

ORIGINAL APPLICATION NO.876/2019
(Ishwar Chavan Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri Kakasaheb B. Jadhav, learned Advocate for the Applicant, Shri N.U.Yadav, learned Presenting Officer for the Respondent nos.1 and 2 and Shri S.R.Sapkal learned Advocate for respondent no.3.

2. Learned Advocate for the applicant has filed two sets of documents, first marked as "X" having 15 pages and the second marked as "Y" having 6 pages. Those are taken on record. Copy thereof has been served on the other side.

3. Learned Advocate for respondent no.3 has submitted two sets of documents first marked "Z" having 8 pages and the second set marked as "ZA" having a single sheet.

4. Learned Advocate for the applicant as well as the learned for respondent no.3 prayed for time for submitting written notes of arguments.

5. Learned P.O. states that affidavit in reply on behalf of respondent nos.1 and 2 be treated as his written notes of arguments.

6. Written notes of arguments be filed within a week.

7. Matter is closed for order.

MEMBER (A)

ORIGINAL APPLICATION NO.916/2019
(Sandeep Patil Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri S.R.Sapkal, learned Advocate for the Applicant, Shri N.U.Yadav, learned Presenting Officer for the Respondent nos.1 and 2 and Shri Kakasaheb B. Jadhav learned Advocate for respondent no.3.

2. Learned Advocate for applicant has submitted two sets of documents first marked "Z" having 8 pages and the second set marked as "ZA" having a single sheet in O.A.No.876/2019. They are applicable in the present O.A.No.916/2019 too.

3. Learned Advocate for the respondent no.3 has filed two sets of documents, first marked as "X" having 15 pages and the second marked as "Y" having 6 pages. Those have been taken on record in O.A.No.876/2019. Copy thereof has been served on the other side and are relevant in the present O.A. also.

4. Learned Advocate for the applicant as well as the learned for respondent no.3 prayed for time for submitting written notes of arguments.

5. Learned P.O. states that affidavit in reply on behalf of respondent nos.1 and 2 be treated as his written notes of arguments.

6. Written notes of arguments be filed within a week.

7. Matter is closed for order.

MEMBER (A)

ORIGINAL APPLICATION NO.721/2018
(Bhagwan Sangle Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri V.B.Wagh, learned Advocate for the Applicant and Shri B.S.Deokar, learned Presenting Officer for the Respondent no.1 and Shri S.D.Dhongde learned Advocate for respondent nos.2 and 3.

2. At the request of learned Advocate for the applicant, S.O. to 24-09-2021.

MEMBER (A)

O.A.NOS.966, 967, 968, 969, 970, 971, 972, 974, 975, 976, 977, 978, 979 ALL OF 2019 AND O.A.NO.537/2020

(Prakash Deshpande & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri V.G.Pingle, learned Advocate for the Applicants in all cases, Shri M.S.Mahajan, learned Chief Presenting Officer for the Respondent nos.1 to 3 in all the cases, and Shri Shamsundar Patil learned Advocate for respondent nos.4 & 5 in O.A.No.975/2019 & 537/2020.

2. Learned CPO files affidavit in reply on behalf of respondent nos.4 and 5 in O.A.Nos.972/2019, 977/2019, 978/2019 and 979/2019. It is taken on record. Copy thereof has been served on the other side.

3. Shri Shamsundar B. Patil learned Advocate files affidavit in reply on behalf of respondent nos.4 and 5 in O.A.No.975/2019. It is taken on record. Copy thereof has been served on the other side.

4. Respondent nos.1 to 3 in all cases have not yet filed reply. Respondent nos.5 and 6 have already filed reply in O.A.No.537/2020.

5. Learned Advocate for applicant submits a chart showing details of applicants such as O.A.No. relating to them, their dates of appointment, dates of up-gradation as

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O.A.NO.966/2019 & Ors.

Sectional Engineer, date of granting first time bound promotion and date of retirement. It is taken on record. He is to share it with other parties.

6. Learned CPO seeks time to file affidavit in reply on behalf of the respondents. Time is granted.

7. S.O. to 27-10-2021

MEMBER (A)

ORIGINAL APPLICATION NO.425/2021
(Kirtimala Sonwale Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri Ashish B. Rajkar, learned Advocate for the Applicant and Shri M.P.Gude, learned Presenting Officer for the Respondents.

2. Learned Advocate for the applicant is willing to withdraw O.A. in view of the subsequent developments that the applicant has been given deputation at Nanded.

3. Learned P.O. states that there is already somebody posted at Nanded and as an ad-hoc arrangement applicant has been given deputation at Nanded and salary will be drawn from Mudkhed. It will amount to payment of salary and wages from Mudkhed but nobody is working there at Mudkhed and the applicant will be a surplus staff at Nanded.

4. It appears that there is something more than what is placed on record and therefore affidavit of Divisional Joint Director, Agriculture, Latur namely, Shri Sahebrao Divekar is required on the propriety of decision taken.

5. Learned P.O. has submitted minutes meeting of the Civil Services Board dated 04-08-2021 and seeks time to submit affidavit in reply. Time is granted.

6. S.O. to 25-10-2021.

MEMBER (A)

ORIGINAL APPLICATION NO.446/2021
(Dr. Kamlakar Mane Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri Asif Ali learned Advocate holding for Smt. A.N.Ansari, learned Advocate for the Applicant and Smt. Sanjivani Ghate, learned Presenting Officer for the Respondents.

2. Learned P.O. seeks time for filing affidavit in reply on behalf of the respondents. Time is granted.

3. S.O. to 25-10-2021.

MEMBER (A)

ORIGINAL APPLICATION NO.365/2021
(Prabhakar Jondhale Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri A.S.Khedkar, learned Advocate for the Applicant and Smt. M.S.Patni, learned Presenting Officer for the Respondents.

2. Shri Shamsundar B. Patil has appeared on behalf of the respondent nos.2 and 3. Today, he files Vakaltnama on behalf of respondent no.2. He submits that he will file Vakalatnama on behalf of respondent no.3 on the next date.

3. Learned Advocate for applicant submits a photocopy of first page of service book of applicant to show date of birth of applicant by way of compliance of order dated 03-08-2021.

4. Learned P.O. as well as the learned Advocate for respondent nos.2 and 3 seek time for filing affidavit in reply on behalf of the respondents. Time is granted.

5. S.O. to 14-10-2021.

MEMBER (A)

**ORIGINAL APPLICATION NO.467/2021
(Dr. Mohan Shinde Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri J.S.Deshmukh, learned Advocate for the Applicant and Smt. Deepali Deshpande, learned Presenting Officer for the Respondents.

2. Learned Advocate for applicant submits service affidavit of notices to respondent nos.1 to 5. He also submits a photocopy of Government Resolution issued by Public Health Department dated 27-08-2021, which are taken on record.

3. Learned P.O. seeks time for filing affidavit in reply on behalf of the respondents. Time is granted.

4. S.O. to 25-10-2021.

MEMBER (A)

**ORIGINAL APPLICATION NO.546/2021
(Dipak Rohakale Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri S.D.Joshi, learned Advocate for the Applicant and Shri S.K.Shirse, learned Presenting Officer for the Respondents.

2. It is evident that the notices are not collected and are not served on the respondents. Learned Advocate for the applicant to take steps in the matter otherwise appropriate order will be passed on the next date.

3. S.O. to 28-09-2021.

MEMBER (A)

M.A.NO.36/2020 IN O.A.NO.940/2019
(Ashok Phadnis Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri S.D.Joshi, learned Advocate for the Applicant and Shri D.R.Patil, learned Presenting Officer for the Respondents.

2. Learned Advocate for the applicant prays for adjournment. Adjournment is granted.

3. S.O. to 21-10-2021.

MEMBER (A)

YUK ORAL ORDERS 22.09.2021

**M.A.NO.247/2020 IN O.A.ST.NO.339/2020
(Pandit Pawar Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri S.S.Tandale learned Advocate holding for Shri B.R.Kedar, learned Advocate for the Applicant and Smt. M.S.Patni, learned Presenting Officer for the Respondents.

2. Learned P.O. seeks time to file affidavit in reply on behalf of the respondents. Time is granted.

3. S.O. to 25-10-2021.

MEMBER (A)

YUK ORAL ORDERS 22.09.2021

**ORIGINAL APPLICATION NO.282/2019
(Deorao Kale Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri H.P.Jadhav, learned Advocate for the Applicant and Shri B.S.Deokar, learned Presenting Officer for the Respondents.

2. Arguments on behalf of the parties are heard. Learned Advocate for the applicant has produced certain documents. Those are taken on record. Copies are served on the other side.

3. Learned P.O. to respond to the documents submitted by the learned Advocate for the applicant within a week.

4. Matter is closed for order.

MEMBER (A)

Date : 22.09.2021

ORIGINAL APPLICATION NO.373/2021

(Ramesh Wagh V/s State of Maharashtra & Ors.)

**Per :- Standing directions of Hon'ble Chairperson,
M.A.T., Mumbai**

1. Shri S.S.Jadhavar Id. Advocate for the applicant and Smt. Deepali Deshpande Id. PO for respondents, are present.
2. Circulation is granted. Issue notices to the respondents, returnable on 25.10.2021. The case be listed for admission hearing on 25.10.2021.
3. Tribunal may take the case for final disposal at this stage and a 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 case. 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 as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

REGISTRAR

20.09.2021/yuk registrar notice/

ORIGINAL APPLICATION NO. 788 OF 2019
(Santoshkumar A. Kaul Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri Y.L. Bidwe, learned Advocate holding for Shri S.B. Bhosale, learned Advocate for the applicant, Smt. M.S. Patni, learned Presenting Officer for the respondent No. 1 and Shri S.D. Dhongde, learned Advocate for respondent No. 2.

2. At the request of learned Advocate for the applicant, S.O. to 26.10.2021.

MEMBER (A)

MEMBER (J)

C.P. No. 10/2021 in O.A. No. 763/2019
(Gangadhar A. Kakade Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. Learned Presenting Officer submits that the respondents have complied with the order passed by this Tribunal on 16.12.2021 in O.A. No. 763/2019, thereby deciding the proposal dated 27.06.2019 forwarded by the Assistant Superintending Engineer, Nashik to the Secretary, Water Resources Department, Mumbai. In this regard, he placed on record a copy of communication dated 13.08.2021 received by the C.P.O. office from the respondent No. 1. Copy of the said communication is taken on record and marked as document 'X' for the purpose of identification.

3. Learned Advocate for the applicant submits that learned Presenting Officer has merely produced the communication and not the copy of the order.

4. In view of above, S.O. to 20.10.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 122 OF 2021
(Mohan B. Rathod Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri M.A. Granthi, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. Learned Presenting Officer filed affidavit in reply on behalf of respondent Nos. 2 and 3. Same is taken on record.
3. S.O. to 25.10.2021 for filing rejoinder affidavit, if any.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 424 OF 2021
(Dr. Vaibhav G. Wakade Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri J.S. Deshmukh, learned Advocate for the applicant, Shri M.P. Gude, learned Presenting Officer for the respondent Nos. 1 to 3 and Shri V.G. Pingle, learned Advocate holding for Shri V.D. Patnoorkar, learned Advocate for respondent No. 4. None present for respondent No. 5, though duly served.

2. Learned Presenting Officer for respondent Nos. 1 to 3 and learned Advocate for respondent No. 4 seek time for filing affidavit in reply. Time granted.

3. S.O. to 27.10.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 490 OF 2021
(Shyamsundar S. Ramdasi & Anr. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri Avinash S. Khedkar, learned Advocate for the applicants and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. At the request of learned Presenting Officer for the respondents, time is granted for filing affidavit in reply.

3. S.O. to 11.10.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 447 OF 2021
(Anil G. Malile Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri C.V. Dharurkar, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. Issue notice to the respondents, returnable on 26.10.2021.

3. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

4. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. 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

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O.A. No. 447/2021

(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 acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

7. S.O. to 26.10.2021.

8. Steno copy and Hamdast is allowed to both parties.

9. The present matter be placed on separate board.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 500 OF 2021
(Swapnil S. Jagtap Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri C.V. Dharurkar, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. Issue notice to the respondents, returnable on 26.10.2021.

3. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

4. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. 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

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O.A. No. 500/2021

(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 acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

7. S.O. to 26.10.2021.

8. Steno copy and Hamdast is allowed to both parties.

9. The present matter be placed on separate board.

MEMBER (A)

MEMBER (J)

M.A. No. 289/2021 in O.A. St. No. 1162/2021
(Nitin D. Holambe & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Shri C.V. Dharurkar, learned Advocate for the applicants and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. Heard learned Advocate for the applicant for some time, we feel that the learned Presenting Officer should seek instructions from the respondents as regards the points raised by the applicants in this matter.

3. S.O. to 23.09.2021.

MEMBER (A)

MEMBER (J)

C.P. NO. 36/2018 IN O.A.NO. 846/2011
C.P. NO. 37/2018 IN O.A.NO. 843/2011
C.P. NO. 38/2018 IN O.A.NO. 842/2011
C.P. NO. 39/2018 IN O.A.NO. 278/2012
C.P. NO. 40/2018 IN O.A.NO. 634/2011
C.P. NO. 41/2018 IN O.A.NO. 277/2012
(Vilas S. Patil & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri J.B. Choudhary, learned Advocate for the applicants in all these cases and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents in all these cases.

2. Perusal of order dated 22.07.2019, shows that the learned Presenting Officer on that day sought time to produce on record copy of seniority list dated 12.12.2018 in view of which the Government of Maharashtra has issued a G.R. dated 04.06.2021 in compliance of the order of the Tribunal dated 16.12.2016 in respective O.As. The said seniority list is not yet produced by the learned Presenting Officer.

3. Learned C.P.O. seeks time to produce on record the said seniority list dated 12.12.2018. Time granted.

4. S.O. to 17.11.2021.

MEMBER (A)

MEMBER (J)

**C.P. No. 61/2019 in O.A. No. 533/2015
(Shivaji P. Shinde Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 22.09.2021

ORAL ORDER :

Heard Shri Ajay Deshpande, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicant, S.O. to 22.10.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 404 OF 2018
(Udhav G. Gangawane Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri A.D. Gadekar, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondent Nos. 1 to 5. Shri R.M. Jade, learned Advocate for respondent No. 6, **absent.**

2. As none present for the respondent No. 6, S.O. to 29.10.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 959 OF 2018
(Madhvi P. Sigedar Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri V.G. Pingle, learned Advocate for the applicant, Smt. Deepali S. Deshpande, learned Presenting Officer for the respondent Nos. 1 to 3 and Shri N.S. Ingle, learned Advocate for respondent No. 4.

2. Record shows that the learned Advocate for the applicant has already produced on record written notes of arguments on 22.07.2021.

3. During the course of arguments, it transpires that the Non Creamy Layer certificate, which was mandatory for Open Female category in respect of applicant, as well as, respondent No. 4, is required to be perused. Copy of the Non Creamy Layer certificate of respondent No. 4 is produced at page No. 100 of paper book. However, copy of Non Creamy Layer certificate of the applicant is not on record.

3. Learned Advocate for the applicant upon query says that he would seek instructions as to when the

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O.A. No. 959/2018

said Non Creamy Layer certificate was obtained by the applicant and will produce the copy of the said Non Creamy Layer certificate on record on the next date of hearing.

4. Learned Advocate for respondent No. 4 also to seek instruction as to whether the respondent No. 4 was having Non Creamy Layer Certificate prior to certificate dated 02.07.2018 and produce it on record.
5. S.O. to 13.10.2021.
6. The present matter is to be treated as part heard.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 287 OF 2020

(Shahu S. Jaswantsingh S. Huzurasingh Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri M.K. Bhosale, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. Learned Presenting Officer filed sur-rejoinder on behalf of respondent No. 2 to the rejoinder affidavit filed by the applicant. Same is taken on record and copy thereof has been served on the other side.

3. Learned Advocate for the applicant at this stage produced on record pursis stating that the applicant would like to add earlier deleted respondent Nos. 4 to 10 as party respondents to the O.A. It is stated that the decision of this O.A. is likely to adversely affect the said proposed respondent Nos. 4 to 10.

4. Record shows that in the Original Application the applicant sought relief also affecting the rights of the respondent Nos. 4 to 10. In view of the same, the said proposed respondent Nos. 4 to 10 are necessary

parties in the O.A. Hence, the prayer made on behalf of the applicant for adding proposed respondent Nos. 4 to 10 is allowed. The applicant shall carry out necessary amendment in the O.A. within a period of one week.

5. After amendment, issue notices to the newly added respondent Nos. 4 to 10, returnable on 25.10.2021.

6. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

7. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

8. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

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O.A. No. 287/2020

9. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

10. S.O. to 25.10.2021.

11. Steno copy and Hamdast is allowed to both parties.

12. The present matter be placed on separate board.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 293 OF 2019
(Babasaheb S. Pagare Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. At the request and by consent of both the sides, S.O. to 13.10.2021.

MEMBER (A)

MEMBER (J)

M.A. No. 103/2021 in O.A. St. No. 462/2021
(Ganesh D. Ingale Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri S.S. Tandale, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. At the request and by consent of both the sides, S.O. to 14.10.2021.

MEMBER (A)

MEMBER (J)

**M.A. No. 274/2021 in O.A. No. 25/2021
(Shankar P. Dange Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 22.09.2021

ORAL ORDER :

Heard Shri R.J. Nirmal, learned Advocate for the applicant, Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondent Nos. 1 to 3 and Shri S.B. Jadhav, learned Advocate for respondent No. 4.

2. At the request and by consent of both the sides, S.O. to 08.10.2021.

MEMBER (A)

MEMBER (J)

O.A. No. 368/2017 with O.A. No. 369/2017
(Bapu R. Lad & Anr. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri S.A. Deshmukh, learned Advocate for the applicants in both the O.As. and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents in both the O.As.

2. At the request and by consent of both the sides, S.O. to 01.10.2021 for final hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 443 OF 2018
(Jagannath W. Vispute Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri M.R. Wagh, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. At the request and by consent of both the sides, S.O. to 18.10.2021 for final hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 569 OF 2018
(Prashant A. Bonge Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri S.S. Ware, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. At the request and by consent of both the sides, S.O. to 20.10.2021 for final hearing.

MEMBER (A)

MEMBER (J)

O.A. Nos. 11, 30 & 81 All of 2019
(Bapurao A. Dongar & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri S.B. Solanke, learned Advocate for the applicants in all these O.As. and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents in all these O.As.

2. At the request and by consent of both the sides, S.O. to 22.10.2021 for final hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 76 OF 2019
(Nilesh S. Badgujar Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri Nilesh S. Badgujar, applicant in person and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. At the request and by consent of both the sides, S.O. to 29.09.2021 for final hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 316 OF 2019
(Shamlal C. Bhagure Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri M.K. Bhosale, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. At the request and by consent of both the sides, S.O. to 25.10.2021 for final hearing.

MEMBER (A)

MEMBER (J)

M.A.NO. 280/2019 WITH O.A.ST. 1110/2019
(Sunil H. Pachawane Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 22.9.2021

O R D E R

(Per : Hon'ble Shri Bijay Kumar, Member (A))

Heard Shri Kakasaheb B. Jadhav, learned Advocate for the applicant and Mrs. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. This miscellaneous Bijay application no. 280 of 2019 in original application (St.) no. 1110 of 2019 has been filed by the applicant Shri Sunil Hari Pachawane, R/o LIG-343, Shradha Colony, MAHADA, Aurangabad on June 17, 2019 praying for reliefs in following terms-

- A) The Misc. Application may kindly be allowed.
- B) The delay of 2 years and 8 months caused for filing original application may kindly be condoned in the interest of justice.
- C) Any other equitable and appropriate relief to which the applicant is found fit same may kindly be granted in favour of the applicant.

3. The applicant is seeking relief in respect of selection process in which the last candidate selected was higher in merit compared to the applicant in the SC category of applicants. He is counting period of delay from October 14, 2016 i.e. the date on which he had been called for documents verification after written examination. The applicant has argued in para 7 (page 5 of the paper-book) of the miscellaneous application as follows-

“As per various judgments of the Hon’ble Apex Court, the merit of the matter needs to be considered while deciding the application for delay condonation. Therefore, delay needs to be condoned by considering the merits of the original application and not on technicalities.”

4. Therefore, in order to decide merit of the miscellaneous application, merit of the original application too, is being considered. The original application (St.) no. 1110 of 2019 has been filed on June 17, 2019 invoking provisions of Section 19 of the Administrative Tribunals Act, 1985. The facts stated in the original applications may be summed up as follows-

**:: - 3 - :: M.A.NO. 280/2019 WITH
O.A.ST. 1110/2019**

a) The directorate of medical education and research, Mumbai published an advertisement on October 29, 2014 for the posts of clerk cum typist, steno-typist, lower grade stenographer and higher grade stenographer. The applicants were required to submit online application during the period starting from October 30, 2014 to November 17, 2014 (up to 05.00 pm). True copy of the said advertisement is enclosed as Annexure A-2, pages 14-26 of the paper-book.

b) The applicant had claimed to have submitted his application for the post of lower grade stenographer on July 22, 2014 at 18.46 hours; true copy of the print out of his application is enclosed as Annexure A-3, page 27-31 of paper-book. *It is not clear from the facts put forward by the contesting parties as to how the applicant could submit his online application prior to the date notified as starting date for submission of online application.*

c) The applicant states that he was called for documents verification of October 14, 2016 along with other candidates who had been selected based on a written examination. The applicant further states that a woman candidate at merit list no. 18 from SC category, namely Leena Arun Naringrekar, who was above the applicant in merit list, was selected. The applicant who was at merit list no. 19 has not received appointment

**:: - 4 - :: M.A.NO. 280/2019 WITH
O.A.ST. 1110/2019**

letter. The applicant, aggrieved by this, submitted representations dated July 24, 2017; April 23, 2018; September 15, 2018 and January 05, 2019 to respondent no. 2 requesting him to issue appointment letter in favour of the applicant. The applicant further submits that he had expressed his preparedness to serve anywhere in Maharashtra in those representations submitted to respondent no. 2 none of which have been replied.

d) Applicant further submits that he hoped to be appointed against any vacancy arising out of resignation of any selected candidate after one joined. However, in response to his queries made under provisions of the Right to Information Act, 2005 he has been informed that any such vacancy can be filled up by a fresh selection process.

e) The applicant further submits that the respondents have issued fresh advertisement on February 27, 2019 to fill up some vacant posts of lower grade stenographer on contract basis without considering his claim to the said post based on his position in selection process initiated in the year 2014 which was subsequently concluded by appointing a candidate senior in merit list to the applicant.

f) The applicant claims that the list of candidates shown on some document marked as

Annexure A-10, page 71-72 of the paper book, have not joined on the post of lower grade stenographer. *It is observed that the applicant has enclosed a truncated document, which appears to be for a different post of clerk cum typist, in order to justify his claim for appointment as lower grade stenographer, for the reasons best known to him.*

5. The respondents have submitted affidavit in reply to the original application on January 13, 2020 which was taken on record and the copy of the same had been served on the learned advocate for the applicant. The respondents thereby opposed the application and stated that no sufficient cause has been shown for condonation of delay. The applicant was given opportunity to file rejoinder however, he did not do so. The matter was taken up for hearing on September 15, 2021.

6. The learned advocate for the applicant had elaborated grounds for condonation of delay as well as the merit in allowing the relief prayed for in the original application. He cited judgment of the Hon'ble Apex Court Civil Appeal No. 3243 of 2008 (arising out of SLP (C) No. 10445 of 2007, D/-2-5-2008, Ashok Kumar vs. State of Bihar & Ors, AIR 2008 SUPREME COURT 2723. The learned Presenting Officer has

**:: - 6 - :: M.A.NO. 280/2019 WITH
O.A.ST. 1110/2019**

argued reiterating the facts averred in the affidavit in reply to the original application. After the two sides completed their arguments the matter was closed for orders on September 15, 2021.

7. Analysis of facts and evidences adduced by the two contesting parties-

(a) It is evident that the recruitment process initiated in the year 2014 for the four different posts including the post of lower grade stenographer had been concluded with selection of candidates as per the merit list. The applicant has no dispute regarding selection of the candidate with the merit list no. 18 from SC category and does not have any grievance of selection of any other candidate having lower position in the merit list as compared to the applicant. However, the applicant is aggrieved by the fact that the respondents have not offered appointment to him in spite of several representations made before the respondents.

(b) The learned advocate for the applicant has cited case law which has a different ratio. In the cited case, the delay was due to time taken for review and representations before the state government against the orders passed by the State government. On the

**:: - 7 - :: M.A.NO. 280/2019 WITH
O.A.ST. 1110/2019**

other hand, in the instant matter, the applicant had made representation of the nature of request to issue him appointment order even though he had not qualified for the same, relying on the ground that he had been called for documents verification and was willing to work anywhere in the state of Maharashtra and so on. The applicant has stated in his representations that –

“तसेच दि. १४/१०/२०१६ रोजी मुळ प्रमाणपत्र पडताळणी झालेल्या परिक्षार्थीचा नावाची यादीसुद्धा संकेतस्थळावर किंवा पत्राद्वारे किंवा आदेशाद्वारे निवडीवावत अवगत झालेले नाही.

तरी मा. साहेबांना विनंती आहे कि, माझी शैक्षणिक पात्रता पूर्ण आहे. माझ्या अर्जाचा सहानुभुती पुर्वक विचार करून मला निम्नश्रेणी लघुलेखक या पदावर नेमणुक द्यावा ही विनंती. तसेच मी महाराष्ट्र राज्यातील कोणत्याही जिल्ह्यात या पदावर काम करण्यास तयार आहे.”

(c) In this context, reference is drawn to criterion for final selection as notified by the Directorate of Medical Education & Research vide the advertisement for recruitment for the posts (clause 3 अंतिम निवड, page 20 of paper book) which makes it clear that the candidates will be finally selected based on marks secured by them in written exam. Serial number and merit number

**:: - 8 - :: M.A.NO. 280/2019 WITH
O.A.ST. 1110/2019**

and marks secured by SC candidates for the post of junior grade stenographer has been enclosed by the applicant at Annexure A-4, page 32-45 of paper-book. Likewise, particulars of the candidates selected and put in waiting list is given in Annexure A-5, page 46-47 of the paper book. According to information given in Annexure A- 5, one SC male candidate with the highest marks of 124 had been selected under 'open' category, another SC male candidate at merit list no. 3 has been selected under category of ex-serviceman and 4 female candidates at merit list no. 2, 5, 9 and 11 had been finally selected under SC female category. Candidates merit list no. 4, 6, 7 and 8 remained absent. In addition, 4 SC female candidates and one 1 male candidate have been declared eligible and as such, may have been put under waiting list.

(d) Though, affidavit in reply filed by the respondents does not mention the revised breakup of vacancies after increase from initial number of 4 to 8 as mentioned in para 5 (d), page 20 of the paper-book, it has been categorically stated in the same para that-
"No candidate below the merit list than the applicant is

**:: - 9 - :: M.A.NO. 280/2019 WITH
O.A.ST. 1110/2019**

appointed in SC category which he belongs” which suffices to infer that the applicant does not have any valid cause of action.

8. To sum up, the applicant has submitted the representations for considering his candidature for giving him appointment on the post of junior grade stenographer despite having full knowledge of his position in the merit list and merit numbers of SC candidates finally selected. He is also aware of the fact that no candidate with lower merit than his had been incorporated even in the waiting list, much less than getting selected. Therefore, we infer that the miscellaneous application as well as the original application is devoid of merit.

ORDER

A] Miscellaneous application No. 280 of 2019 is, hereby, dismissed for being devoid of merit.

B] Original Application (St) No. 1110 of 2019 is also, hereby, dismissed for being devoid of merit.

C] No order as to cost.

MEMBER (A)

MEMBER (J)

M.A.NO. 59/2021 IN O.A.ST. 208/2021
(Namdeo B. Dhakne Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)
DATE : 22.9.2021

O R D E R
(Per : Hon'ble Shri Bijay Kumar, Member (A))

Heard Shri Kakasaheb B. Jadhav, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. This original application (St.) no. 208 of 2021 has been filed by the applicant on February 12, 2021 invoking provisions of Section 19 of The Administrative Tribunals Act, 1985. The applicant Shri Namdeo Baburao Dhakne has filed this O.A. being aggrieved by the order of dismissal from service dated April 27, 2018 passed against the applicant by the respondent no. 4, i.e. the Commandant, State Reserve Police Force, Gut No. 14 (SRPF), Aurangabad.

3. The facts of the case, as elaborated in the O.A. is that offence under sections 420, 465, 468, 472, 120-B of Indian Penal Code read with s. 34 I.P.C. had been registered against him on April 25, 2018 at police station Nanded following which the applicant was arrested on the same day, i.e. on April 25, 2018.

**:: - 2 - :: M.A.NO. 59/2021 WITH
O.A.ST. 208/2021**

Following which, the respondent no. 4 placed the applicant under suspension on April 26, 2018. The said suspension order provides a brief account of the manner in which the applicant had allegedly participated in conspiracy to manipulate the police recruitment process including conspiring with the proprietor of M/s S. S. G Software Company and two persons responsible for providing Optical Mark Reader (OMR) Services and accepting illegal gratification from 7 candidates by giving them assurance to get them selected. The respondent no. 4 had, thereafter, issued order dated April 27, 2018 dismissing the applicant from the service invoking provisions of article 311 (2) (b) of the Indian Constitution.

4. The applicant had preferred appeal against the said order of his dismissal from the service dated April 27, 2018 on January 11, 2021 and thereafter, filed the O.A. (St.) No. 708/ 2021 on February 12, 2021. The applicant has clearly mentioned that the said appeal was pending as on date of filing this O.A.

5. The applicant has filed this miscellaneous application no. 56/2021 on February 18. 2021 praying for relief in the following terms :-

- A] This Misc. Application for delay condonation may kindly be allowed,*
- B] The delay of 1 year 9 months and 15 days caused in filing original application may kindly be condoned and the original application be registered.*
- C] Any other equitable and suitable relief may kindly be granted in favour of applicant in the interest of justice.*

6. The applicant has, at the first instance, been negligent in filing departmental appeal which was the alternative remedy available to him. Moreover, after filing departmental appeal on January 11, 2021 the applicant has filed the O.A. on February 12, 2021 without waiting for outcome of the departmental appeal, which amounts to filing the original application before exhausting alternative remedy of appeal available to him. Further, the applicant has given grounds of his illness mainly due to spondylitis and other common age-related and lifestyle related ailments as cause for delay in filing the original application. This is evidenced by the fact that majority of the medical papers attached by the applicant along

**:: - 4 - :: M.A.NO. 59/2021 WITH
O.A.ST. 208/2021**

with the miscellaneous applications relate to his Complete Blood Count, Lipid Profile, Electro cardiogram and MRI. To conclude, the delay in filing the O.A. (St) No. 208/2021 has not been strictly explained with facts and cogent reasons so as to merit condonation. In view of the matter some negligence can be attributed to the applicant. But it cannot be said to be gross or deliberate one. However, as the cause of action stated in the original application relates to dismissal of the applicant from service, it would be in the interest of justice that the original application filed by the applicant is decided on merit and therefore, the prayer of condonation of delay in filing the original application is being considered positively.

ORDER

- A) Miscellaneous Application No. 59/ 2021 in O.A. (St) No. 208/2021 is allowed.
- B) Delay of about 1 year 9 months and 15 days caused in filing the original application is hereby condoned.

**:: - 5 - :: M.A.NO. 59/2021 WITH
O.A.ST. 208/2021**

C) Original Application be registered and numbered subject to office objection/s, if any.

D) No order as to cost.

MEMBER (A)

MEMBER (J)

ORAL ORDERS 22.9.2021-HDD

ORIGINAL APPLICATION NO.586 OF 2020
(Sonaji K. Barhate Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
DATE : 22.09.2021
ORAL ORDER :

Heard Shri K.G. Salunke, learned Advocate holding for Shri A.B. Rajkar, learned Advocate for the applicant, Shri B.S. Deokar, learned Presenting Officer for the respondent no.1 and Shri N.U. Yadav, learned Advocate for the respondent nos.2 & 3.

2. At the request of learned P.O. for the respondent no.1 and learned Advocate for the respondent nos.2 & 3, time is granted for filing affidavit-in-reply.

3. S.O. to 26.10.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.52 OF 2021
(Dr. Rekha G. Gaikwad Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 22.09.2021

ORAL ORDER :

None present on behalf of the applicant.
Heard Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. As none present on behalf of the applicant, S.O. to 21.10.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.134 OF 2021
(Rupali R. Chougule Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri S.D. Joshi, learned Advocate holding for Shri Bhushan/Gaurav A. Bandiwadekar, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. Affidavit-in-rejoinder filed by the applicant is taken on record and copy thereof has been served on the other side.

3. S.O. to 18.10.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.328 OF 2021
(Vijaykumar G. Biradar Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri Uday Hude, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant produced on record corrected copy of Original Application. It is taken on record.
3. At the request of learned P.O., time is granted for filing affidavit-in-reply by the respondents.
4. S.O. to 21.10.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.462 OF 2021

(Dr. Sagir Jamaliya D/o Arifuddin Pathan Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri S.D. Joshi, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. At the request of learned P.O., time is granted for filing affidavit-in-reply.

3. S.O. to 22.10.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.470 OF 2021
(Nanda K. Kshirsagar Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 22.09.2021

ORAL ORDER :

Shri M.B. Kolpe, learned Advocate for the applicant is **absent**. Heard Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. Await service of notice on the respondents.

3. As none present on behalf of the applicant, S.O. to 22.10.2021.

MEMBER (J)

M.A.NO.122/2021 IN O.A.ST.NO.503/2021
(Ranjana B. Solat Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 22.09.2021

ORAL ORDER :

Dr. Swapnil Tawshikar, learned Advocate for the applicant is **absent**. Heard Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. Affidavit-in-reply filed on behalf of the respondent no.2 is taken on record.

3. S.O. to 18.10.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.889 OF 2019
(Vijaykumar G. Birajdar Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri Udaykumar E. Hude, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. Record shows that the affidavit-in-reply is already filed on behalf of the respondent nos.1 to 7.

3. At the request of the learned Advocate for the applicant, time is granted for filing affidavit-in-rejoinder, if any.

4. S.O. to 21.10.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.525 OF 2021
(Gurling N. Tanwade Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 22.09.2021

ORAL ORDER :

Heard Smt. Suchita A. Dhongde, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. The Original Application is filed for seeking the relief of quashing and setting aside the recovery order dated 31.03.2021 issued by the respondent no.2 and further seeking direction to the respondents to extend IIIrd benefit of Time Bound Promotion Scheme as per G.R. dated 02.03.2019 to the applicant. The applicant seeks interim stay to the recovery of Rs.95,507/- as contemplated as per impugned order dated 31.03.2021 (Annex. 'A-3').

3. The Applicant was initially appointed on 23.03.1984 (page no.14 of paper book) as Peon in class IV category under the respondent no.3. On attaining the age of superannuation, he retired from service on the post of Peon only w.e.f. 31.12.2018. He completed unblemished service. He is getting pension. However, all of sudden, impugned recovery order dated 31.03.2021 was served upon the applicant when he visited the office of respondent no.2 for making enquiry regarding IIIrd benefit of Time Bound Promotion Scheme.

4. Learned Advocate for the applicant submitted that the said impugned order of recovery is passed behind back of the applicant and without hearing the applicant. The applicant belongs to Class-IV i.e. Group-D employee. As per the judgment and order of the Hon'ble Apex Court in the matter of **State of Punjab and others etc. V/s. Rafiq Masih (White Washer) etc. in Civil Appeal No.11527 of 2014** dtd.18.12.2014, the excess payment of amount due to wrong pay fixation cannot be recovered. She submitted that though there is mention of undertaking in the impugned order, no such undertaking was given by the applicant. That apart, she places on record the copy of order of Hon'ble High Court of judicature at Bombay bench at Aurangabad dated 09.09.2021 passed in **Writ Petition No.10072/2021** in the matter of **Vinayak Keshav Kalambkar Vs. The State of Maharashtra & Ors.** In the said Writ Petition the refusal of stay order to the order of recovery passed by this Tribunal was challenged. It is observed that in the said matter the question of pay fixation is in issue. The Tribunal will have to decide the issue of pay fixation on merits. Therefore, the order of this Tribunal is set aside and interim relief is granted till the hearing and final disposal of the O.A.

5. Learned P.O. for the respondents opposed the submission made on behalf of the applicant and submitted that in view of undertaking given by the applicant the order of recovery is issued and therefore, the applicant is not entitled for interim stay to the recovery.

6. After having considered facts of the case, it is evident that the applicant was group-D employee. He retired on superannuation w.e.f. 31.12.2018. Perusal of the order does not show that before passing order of recovery any show cause notice was given to the applicant. In the impugned order only it is mentioned that undertaking is given by the applicant.

7. In the circumstances as above, this Tribunal has to take into consideration the aspect of the wrong pay fixation and, as such, also to consider the prayer of the applicant regarding IIIrd Time Bound Promotion Scheme. Moreover, the Hon'ble Apex Court in the matter of ***State of Punjab and others etc. V/s. Rafiq Masih (White Washer) etc. in Civil Appeal No.11527 of 2014*** has been pleased to laid down the following principles.

“12. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarize the following few situations, wherein recoveries by the employers, would be impermissible in law:

- (i) Recovery from employees belonging to Class-III and Class-IV service (or Group ‘C’ and Group ‘D’ service).*
- (ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.*
- (iii) Recovery from the employees when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.*
- (iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.*

(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employees, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."

8. In the facts and circumstances, the ratio laid down in the above cited judgment is applicable in the present case. The issue of undertaking will be dealt with at the time of final disposal. In these circumstances, it is fit case to grant interim stay to the recovery as prayed for till filing of reply by the respondents. Ordered accordingly.

9. Issue notice to the respondents, returnable on 26.10.2021.

10. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

11. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

//6//

O.A.525/2021

12. 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.

13. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

14. S.O. to 26.10.2021.

15. Steno copy and Hamdast is allowed to both parties.

16. The present matter be placed on separate board.

MEMBER (J)

ORIGINAL APPLICATION NO.493 OF 2020
(Prabha G. Thakare Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 22.09.2021

ORAL ORDER :

Shri Sudhir K. Chavan, learned Advocate for the applicant is **absent**. Shri M.S. Patni, learned Presenting Officer for the respondents.

2. Withdrawal purnis is filed by the applicant. It is marked as document 'X' for the purpose of identification.
3. The applicant desires to withdraw the Original Application.
4. Permission is granted to withdraw the O.A.
5. Accordingly, the Original Application is disposed of as withdrawn with no order as to costs.

MEMBER (J)

ORIGINAL APPLICATION NO.347 OF 2020
(Jitendra B. Raipure Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 22.09.2021

ORAL ORDER :

Smt. Asha N. Gore, learned Advocate for the applicant is **absent**. Heard Shri M.P. Gude, learned Presenting Officer for the respondents.

2. As none present on behalf of the applicant, S.O. to 20.10.2021 for hearing.

MEMBER (J)

ORIGINAL APPLICATION NO.459 OF 2020
(Priti J. Patale Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri Amit S. Savale, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. The present matter be treated as part heard.

3. S.O. to 5.10.2021

MEMBER (J)

ORIGINAL APPLICATION NO.426 OF 2021
(Dr. Abhishek A. Pendharkar Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri S.D. Joshi, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. At the request of learned C.P.O., time is granted for filing affidavit-in-reply.
3. S.O. to 28.9.2021. Interim relief granted earlier to continue till then.

MEMBER (J)

M.A.NO.273/2019 IN O.A.ST.NO.891/2019
(Shaikh Abdul Gafur Md Sarwar Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri S.G. Kulkarni, learned Advocate holding for Shri A.B. Rajkar, learned Advocate for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents.

2. By consent of both the sides, S.O. to 26.10.2021 for hearing.

MEMBER (J)

SAS ORAL ORDERS 22.09.2021

ORIGINAL APPLICATION NO.982 OF 2019
(Govind Y. Bharsakhale Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri K.G. Salunke, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. At the request of learned P.O., S.O. to 18.10.2021.
3. Interim relief granted earlier to continue till then.

MEMBER (J)

ORIGINAL APPLICATION NO.558 OF 2021
(Prakash S. Aghav –Patil Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 22.09.2021

ORAL ORDER :

Heard Shri Avinash S. Deshmukh, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. The Original Application is filed challenging the impugned transfer order of the applicant dated 17.09.2021 (Annex. 'A-3') issued by the respondent no.1 thereby the applicant has been transferred from the post of Deputy Collector (General), Beed to the post of Deputy Collector (EGS), Washim on the vacant post. By order dated 21.09.2021, this matter was kept today i.e. on 22.09.2021 for producing the record of Civil Services Board by learned C.P.O. and till then, the parties were directed to maintain status-quo as on 21.09.2021.

3. In the yesterdays hearing, the documents marked 'X' i.e. communication dated 20.09.2021 addressed by the respondent no.3 i.e. Collector, Beed to the respondent no.1 i.e. Additional Chief Secretary was produced by the learned C.P.O. and order dated 20.09.2021 (marked 'X-1' for identification) was produced by the learned Advocate for the applicant. Both these documents deal with relieving the applicant from his present post ex-parte and giving charge

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of his post to Shri Santosh Raut, Resident Deputy Collector, Beed.

4. Today, learned C.P.O. for the respondents produced on record file noting of report of Civil Services Board, which consists of 53 pages (marked 'X-3' for identification). Along with that the learned C.P.O. also produced on record the communication dated 22.09.2021 received by learned C.P.O. from Shri Santosh Raut, Resident Deputy Collector, Beed together with copy of Certificate of handing over charge of gazette officers. Those are marked as 'X-2' collectively. Communication dated 22.09.2021 ('X-2' collectively) shows that the said Shri Santosh Raut, Resident Deputy Collector, Beed said to have accepted the charge of the post held by the applicant on 20.09.2021 and along with that he has annexed the copy of Certificate of Transfer or charge (CTC) to the said communication. All the three documents namely marked as 'X', 'X-1' and 'X-2' collectively if read together, it is evident that by order dated 20.09.2021, the respondent no.3 i.e. Collector Beed had ordered Shri Santosh Raut, Resident Deputy Collector, Beed to take charge from the applicant who was holding the post of Deputy Collector (General), Beed and to file compliance report.

5. In the communication dated 22.09.2021 (marked as 'X-2') collectively it is not specifically mentioned that the

said Shri Rantosh Raut has accepted the charge of the post of Deputy Collector (General), Beed from the applicant. It is not even mentioned that it is accepted ex-parte. As also it is evident that CTC has not been signed by the applicant and it is only signed by Shri Santosh Raut, R.D.C., Beed only.

6. Moreover, learned Advocate for the applicant, today, produced on record the G.R. dated 10.11.2020 issued by the Urban Development Department and order dated 24.11.2020 issued by the respondent no.3 i.e. Collector, Beed pursuant to the said G.R. dated 10.11.2020. Both these documents are taken on record and marked as document 'X-4' collectively. As per these documents, the applicant is also working as Administrator, Nagarpanchayat Patoda.

7. Learned Advocate for the applicant submits that the applicant is still working as Administrator, Nagarpanchayat, Patoda as per this order.

8. In view of above, the reasonable doubt arises as to whether as per communication dated 22.09.2021 received by the learned C.P.O. from Shri Santosh Raut, R.D.C., Beed order of respondent no.3 Collector, Beed (X-2) is complied with in its proper perspective or not.

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9. There is no mention in the order dated 22.09.2021 (marked 'X-1') that charge is taken ex-parte. In view of this, order passed yesterday i.e. on 21.09.2021 maintaining of status-quo by both the parties to continue till next date.

10. At the request of learned C.P.O., time is granted for filing affidavit-in-reply.

11. S.O. to 14.10.2021.

MEMBER (J)

Date : 22.09.2021

ORIGINAL APPLICATION NO. 568 OF 2021

**(Bhausahab S. Pansare V/s State of Maharashtra
& Ors.)**

**Per :- Standing directions of Hon'ble
Chairperson, M.A.T., Mumbai**

1. Shri Avinash S. Khedkar, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for respondents, are present.
2. Circulation is granted. Issue notices to the respondents, returnable on 25.10.2021. The case be listed for admission hearing on **25.10.2021**.
3. Tribunal may take the case for final disposal at this stage and a separate notice for final disposal shall not be issued.
4. Applicant is authorized and directed to serve on Respondent intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of case. 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 as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

REGISTRAR