

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><u>DATE:</u> 21/7/2017</p> <p><u>CORAM:</u> Hon'ble Justice Shri A. H. Joshi (Chairman) Hon'ble Shri M. Rameshkumar (Member)</p> <p><u>APPEARANCE:</u> Shri/Smt. L.S. Deshmukh Advocate for the Applicant Shri/Smt. K.B. Bhise P.O. / P.O. for the Respondent/s</p> <p>dj. To. 11/8/2017</p> <p style="text-align: right;">MTE A. K.</p>	<p><u>21.07.2017</u></p> <p><u>O.A No 15/2017</u></p> <p>Shri N.G Bhoite ... Applicant Vs. The State of Maharashtra & Ors... Respondents</p> <p>Heard Shri L.S Deshmukh, learned advocate for the Applicant and Shri K.B Bhise, learned Presenting Officer for the Respondents.</p> <p>Learned P.O states that he will file affidavit in reply during the course of the day.</p> <p>S.O to 11.8.2017.</p> <p style="text-align: right;">Sd/- (Rajiv Agarwal) Vice-Chairman</p> <p>Akn</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><u>DATE:</u> 21/7/17</p> <p><u>CORAM:</u></p> <p>Hon'ble Shri. RAJIV AGARWAL (Vice Chairman)</p> <p>Hon'ble Shri R. B. MALIK (Member) J</p> <p><u>APPEARANCE:</u></p> <p>Shri/Smt. K. S. P. Manchekar Advocate for the Applicant</p> <p>Shri/Smt. K. S. Gaikwad C.P.O./P.O. for the Respondents</p> <p>Order passed in the Tribunal's column.</p> <p>Adj. To.....</p> <p>Secy. Mat. C.A. is closed</p>	<p style="text-align: center;"><u>O.A. No.1140 of 2016</u></p> <p>Shri P.V. Adhav ... Applicant</p> <p style="text-align: center;">V/s.</p> <p>The State of Mah. & ors. ... Respondents</p> <p>Heard Ms S.P. Manchekar, the learned Advocate for the Applicant and Smt. Kranti Gaikwad, the learned P.O. for the Respondents.</p> <p>The Dean, B.J. Government Medical College and Sassoon General Hospital, Pune Shri Ajay Chandanwale is present. His Affidavit sworn on 17.07.2017 is taken on record. The submissions are heard on the limited aspect of the matter with regard to my order dated 07.07.2017.</p> <p>The learned P.O. also makes a submission that there was element of bonafide lapse on her part as well because of some lack of communication.</p> <p>In this set of circumstances, unconditional apology of the Dean, Dr. Ajay Chandanwale is accepted and his statement that he shall be careful in future in the matters like this one is also accepted and the matter of contempt is closed. Attendance of Shri Ajay Chandanwale, the Dean, Sassoon Hospital is dispensed with today.</p> <p style="text-align: right;">Sd/- (R.B. Malik) 21-7-17 Member (J) 21.07.2017</p> <p style="text-align: center;">(vsm)</p>

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

Tribunal's orders

O.A. No.665 of 2017

Shri R.A. Chougule ... Applicant
V/s.
The State of Mah. & ors. ... Respondents

Heard Shri B.A. Bandiwadekar, the learned Advocate for the Applicant and Ms S. Suryawanshi, the learned P.O. for the Respondents.

In asking for the interim relief, the learned Advocate Shri B.A. Bandiwadekar specifically refers to the issue of competency ~~for~~ the transferring authority because it is clear that the Applicant has completed his tenure at the place he has been transferred from. He relies upon the case in **O.A. No.480 of 2011 (Shri Rajendra Markad V/s. Divisional Joint Registrar, Navi Mumbai), dated 16.09.2011.** This aspect of the matter will be dealt with and for that liberty is reserved for the Applicant to renew his request for interim relief and today, I direct the Respondents that on the next date Affidavit-in-Reply must be filed and in that Affidavit there must be an intelligible response to the issue of delegation of power in the manner it is raised in the OA. No further indulgence will be shown.

With this, I direct issue notice returnable on 31.07.2017.

Tribunal may take the case for final disposal at this stage and separate notice for final disposal need not be issued.

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.

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.

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 four weeks. Applicant is directed to file Affidavit of compliance and notice.

S.O. to 31.07.2017. Learned P.O. do waive service.

Sd/-

(R.B. Malik) 21.7.17
Member (J)
21.07.2017

DATE: 21/7/17

CORAM:

Hon'ble Shri. RAVI KARWAL
(Vice Chairman)

Hon'ble Shri R. B. MALIK (Member)

APPEARANCE:

Shri B.A. Bandiwadekar

Advocate for the Applicant

Shri Ms S. Suryawanshi

PROTEO. for the Respondents

Adj. To

S.O. to 31/7/17.

**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><u>DATE:</u> 21/7/17</p> <p><u>CORAM:</u> Hon'ble Shri. RAJIV AGARWAL (Vice-Chairman) Hon'ble Shri R. B. MALIK (Member) J</p> <p><u>APPEARANCE:</u> Shri/Smt. M. B. Kadam Advocate for the Applicant Shri/Smt. Ms. N. G. Gohad C/O/P.O. for the Respondents holding for A. J. Chougule</p> <p>Adj. To: O.A. is admitted. S.O. to 14/8/17.</p> <p style="text-align: right;">FH [Signature]</p>	<p style="text-align: center;"><u>O.A. No.199 of 2017</u></p> <p>Shri S.V. Kulkarni ... Applicant</p> <p style="text-align: center;">V/s.</p> <p>The State of Mah. & ors. ... Respondents</p> <p>Heard Shri M.B. Kadam, the learned Advocate for the Applicant and Ms N.G. Gohad holding for Shri A.J. Chougule, the learned P.O. for the Respondents.</p> <p>The learned Advocate makes a statement that the Applicant does not want to file Rejoinder.</p> <p>Original Application is admitted and appointed for final hearing on 14.08.2017.</p> <p style="text-align: right;">Sd/- (R.B. Malik) 21.7.17 Member (J) 21.07.2017</p> <p style="text-align: center;">(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

O.A. No.193 of 2017

Shri R.S. Godbole ... Applicant

V/s.

The State of Mah. & ors. ... Respondents

Heard Shri P.S. Pathak, the learned Advocate for the Applicant and Smt. Archana B.K., the learned P.O. for the Respondents.

The learned Advocate undertakes to file the Affidavit-in-Rejoinder during the course of the day. On this statement, the Original Application is admitted and appointed for final hearing on 14.08.2017.

S.O. to 14.08.2017.

Sd/-

(R.B. Malik)
Member (J)
21.07.2017

21.7.17

DATE: 21/7/17

CORAM:

~~Hon'ble Shri. RAJIV AGARWAL
(Vice Chairman)~~

Hon'ble Shri R. B. MALIK (Member) ✓

APPEARANCE:

Shri/Smt. P.S. Pathak

Advocate for the Applicant

Shri/Smt. Archana B.K.

C.P.O./P.O. for the Respondents

Rejoinder filed by Applicant.

Adj. to

O.A. is admitted.

S.O. to 14/8/17.

FH
@ceef

(vsm)

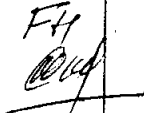
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

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>21/7/17</u></p> <p>CORAM: Hon'ble Shri. RAHV AGARWAL (Vice Chairman) Hon'ble Shri. R. B. MALIK (Member) ✓</p> <p>APPEARANCE: Shri/Smt. <u>D. B. Khaire</u> Advocate for the Applicant Shri/Smt. <u>N. K. Rajpurohit</u> C.P.O./P.O. for the Respondents Adj. To <u>1/8/17</u></p> <p style="text-align: right;">FH </p>	<p style="text-align: center;"><u>O.A.901/2015</u></p> <p>Mr. N.G. Kondhalkar ... Applicant Vs. The State of Mah. & Ors. ... Respondents</p> <p>Heard Mr. D.B. Khaire, the learned Advocate for the Applicant and Mr. N.K. Rajpurohit, the learned Chief Presenting Officer for Respondents.</p> <p>The OA is adjourned for Additional Affidavit-in-reply, if any, to 1st August. 2017.</p> <p style="text-align: right;">Sd/- (R.B. Malik) <u>21/7/17</u> Member (J) 21.07.2017</p> <p style="text-align: right;">(skw) +</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><u>DATE:</u> 21/7/17</p> <p><u>CORAM:</u> Hon'ble Shri. RAJIV AGARWAL (Vice Chairman) Hon'ble Shri R. B. MALIK (Member)</p> <p><u>APPEARANCE:</u> Shri/Smt. <u>D. B. Khaire</u> Advocate for the Applicant Shri/Smt. <u>H. K. Rajpurohit</u> C.P.O./P.O. for the Respondents</p> <p><u>Adj. To:</u> <u>M.A. is allowed.</u></p> <p><i>[Signature]</i></p>	<p><u>M.A.299/2017 in O.A.901/2015</u></p> <p>Mr. N.G. Kondhalkar ... Applicant Vs. The State of Mah. & Ors. ... Respondents</p> <p>Heard Mr. D.B. Khaire, the learned Advocate for the Applicant and Mr. N.K. Rajpurohit, the learned Chief Presenting Officer for Respondents.</p> <p>This is an application for amendment of the OA whereby a prayer clause is being sought to be incorporated in accordance with the Schedule 'A' hereto annexed. I have gone through the MA and heard the submissions. I am satisfied that the amendment as herein sought survives the test of law amendments and is accordingly allowed. The amendment be carried out within a period of one week from today. A consolidated copy of the OA after amendment be filed and the copy be furnished to the other side. The MA is allowed in these terms with no order as to costs.</p> <p>Sd/- (R.B. Malik) 21/7/17 Member (J) 21.07.2017</p> <p>(skv)</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.635 OF 2017

Shri S.S. Shivade.)...Applicant

Versus

1. The State of Maharashtra & 3 Ors.)...Respondents

Mrs. Punam Mahajan, Advocate for Applicant.

Mrs. A.B. Kololgi, Presenting Officer for Respondents.

P.C. : R.B. MALIK (MEMBER-JUDICIAL)

DATE : 21.07.2017

ORDER

1. Heard Mrs. Punam Mahajan, the learned Advocate for the Applicant and Mrs. A.B. Kololgi, the learned Presenting Officer (PO) for the Respondents.

2. The learned PO is being instructed by Mrs. Hanifa S. Sayyed, Senior Clerk.



3. The matter comes up before me for consideration of interim order. On 12.7.2017, I had reserved liberty for the Applicant to renew his request for interim relief. I made it clear that regardless of whether the reply was filed or not filed, the matter for the interim relief could still be heard. On 18th July, 2017, the matter was adjourned to today.

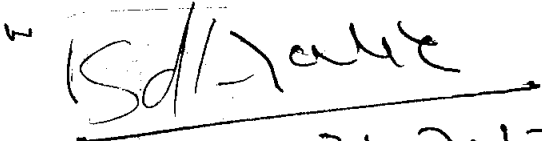
4. There is a condition No.5 in Annexure 'A-1' (Page 15 of the Paper Book) which strongly suggests that the Applicant cannot be transferred. I must, however, hasten to add that this is a prima-facie observation subject to alteration, depending upon what comes as a result of the Affidavit-in-reply. I am, therefore, of the opinion that the Applicant cannot be left unprotected. The learned PO relied upon **Arun D. Veer Vs. The State of Maharashtra : 1999 (2) BCC 766** and she further told me that the representation of the Applicant is under consideration, and therefore, no relief need be granted today.

5. As far as the condition herein is concerned, no such fact was involved in **Arun** (supra). There is nothing to find out as to what were the conditions in the case of **Union of India Vs. S.L. Bas**, which is referred to Para 8 of **Arun** (supra). As far as the second aspect of the matter is



concerned, the Respondents can go ahead despite pendency of this OA and decide the representation of the Applicant. Needless to say that, if the representation was decided in favour of the Applicant for all practical purposes, this OA will have worked itself out. I again make it clear that, despite the pendency of this OA before this Tribunal, the Respondents are free to consider the representation of the Applicant. With this, the impugned order is stayed in so far as it relates to the Applicant till the date next to the filing of the Affidavit-in-reply.

6. S.O. to 4th August, 2017. Hamdast.



(R.B. Malik)
Member-J
21.07.2017

21-7-17

Mumbai

Date : 21.07.2017

Dictation taken by :

S.K. Wamanse.

D:\SANJAY WAMANSE\JUDGMENTS\2017\7 July, 2017\O.A.635.17.w.7.2017.doc

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

O.A.257/2016

Mr. S.B. Dube ... Applicant
Vs.
The State of Mah. & Ors. ... Respondents

Heard Mr. D.B. Khaire, the learned Advocate for the Applicant and Mrs. K.S. Gaikwad, the learned Presenting Officer for Respondents.

The learned PO is being instructed by Dr. Anil Waghmare, Assistant Professor in the office of Respondent No.3.

By my order dated 4.7.2017, I had directed the Respondents to decide the representations of the Applicant dated 28.1.2015 and 8.2.2016 within two weeks from that date and the OA was listed today for hearing. Those representations are at Pages 38 and 40 and they had been addressed to the Secretary of the Medical Education and Drugs Department and to the Chief Secretary, State of Maharashtra. The learned PO on instructions from the Officer referred to informs that, such a decision was already taken on 10.6.2016. A copy thereof is tendered for my perusal. Now, that was a document that came into existence just about the time this OA was recently instituted and needless to say the directions by me were given on the last occasion. Therefore, in my view, it was incumbent upon the concerned authority to at least place a short Affidavit on record to say whatever he wanted to say. The learned PO on instructions seeks further adjournment. In my view, the further adjournment could be given only subject to the payment of cost to be paid by the 1st Respondent. The adjournment for compliance with my order of 4.7.2017 is granted subject to the cost condition precedent of Rs.5000/- (Rs. Five Thousand) to be deposited in this Tribunal within two weeks from today which on proper identification shall be paid to the Applicant.

DATE: 21/7/17

CORAM:

~~Hon'ble Shri. RAJIV AGARWAL~~
 (Vice-Chairman)

Hon'ble Shri R. B. MALIK (Member) J

APPEARANCE:

Advocate for the Applicant: S.D.B. Khaire

Presenting Officer for the Respondents:

Shri/Shri: K.S. Gaikwad

C.P.O./P.O. for the Respondents

Adj. To: S.O. to 8/8/17.

Hamdast.

PH
 @

S.O. to 8th August, 2017. Hamdast.

Sd/-

(R.B. Malik)
 Member (J)
 21.7.17
 21.07.2017

**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><u>DATE:</u> <u>21/7/2017</u></p> <p><u>CORAM:</u> Hon'ble Justice Shri A. H. Joshi (Chairman) Hon'ble Shri <u>Rajiv Aggarwal</u> (Vice-Chairman) Hon'ble Shri M. Rameshkumar (Member) A</p> <p><u>APPEARANCE:</u> Shri/Smt. <u>Punam Mahajan</u> Advocate for the Applicant Shri/Smt. <u>K.B. Bhise</u> C.F.O./P.O. for the Respondent/s</p> <p>Adj. To <u>25/7/2017.</u></p> <p align="right"><i>B.K.</i></p>	<p><u>21.07.2017</u></p> <p align="center"><u>M.A 257/2017 in O.A No 1212/2016</u></p> <p>Shri B.S Kachare & Ors ... Applicants Vs. The State of Maharashtra & Ors... Respondents</p> <p>Heard Smt Punam Mahajan, learned advocate for the applicants and Shri K.B Bhise, learned Presenting Officer for the Respondents.</p> <p>Learned Presenting Officer seeks more time to comply with the order of this Tribunal dated 28.6.2017.</p> <p>S.O to <u>25/7.2017.</u></p> <p align="right">Sd/- (<u>Rajiv Aggarwal</u>) Vice-Chairman</p> <p>Akn</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
---	-------------------

DATE: 21/7/2017

CORAM:

Hon'ble Justice Shri A. H. Joshi (Chairman)
Hon'ble Shri M. Ramachandran (Member) A

APPEARANCE:

Shri/Smt.: Pramod Patil And
Shri Ganpat Kachare present in person.
Advocate for the Applicant

Shri/Smt.: K.B. Bhise

C.P.O./ P.O. for the Respondent/s 1.

Adv. Mrs. P. Mahajan for R. 24, 26 & 42

Adv. To: 90 & 90.

S.O. to 24/8/2017.

21/7/2017

D/B not available. *AKN*

~~Beard discharged.~~

AKN

21.07.2017

O.A No 488/2017

Shri K.A Jadhav & Ors ... Applicants
Vs.

The State of Maharashtra & Ors... Respondents

Applicants Shri Pramod Patil and Shri Ganpat Kachare, present in person. Heard Shri K.B Bhise, learned Presenting Officer for the Respondent no. 1 and Smt Punam Mahajan, learned advocate for Respondents no 24, 26, 42 & 90.

Learned P.O seeks time to file affidavit in reply on behalf of Respondent no. 1. Mrs Mahajan, Learned Advocate for Respondents no 24, 26, 42 & 90 seeks time to file reply.

S.O to 24.8.2017.

Sd/-

(Rajiv Agarwal)
Vice-Chairman

Akn

**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: <u>21/7/2017</u></p> <p>CORAM:</p> <p>Hon'ble Justice Shri A.H. Joshi (Chairman)</p> <p>Hon'ble Shri M. Rajiv Agarwal (Member) A</p> <p>APPEARANCE</p> <p>Shri/Smt. <u>S.B. Gaikwad</u></p> <p>Advocate for the Applicant</p> <p>Shri/Smt. <u>K.B. Bhise</u></p> <p>C.P.O / P.O. for the Respondent/s</p> <p>Adj. To <u>4/8/2017</u></p>	<p><u>21.07.2017</u></p> <p><u>C.A 10/2019 in O.A No 994/2015</u></p> <p>Shri U.U Hatkar ... Applicant</p> <p>Vs.</p> <p>The State of Maharashtra & Ors... Respondents</p> <p>Heard Shri S.B Gaikwad, learned advocate for the applicant and Shri K.B Bhise, learned Presenting Officer for the Respondents.</p> <p>Learned Presenting Officer states that all the payments of the Applicant are likely to be ^{will be made} made within a period of two weeks.</p> <p>S.O to 4.8.2017.</p> <p>Sd/-</p> <p>(Rajiv Agarwal)</p> <p>Vice-Chairman</p> <p>Akn</p>

hh

MBE

**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><u>DATE:</u> 21/7/2017</p> <p><u>CORAM:</u> Hon'ble Justice Shri A. H. Joshi (Chairman) Hon'ble Shri M. Rajiv Agarwal (Member) A</p> <p><u>APPEARANCE:</u> Shri/Smt. U.R. Mankapure Advocate for the Applicant Shri/Smt. S. Suryawanshi C.P.O./P.O. for the Respondent/s</p> <p>Adj. To. 31/7/2017.</p> <p style="text-align: right;"><i>[Signature]</i></p>	<p><u>21.07.2017</u></p> <p><u>O.A No 304/2017</u></p> <p>Dr K.R Patil ... Applicant Vs. The State of Maharashtra & Ors... Respondents</p> <p>Heard Shri U.R Mankapure, learned advocate for the Applicant and Ms Savita Suryavanshi, learned Presenting Officer for the Respondents.</p> <p>Learned Presenting Officer files affidavit in reply. Learned Advocate for the Applicant seeks time to file affidavit in rejoinder.</p> <p>S.O to 31.7.2017.</p> <p style="text-align: right;">Sd/- (Rajiv Agarwal) Vice-Chairman</p> <p>Akn</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><u>DATE:</u> 21/7/2017</p> <p><u>CORAM:</u> Hon'ble Justice Shri A.H. Joshi (Chairman) Hon'ble Shri M. Rameshkumar (Member) A <i>Rajiv Agarkar</i></p> <p><u>APPEARANCE:</u> Shri/Smt. : <i>None for the appl.</i> Advocate for the Applicant Shri/Smt. : <i>K.S. Gaikwad</i> C.P.O / P.O. for the Respondent/s</p> <p>Adj. To. <i>18/8/2017.</i></p> <p style="text-align: right;"><i>14/7</i> <i>De</i></p>	<p><u>21.07.2017</u></p> <p><u>O.A No 21 & 22/2017</u></p> <p>Shri A.A Pawar & Ors ... Applicant Vs. The State of Maharashtra & Ors... Respondents</p> <p>None for the applicant. Heard Smt K.S Gaikwad, learned Presenting Officer for the Respondents.</p> <p>Learned Presenting Officer seeks time to file detailed reply within a period of four weeks.</p> <p>S.O to 18.8.2017.</p> <p style="text-align: right;">Sd/- (<i>Rajiv Agarkar</i>) Vice-Chairman</p> <p>Akn</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><u>DATE:</u> 21/7/2017</p> <p><u>CORAM:</u> Hon'ble Justice Shri A. H. Joshi (Chairman) Hon'ble Shri M. Rajeshkumar (Member) A</p> <p><u>APPEARANCE:</u> Shri/Smt. V.P. Potbhare Advocate for the Applicant Shri/Smt. N.K. Rajpurohit C.P.O./P.O. for the Respondent/s</p> <p>Adj. To. 11/8/2017</p> <p style="text-align: right;">BTE</p>	<p><u>21.07.2017</u></p> <p><u>O.A No 316/2017</u></p> <p>Shri V.N Zagde & Ors ... Applicants Vs. The State of Maharashtra & Ors... Respondents</p> <p>Heard Shri V.P Potbhare, learned advocate for the Applicants and Shri N.K Rajpurohit, learned Chief Presenting Officer for the Respondents.</p> <p>Affidavit in reply is not filed. Learned Presenting Officer seeks three weeks' time to file reply. Granted as a last chance.</p> <p>S.O to 11.8.2017.</p> <p style="text-align: right;">Sd/- (Rajiv Agarwal) Vice-Chairman</p> <p>Akn</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><u>DATE:</u> 21/7/2017</p> <p><u>CORAM:</u> Hon'ble Justice Shri A. H. Joshi (Chairman) Hon'ble Shri Rajiv Agarwal (Member)</p> <p><u>APPEARANCE:</u> Shri/Smt. : U.V. Bhosale Advocate for the Applicant Shri/Smt. : Archana B.K. C.P.O / P.O. for the Respondent/s</p> <p>Adj. To. 28/7/2017</p> <p style="text-align: right;"><i>BT</i></p>	<p><u>21.07.2017</u></p> <p><u>O.A No 251/2017</u></p> <p>Shri S.N Naik & Ors ... Applicants Vs. The State of Maharashtra & Ors... Respondents</p> <p>Heard Shri U.V Bhosale, learned advocate for the Applicants and Ms Archana B.K, learned Presenting Officer for the Respondents.</p> <p>Learned Presenting Officer gave some tentative programme which is totally reckless and is rejected. A realistic schedule should be submitted by the Respondents on Friday.</p> <p>S.O to 28.7.2017.</p> <p style="text-align: right;">Sd/- (Rajiv Agarwal) Vice-Chairman</p> <p style="text-align: left;">Akn</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><u>DATE:</u> 21/7/2017</p> <p><u>CORAM:</u> Hon'ble Justice Shri. H. Joshi (Chairman) Hon'ble Shri M. Kameshkumar (Member)</p> <p><u>APPEARANCE:</u> Shri/Smt. L.S. Deshmukh Advocate for the Applicant Shri/Smt. K.B. Bhise C.P.O./P.O. for the Respondent/s</p> <p>Adj. To 11/8/2017</p> <p align="right">A.K.</p>	<p><u>21.07.2017</u></p> <p align="center"><u>O.A No 15/2017</u></p> <p>Shri N.G Bhoite ... Applicant Vs. The State of Maharashtra & Ors... Respondents</p> <p>Heard Shri L.S Deshmukh, learned advocate for the Applicant and Shri K.B Bhise, learned Presenting Officer for the Respondents.</p> <p>Learned P.O states that he will file affidavit in reply during the course of the day.</p> <p>S.O to 11.8.2017.</p> <p align="right">Sd/- (Rajiv Agarwal) Vice-Chairman</p> <p align="center">Akn</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.639 OF 2016

DISTRICT : PUNE

Shri Noreshwar R. Shende.)...Respondent No.3

Shri H.J. Nazirkar.)...Ori. Applicant

Versus

1. The Addl. Chief Secretary,)
GAD & one another.)...Respondents

Mr. A.V. Bandiwadekar, Advocate for Respondent No.3.

Mrs. Punam Mahajan, Advocate for Ori. Applicant.

Mrs. K.S. Gaikwad, Presenting Officer for Respondents.

P.C. : R.B. MALIK (MEMBER-JUDICIAL)

DATE : 21.07.2017

ORDER

1. Three issues came to be argued as what has been described as preliminary issues in this Original Application (OA) by the 3rd Respondent hereto.



2. I have heard Mr. A.V. Bandiwadekar, the learned Advocate for Respondent No.3 at whose instance, preliminary issues have been raised, Mrs. Punam Mahajan, the learned Advocate for original Applicant and Mrs. K.S. Gaikwad, the learned Presenting Officer for the Respondent Nos. 1 & 2.

3. The three issues pertained to the objection regarding the territorial jurisdiction, limitation and the OA being bad for having clubbed multiple reliefs which in the realm of civil law is also called misjoinder of cause of action.

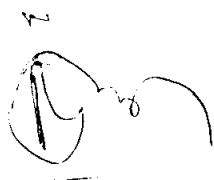
4. Be it noted quite clearly right at the outset that, in so far as the proceedings before this Tribunal in relation to the OAs are concerned, the strict procedural law as encoded in the Code of Civil Procedure or Indian Evidence Act, etc. is not in terms applicable. However, I do not think, there is any impediment in the way of applying the general principles underlying the procedural aspect of the matter. If that be so, then by 1976, amendments including those to order 14 of the CPC and also of certain other provisions, the harp is on the decision once and for all of all the issues involved so as to avoid needless foray into the proceedings being carried to the higher forum against each and every finding. Here also, it is after having deliberated



somewhat closely, I could have as well decided not to find any preliminary issue as such. But then, since the arguments have been heard and in any case, there must be a curb on the parties to unnecessarily prolong the arguments, etc. and the issues being such as to be able to be found with limited discussion saving thereby the time, I shall determine these preliminary issues.

5. I may note right at the outset that, even the issue of whether this OA is to be heard by Division Bench or Single Bench and the further issue as to whether, in view of the pendency of a **Writ Petition No.4112/2016 (Sudhir B. Nangure Vs. State of Maharashtra and ors.)**, the present OA should be kept in sine-die list and its hearing should be postponed till the decision of the Writ Petition was also set out in the Affidavit-in-reply by the 3rd Respondent and that point was argued as well. Now, in my opinion, in the first place, such issues can never be preliminary issues. It is clear that the matter was earlier before the Division Bench and thereafter, it was assigned to the Single Bench. No right as such has been conclusively determined and it is not necessary for me to devote much time in that behalf.

6. As far as the High Court matter is concerned, the present Applicant was admittedly not a party to **Nangure's**



matter. According to the Respondent No.3, the relief claimed by the present Applicant in this OA was the same as in Nangure's case which was decided in his favour by this Tribunal and since that is subjudice in the Writ Petition, I should not hear this OA till such time as the said Writ Petition was decided. There is no stay from the Hon'ble High Court and the 3rd Respondent in fact could have but has not moved the Hon'ble High Court for stay. I must repeat that the present Applicant is not a party thereto. Therefore also, there is no reason why this matter should be adjourned sine-die.

7. Turning to the issue of territorial jurisdiction, I find that, in this very matter, earlier that issue was raised and the 2nd Division Bench of which I was also a Member by its order of 22nd December, 2016 made the following order.

“Heard Smt Punam Mahajan, learned advocate for the Applicant and Smt Kranti S. Gaikwad, learned P.O for Respondents.

This Misc Application seeking amendment to the Original Application in accordance with Annexure M-1, whereby paras 6.16A, B, C, D, E & F and certain other paragraphs are being sought to be incorporated. Reference to the facts such as they are within the realm of the Original Application may not be necessary. We only have



to examine as to whether this Misc Application stands the test of law of amendments and we find nothing herein which could be said to take the other side by irretrievable surprise, much less will there be any prejudice caused.


Learned Presenting Officer raised the issue of territorial jurisdiction. In our opinion, we cannot go only the basis of theories. In actual fact, there is no Division Bench available at Nagpur and for that matter even at Aurangabad and therefore, this Misc Application may be allowed on its own merit and the rest of it can be considered later on.

The Misc Application is therefore allowed. The amendment as herein prayed be incorporated in the Original Application within a period of one working week from today. Consolidated copy of O.A after amendment be filed and copy thereof furnished to the learned P.O

Original Application now stands adjourned for additional affidavit in reply, if any to 12.1.2017.”

Now, even at present, the same is the state of affairs. At Nagpur, there is no Division Bench available and one is not too sure as to when it would become functional there.

8. Still further, there is an order dated 22nd April, 2016 made by the Hon'ble Chairman. That order is required to be fully reproduced.



“Heard Shri A.S. Golegaonkar, the learned Advocate for the Applicant and Shri K.B. Bhise, the learned Presenting Officer for the Respondents.

By this application Applicant has sought leave to file O.A. at principal seat of this Tribunal at Mumbai though place of ordinary posting of Applicant in Amravati, in the background that impugned order is passed in Mumbai, and cause of action to challenge would ensue at all places of seating of this Tribunal.

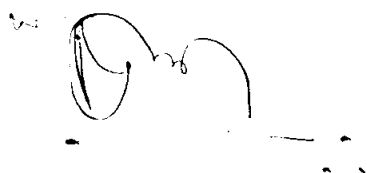
Therefore, M.A. is allowed. Leave to file O.A. is granted.”

9. It is, therefore, quite clear that in so far as this OA is concerned, the issue of territorial jurisdiction has now been placed out of harms way and this Principal Bench can safely hear this matter. Mr. Bandiwadekar, the learned Advocate for the 3rd Respondent strongly relied upon a Judgment of a Division Bench of the then Hon^{ble} Chairman in the matter of **OA 194/2006 (Shri Harendra A. Sawant Vs. The Commissioner of State Excise, dated**



15.9.2006) wherein the issue of territorial jurisdiction was discussed thread bare and it was held that, whenever subject matter of an OA falls within the territorial jurisdiction either of Aurangabad Bench or Nagpur Bench, then the Principal Bench should not entertain and hear such an OA. However, as far as the present OA is concerned as already mentioned above, the earlier two judicial orders have made it clear that, this OA will have to be heard by the Principal Bench. Therefore, the objection to the territorial jurisdiction stands hereby rejected.

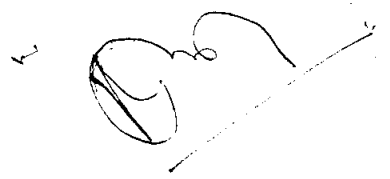
10. In so far as the issue of multiple reliefs is concerned, it may be noted that in this particular OA which has once been amended also, the relief sought is for declaration of deemed date of seniority to the Applicant as 1.12.2012 and 10.6.2013 bearing in mind the roster point of VJNT. The 2nd relief sought is for direction to the Government to consider the case of the Applicant for promotion after granting him deemed date of promotion as Joint Director of Town Planning and if found fit, promote him. By way of amendment, certain prayers have been incorporated without prejudice to the existing prayers for directions to the Respondents to grant deemed date of 1.3.2014 in the post of Joint Director forthwith with consequential service benefits. A further relief is sought



for some kind of a declaration that the Applicant could be deemed to be regularly promoted to the post of Joint Director w.e.f. 10.6.2014 and for deemed date with effect from that date. By another prayer clause, the rejection of the representation dated 7.7.2016 was challenged.

11. Mrs. Mahajan, the learned Advocate for the original Applicant told me that, read the prayer as it is and the 3rd Respondent was not going to be affected at all. At the moment, I need not enter any finding on this aspect of the matter because despite this determination, the OA shall remain pending to be finally decided. The crux of the matter is that the multifaceted relief as called by the 3rd Respondent may have various angles, but all of them trace their origin to the facts already pleaded. Raising of alternative plea is a phenomenon of ancient origin and not something which has arisen lately. Even in the proceedings governed by the statutory procedural laws, the multifarious reliefs which could be questioned should be such as to cause vexing of proceedings and causing prejudice to the adversary. That quite clearly is not the state of affairs here.

12. My attention was invited by Mr. Bandiwadekar to Rule 10 of the Maharashtra Administrative Tribunal



(Procedure) Rules, 1988 which lays down that an OA shall be based upon a single cause of action and may seek one or more reliefs provided that they are consequential to one another. The concept of cause of action shall fall for consideration even when I deal with the issue of limitation, but taking into account the language of Rule 10 such as it is and applying it as it is to the present facts, I entirely disagree with the learned Advocate Mr. Bandiwadekar that this OA suffers from the vice suggested by him, and therefore, that challenge also stands hereby rejected.

13. As far as the issue of limitation is concerned, I find that the challenge is based on the fact that, this OA was filed on 28.6.2016 with undue haste when he had no cause of action to file it. This was in all probability in connection with the earlier OA. I have mentioned already that the issue of cause of action will fall for consideration even when I deal with the objection about the limitation. It may not be necessary for me to examine this aspect of the matter with the stand point of each and every date. It will be suffice to mention that in the ultimate analysis, the cause of action would arise once the entitlement is finally rejected by the adversary. There cannot be a freeflight to the past to pinpoint each and every date and start arguing that the cause of action arose from that date in the past. I



must repeat that until and unless, there was a clear denial of the right, the cause of action will not arise and put on that anvil, this OA is not hit by the law of limitation. It was pointed out by Mrs. Mahajan, the learned Advocate for the original Applicant that the Applicant had made a representation which the Respondents slept over, and therefore, not till it was decided the cause of action would arise. I am in agreement with this submission of the learned Advocate.

14. Mr. Bandiwadekar contended that this OA is an incompetent action because it is not preceded by an application for condonation of delay and he relied upon **Union of India Vs. M.K. Sarkar : (2010) 2 SCC 59**. In my opinion, it can by no stretch of imagination be said that the Applicant herein did anything by way of representations to continue to infuse life in a dead cause. It was not a case of flogging of a dead horse either, and therefore, M.K. Sarkar (supra) will have no application to the present facts.

15. Further, there is no question of any application for condonation of delay being made, as a stumbling block for the Applicant because there was no delay at all.

A handwritten signature in black ink, consisting of a stylized 'G' followed by a long horizontal line extending to the right.

16. For the foregoing, I would conclude by holding that, there can be no vice to the tenability of this OA on the ground of territorial jurisdiction, limitation or of multiple reliefs. The request in that behalf made by the 3rd Respondent is rejected and the OA is appointed for final hearing to 10th August, 2017. These three issues will now not be re-opened at the final hearing of this O.A.

Sd/-

(R.B. Malik)
Member-J
21.07.2017

21.7.17

Mumbai

Date : 21.07.2017

Dictation taken by :

S.K. Wamanse.

D:\SANJAY WAMANSE\JUDGMENTS\2017\7 July, 2017\O.A.629.16.w.7.2017.doc