

IN

Original Application No.

of 20

FARAD CONTINUATION SHEET NO.Office Notes, Office Memoranda of Coram,
Appearance, Tribunal's orders or
directions and Registrar's orders

Tribunal's orders

23.06.2016O.A No 586/2016

Dr S.S Chappalwar ... Applicant
Vs.
The State of Maharashtra & Ors... Respondents

Heard Shri A.V Bandiwadekar, learned advocate for the applicant and Ms Neelima Gohad, learned Presenting Officer for the Respondents.

Affidavit in reply as directed by this Tribunal has been filed by Respondent no. 1. However, this affidavit does not make it clear the legal position. If a suitable candidate from S.T category is not available for admission in an educational institution, whether the seat can be filled by candidate belonging to any other category, and if so, whether there are any guidelines. If there are no instructions in this regard that should have been made clear in the affidavit.

In fact, in such a matter, it is expected that the affidavit should have been filed by Respondent no. 2. However, some junior person from the office of the Respondent is asked to file affidavit, who apparently is not aware of the legal position.

Learned P.O states that she will file necessary affidavit in reply on 27.6.2016 and the position will be made very clear. In the absence of such an affidavit the request of the Applicant for interim relief will be considered.

S.O to 27.6.2016.

DATE: 23/6/16

CORAM:

Hon'ble Shri. RAJIV AGARWAL
(Vice - Chairman)~~Hon'ble Shri R. B. MALIK (Member)~~

APPEARANCE:

Shri/Shri A.V. Bandiwadekar

Advocate for the Applicant

~~Shri/Shri~~ Ms. N.G. Gohad~~CAO/P.O. for the Respondents~~Reply filed by P.No.1S.O. to 27/6/16.

Sd/-

(Rajiv Agarwal)
Vice-Chairman

Akn

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 587, 588, 589, 590 & 591/2016

DISTRICT :

- | | | | |
|----|------------------|----------------|------------------------|
| 1. | Shri V.D Kolekar | [O.A 587/2016] |) |
| 2. | Smt T.V Dhokate | [O.A 588/2016] |) |
| 3. | Shri B.S Malame | [O.A 589/2016] |) |
| 4. | Shri S.T Kare | [O.A 590/2016] |) |
| 5. | Smt S.P. Jadhav | [O.A 591/2016] |)... Applicants |

Versus

The State of Maharashtra & Others)...**Respondents**

Shri A.V Bandiwadekar, learned advocate for the Applicants.

Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

DATE : 23.06.2016

ORDER

1. Heard Shri A.V Bandiwadekar, learned advocate for the Applicants and Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

2. Learned Presenting Officer Smt Gaikwad, has placed before me the original file regarding Applicants' transfer. It is seen that



there was a report from Police Inspector, Traffic Control Branch, Sangli dated 18.5.2016 regarding Smt S.P Jadhav & Shri S.T Kare. As regards S/Shri Kolekar, Dhokate and Malame, their names do not appear to be included in the report of the Police Inspector. However, the order dated 31.5.2016 makes a reference to the report of the Police Inspector dated 18.5.2016 in respect of following four persons S/Shri Kolekar, Dhokate and Malame and Shri Patil, who is not before this Tribunal. It is, therefore, clear that the recitation regarding of the Police Inspector dated 18.5.2016 in the impugned order as regards S/Shri Kolekar, Dhokate and Malame is not supported by document on record.

3. From the file placed for my perusal, it seems that after meeting of the Police Establishment Board at District level was held on 27.5.2016 a separate note was placed before Superintendent of Police, which mentions another report from Police Inspector dated 28.5.2016, which does not appears to be on record. The matter of S/Shri Kolekar, Dhokate and Malame was not placed before the Police Establishment Board, but orders of their transfers were issued with approval of S.P.

4. Learned Presenting Officer Smt Gaikwad relied on the instructions issued by the D.G.P dated 25.2.2015, wherein reference has been made to Section 22N(2), where it is mentioned that in case of serious complaints, irregularities, law & order, the highest competent authority may transfer the Police Personnel. The transfer orders have been issued taking recourse to this provision of law. It is seen that the higher competent authority is the Chief Minister as per the Maharashtra Police Act. Obviously these powers cannot be exercised by the Superintendent of Police. The transfer orders of these persons without reference to the Police

Establishment Board appears to have been issued in violation of the provisions of the Maharashtra Police Act.

5. As regards Shri Kare and Smt Jadhav, it is true that some complaints against them were received from the Police Inspector, Traffic Control Branch, by letter dated 18.5.2016. These complaints are of very minor nature e.g they are not attending office in time etc. This obviously cannot be a ground to order mid-term transfer under any of the contingencies mentioned in Section 22N of the Maharashtra Police Act.

6. There is a prima facie case to grant interim relief in all these Original Applications. The transfer order dated 31.5.2016 is therefore stayed in all Original Applications. The Applicants will be allowed to work where they were working before the transfer order was issued.

7. S.O to 14.7.2016. Hamdast.

Sd/-

(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai

Date : 23.06.2016

Dictation taken by : A.K. Nair.

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

23.06.2016

Tribunal's orders
O.A No 598/2016

Shri R.D Pawar ... Applicant
Vs.
The State of Maharashtra & Ors... Respondents

1. Heard Shri A.V Bandiwadekar, learned advocate for the applicant and Shri N.K. Rajpurohit, learned Chief Presenting Officer for the Respondents.

2. Learned Advocate Shri Bandiwadekar stated that by oversight he has not appended orders dated 24.8.2015 and 2.9.2015 passed by Respondents no 1 & 2. He, therefore, sought leave of this Tribunal to amend the O.A to place these orders on record. Leave granted. Learned Advocate Shri Bandiwadekar stated that he will amend the O.A within a period of one week.

3. Issue notice before admission made returnable on 25.7.2016.

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

5. 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 O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

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 acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file affidavit of compliance and notice.

8. S.O 25.7.2016. Learned C.P.O waives service of notice

DATE: 23/6/16

CORAM:

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

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

APPEARANCE:

Shri/Smt. A.V. Bandiwadekar

Advocate for the Applicant

Shri/Smt. N.K. Rajpurohit

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

Adj. To S.O. to 25/7/16.

[Signature]

Sd/-

(Rajiv Agarwal)
Vice-Chairman

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

Tribunal's orders

23.6.2016

O.A Nos 235 & 313/2014

Shri S.R Bagde ... Applicant
Vs.
The State of Maharashtra & Ors... Respondents

Heard Shri A.V Bandiwadekar, learned advocate for the applicant, Ms Neelima Gohad, learned Presenting Officer for the Respondent no. 1, Shri M.R. Patil, learned advocate for Respondent no. 2 and Shri D.B Khaire, learned advocate for Respondent no. 3, Shri D.J Khonde

The arguments of learned Advocate for the Applicants and private Respondent no. 2 and that of learned Presenting Officer heard. It now appears that the learned advocate for Respondent no. 3 when he was C.P.O, had filed an affidavit on behalf of Respondent no. 1, State. Therefore, Mr Khaire, requested that he be allowed to withdraw his appearance. Request is granted in the circumstances without much ado. Learned Advocate Shri Khaire, however, undertakes to inform Respondent no. 3.

These O.As are now adjourned for arguments of Respondent no. 3. At this stage, learned Advocate for the Applicant raised strong objection to a long date being given for all the reasons mentioned by him.

As far as this aspect of the matter is concerned, the adjournment will have to be given because ultimately, as Presiding Officer of this bench, it is our duty to also make sure that no impropriety remains writ large on the proceedings.

We are not going to micromanage the affairs in so far a counsel-client are concerned, but we make it clear that on the next date the submissions on behalf of Respondent no. 3 will be heard and all arrangements must be made in that behalf.

S.O to 12.7.2016.

Sd/-

(R.B. Malik) Member (J)

Sd/-

(Rajiv Agarwal)
Vice-Chairman

Akn

DATE: 23/6/16

CORAM:

Hon'ble Shri. RAHV AGARWAL
(Vice - Chairman)

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

APPEARANCE:

Shri/Smt: A.V. Bandiwadekar

Advocate for the Applicant

Shri/Smt: Ms. N.G. Gohad

C.P.O./P.O. for the Respondents No. 1 & 4.

M. R. Patil for R.No. 2.

D. B. Khaire for R.No. 3.

Adj. To:

S.O. to 12/7/16.

Reply filed by
R.No. 4.

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

Tribunal's orders
OA.918/15 with OA.1094/15

Shri S.S. Shingte & Ors. (OA.918/15)

Shri R.M. Kothalikar & Ors. (OA.1094/15)

Vs.

..Applicants

The State of Maharashtra & Ors.

..Respondents

Heard Shri D.B. Khaire, learned Advocate for Applicants in OA.918/15, Shri C.T. Chandratre, learned Advocate for Applicants in OA.1094/15, Shri K.B. Bhise, learned Presenting Officer for Respondents No.1 to 3, Shri M.D. Lonkar, learned Advocate for Respondents No.4 to 6 and Shri K.R. Jagdale, learned Advocate for Respondents No.6A to 6E.

2. The Ld. Advocates for the applicants renew their request for maintaining the status quo as of today in the matter of issuing the orders of promotion of the private respondents. They do not employ the phrase "stay". We think we have explained the position such as it is.

3. Today the parties are ad-idem that the facts herein bear no resemblance to the facts in WP No.465 of 2009 which is pending before the Hon'ble High Court and, therefore, we can safely take these OAs for consideration.

4. The Ld. Advocates of both the sides and Ld. PO made vociferous submissions consistently with their respective brief one side insisting on the maintenance of status quo as mentioned above and other side countering those submissions. Taking all aspects into consideration we are of the view that an order as indicated by us in our order dated 21.6.2016 can now be formulated as and by way of interim measure. We, therefore, direct that whatever orders, if any, are made in regard to the facts at issue herein will be subject to the ultimate outcome of these OAs. With this these OAs remain adjourned to 10.8.2016. Steno copy and handast allowed.

DATE: 23/6/16

CORAM:

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

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

APPEARANCES:

Shri/Smt. D.B. Khaire (OA.918/15) ✓
Advocate for the Applicant

Shri/Smt. C.T. Chandratre (OA.1094/15)
C.T.O/P.O. for the Respondents No. 1 to 3.

Shri/Smt. K.B. Bhise
K.B. Lonkar for R.No. 4 to 6.

Adj. To K.R. Jagdale
for R.No. 6A to 6E.

S.O. to 10/8/16.

FH
@

Sd/-

(R.B. Malil)

Member (J)

23.6.2016

(sgl)

Sd/-

(Rajiv Agarwal)

Vice-Chairman

23.6.2016

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

Tribunal's orders
OA.510/15 with OA.297/16

Shri A.G. Kotapkar (OA.510/15)
Shri S.J. Chavan (OA.297/16) ..Applicants
Vs.
The State of Maharashtra & Ors. ..Respondents

Heard Shri K.R. Jagdale, learned Advocate for Applicants in OA.510/15, Shri C.T. Chandratre, learned Advocate for Applicants in OA.297/16 and Miss Neelima Gohad, learned Presenting Officer for the Respondents.

2. Miss Gohad, Ld. PO is being instructed by Shri Rajendra M. Mahajan, The Controller, Govt. Transport Service.

3. Shri Jagdale, Ld. Advocate commences his arguments and in the midst thereof tenders a compilation of documents and it appears that in so far as the post relevant for these OAs is of Driver from OBC category. We have been taken through the said compilation and we make it clear that none of our observations today shall conclude either side. But it appears that one of the Drivers, who came to be selected and about whose selection there is some dispute, has unfortunately passed away. However, as the hearing continued the officer abovenamed initially told that there is record pursuant to the report dated 31.1.2014 submitted in respect of the appointments. However, having perused the two affidavits in reply at pages 112 and 220 of the paper book, we do not quite get any such information. We have pulled up the said officer and it is made clear that it is with some degree of efforts that we have restrained ourselves from initiating action against him. Ld. PO Miss Gohad undertakes to file a proper affidavit to assist us in this matter and we trust that the said affidavit when presented would really assist us. The said affidavit must be filed by Secretary of GAD himself because we would like to be assured that the matter has been brought to his notice and this observation is made after perusal of the record above referred to, there is a scope to infer that Secretary may not have been informed thereabout.

4. S.O. to 21.7.2016.

DATE: 23/6/16

CORAM:

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

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

APPEARANCE:

Shri K.R. Jagdale

& C.T. Chandratre (297/16)

Advocate for Applicants

Shri/ Ms. N.G. Gohad

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

Sd/-

(R.B. Malik)
Member (J)
23.6.2016

Sd/-

(Rajiv Agarwal)
Vice-Chairman
23.6.2016

(sgj)

Adj. To S.O. to 21/7/16.

PH
[Signature]

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

Tribunal's orders

M.A.158/2016 in O.A.1520/2009

Shri S.A. Pagar ... Applicant
Vs.
The State of Mah. & ors. ... Respondents

This MA is for condonation of delay moved by the widow of the deceased Applicant in making this application for being impleaded for the said deceased.

By my order dated 5.5.2016, I had made it clear that this MA as well as the sister MA will be heard with the kind of liberty reserved for the Respondents in the matter of reply. But the reply has not been filed even today.

I have heard Shri B.A. Bandiwadekar, the learned Advocate for the Applicant and Shri A.J. Chougule, the learned Presenting Officer for the Respondents in this MA. Irrespective of the fact that the reply has not been filed, Shri Chougule stoutly opposed this MA *inter-alia* citing the delay of five months. However, the period within which the application should have been moved being 30 days, there is delay of five months which in the context is not so enormous as to lead vesting of any right in the ~~Respondent~~ ^{Respondent} which could be taken away by allowing this application. The Respondents after-all is a State and a model litigant and unless there are strong reasons, generally and by and large, they could not be allowed to take shelter behind technicality. Therefore, rejecting the arguments to the contrary of the learned P.O, the MA 158/2016 is hereby allowed. The delay is condoned. The Applicant of this MA be impleaded for a deceased husband as an Applicant by way of an appropriate amendment to be carried within two weeks from today. A consolidated copy of the OA after amendment be filed and the copy be furnished to the learned P.O. The Affidavit-in-reply, if any, necessitating as a result hereof be filed on the next date and not thereafter.

OA adjourned to 14th July, 2016.

Sd/- 23.6.16
(R.B. Malik)
Member (J)
23.06.2016

(skw)

DATE: 23/6/16

CORAM:

Hon'ble Justice Shri A. H. Jadhvi (Chairman)

Hon'ble Shri R.B. Malik (Member) A ↓

APPEARANCE:

Shri/Lawyer B.A. Bandiwadekar

Advocate for the Applicant

Shri/Lawyer A.J. Chougule

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

Order passed in Tribunal's order

Adj. To: COLUMN

M.A. is allowed.

SKW

(Advocate

VERSUS

The State of Maharashtra and others

Respondent/s

(Presenting Officer.....)

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

Tribunal's orders

O.A.93/2016

Shri D.D. Sherkhane ... Applicant
Vs.
The State of Mah. & ors. ... Respondents

Heard Shri R.M. Kolge, the learned Advocate for the Applicant and Ms. N.G. Gohad, the learned Presenting Officer for the Respondents.

OA is admitted. The matter to appear before the appropriate Single Bench on 14th July, 2016.

Sd/- 23.6.16

(R.B. Malik)
Member (J)
23.06.2016

(skw)

DATE: 23/6/16

CORAM:

~~Hon'ble Justice Shri A. D. Jadhav (Chairman)~~
Hon'ble Shri R.B. Malik (Member) **A J**

ADVOCATE:

Shri R.M. Kolge

ADVOCATE FOR APPLICANT

Shri N.G. Gohad

CLERK / P.O. for the Respondent/s

Admit.

Adj. To..... 14/7/16 before appropriate Single Bench.

SKW

(Advocate)

versus

The State of Maharashtra and others

Respondent/s

(Presenting Officer.....)

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

Tribunal's orders
O.A.323/2016

Shri B.B. Vyavhare ... Applicant
Vs.

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

Heard Shri B.A. Bandiwadekar, the learned Advocate for the Applicant and Shri A.J. Chougule holding for Ms. N.G. Gohad, the learned Presenting Officer for the Respondents.

The learned P.O. seeks an adjournment of two days for reply. Last chance was already granted. The OA is adjourned for reply to 28th June, 2016 making it clear that the Tribunal shall proceed without reply, admit the OA and appoint is for final hearing, if the reply was not filed on 28th June, 2016.

S.O. to 28th June, 2016.

DATE: 23/6/16

CORAM:

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

Hon'ble Shri R.B. Malik (Member) A

APPEARANCES:

Shri B.A. Bandiwadekar

Advocate for the Applicant

Shri N.G. Gohad

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

Adj. To 28/6/16

BB

Sd/- 23.6.16

(R.B. Malik)
Member (J)
23.06.2016

(skw)

(Advocate)

versus

The State of Maharashtra and others

Respondent/s

(Presenting Officer.....)

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

Tribunal's orders
O.A.321/2016

Shri V.D. Tambe & 3 Ors. ... Applicants
Vs.
The State of Mah. & ors. ... Respondents

Heard Shri B.A. Bandiwadekar, the learned Advocate for the Applicants and Shri A.J. Chougule holding for Ms. N.G. Gohad, the learned Presenting Officer for the Respondents.

The learned P.O. seeks an adjournment of two days for reply. Last chance was already granted. The OA is adjourned for reply to 28th June, 2016 making it clear that the Tribunal shall proceed without reply, admit the OA and appoint is for final hearing, if the reply was not filed on 28th June, 2016.

S.O. to 28th June, 2016.

DATE: 23/6/16

SEAL:

Hon. the Justice, Shri A. H. Joshi (Chairman)

Hon. Shri R.B. Malik (Member) A]

APPEARANCE:

Shri B.A. Bandiwadekar

Advocate for the Applicant

Shri H.F. Gohad

C.R.G./P.O. for the Respondent/s

Adj. To 29/6/16

BTE

S/O - 6.16

(R.B. Malik)
Member (J)
23.06.2016

(skw)

(Advocate.....)

versus

The State of Maharashtra and others

Respondent/s

(Presenting Officer.....)

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

Tribunal's orders
O.A.301/2016

Shri J.A.M.H. Momin & 3 Ors.... Applicants
Vs.
The State of Mah. & ors. Respondents

Heard Shri B.A. Bandiwadekar, the learned Advocate for the Applicants and Shri A.J. Chougule holding for Ms. N.G. Gohad, the learned Presenting Officer for the Respondents.

The learned P.O. seeks an adjournment of two days for reply. Last chance was already granted. The OA is adjourned for reply to 28th June, 2016 making it clear that the Tribunal shall proceed without reply, admit the OA and appoint is for final hearing, if the reply was not filed on 28th June, 2016.

S.O. to 28th June, 2016.

DATE: 23/6/16

CORAM:

Shri R.B. Malik (Chairman)
Shri R.B. Malik (Member)A]

Advocate for Applicant:

B.A. Bandiwadekar

Advocate for Respondent:

A.G. Gohad

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

(skw)

Sd/-
23.6.16

(R.B. Malik)
Member (J)
23.06.2016

Adj. To 28/6/16

BTE

(Advocate

versus

The State of Maharashtra and others

... Respondent/s

(Presenting Officer.....)

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

Tribunal's orders
O.A.252/2016

Shri S.L. Haridas & 2 Ors. ... Applicants
Vs.
The State of Mah. & ors. ... Respondents

Heard Shri A.S. Deshpande, the learned Advocate for the Applicants and Shri K.B. Bhise holding for Shri N.K. Rajpurohit, the learned Chief Presenting Officer for the Respondents.

Shri Deshpande makes a statement that the Applicant does not want to file Rejoinder. The OA is admitted and in view of the personal difficulty of the learned Advocate, a fixed date is given before the Division Bench.

S.O. to 20th July, 2016.

DATE: 23/6/16

MEMBERS:
Hon'ble Justice Shri A. H. Joshi (Chairman)
Hon'ble Shri R.B. Malik (Member) **A J**

APPEARANCE:
Shri A.S. Deshpande

Advocate for the Applicant
Shri N.K. Rajpurohit
C.P.O./ P.O. for the Respondent/s
Admit.

Adj. To 20/7/16

MP
DL

Sd/-
23-6-16
(R.B. Malik)
Member (J)
23.06.2016

(skw)

Original Application No.

of 20

District

Applicant/s

(Advocate

versus

The State of Maharashtra and others

Respondent/s

(Presenting Officer.....)

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

Tribunal's order
O.A.244/2016

Shri I.R. Mulla ... Applicant
Vs.
The State of Mah. & ors. ... Respondents

Heard Shri B.A. Bandiwadekar, the learned Advocate for the Applicant and Shri K.B. Bhise holding for Ms. N.G. Gohad, the learned Presenting Officer for the Respondents.

Shri Bhise seeks an adjournment to file reply on behalf of Respondent No.3. The operation of the interim order of 9.3.2016 is hereby extended till further orders.

S.O. to 14th July, 2016.

DATE: 23/6/16

CORAM:

Head of office S.M.A. H. Jeevi (Chairman)

Head of court R.B. Malik (Member) A]

APPEARANCE:

Shri B.A. Bandiwadekar

Advocate for Applicant K.B. Bhise holding

Shri N.G. Gohad

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

Adj. To 14/7/16

skw

Sd/-
23.6.16
(R.B. Malik)
Member (J)
23.06.2016

(skw)

(Advocate)

versus

The State of Maharashtra and others

Respondent/s

(Presenting Officer.....)

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

Tribunal's orders

O.A.294/2012

Shri S.N. Hange ... Applicant
Vs.
The State of Mah. & ors. ... Respondents

Heard Shri S.R. Shirsath holding for Shri S.S. Jadhavar, the learned Advocate for the Applicant and Shri K.B. Bhise holding for Shri A.S. Wable, the learned Presenting Officer for the Respondents.

Shri Shirsath, the learned Advocate makes a statement that the Applicant does not want to file Affidavit-in-rejoinder. The learned P.O. seeks an adjournment which is objected to by Mr. Shirsath. In view of the fact that till recent past, Mr. Wable was not well, as and by way of last chance, the OA is adjourned. Taking into consideration all aspects of the matter, it is made clear that on the next date, the submissions on behalf of both the sides will be heard and the order will either be delivered or OA closed for that purpose. The Respondents may make sure that if Mr. Wable is unable to argue the matter, some other arrangement can be made for good time.

S.O. to 8th July, 2016.

Sd/-
23.6.16
(R.B. Malik)
Member (J)
23.06.2016

(skw)

DATE: 23/6/16

CORAM:

~~Hon. Justice G.V. Joshi~~ (Chairman)

Hon. Mr. R.B. Malik (Member) A]

ASSISTANT:

Shri S.R. Shirsath holding for S.S. Jadhavar

Shri K.B. Bhise

Presenting Officer for the Respondent/s

Adj. To: 8/7/16

SKW

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI

MISC. APPLICATION NO.159 OF 2016
IN
ORIGINAL APPLICATION NO.245 OF 2010

DISTRICT : NASHIK

Shri Bandu Narayan Gavande.)
Since deceased, heirs and legal)
Representatives :)
1. Smt. Sushila Bandu Gavande & Anr.)...**Applicants**

Versus

The Treasury Officer, District Treasury)
Office, Nashik.)...**Respondent**

Shri B.A. Bandiwadekar, Advocate for Applicants.

Shri A.J. Chougule, Presenting Officer for Respondent.

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

DATE : 23.06.2016

ORDER

1. This Misc. Application is made by the widow and son of the deceased Applicant for being impleaded as party Applicants as heirs and LRs of the said deceased.



2. This OA was brought by the said deceased on 11.12.2009. This was one OA along with a few others which constituted a fasciculus of OAs. In fact, another similar application being MA 158/2016 in OA 1520/2009 was allowed a short while ago by an order rendered by me. The said OAs were apparently kept in sine-die list and there was, therefore, some king of a lethargy which perhaps was inevitable though there cannot be any approving the same. The said deceased died on 20th March, 2011 and this MA was presented on 5.4.2016 which was a little more than five years after his demise. Pertinently, in the meanwhile, the OAs other than this OA and OA 1520/2009 came to be disposed of and it is in this context that the facts will have to be appreciated although it needs to be noted quite clearly that even without there being an Affidavit-in-reply on the record, despite my order of 5.5.2016, the learned P.O. Shri Chougule availed to his very best the opportunity and occasion to contest this MA. He pointed out inter-alia that the delay is too enormous to be condoned and there are no valid reasons to do so.

3. Now, the perusal of this MA with particular reference to Paras 4 and the subsequent ones would show that it was in January, 2016 that a colleague of the deceased, one Shri Deshpande who was one of the original




Applicants in that group, enquired of the first Applicant as to whether she had received copy of any order from her Advocate in Mumbai in respect of the matter of the said deceased. It was thereupon that in fact Mr. Deshpande contacted the learned Advocate at Mumbai on phone wondering as to the fate of the OA of the said deceased and it was at that time in fact that the learned Advocate was informed about the demise of the said deceased. Legal advice was given to forward the names of the details of the heirs and LRs of the said deceased along with the copy of Death Certificate.

4. It was in these circumstances that the delay was caused which no doubt cannot be dismissed as insignificant. However, equally true is the fact that the basic tenet that if the course of action does no violence to any express provision of law or any other authoritative document having force of law and case law, then other factors remaining constant the approach should be informed with a view to advance the cause of justice rather than sacrificing the same at the altar of procedure. The Applicants after-all were themselves not the Government servants such as their legal ascendant was. The State in which the OA lay has already been mentioned hereinabove and most importantly, regardless of whatever ultimately happens in the OA, the discharge of responsibility as far as

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

the Respondents are concerned are not just contractual, but has got a constitutional hue, and therefore, in my opinion, it can by no stretch of imagination be said that any inalienable right has accrued to the Respondent by the, "indolence" of the Applicants. The said "indolence" is in my view not inexcusable regardless of the delay being a little more than five years. After-all, even while counting number of years substance of the cause assigned has got to be examined and the MA judged accordingly.

5. Therefore, I have no hesitation to reject the contention to the contrary made by Mr. Chougule, the learned P.O. and I unhesitatingly condone the delay whatever be its duration and allow this MA with a direction that the Applicants be impleaded for the deceased Applicant by an appropriate amendment to be effected within two weeks from today. The abatement is consequently set aside. The OA post amendment be put up for hearing on 14th July, 2016. No order as to costs.


(R.B. Malik)
Member-J
23.06.2016

Mumbai
Date : 23.06.2016
Dictation taken by :
S.K. Wamanse.

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

Original Application No. _____ of 20 _____ DISTRICT _____ Applicant/s

(Advocate)

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

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

Tribunal's orders

O.A.573/2016

Shri K.S. Kondvilkar ... Applicant
Vs.
The State of Mah. & ors. ... Respondents

Heard Shri B.A. Bandiwadekar, the learned Advocate for the Applicant and Ms. N.G. Gohad, the learned Presenting Officer for the Respondents.

Heard both the sides. Both the sides are ad-idem that the facts, and therefore, the facts at issue in this OA are at par with the same in OA 189/2016 (Ms. Madhuri G. Rane and 18 ors. Vs. State of Maharashtra and another, dated 14th March, 2016. Therein in making the interim orders, I relied upon some other earlier orders of this Tribunal. I granted mandatory relief at interlocutory stage and the same relief granted in OA 189/2016 is being granted herein as well and for ready reference, Para 8 thereof needs to be reproduced.

"8. I am, therefore, so inclined as to hold that I must exercise my powers of granting mandatory relief at interlocutory stage the net result whereof would be to place the present applicants exactly at par with the applicants of OAs No.311 of 2012 and 258 of 2014. It is however made clear that this interim order will be exactly in the same terms in which the applicants were given appointments for 364 days with all those terms and conditions and they will inter alia not be allowed to claim on the strength of this order alone what could be described as permanent appointment. All these terms and conditions will be read as a part of this order. They shall however be allowed to compete for the regular posts. However,

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

Tribunal's orders

in the event a candidate is selected and appointed on regular basis, these applicants will have to vacate their posts but it is also made clear that even then if other posts are lying vacant, then merely by reason of this order the applicants will not necessarily be refused appointment in the same capacity. With this abundant clarification and till further orders the interim relief is granted till 11.4.2016. Four weeks time is given to the respondents to comply. Hamdast. This OA be tagged along with OAs No.311 of 2012 and 258 of 2014."

Interim relief in the above terms till further orders, the OA stands adjourned to 11th July, 2016. Hamdast.

we
23.06.16
R. Malik
(R.B. Malik)
Member (J)
23.06.2016

(skw)

DATE: 23/06/16

CORAM:

Hon'ble Justice Shri A. H. Joshi (Chairman)
Hon'ble Shri R.B. Malik (Member) A

APPEARANCE:

Shri D. A. Bhandivadekar

Advocate for the Applicant

Shri/Smt. H. G. Gokhad
C.P.O./R.O. for the Respondent/s

Adj. To 11/7/16 Hamdast

BTK

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

23.06.2016 Tribunal's orders
O.A No 601/2016

Dr S.V Patil ... Applicant
Vs.
The State of Maharashtra & Ors... Respondents

Heard Shri V.P Potbhare, learned advocate for the applicants and Shri K.B. Bhise, learned Presenting Officer for the Respondents.

The Applicant in this case has worked in Naxalite affected Gadchiroli District for more than 3 years. As per G.R dated 11.7.2000, he is seeking posting in a place of his choice. However, ~~that~~ he has made a number of representations the Government has not taken any action. The Applicant is, therefore, seeking directions to the Government that he may be given a posting as per G.R dated 11.7.2000.

The Respondents are directed to file a reply on the action taken by the Respondents on the representation made by the Applicant dated 18.3.2016 and 2.6.2016.

2. Issue notice before admission made returnable on 25.7.2016.

3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need 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 O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

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

6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file affidavit of compliance and notice.

7. S.O 7.7.2016. Learned P.O waives service of notice

DATE: 23/6/16

CORAM:

Hon'ble Shri RAHV AGARWAL
(Vice - Chairman)

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

APPEARANCE:

Sd/- V.P. Potbhare

Advocate for the Applicant

Sd/- K.B. Bhise

CEO/P.O. for the Respondents

Ack. To S.O. to 7/7/16.

[Signature]

Akn

Sd/-

(Rajiv Agarwal)
Vice-Chairman

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. of 20

IN

Original Application No. of 20

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p><u>DATE: 23/6/16</u></p> <p><u>CORAM:</u> Hon'ble Shri. RAJIV AGARWAL (Vice - Chairman) Hon'ble Shri. R. MALIK (Member)</p> <p><u>APPEARANCE:</u> Shri. A.V. Bandiwadkar Advocate for the Applicant Shri. N.K. Rajpurohit C.P.O./P.O. for the Respondents</p> <p>Adj. To S.O. to 25/7/16.</p>	<p><u>23.06.2016</u></p> <p><u>O.A No 592 & 593/2016</u></p> <p>Shri N.G Phadtare & ors ... Applicants Vs. The State of Maharashtra & Ors... Respondents</p> <ol style="list-style-type: none"> 1. Heard Shri A.V Bandiwadkar, learned advocate for the applicant and Shri N.K. Rajpurohit, learned Chief Presenting Officer for the Respondents. 2. Issue notice before admission made returnable on 25.7.2016. 3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need 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 O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing. 5. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open. 6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file affidavit of compliance and notice. 7. S.O 25.7.2016. Learned C.P.O waives service of notice <p style="text-align: right;">Sd/- (Rajiv Agarwal) Vice-Chairman</p> <p style="text-align: left;">Akn</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. _____ of 20

IN

Original Application No. _____ of 20

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p><u>DATE:</u> <u>23/6/16</u></p> <p><u>CORAM:</u> Hon'ble Shri. RAJIV AGARWAL (Vice - Chairman) Hon'ble Shri R. D. MATHUR (Member)</p> <p><u>APPEARANCE:</u> Shri <u>M. D. Lonkar</u> Advocate for the Applicant Shri <u>N. K. Rajpurohit</u> C.P.O./P.O. for the Respondents</p> <p>Adj. To <u>21/7/16</u> <u>for Reply</u></p>	<p><u>23.06.2016</u></p> <p><u>O.A No 813/2015</u></p> <p>Shri V.M Pharande & ors ... Applicants Vs. The State of Maharashtra & Ors... Respondents</p> <p>Heard Shri M.D Lonkar, learned advocate for the applicants and Shri N.K. Rajpurohit, learned Chief Presenting Officer for the Respondents.</p> <p>Learned C.P.O states that the department is in the process of consulting Finance Department and G.A.D before affidavit in reply is filed in this case.</p> <p>He, therefore, seek four weeks time to file reply. Granted as a last chance.</p> <p>S.O to 21.7.2016.</p> <p style="text-align: right;">Sd/- (Rajiv Agarwal) Vice-Chairman</p> <p>Akn</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. of 20

IN

Original Application No. of 20

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p>DATE: <u>23/6/16</u></p> <p>CORAM: Hon'ble Shri. RAJIV AGARWAL (Vice - Chairman) Hon'ble Shri R. B. MALIK (Member)</p> <p>APPEARANCE: <u>M. D. Lonkar</u> Advocate for the Applicant <u>Shri/Smt. K. S. Gaikwad</u> C.P.O./P.O. for the Respondents</p> <p><u>S.O. to 14/7/16</u> <u>[Signature]</u></p>	<p>23.06.2016</p> <p><u>O.A No 1084/2015</u></p> <p>Shri Ashok V. Khadtare ... Applicant Vs. The State of Maharashtra & Ors... Respondents</p> <p>Heard Shri M.D Lonkar, learned advocate for the applicants and Mrs Kranti S. Gaikwad, learned Presenting Officer for the Respondents.</p> <p>Learned P.O seeks three weeks time. Granted as a last chance. If no reply is filed, it will be presumed that the Government has nothing to say in the matter.</p> <p>S.O to 14.7.2016.</p> <p style="text-align: right;">Sd/- (Rajiv Agarwal) Vice-Chairman</p> <p>Akn</p>