

C.P.NO.20/2020 IN O.A.NO.326/2019
(Prakash Shinde Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 25.11.2021

ORAL ORDER :

Heard Shri K.G.Salunke/A.B.Rajkar, learned Advocate for the applicant and Smt. Sanjivani Ghate, learned Presenting Officer for the respondents.

2. We have heard learned Counsel appearing for the applicant and the learned PO for some time.

3. Learned PO is directed to place on record proposal forwarded by the parent department to the General Administration Department (GAD) with all the annexures therewith and the decision received in that regard from the GAD within 15 days.

4. S.O. to 22-12-2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.62/2020
(Dr. Maheshkumar Mane Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 25.11.2021

ORAL ORDER :

Heard Shri K.G.Salunke/S.K.Naikwade, learned Advocate for the applicant and Smt. Sanjivani Ghate, learned Presenting Officer for the respondents.

2. Learned Counsel for the applicant brought to our notice that though the notices are served on the respondents in January, 2020, respondents have not filed any reply.

3. Learned PO has sought time by way of last chance. Request is accepted. Reply is to be filed within 3 weeks by way of last chance. It is clarified that if no reply is filed, matter would be heard without reply.

4. S.O. to 16-12-2021.

MEMBER (A)

MEMBER (J)

M.A.NO.334/2020 IN O.A.NO.894/2019
(Suman Wavdhane Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 25.11.2021

ORAL ORDER :

Heard Shri Quadri S.M. Saquibuddin learned Advocate holding for Shri G.L.Deshpande, learned Advocate for the applicant and Smt. Sanjivani Ghate, learned Presenting Officer for the respondents.

2. Learned Counsel for the applicant has sought time. Granted.

3. S.O. to 23-12-2021.

MEMBER (A)

MEMBER (J)

**M.A.NO.271/2021 WITH M.A.NO.95/2021 IN
O.A.NO.170/2021
AND
M.A.NO.272/2021 WITH M.A.NO.96/2021 IN
O.A.NO.171/2021
(Shivkumar Chivde Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 25.11.2021

ORAL ORDER :

Heard Shri A.U.Aute learned Advocate holding for Shri S.B.Talekar, learned Advocate for the applicant, Smt. Sanjivani Ghate, learned Presenting Officer for the respondent nos.1 to 4 and J.P. Legal Associates for respondent nos.5, 6 and 7, in both cases.

2. It is contention of the learned Counsel for the applicant that the applicant is possessing higher qualification but the same has not been considered by the authority.

3. Learned PO as well as the learned Counsel for respondent nos.5, 6 and 7 have sought time to submit necessary documents on record. It is the apprehension of the applicant that in the meanwhile if the appointments are made, the purpose of filing the O.A. will be frustrated.

4. In view of the above submissions, respondents are granted time to place on record the relevant documents till

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10-12-2021. In the meanwhile, if appointments are made, the same would be subject to the outcome of the present O.A.

5. S.O. to 10-12-2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.209/2004
(Shaikh Abdul Khaja Miyan Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 25.11.2021

ORAL ORDER :

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

2. At the request of learned CPO, S.O. to 01-12-2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.813/2018
(Robinson Masih Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 25.11.2021

ORAL ORDER :

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

2. Learned P.O. tendered across the bar affidavit in reply on behalf of respondent no.2 as well as communications received from S. P. Ahmednagar and Deputy Commissioner of Police, Pune dated 13-10-2021 and 30-09-2021, respectively. Same are taken on record.

3. Arguments are heard of the learned Counsel appearing for the applicant and the learned P.O. The matter now stands over for further consideration that if any query is to be made by the Tribunal or some clarification is to be sought either from the applicant or the respondents. In the meanwhile, the parties may tender written notes of arguments on record, if they so desire.

4. S.O. to 07-12-2021.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO.682/2018
(Rahul Shirsat Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 25.11.2021

ORAL ORDER :

Heard Shri V.B.Wagh, learned Advocate for the applicant and Smt. Sanjivani Ghate, learned Presenting Officer for the respondents.

2. Arguments of both sides are heard at some length. Case be treated as part heard.

3. S.O. to 08-12-2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.141/2019

(Dr. Pandharinath Gawali & Ors. Vs. State of Maharashtra & Ors.)

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 25.11.2021

ORAL ORDER :

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

2. At the request of both parties, S.O. to 27-11-2021.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO.715/2019
(Sushma Chaudhari Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 25.11.2021

ORAL ORDER :

Heard Shri P.G.Tambde learned Advocate holding for Shri S.S.Jadhavar, learned Advocate for the applicant and Shri N.U.Yadav, learned Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicant, S.O. to 17-12-2021.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 356 OF 2020
(Kiran B. Kolpe Vs. State of Maharashtra & Ors.)**

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

DATE : 25.11.2021

ORAL ORDER :

Heard Shri N.B. Narwade, 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 23.12.2021.

MEMBER (J)

KPB/ORAL ORDERS 25.11.2021

ORIGINAL APPLICATION NO. 357 OF 2020
(Vinod R. Borge Vs. State of Maharashtra & Ors.)

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

DATE : 25.11.2021

ORAL ORDER :

Heard Shri N.B. Narwade, 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 23.12.2021.

MEMBER (J)

KPB/ORAL ORDERS 25.11.2021

**ORIGINAL APPLICATION NO. 140 OF 2021
(Vishnu M. Misal Vs. State of Maharashtra & Ors.)**

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

DATE : 25.11.2021

ORAL ORDER :

Heard Shri S.S. Thombre, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents at length.

2. By consent of both the sides, S.O. to 02.12.2021.
3. The present matter is to be treated as part heard.

MEMBER (J)

ORIGINAL APPLICATION NO. 13 OF 2021
(Ajaykumar B. Chavan Vs. State of Maharashtra & Ors.)

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

DATE : 25.11.2021

ORAL ORDER :

Heard Ms. Anagha Pandit, learned Advocate holding for Shri S.B. Talekar, learned Advocate for the applicant, Shri I.S. Thorat, learned Presenting Officer for the respondent Nos. 1 to 3 and Shri Thoke Patil, learned Advocate for respondent No. 4.

2. At the request and by consent of both the sides, S.O. to 16.12.2021.

MEMBER (J)

KPB/ORAL ORDERS 25.11.2021

ORIGINAL APPLICATION NO. 70 OF 2020
(Shaikh Hameed Shaikh Dadamiyan Vs. State of Maharashtra & Ors.)

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

DATE : 25.11.2021

ORAL ORDER :

Heard Shri S.D. Dhongde, learned Advocate for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents.

2. At the request and by consent of both the sides, S.O. to 13.12.2021.

MEMBER (J)

KPB/ORAL ORDERS 25.11.2021

ORIGINAL APPLICATION NO. 87 OF 2019
(Yogiraj V. Mane Vs. State of Maharashtra & Ors.)

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

DATE : 25.11.2021

ORAL ORDER :

Heard Smt. Suchita A. Dhongde, learned Advocate for the applicant, Smt. M.S. Patni, learned Presenting Officer for the respondent No. 1 and Shri N.U. Yadav, learned Advocate for respondent Nos. 2 and 3.

2. At the request and by consent of both the sides, S.O. to 13.12.2021.

MEMBER (J)

KPB/ORAL ORDERS 25.11.2021

ORIGINAL APPLICATION NO. 799 OF 2016
(Bhura R. Pawar Vs. State of Maharashtra & Ors.)

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

DATE : 25.11.2021

ORAL ORDER :

Heard Shri H.A. Joshi, 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 17.12.2021.

MEMBER (J)

KPB/ORAL ORDERS 25.11.2021

ORIGINAL APPLICATION NO.973 OF 2018
(Rajaram Z. Mohite Vs. State of Maharashtra & Ors.)

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

DATE : 25.11.2021

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate holding for Shri A.D. Gadekar, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondent Nos.1 & 2. Smt. Suvarna Zaware, learned Advocate for the respondent No.3 is **absent.**

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

3. S.O. to 06.01.2022.

MEMBER (J)

ORIGINAL APPLICATION NO.1080 OF 2019
(Ravindra S. Patil Vs. State of Maharashtra & Ors.)

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

DATE : 25.11.2021

ORAL ORDER :

Heard Shri S.G. Kulkarni, learned Advocate holding for Shri Anant D. Sugdare, learned Advocate for the applicant, Shri I.S. Thorat, learned Presenting Officer for the respondent Nos.1 & 4 and Smt. Sunita D. Shelke, learned Advocate for the respondent Nos. 2 & 3.

2. Record shows that affidavit-in-reply is filed only on behalf of respondent No.3.

3. Learned Advocate for the respondent Nos.2 & 3 submits that the respondent No.2 adopts the affidavit-in-reply filed by respondent No.3.

4. Affidavit-in-reply today filed on behalf respondent No.1 is taken on record.

5. At the request of learned P.O., time is granted for filing affidavit-in-reply on behalf of respondent No.4.

6. S.O. to 07.01.2022.

MEMBER (J)

ORIGINAL APPLICATION NO.83 OF 2020
(Devendra I. Sonar Vs. State of Maharashtra & Ors.)

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

DATE : 25.11.2021

ORAL ORDER :

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

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

3. S.O. to 07.01.2022.

MEMBER (J)

ORIGINAL APPLICATION NO.2 OF 2021
(Kiran S. Pawar Vs. State of Maharashtra & Ors.)

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

DATE : 25.11.2021

ORAL ORDER :

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

2. As per order dated 25.10.2021 passed in farad sheet, learned Advocate for the applicant produced on record the copy of order dated 16.12.2019 passed by principal seat of this Tribunal at Mumbai in O.A.No.1007/2018 in respect of posting of suspended employee after revocation. It is taken on record and marked as document 'X' for the purpose of identification.

3. The matter is for filing of affidavit-in-reply on behalf of respondents.

4. At the request of learned P.O., time is granted for filing affidavit-in-reply on behalf of respondents.

5. S.O. to 10.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.230 OF 2020
(Ashvini D. Jadhav Vs. State of Maharashtra & Ors.)

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

DATE : 25.11.2021

ORAL ORDER :

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

2. During the course of arguments, it is seen that by impugned order dated 03.03.2020, the applicant is transferred from Latur to Nilanga in view of order dated 07.01.2020 passed by this Tribunal in O.A.No.472/2019 filed by the respondent No.4.

3. Learned P.O. for the respondents submits that at that point of time, no post was vacant at Latur and therefore, as per the applicant's earlier options which is at page no.61 of P.B., the applicant is posted at Nilanga. It was her third option.

4. The exchange of subsequent pleadings would show that now it is contended by the applicant that the post at Latur as well as AUSA are vacant.

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O.A.230/2020

5. Learned Advocate for the applicant submits that the applicant would make necessary representation for posting.

6. If such representation is made by the applicant, the respondent Nos.1 to 3 to consider the same on its own merit and sympathetically within a period of one month from the date of receipt of the said representation.

7. Learned P.O. to communicate this order to the respondents for appropriate compliance.

8. S.O. to 12.01.2022 for compliance of order.

MEMBER (J)

ORIGINAL APPLICATION NO.289 OF 2021
(Madhukar L. Pradhan Vs. State of Maharashtra & Ors.)

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

DATE : 25.11.2021

ORAL ORDER :

Heard Smt. Vidya Taksal, learned Advocate holding for Shri Avinash S. Deshmukh, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. At the request of learned P.O., time is granted for filing affidavit-in-reply on behalf of respondent Nos.1 to 3.

3. S.O. to 03.01.2022.

MEMBER (J)

**ORIGINAL APPLICATION NO.438 OF 2021
(Sambhaji K. Mali Vs. State of Maharashtra & Ors.)**

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

DATE : 25.11.2021

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the applicant, Shri I.S. Thorat, learned Presenting Officer for the respondent No.1 and Shri S.G. Kulkarni, learned Advocate holding for Shri C.V. Dharurkar, learned Advocate for the respondent No.2.

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

3. At the request of learned Advocate for the respondent No.2, time is granted as a last chance for filing affidavit-in-reply.

4. S.O. to 17.12.2021.

MEMBER (J)

**ORIGINAL APPLICATION NO.444 OF 2021
(Shivkumar A. Pohal Vs. State of Maharashtra & Ors.)**

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

DATE : 25.11.2021

ORAL ORDER :

Shri M.S. Chaudhari, learned Advocate for the applicant is **absent**. Heard 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 on behalf of respondents.
3. S.O. to 03.01.2022.

MEMBER (J)

ORIGINAL APPLICATION NO.502 OF 2021
(Rana P. Pardeshi Vs. State of Maharashtra & Ors.)

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

DATE : 25.11.2021

ORAL ORDER :

Heard Shri S.G. Kulkarni, learned Advocate holding for Shri C.V. Dharurkar, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. At the request of learned P.O., time is granted for filing affidavit-in-reply on behalf of respondents.
3. S.O. to 16.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.503 OF 2021
(Vilas V. Bari Vs. State of Maharashtra & Ors.)

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

DATE : 25.11.2021

ORAL ORDER :

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

2. At the request of learned P.O., time is granted as a last chance for filing affidavit-in-reply on behalf of respondents.

3. S.O. to 03.01.2022.

MEMBER (J)

ORIGINAL APPLICATION NO.540 OF 2021
(Bhujang V. Godbole Vs. State of Maharashtra & Ors.)

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

DATE : 25.11.2021

ORAL ORDER :

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

2. Affidavits-in-reply filed on behalf of respondent No.2 separately and respondent Nos.3 & 4 jointly are taken on record and copies thereof have been served on the other side.

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

4. S.O. to 03.01.2022.

MEMBER (J)

ORIGINAL APPLICATION NO.557 OF 2021
(Dr. Sanjay K. Kasralikar Vs. State of Maharashtra & Ors.)

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

DATE : 25.11.2021

ORAL ORDER :

Heard Shri Yash V. Kasliwal, learned Advocate holding for Ms. Poonam Bodke Patil, learned Advocate for the applicant, Shri V.R. Bhumkar, learned Presenting Officer for the respondent Nos.1 to 3 & 6 and Smt. Vidya Taksal, learned Advocate holding for Shri Avinash S. Deshmukh, learned Advocate for the respondent No.5. Shri Ashish Shinde, learned Advocate for the respondent No.4 is **absent**.

2. Affidavit-in-reply filed on behalf of respondent No.5 is taken on record and copy thereof has been served on the other side.

3. At the request of learned P.O., time is granted for filing affidavit-in-reply on behalf of respondent Nos.1 to 3 & 6.

4. S.O. to 06.01.2022. Interim relief granted earlier to continue till then.

MEMBER (J)

**ORIGINAL APPLICATION NO.625 OF 2021
(Yogesh J. Korade Vs. State of Maharashtra & Ors.)**

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

DATE : 25.11.2021

ORAL ORDER :

Heard Shri Omprakash D. Mane, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. At the request of learned P.O., time is granted for filing affidavit-in-reply on behalf of respondents.
3. S.O. to 06.01.2022.

MEMBER (J)

ORIGINAL APPLICATION NO.117 OF 2021
(Sudhir R. Tambe Vs. State of Maharashtra & Ors.)

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

DATE : 25.11.2021

ORAL ORDER :

Heard Shri Ajit B. Gaikwad, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. By consent of both the sides, S.O. to 11.01.2022 for hearing.

MEMBER (J)

**M.A.NO.96 OF 2020 IN O.A.ST.NO.239 OF 2020
(Kailas R. Walekar Vs. State of Maharashtra & Ors.)**

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

DATE : 25.11.2021

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents.

2. Record shows that affidavit-in-reply is filed only on behalf of respondent Nos.4 to 6.

3. At the request of learned P.O., time is granted as a last chance for filing affidavit-in-reply on behalf of respondent Nos.1 to 3.

4. S.O. to 03.01.2022.

MEMBER (J)

**ORIGINAL APPLICATION NO.132 OF 2020
(Jaywant B. Patil Vs. State of Maharashtra & Ors.)**

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

DATE : 25.11.2021

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. Record shows that pleadings upto affidavit-in-rejoinder are complete.

3. The matter is pertaining to minor punishment. It is admitted and fixed for final hearing on 04.01.2022.

MEMBER (J)

ORIGINAL APPLICATION NO.545 OF 2020
(Dayanand U. Rajgire Vs. State of Maharashtra & Ors.)

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

DATE : 25.11.2021

ORAL ORDER :

Heard Shri A.B. Rajkar, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. Record shows that by order dated 12.10.2021, learned P.O. was directed to file short additional affidavit.

3. At the request of learned P.O., time is granted for compliance of order dated 12.10.2021.

4. S.O. to 17.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.551 OF 2020
(Kiran S. Pathare Vs. State of Maharashtra & Ors.)

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

DATE : 25.11.2021

ORAL ORDER :

Shri M.B. Kolpe, learned Advocate for the applicant is **absent**. Heard Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. As none present on behalf of the applicant, S.O. to 06.01.2022 for hearing.

MEMBER (J)

ORIGINAL APPLICATION NO.156 OF 2021
(Jayshree A. Sonwane Vs. State of Maharashtra & Ors.)

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

DATE : 25.11.2021

ORAL ORDER :

Heard Shri Suresh D. Dhongde, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. The present matter is pertaining to time bound promotion.

3. Hence, as per the Circular No. MAT/MUM/ESTT/732/2021, dated 25/28.05.2021 issued by the Hon'ble Chairperson of the Maharashtra Administrative Tribunal, Mumbai, the present matter be placed before the Division Bench for further hearing.

4. Second set filed by the learned Advocate for the applicant is taken on record.

5. S.O. to 03.01.2022.

MEMBER (J)

ORIGINAL APPLICATION NO.465 OF 2021
(Azad Khadarsaheb Patel Vs. State of Maharashtra & Ors.)

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

DATE : 25.11.2021

ORAL ORDER :

Heard Shri Avinash Aphad, learned Advocate holding for Shri B.S. Deshmukh, learned Advocate for the applicant, Shri M.S. Mahajan, learned Chief Presenting Officer for the respondent Nos.1 & 2 and Shri V.B. Wagh, learned Advocate for the respondent Nos.3 to 8.

2. At the request of learned C.P.O., time is granted for filing affidavit-in-reply on behalf of respondent Nos.1 & 2.

3. Learned Advocate for the respondent Nos.3 to 8 submits that he would adopt the affidavit-in-reply filed by respondent Nos.1 & 2.

4. S.O. to 06.01.2022.

MEMBER (J)

M.A.NO.627 OF 2019 IN O.A.NO.993 OF 2019
(Dileep R. Joshi Vs. State of Maharashtra & Ors.)

WITH

M.A.NO.628 OF 2019 IN O.A.NO.994 OF 2019
(Dileep K. Thorat Vs. State of Maharashtra & Ors.)

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

DATE : 25.11.2021

ORAL ORDER :

M.A.NO.627 OF 2019 IN O.A.NO.993 OF 2019

Heard Shri V.G. Pingle, learned Advocate for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents.

M.A.NO.628 OF 2019 IN O.A.NO.994 OF 2019

Heard Shri V.G. Pingle, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. The present matters are closed for order.

MEMBER (J)

M.A.NO.352 OF 2021 IN O.A.NO.05 OF 2021
(Dr. Kalimoddin A. Shaikh Vs. State of Maharashtra & Ors.)

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

DATE : 25.11.2021

ORAL ORDER :

Heard Shri I.D. Maniyar learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. By this Misc. Application the applicant is seeking amendment in the Original Application.

3. It is the case of the applicant that initially he was appointed as Junior Lecturer on 30.06.1990 in aided college. Thereafter, on 30.08.1993, he was selected as Junior Lecturer at Zilla Parishad, Osmanabad. Thereafter, the applicant came to be selected by M.P.S.C. as Senior Lecturer and was given positing at District Institute of Education and Training, Osmanabad on 07.04.2003.

4. It is the further contention of the applicant that as per Rule 11 of Maharashtra Civil Services (Pay) Rules, 1981, he is entitled for pay protection of his earlier service and his last basic pay was Rs.9,100/-. Hence, the then head of the institute forwarded proposal dated 28/31.12.2011 to the respondent No.5 for grant of pay protection.

//2//

M.A.352/2021 In
O.A.5/2021

5. The respondent No.5 i.e The Director, the State Council for Educational Research and Training, Pune in turn recommended the said proposal vide letters dated 09.03.2012 and 17.10.2014 to the Respondent No.4 i.e. Commissioner of Education, Government of Maharashtra, Pune.

6. However, the applicant did not hear anything about the same. Hence, the Original Application is filed seeking appropriate direction for grant of pay protection to the applicant as above and other reliefs.

7. Affidavit-in-reply was filed on behalf of the respondent Nos.1,2,4 & 5. Thereby it was disclosed that the recommendation made by the respondent No.5 was rejected as per communication dated 08.03.2021 which is produced at page no.8 of this Misc. Application.

8. In the circumstances as above, it is apparent on record that the applicant wants to bring on record subsequent development touching to the contentions raised in the Original Application.

//3//

M.A.352/2021 In
O.A.5/2021

9. In view of same, the proposed amendment would not change the nature of proceedings. In fact, the proposed amendment would be just and necessary to determine the real question of controversy between the parties.

10. Hence, this is fit case to give permission to amend the O.A. I, therefore, proceed to pass following order:-

ORDER

- (a) The Misc. Application No.352/2021 is allowed.
- (b) The applicant to carry out amendment within a period of two weeks and to serve amended copy of the Original Application on the other side.
- (c) Accordingly, Misc. Application stands disposed of with no order as to costs.

MEMBER (J)

ORIGINAL APPLICATION NO.05 OF 2021
(Dr. Kalimoddin A. Shaikh Vs. State of Maharashtra & Ors.)

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

DATE : 25.11.2021

ORAL ORDER :

Heard Shri I.D. Maniyar learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. By consent of both the side, S.O. to 12.01.2022.

MEMBER (J)

ORAL ORDERS 25.11.2021 - SAS

**ORIGINAL APPLICATION NO. 732/2018
(Akhtarkhan Shahajadekhan Pathan & Ors. Vs. State of
Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 25.11.2021

ORAL ORDER :

Heard Smt. Suchita A. Dhongde, learned Advocate for the applicants and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. Learned Presenting Officer appearing for the respondents submits that sur-rejoinder is not necessary in the present case.

3. In the circumstances, present case is hereby admitted.

4. S.O. to 4.1.2022 for final hearing.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 903/2018
(Dr. Jalindar S. Ambhore Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 25.11.2021

ORAL ORDER :

Shri A.C. Deshpande, learned Advocate for the applicants (**absent**). Shri I.S. Thorat, learned Presenting Officer for the respondents, is present.

2. It appears from the record that in spite of granting sufficient opportunity to the applicant to file rejoinder affidavit, the same is not filed till today.

3. In the circumstances, present case is hereby admitted.

4. S.O. to 7.1.2022 for final hearing.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 164/2020
(Hemant M. Chhajed Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 25.11.2021

ORAL ORDER :

Heard Shri A.S. Khedkar, learned Advocate holding for Shri A.M. Hazare, learned Advocate for the applicants and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant seeks time to file rejoinder affidavit. Time granted.

3. S.O. to 6.1.2022.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 490/2020
(Vivek S. Sonawane Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 25.11.2021

ORAL ORDER :

Heard Shri V.G. Pingle, learned Advocate for the applicant and Smt. Sanjivani Deshmukh Ghate, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant seeks time for filing rejoinder affidavit. Time granted.

3. S.O. to 10.1.2022.

MEMBER (A)

MEMBER (J)

ORAL ORDERS 25.11.2021-ARJ

**ORIGINAL APPLICATION NO. 491/2020
(Rajnikant D. Patil Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 25.11.2021

ORAL ORDER :

Heard Shri V.G. Pingle, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant seeks time for filing rejoinder affidavit. Time granted.

3. S.O. to 10.1.2022.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 208/2021
(Dnyaneshwar B. Biradkar Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 25.11.2021

ORAL ORDER :

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

2. Learned Presenting Officer seeks one week's time for filing affidavit in reply of the respondents in the present case. Though last chance for filing affidavit in reply is already granted by the Tribunal, in the interest of justice, one more chance is granted to the respondents to file affidavit in reply.

3. S.O. to 7.12.2021.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 490/2021
(Shyamsundar S. Ramdasi & Anr. Vs. State of Maha. &
Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 25.11.2021

ORAL ORDER :

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

2. Learned Presenting Officer has filed affidavit in reply on behalf of respondent nos. 1 to 3. It is taken on record and copy thereof has been supplied to the learned Advocate for the applicants.

3. Learned Advocate for the applicants submits that in view of the averments in para 5 of the affidavit in reply of the respondents, the present O.A. can be disposed of. He further submits that he is restricting the prayer of O.A. only to the extent that, if the present applicants are eligible for promotion to the post of Technical Officer, they may be considered for the said promotion in view of the seniority list published vide Government Notification dated 31.8.2018.

4. In view of the above submissions made by the learned Advocate for the applicants, the present Original

::-2-::

O.A. NO. 490/2021

Application stands disposed of with a direction to the respondents that they shall consider the claim of the applicants for promotion to the post of Technical Officer in view of the seniority list published vide Notification dated 31.8.2018, if they are fit in all respect. This order shall be complied with by the respondents within a period of 2 months from the date of this order. There shall be no order as to costs.

MEMBER (A)

MEMBER (J)

ORAL ORDERS 25.11.2021-ARJ

**ORIGINAL APPLICATION ST. NO. 1604/2021
(Ashish S. Susare Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 25.11.2021

ORAL ORDER :

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

2. Learned Advocate for the applicant undertook to remove the office objection on or before the next date.

3. Issue notices to the respondents, returnable on 9.12.2021.

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

5. 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.

::-2-::

O.A. ST. NO. 1604/2021

6. 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.

7. 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.

8. **Learned Advocate for the applicant prays for interim relief. If the contingency so arises, the applicant is at liberty to move the Tribunal. Otherwise, the present O.A. will be considered after filing the affidavit in reply by the respondents.**

9. S.O. to 9.12.2021.

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

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 600/2021
(Subhash G. Dhutire Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 25.11.2021

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. Vide para 6 of the order dated 5.10.2021 this Tribunal has given certain directions to the respondents. Today, the learned Presenting Officer appearing for the respondents submits that he has no instructions as to whether said directions are complied with or not by the respondents and, therefore, he sought time to make submissions in that regards.

3. So, we want to clarify that in case where certain directions are given by the Tribunal to the respondents, the learned Presenting Officer is supposed to make submissions about compliance of the said directions. In the circumstances, henceforth no such submission will be entertained that instructions are awaited from the concerned respondents.

::-2-::

O.A. NO. 600/2021

4. In the present matter, one week time is granted to the respondents for making statement regarding compliance of directions given in para 6 of the order dated 5.10.2021.

5. S.O. to 7.12.2021.

MEMBER (A)

MEMBER (J)

ORAL ORDERS 25.11.2021-ARJ

**ORIGINAL APPLICATION NO. 588/2021
(Holambe Nitin Dagdu & Ors. Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 25.11.2021

ORAL ORDER :

Heard Shri C.V. Dharurkar, learned Advocate for the applicants and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. Learned Presenting Officer submits that draft affidavit in reply is already forwarded to the authorities and after receipt of approval, the same will be filed. He, therefore, seeks time for filing affidavit in reply of the respondents. Time granted.

3. S.O. to 10.1.2022.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 520/2021
(Varsha V. Kulkarni & Ors. Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 25.11.2021

ORAL ORDER :

None appears for the applicants. Shri M.P. Gude, learned Presenting Officer for the respondents, is present.

2. Learned Presenting Officer seeks time for filing affidavit in reply of the respondents in the present case. Time granted.

3. S.O. to 7.1.2022.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 496/2021
(Prathamesh S. Vaidhya & Ors. Vs. State of Maha. &
Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 25.11.2021

ORAL ORDER :

Heard Shri R.K. Ashtekar, learned Advocate for the applicant, Shri V.R. Bhumkar, learned Presenting Officer for the respondent nos. 1 to 3 and Shri K.G. Salunke, learned Advocate for respondent no. 10. None appears for respondent nos. 4 to 9, 11 & 12, though duly served.

2. Learned Presenting Officer submits that during the course of the day he will file affidavit in reply of respondent nos. 1 to 3. He is permitted to do so. The affidavit in reply of respondent nos. 1 to 3 be accepted on record and copy thereof be supplied to other side.

3. Learned Advocate for respondent no. 10 sought 2 weeks' time for filing affidavit in reply. Time granted as prayed for.

4. S.O. to 16.12.2021.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 607/2021
(Sachin K. Pawar Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 25.11.2021

ORAL ORDER :

Heard Shri P.U. Gujrathi, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant submits that service report of the respondent no. 4 is ready with him. He shall file the same in the Registry.

3. Learned P.O. sought time for filing affidavit in reply of the respondents. Time granted.

4. S.O. to 4.1.2022.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 603/2021
(Sumit G. Dongre & Ors. Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 25.11.2021

ORAL ORDER :

Heard Shri A.V. Thombre, learned Advocate for the applicants and Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicants submits that service affidavit regarding service of notice upon the respondents is ready. He shall file the same in the Registry.

3. Learned Presenting Officer seeks time for filing affidavit in reply of the respondents. Time granted.

3. S.O. to 3.1.2022.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 473/2021
(Manisha S. Patil Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 25.11.2021

ORAL ORDER :

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

2. Learned Presenting Officer seeks time for filing affidavit in reply of the respondents in the present case. Time granted.

3. S.O. to 10.1.2022.

MEMBER (A)

MEMBER (J)

ORAL ORDERS 25.11.2021-ARJ

**ORIGINAL APPLICATION NO. 472/2021
(Dr. Rahul R. Salve Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 25.11.2021

ORAL ORDER :

Heard Shri S.B. 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 Presenting Officer seeks time for filing affidavit in reply of the respondents in the present case. Time granted as a last chance.

3. S.O. to 6.1.2022.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 338/2021
(Madhukar L. Dondake Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 25.11.2021

ORAL ORDER :

Heard Shri K.G. Salunke, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. It is brought to our notice that contesting respondents have already filed their affidavit in reply in the present case. Other respondents are formal parties and therefore, no affidavit in reply is required on their behalf.

3. Shri Salunke, learned Advocate submits that the applicant does not wish to file rejoinder affidavit.

4. In the circumstances, present case hereby admitted.

5. S.O. to 22.12.2021 for final hearing.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 308/2021
(Nitin B. Pagare Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 25.11.2021

ORAL ORDER :

Shri S.S. Jadhavar, learned Advocate for the applicant (**absent**). Shri V.R. Bhumkar, learned Presenting Officer for the respondents, is present.

2. Applicant and his learned Advocate are absent. Service report is not submitted till this date. Therefore, the present matter be kept in await service category.

3. S.O. to 7.1.2022.

MEMBER (A)

MEMBER (J)

ORAL ORDERS 25.11.2021-ARJ

**ORIGINAL APPLICATION NO. 726/2021
(Smt. Payal Pandurang Waghmare Vs. State of Maha. &
Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 25.11.2021

ORAL ORDER :

Heard Shri M.S. Shaikh, learned Advocate holding for Shri S.S. Jangada, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. The present Original Application is filed claiming following reliefs ::-

“(A) This Original Application may kindly be allowed.

(B) By issuance of necessary order it be directed to the respondent authorities, more particularly respondent Nos. 2 and 3 to consider the candidature of the applicant for the post pursuant to the advertisement for Maharashtra State Police Peon / Driver Recruitment -2019 (Annexure-A-1) from the SC category on the strength of merit; and for that purpose issue necessary directions.

(C) During pendency and final hearing of the present Original Application be directed to the respondent authorities to consider the candidature of the applicant for the purpose selection process including for the purpose of interview and to issue provisional appointment order in favour of the present applicant for the post of Maharashtra State

Police Peon / Driver Recruitment -2019 pursuant to the advertisement (Annexure-A-1) and in the alternate the respondents be directed to keep the one post vacant from SC category; and for that purpose issue necessary directions.

(D) During pendency and final hearing of the present Original Application it be directed to the respondent authorities to keep one post vacant for Maharashtra State Police Peon / Driver Recruitment – 2019 pursuant to the advertisement (Annexure-A-1); and for that purpose issue necessary directions.

(E) Pass such other and further order (s) as this Hon'ble Court may deem fit and proper in the peculiar facts and circumstances of the case.”

3. It is the contention of the applicant that, though certain female candidates belonging to S.C. category have secured less marks than the present applicant, their names have been included in the list of candidates eligible for appearing in the interview. In this regard, the learned Advocate for the applicant has relied on the judgment of the Division Bench of the Hon'ble High Court of Judicature at Bombay, Bench at Aurangabad dated 30.3.2016 in the case of **Asha D/o Ramnath Gholap Vs. the President, District Selection Committee / Collector, Beed, Dist. Beed & Ors.** (Writ Petition No. 3929/2015) reported at **2016 (3) AIR BOM. R 376.**

4. After having gone through the contents of the present Original Application and the documents filed on record it is revealed that the case of the present applicant is distinguishable than the case of the applicant, whose case has been considered by the Hon'ble High Court in the above cited judgment. At Annex. A-2 the applicant has filed on record copy of application made by her. From contents of the said application, it is revealed that the applicant has not opted to avail benefits of Female reservation.

5. As is revealing from the record the applicant secured 60 marks. The applicant undisputedly belongs to S.C. category. It was the contention of the learned Advocate for the applicant that so many S.C. Female candidates, who have secured less marks than the present applicant, have been made eligible for appearing in the interview and their names have been included in the list published by the authority. It is true that S.C. Female candidates, who have secured less marks than the applicant have been held eligible for appearing in the interview and their names are included in the list so published by the authority. However, as we have noted hereinabove, in the form filled in by the applicant, she has specifically stated that she does not want to avail the benefit of female reservation. It is thus evident that the applicant was intending to compete

as a Open candidate. After having declined the benefit of Female reservation, the applicant is estopped from making a submission that the S.C. Female candidates having less marks than her, have been made eligible for appearing in the interview. Had the name of any Male candidate been included in the list of eligible candidates securing less marks than the applicant, then certainly the applicant could be said to have made out a valid claim. However, all the Male candidates from Open category as well as from the reserved class, whose names are included in the list of eligible candidates, have secured more marks than the applicant.

6. Thus, according to us, the applicant has failed in making out any case for grant of any relief as prayed for in the Original Application. The Original Application, therefore, fails and is accordingly dismissed. There shall be no order as to costs.

MEMBER (A)

MEMBER (J)