

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION No.270 of 2019

DISTRICT : Mumbai

Dr. V. P. Tilwani

)..... **Applicant**

Versus

State of Maharashtra & Ors.

)...**Respondents**

Ms. P.M. Bhansali, Advocate for Applicant.

Ms S. P. Manchekar, Chief Presenting Officer for the Respondents

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

DATE : 20.03.2019

ORDER

1. Heard Shri P. M. Bhansali, learned Advocate for the Applicant and Ms S. P. Manchekar, learned Chief Presenting Officer for the Respondents.

2. In the present O.A., the challenge is to the deputation order dated 12.03.2019 whereby the Applicant has been deputed to Government Medical Collage, Baramati with immediate effect.

3. The Applicant is working as Honorary Assistant Professor of Surgery at G.T. Hospital, Mumbai.

4. The learned Advocate for the Applicant urged that the impugned deputation order is ex-facie vindictive as well as illegal and, therefore, prayed for interim relief to stay its implementation. He has invited attention to Para No.7(k) of the application which is as follows:-

“(k) The Respondent No.5 and his wife, Mrs.Nayana Mukherjee, participated in the said programme and the same is a matter of record. However, midway into the said programme, the Respondent No.5 called the Applicant to one side and demanded alcohol to be served to him in the “separate room” which he had asked fore to be arranged for him. The Applicant politely told the Respondent No.5 that no arrangements for serving alcohol had been made and that alcohol was never served at any of their functions. At this, the Respondent No.5 used abusive, foul and non-parliamentary language while addressing the Applicant and

W.P.

threatened the Applicant the Applicant will have to "face the consequences for disobedience of his orders". The Respondent No.5 then gestured to i.e. the Respondent No.4 namely Dr. M.B. Tayade, to come close and the Respondent No.4 to "take action" against the Applicant in the matter."

5. The learned Advocate for the Applicant has referred the show cause notice dated 11.03.2019 issued to the Applicant for calling his explanation for not complying of the oral instructions given to him in CME programme held on 08.03.2019. According to him, because of refusal to do favour to Respondent No.5 in terms of his demand as reproduced in Para No.7(k) of the application, the Respondents have taken vindictive action against him.

6. Whereas, the learned C.P.O. contends that the Applicant has been deputed to Government Medical Collage, Baramati to facilitate the inspection and he will be taken back once the inspection is over. According to her, inspection will be over by 30th April, 2019.

7. Surprisingly, in impugned deputation order dated 12.03.2019 there is no such reference of temporary deputation for the purpose of inspection. This needs to be borne in mind in view of the allegation made by the Applicant in application and show cause notice issued to him.

8. The Applicant is working as Honorary Assistant Professor of Surgery and this being the position, it is not explain how the service can be taken for non-teaching work at Government Medical Collage, Baramati. As such, the deputation of the Applicant at Baramati does not seem to be in good spirit and not in consonance with his qualification and present posting at G.T. Hospital, Mumbai rather it seems to be fallout of the incidence happened on 08.03.2019.

9. In view of above, I find prima-facie case in favour of the Applicant to stay the order of deputation.

10. For the reasons stated above, interim relief is granted in terms of prayer clause 10(a) of the application.

11. If the Applicant is relieved, he be reposted immediately.

12. Hamdast and steno copy is allowed.

13. Issue notice before admission returnable on 29.03.2019.
14. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
15. 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.
16. 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.
17. 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.
18. 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.
19. S.O. to 29.03.2019

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 : 20.03.2019.</p> <p>O.A.No.955 of 2018</p> <p>R.D. GavitApplicant</p> <p>Versus</p> <p>The State of Maharashtra & Ors. ..Respondents.</p> <p>1. Heard Shri A. V. Bandiwadekar, learned Advocate for the Applicant and Shri A. J. Chougule, learned Presenting Officer for the Respondents.</p> <p>2. In the present matter, the challenge is to the suspension order dated 09.05.2008 whereby the Applicant was kept under suspension in view of the registration of crime registered against him in 2008.</p> <p>3. However, during the pendency of this application, the suspension of the Applicant has been revoked and the Applicant has been reinstated on his earlier post as informed by the letter dated 07.12.2018.</p> <p>4. This being the position of now, this O.A. can be disposed of with suitable directions by directing the Disciplinary Authority to pass appropriate order about regularization of suspension period.</p>

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p data-bbox="1120 298 1161 331" style="text-align: center;">-2-</p> <p data-bbox="755 387 1437 752">5. Learned Advocate for the Applicant has invited my attention to Rule 72(1) and (6) of Maharashtra Civil Services (Joining Time, Foreign Service, and Payments during Suspension, Dismissal and Removal) Rules, 1981 (Hereinafter referred as Rules, 1981) and submitted that his client will make representation before the Disciplinary Authority to pass appropriate order in terms of Rule 72(1) and (6) of Rules, 1981.</p> <p data-bbox="755 763 1437 851">6. For the aforesaid discussion, the O.A. is disposed of with following directions:-</p> <p data-bbox="755 862 1437 1094">(A) The Applicant shall make representation to the Disciplinary Authority within a month from today requesting the Disciplinary Authority to pass appropriate order about regularization of suspension period in terms of Rule 72(1) and (6) of Rules, 1981.</p> <p data-bbox="755 1106 1437 1426">(B) Disciplinary Authority shall decide the representation in terms of law laid down by the Hon'ble Supreme Court in <i>(2015) 7 SCC 291 (Ajay Kumar Choudhary V/s Union of India & Ors)</i> as well as Rule 72(1) and (6) of Rules, 1981 and shall pass appropriate order within three months from the date of receipt of representation of the Applicant.</p> <p data-bbox="755 1437 1437 1526">(C) If the Applicant feels aggrieved by such decision, he can avail the legal remedy in accordance to law.</p> <p data-bbox="755 1537 1437 1570">7. No order as to costs.</p> <p data-bbox="1112 1614 1185 1647" style="text-align: right;">Sd/-</p> <p data-bbox="1063 1681 1242 1747" style="text-align: right;">(A.P. Kurhekar) Member(J)</p> <p data-bbox="730 1736 771 1769">vsm</p>

Date : 20.03.2019.

O. A. No.259 of 2019

D. R. Rathod

....Applicant

Versus

The State of Maharashtra & Ors.

...Respondents.

1. Heard Shri U. V. Bhosale, learned Advocate for the Applicants and Smt. Kranti Gaikwad, learned Presenting Officer for the Respondents.
2. Issue notice before admission returnable on 18.04.2019.
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 seven 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 18.04.2019.

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
	<p data-bbox="760 526 966 555">Date : 20.03.2019.</p> <p data-bbox="976 577 1206 606">O. A. No.272 of 2019</p> <p data-bbox="760 630 1349 721">G. V. PawarApplicant Versus The State of Maharashtra & Ors. ...Respondents.</p> <p data-bbox="760 758 1425 864">1. Heard Shri K. R. Jagdale, learned Advocate for the Applicant and Shri A. J. Chougule, learned Presenting Officer for the Respondents.</p> <p data-bbox="760 893 1425 960">2. Issue notice before admission returnable on 03.04.2019.</p> <p data-bbox="760 990 1425 1097">3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.</p> <p data-bbox="760 1128 1425 1311">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.</p> <p data-bbox="760 1340 1425 1482">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 data-bbox="760 1513 1425 1696">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> <p data-bbox="760 1725 1425 1908">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.</p> <p data-bbox="760 1937 1047 1966">8. S.O. to 03.04.2019.</p> <p data-bbox="1146 1957 1206 1993">Sd/-</p> <p data-bbox="1101 2026 1271 2092">(A.P. Kurhekar) Member(J)</p> <p data-bbox="760 2088 800 2116">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 Caram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 20.03.2019.</p> <p align="center">O.A.No.636 of 2018</p> <p>B. N. GadgeApplicant</p> <p>Versus</p> <p>The State of Maharashtra & Ors. ...Respondents.</p> <p>1. Heard Smt. Poonam Shinde holding for Shri S. M. Katkar, learned Advocate for the Applicant, Smt. Archana B. K. holding for Ms N.G. Gohad, learned Presenting Officer for the Respondent Nos.1 to 3 and Shri T. Jadhav, learned Advocate for the Respondent No.4.</p> <p>2. Today, the Presenting Officer for the Respondents has filed Affidavit-in-Reply on behalf of the Respondent No.3 and the same reply is adopted on behalf of the Respondent Nos.1 and 2. It is taken on record.</p> <p>3. The matter is adjourned for hearing at the stage of admission.</p> <p>4. Meantime, allowed to file Rejoinder, if any.</p> <p>5. S.O. to 10.04.2019.</p> <p align="right">Sd/- v (A.P. Kurhakar) 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
	<p>Date : 20.03.2019.</p> <p>O.A.No.1055 of 2018</p> <p>V. S. MoneApplicant</p> <p>Versus</p> <p>The State of Maharashtra & Ors. ...Respondents.</p> <p>1. Heard Shri A. V. Bandiwadekar, learned Advocate for the Applicant and Shri A. J. Chougule, learned Presenting Officer holding for Ms S. P. Manchekar, learned Chief Presenting Officer for the Respondents.</p> <p>2. As the pleadings are complete, the matter is admitted and adjourned for final hearing on 29.03.2019.</p> <p>3. S.O. to 29.03.2019.</p> <p>Sd/- (A.P. Kurhekar) Member(I)</p> <p>vsm</p>

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

Tribunal's orders

Date : 20.03.2019.

O.A.No.16 of 2019

S.G.Parab

....Applicant

Versus

The State of Maharashtra & Ors.

...Respondents.

1. Heard Shri A. V. Bandiwadekar, learned Advocate for the Applicant and Shri A. J. Chougule, learned Presenting Officer for the Respondents.
2. In the present matter, the challenge is to the transfer order dated 19.04.2018 whereby the Applicant has been transferred from Police Control Room to Malabar Hills Police Station. However, today the learned P.O. has tendered the order dated 19.03.2019 issued by the Deputy Commissioner of Police, Wireless Department, Mumbai stating that the impugned transfer order of the Applicant has been cancelled.
3. As such, the impugned order being cancelled by the department, no cause of action survives to continue the O.A.
4. The Respondents are directed to allow the Applicant to join his posting forthwith in view of cancellation of the transfer order.
5. In view of above, the Original Application is disposed of with no order as to costs.
6. Hamdast and steno copy is allowed.

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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(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 20.03.2019.</p> <p align="center">M.A. No.146 of 2019 in O.A.No.306 of 2016</p> <p>S.B. PardeshiApplicant</p> <p>Versus</p> <p>The State of Maharashtra & Ors. ...Respondents.</p> <p>1. Heard Shri S. S. Sharma, learned Advocate for the Applicant and Smt. Kranti Gaikwad, learned Presenting Officer for the Respondents.</p> <p>2. The Misc. Application is filed to restore the O.A.No.306/2016, which has been dismissed in default on 01.03.2019.</p> <p>3. Learned Advocate for the Applicant submitted that after long back the matter was listed on board on 01.03.2019 and, therefore, he cannot be ^{could not attend} present in the Tribunal. He, therefore, requested to restore the O.A.</p> <p>4. For the reasons stated in Misc. Application, Misc. Application is allowed and the O.A.No.306/2016 is restored to file.</p> <p>5. O.A.No.306/2016 be taken on board under the caption of 'Final Hearing'.</p> <p>6. S.O. to 05.04.2019 .</p> <p align="right">Sd/- (A.P. Kurhekar) Member(I)</p>

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. Respondent No.1 is directed to clarify impediments in implementing relief claimed at paragraph (XX)(c) of the O.A., which reads as under :-

“(c) That this Honourable Tribunal be pleased to issue suitable orders/ directions thereby directing the Respondent herein above to give the benefits of selection grade and senior grade and further higher pay scale of the Applicant from the dates and in the manner as stipulated in the letter dated 1st July 2017 issued by the Section Officer, Government of Maharashtra to the Respondent (Exhibit-E).”

(Quoted from page 9 of the paper book of O.A.No.257/2019 & page 8 & 9 of the paper book of O.A.No.256/2019)

9. If Respondents take decision to give effect to the order dated 06.10.2017 issued by the Government as mentioned on page No.105 (Exhibit H of the O.A.No.256/2019), the same may be communicated to the Applicant expeditiously. In that case reply would not be necessary.

gd.

10. Steno copy and Hamdast is allowed to learned C.P.O..

11. Learned C.P.O. is directed to communicate this order to the Respondent.

12. S.O. to 08.04.2019.

Sd/-

(P.N. Dixit)
Member(A)

prk

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><u>DATE:</u> 20/3/2019</p> <p><u>CORAM:</u> Hon'ble Justice Shri A. G. Joshi (Chairman) Hon'ble Justice Shri P. N. Dixit (Member) A</p> <p><u>APPLICANTS:</u> Ld. Adv. Shri Aditya Bhagat the Ld. Adv. Shri M.V. Thorat</p> <p><u>RESPONDENTS:</u> Shri/Smt. S.P. Manchekar C.P.O./P.O. for the Respondent/s</p> <p>Adj. To..... order passed on farad column. The correction is permitted accordingly.</p> <p style="text-align: right;">P.N.</p>	<p>Date : 20.03.2019.</p> <p>O.A.No.1062 of 2017</p> <p>G.A. Palve & Ors.Applicants. Versus The State of Maharashtra & Ors.Respondents.</p> <p>1. Heard Shri Aditya Bhagat, the learned Advocate i/b. Shri M.V. Thorat, the learned Advocate for the Applicants and Ms. S.P. Manchekar, the learned Chief Presenting Officer for Respondents.</p> <p>2. Learned Advocate Shri Aditya Bhagat mentions that in the order/ judgment dated 07.03.2019 at page 2, the name of Applicant No.9 is written as "Mr. Prakash Narayanrao Ingle Patil". He mentions that it needs to be changed as "Pratik Narayanrao Ingle Patil". The correction is permitted accordingly.</p> <p style="text-align: right;">Sd/- (P.N. Dixit) Member(A)</p> <p>prk</p>