versus</p> <p>The State of Maharashtra & Ors. ...Respondents.</p> <ol style="list-style-type: none">1. Heard Shri M. B. Kadam, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.2. Learned P.O. for the respondents submits that the Affidavit-in-Reply will be filed during the course of the day. The statement is accepted. Affidavit-in-Reply be taken on record.3. As the pleadings are complete, the Original Application is admitted.4. Matter is adjourned for final hearing.5. Liberty is granted to learned Advocate for the applicant to file Rejoinder, if any.6. S.O. to 08.02.2019. <p style="text-align: right;">Sd/- (A.P. Kurhekar) Member(J)</p> <p>vsm</p>

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

Date : 18.01.2019.

Tribunal's orders

M.A. No.659 of 2018 in O. A. No.698 of 2017

Dr. P. S. Gawali & Ors.Applicants
Versus
The State of Maharashtra & Ors. ...Respondents.

1. Heard Shri A. S. Deshpande, learned Advocate for the Applicants and Ms S. P. Manchekar, learned Presenting Officer for the Respondents.
2. M.A. No.659/2018 is filed for restoration of O.A. No.698/2017. It seems to have been dismissed for non-compliance of conditional order dated 05.09.2018, whereby the notices have to be collected within three days and Affidavit of Service was to be filed in compliance of the same.
3. Learned Advocate for the applicant submits that on 5.9.2018, the learned P.O. was present and made a statement before the Tribunal that she would file Affidavit-In-Reply on the next date. Thus, according to him, in view of this statement made by the learned P.O. there was no necessity for issuance of notices and compliance of the conditional order dated 5.9.2018.
4. The submission of the learned Advocate is quite reasonable and deserves to be accepted. O.A. 698/2017 needs to be restored.
5. At this juncture, learned C.P.O. for the respondents pointed out that all the applicants are residents of Aurangabad and, therefore, the O.A. should have been filed before the Aurangabad Bench.
6. Learned Advocate for the applicant admits that the applicants after retirement are staying at Aurangabad. According to him, some of the applicants at the time of retirement were serving within the jurisdiction of this Tribunal. Therefore, the application has been filed at the Principal Bench.
7. As the permanent addresses of the applicants are of Aurangabad, the petition ought to have been filed before the Aurangabad Bench.
8. Learned Advocate for the applicant, therefore, requested to transfer the O.A. to Aurangabad Bench.
9. He is at liberty to take necessary steps. One week's time is granted as the learned Advocate desires to mention this matter before the Hon'ble Chairman for passing appropriate order.
10. S.O. to 01.02.2018.

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

Date : 18.01.2019.

O. A. No.64 of 2019

S. R. Jadhav

....Applicant

Versus

The State of Maharashtra & Ors.

...Respondents.

1. Heard Shri M. B. Kadam holding for Shri M. D. Lonkar, learned Advocate for the Applicant and Ms S. Suryawanshi, learned Presenting Officer for the Respondents.
2. Issue notice before admission returnable on 15.02.2019.
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 15.02.2019.

Sd/-

(A.P. Kurhekar)
Member(J)

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

Date : 18.01.2019.
Tribunal's orders

O. A. No.50 of 2019

V. T. JadhavApplicant

Versus

The State of Maharashtra & Ors. ...Respondents.

1. Heard Shri A. D. Sugdare, learned Advocate for the Applicant and Ms S. Suryawanshi, learned Presenting Officer for the Respondents.
2. Issue notice before admission returnable on 18.02.2019.
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 18.02.2019.

Sd/-

(A.P. Kurhekar)
Member(J)

**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 Memeranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 18.01.2019.</p> <p>O.A.No.1132 of 2018</p> <p>D. A. ChandelApplicant</p> <p>Versus</p> <p>The State of Maharashtra & Ors. ...Respondents.</p> <p>1. Heard Shri M. B. Kadam holding for Shri D. B. Khaire, 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 Affidavit-in-Reply on behalf of the Respondent No.1. It is taken on record. She further submits that the same reply is also adopted on behalf of the Respondent No.2.</p> <p>3. Shri Sachin Randive, learned Advocate for the Respondent No.3 requested for short time to file reply.</p> <p>4. S.O.to 04.02.2018.</p> <p style="text-align: right;">Sd/- (A.P. Kurhekar) Member(J)</p> <p>vsm</p>

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>18/1/2019</u></p> <p>CORAM:</p> <p>Hon'ble Justice <u>Shri A. H. Joshi</u> (Chairman)</p> <p>Hon'ble <u>Shri P. N. Dixit</u> (Member) A</p> <p>APPEARANCE:</p> <p>Shri/Smt. <u>B. R. Deshmukh</u></p> <p>Advocate for the Applicant</p> <p>Shri/Smt. <u>S. P. Manchekar</u></p> <p>C.P.O / P.O. for Respondent's</p> <p>Adj. To.....<u>21/1/2019</u></p>	<p><u>O.A. No.438 of 2018</u></p> <p>D.B. Bamanè ..Applicant</p> <p>Vs. ..Respondents</p> <p>The State of Maharashtra & Ors.</p> <p>Heard Shri B.R. Deshmukh, learned Advocate for the Applicant and Miss S.P. Manchekar, learned Chief Presenting Officer for the Respondents.</p> <p>2. Ld. CPO files reply and seeks leave to amend para 9 of the reply in respect of date which is mentioned as 2014 and it should be 2011. Leave granted.</p> <p>3. Ld. Advocate for the applicant seeks adjournment till 21.1.2019 to take instructions from the applicant.</p> <p>4. S.O. to 21.1.2019.</p> <p style="text-align: right;">Sd/-</p> <p style="text-align: right;">(P.N. Dixit)</p> <p style="text-align: right;">Member (A)</p> <p style="text-align: right;">18.1.2019</p> <p>(sgj)</p>

[Handwritten Signature]