

(Advocate

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 24.01.2020</p> <p>R. A. No.19 of 2019 in O.A.No.817 of 2019</p> <p>The State of Maharashtra & Ors.Applicants (Ori. Respondents)</p> <p>Versus</p> <p>S. R. Karande ...Respondent (Ori. Applicant)</p> <p>1. Heard Shri A. J. Chougule, learned Presenting Officer for the Applicants (Ori. Respondents) and Shri K. Gidh, learned Counsel for the Respondent (Ori. Applicant).</p> <p>2. Review Application has been filed against the order passed by this Tribunal in O.A.No.817/2019 on 05.09.2019 whereby the directions were given to release pay and allowances of the Applicant as per her entitlement within two weeks.</p> <p>3. However, learned P.O. for the Respondents submits that Original Respondent No.2 i.e. Director of Medical Education and Research, Mumbai has already passed the order to release the pay and allowances of the Applicant, and therefore, seeks permission to withdraw the Review Application.</p> <p>4. In view of above, allowed to withdraw the R.A.No.19/2019.</p> <p>5. Amount of pay and allowances be released within two weeks from today.</p> <p>6. No order as to cost.</p> <p style="text-align: right;">Sd/- (A.P. Kurhekar) Member(J)</p> <p style="text-align: right;">[P.T.O.]</p> <p>vsm</p>

(Advocate

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 24.01.2020</p> <p>O.A.No.76 of 2020</p> <p>M. C. UghadeApplicant</p> <p>Versus</p> <p>The State of Maharashtra & Ors. ...Respondents.</p> <p>1. Heard Shri Kishor R. Jagdale, learned Counsel for the Applicant and Smt. Archana B. K. , learned Presenting Officer for the Respondents.</p> <p>2. The Applicant has challenged the suspension order dated 16.08.2019 whereby she was suspended in contemplation of D.E. for alleged lapses and negligence while discharging the duties of Forester. She has filed representation against the suspension but the same is not responded. As the period of more than five months are over but no decision was taken on her representation. She has filed present O.A. challenging that prolong suspension beyond 90 days is illegal.</p> <p>3. Present O.A. can be disposed of at the stage of admission itself without issuing any notice by giving suitable directions.</p> <p>4. The Applicant was suspended in contemplation of D.E. but admittedly till date no charge sheet is served upon the Applicant.</p> <p style="text-align: right;">[P.T.O.]</p>

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>5. Learned P.O. on instructions from Shri Sanjay Kadu, ACF submits that charge sheet is ready and same will be served shortly. As such, the fact remains till date there is no initiation of D.E. against the Applicant though the period of more than five months is over.</p> <p>6. Government of Maharashtra had issued G.R. dated 14.10.2011 and again on 09.07.2019 whereby instructions are received to take periodical view of the suspension.</p> <p>7. G.R. dated 09.07.2019 has been issued on the basis of the decision of the Hon'ble Supreme Court in <i>(2015) 7 SCC 291 (Ajay Kumar Choudhary Vs. Union of India & Anr.)</i> wherein suspension beyond 90 days is held impermissible without passing any reasoned order for continuation of suspension.</p> <p>8. Indeed, in G.R. dated 09.07.2019, the Government has acknowledged its obligation to serve the charge sheet within three months from the date of suspension and further clarified that failure to serve the charge sheet within three months, there will be no option with the Government or concerned authority except to revoke the suspension. Despite, this position Applicant is subjected to prolong suspension of more than five months.</p> <p>9. In view of above, O.A. is disposed of with following directions.</p> <p>10. Respondent No.1 is directed to take review of the suspension of the Applicant and to pass appropriate order within four weeks from today.</p> <p>11. The decision as the case may be shall be communicated to the Applicant within two weeks thereafter.</p> <p>12. If the Respondent No.1 decides to initiate D.E. then it should be concluded within four months from the date of service of charge sheet.</p> <p>13. Original Application is disposed of with no order as to cost.</p> <p style="text-align: right;">Sd/- (A.P. Kurhekar) Member(J)</p>

(Advocate

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(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 24.01.2020</p> <p>O.A.No.1190 of 2019</p> <p>C.V. NairApplicant</p> <p>Versus</p> <p>The State of Maharashtra & Ors. ...Respondents.</p> <p>1. Heard Shri M. D. Lonkar, learned Counsel for the Applicant and Smt. Archana B. K., learned Presenting Officer for the Respondents.</p> <p>2. Today, learned P.O. has filed reply on behalf of the Respondent No.1. It is taken on record.</p> <p>3. Matter is adjourned for hearing at the stage of admission.</p> <p>4. In the meantime, Respondents are directed to finalise the process of grant of remaining retiral benefits as per his entitlement in accordance to law.</p> <p>5. Progress in this behalf be informed to this Tribunal on next date.</p> <p>6. S.O.to 31.01.2020.</p> <p style="text-align: center;">Sd/- (A.P. Kurhekar) Member(J)</p> <p>vsm</p> <p style="text-align: right;">[P.T.O.]</p>

(Advocate

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p data-bbox="760 814 1015 847">Date : 24.01.2020</p> <p data-bbox="1003 887 1282 920">O.A.No.416 of 2019</p> <p data-bbox="760 953 1526 995">D. M. BirajdarApplicant</p> <p data-bbox="760 1035 852 1066">Versus</p> <p data-bbox="760 1114 1458 1152">The State of Maharashtra & Ors. ...Respondents.</p> <p data-bbox="753 1196 1526 1378">1. Heard Shri S. S. Dere holding for Shri Arvind V. Bandiwadekar, learned Counsel for the Applicant and Smt. Archana B. K. holding for Smt. Kranti Gaikwad, learned Presenting Officer for the Respondents.</p> <p data-bbox="753 1417 1526 1513">2. Today, learned Counsel for the Applicant has filed Rejoinder. It is taken on record.</p> <p data-bbox="753 1539 1445 1577">3. Adjourned for final hearing on 25.02.2020.</p> <p data-bbox="1226 1667 1291 1716" style="text-align: right;">Sd/-</p> <p data-bbox="1136 1780 1356 1858" style="text-align: right;">(A.P. Kurhekar) Member(J)</p> <p data-bbox="743 1860 787 1882">vsm</p>

(Advocate

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 24.01.2020</p> <p>M.A. No.54 of 2020 in O.A.No.741 of 2017</p> <p>V. K. JagdhanaeApplicant</p> <p>Versus</p> <p>The State of Maharashtra & Ors. ...Respondents.</p> <p>1. Heard Shri K. R. Jagdale, learned Counsel for the Applicant and Smt. Archana B. K. , learned Presenting Officer for the Respondents.</p> <p>2. M.A. No.54/2020 is filed to delete the paragraph No.XII of O.A. No.74/2017 (Page 12-B of OA).</p> <p>3. As Original Application is already ripe for final hearing, this M.A. for deletion of pleading will be considered at the time of final hearing.</p> <p>4. Matter is adjourned for final hearing on 04.02.2020.</p> <p style="text-align: right;">Sd/-</p> <p style="text-align: right;">(A.P. Kurhekar) Member(J)</p> <p>vsm</p>

Date : 24.01.2020

O.A.No.866 of 2019

D. V. Gaikar

....Applicant

Versus

The State of Maharashtra & Ors.

...Respondents.

1. Heard Shri Sanjay Kulkarni, learned Counsel for the Applicant and Shri A. J. Chougule, learned Presenting Officer for the Respondents.

2. Learned Counsel for the Applicant has pointed out that though his client is transferred by order dated 15.06.2019 and modified order dated 29.07.2019, he is not relieved from Karjat. By impugned transfer order, he is transferred to Goregaon, Mumbai.

3. Strangely in Affidavit filed by Respondent Nos.1 to 5, the Applicant is blamed for non compliance of order at the place of transfer though in fact he is not at all permitted to be relieved.

4. Learned Counsel for the Applicant has also pointed that by letter dated 10.01.2020, the Applicant had requested to relieve him but Respondent No.3-District Deputy Commissioner, Raigad is not ready to relieve him for want of staff. As such, the averment made in Para No.4 is ex-facie incorrect. This needs to be explained by Shri Mahavir Shankar Patil, Senior Administrative Officer, Regional Joint Commissioner of Animal Husbandry, Mumbai who has sworn the Affidavit. *Ex-facie*, submissions are not based upon the correct facts and Affidavit seems to have been filed without ascertaining the facts.

5. Respondents to clarify the position by filing fresh Affidavit and he be relieved in terms of transfer order so that he can join at his new place of posting.

6. S.O. to 05.02.2020.

Sd/-

(A.P. Kurhekar)
Member(J)

vsm

Date : 24.01.2020

O.A.No.41 of 2020

S. S. Bharadkar

....Applicant

Versus

The State of Maharashtra & Ors.

...Respondents.

1. Heard Shri C. T. Chandratre, learned Counsel for the Applicant and Shri A. J. Chougule, learned Presenting Officer for the Respondents.
2. The Applicant has challenged the impugned order dated 11.10.2019 whereby appointment on compassionate ground was rejected solely on the ground that the post on which the deceased was serving was supernumerary post and lapsed after his death. Prima-facie, this ground mentioned in impugned order is contrary to the G.R. dated 10.07.2009 whereby it has been clarified that in case of death of employee working on supernumerary post, the benefit of appointment on compassionate ground to his heirs will be extended.
3. As such, in view of G.R. dated 10.07.2009, the Applicant is prima-facie entitled for consideration for appointment on compassionate ground.
4. However, the impugned communication dated 11.10.2019 issued by Shri A.R. Rajput, Under Secretary, School Education and Sports Department had informed to Respondent No.2 that as supernumerary post comes to an end in view of death of father of the Applicant, he is not entitled for appointment on compassionate ground. This is a complete ignorance of G.R. dated 10.07.2009 issued by G.A.D. As such, it is necessary to know how G.R. dated 10.07.2009 is not applicable to the present situation.
5. Respondent No.1 should, therefore, clarify this position by filing Affidavit within a week.
6. S.O. to 31.01.2020.

Sd/-

(A.P. Kurhekar)
Member(J)

(Advocate

(A.P. Kurhekar)
Member(J)vsm
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 ordersTribunal's orders
Date : 24.01.2020

O.A.No.347 of 2019

P. A. Gangarde

....Applicant

Versus

The State of Maharashtra & Ors. ...Respondents.

1. Heard Shri R. M. Kolge, learned Counsel for the Applicant and Smt. Archana B. K. holding for Smt. Kranti Gaikwad, learned Presenting Officer for the Respondents.

2. Today, learned P.O. has filed reply on behalf of the Respondent No.2 and the same is adopted on behalf of Respondent No.1. It is taken on record.

3. On request of learned Counsel for the Applicant, two weeks time is granted for filing Rejoinder.

4. S.O. to 07.02.2020.

Sd/-

(A.P. Kurhekar)
Member(J)

vsm

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION No.77 of 2020

Shrikant V. Varunjikar

)..... **Applicant**

Versus

State of Maharashtra & Ors.

)...**Respondents**

Shri Uday Warunjikar holding for Shri P.S.Pathak, Counsel for the Applicant
Shri A. J. Chougule, Presenting Officer for the Respondents

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

DATE : 24.01.2020.

ORDER

1. Heard Shri Uday Warunjikar holding for Shri P. S. Pathak and Omkar Keni, learned Counsel for the Applicant and Shri A. J. Chougule, learned Presenting Officer for the Respondents.
2. The Applicant has challenged the impugned transfer order dated 22.01.2020 whereby he was transferred from the Fisheries Development Officer, Satara to Fisheries Development Officer and Assistant Commissioner of Fisheries at Malvan, Dist. Sindhudurg.
3. Learned Counsel for the Applicant assailed the impugned transfer order on the ground that it is mid-term as well as mid-tenure transfer without compliance of Section 4(5) of Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act. 2005 (hereinafter referred to as 'Act 2005') and seeks interim stay.



4. Per contra, learned P.O. submits that Applicant was transferred on account of administrative exigency. Learned P.O. has tendered the file for perusal of Tribunal.

5. On perusal of file, it is noticed that Applicant is shown transferred by Civil Establishment Board only under the caption 'administrative exigency' without explaining what was the administrative reason. Apart in note placed before CSB, there is absolutely no reason or ground as to what constitute administrative reason and how it is special case for mid-term and mid-tenure transfer as contemplated under section 4(5) of 'Act 2005'. Besides, there is no approval of Hon'ble Chief Minister to the transfer as mandated under section 4(5) of 'Act 2005'. It is only approved by the Hon'ble Minister in charge which is not enough.

6. In view of above, prima-facie, the impugned transfer order is not sustainable in law and deserves to be stayed.

7. For the aforesaid reasons, interim relief as prayed in para No.10(1) is granted.

8. Issue notice before admission returnable on 20.02.2020.

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

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

11. 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.

12. 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.

13. In case notice is not collected within seven days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

14. S.O. to 20.02.2020.

Sd/-

(A.P. KURHEKAR)
MEMBER (J)

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 style="text-align: center;"><u>O.A. No.965 of 2019</u></p> <p>V.J. Pagare ..Applicant Vs. The State of Maharashtra & Ors. ..Respondents</p> <p>Applicant is present in person. Heard Smt. Archana B.K., learned Presenting Officer for the Respondents.</p> <p>2. Applicant has submitted a pursis dated 22.1.2020 for change of bench. The matter may be placed before Hon'ble Acting Chairman for necessary orders.</p> <p style="text-align: right;">Sd/- (P.N. Dixit) Vice-Chairman (A) 24.1.2020</p> <p>(sgj)</p>

IN

FARAD CONTINUATION SHEET No.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p style="text-align: center;"><u>O.A. No.149 of 2019</u></p> <p>S.S. Suryavanshi & Ors. ..Applicants Vs. The State of Maharashtra & Ors. ..Respondents</p> <p>Heard Shri M.D. Lonkar, learned Advocate for the Applicants and Shri A.J. Chougule, learned Presenting Officer for the Respondents.</p> <p>2. Ld. Advocate for the applicant draws attention to the affidavit in reply filed by respondent no.2 (Under Secretary, Finance Department). Relevant portion of para 7 of the same reads as under:</p> <p style="padding-left: 40px;"><i>"7. Once the proposal pertaining to parawise replies to the affidavit in rejoinder is receive from respondent no.1 by respondent no.2, then necessary approval/comments of respondent no.2 will be given to the same and on the basis of the same the respondent no.2 is supposed to file sur-rejoinder to the rejoinder of the applicant before the Hon'ble Tribunal."</i></p> <p style="text-align: right;">(Quoted from page 265-266 of OA)</p> <p>3. Ld. PO seeks adjournment to get this reconciled and submit fresh affidavit by respondent no.2.</p> <p>4. At his request adjourned to 24.2.2020.</p> <p style="text-align: right;">Sd/- </p> <p style="text-align: right;">(P.N. Dixit) Vice-Chairman (A) 24.1.2020</p> <p>(sgj)</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
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O.A. No.386 of 2019

Dr. D.R. Jadhav ..Applicant

Vs.

The State of Maharashtra & Ors. ..Respondents

Applicant as well as Advocate for the Applicant are absent. Heard Shri A.J. Chougule, learned Presenting Officer for the Respondents.

2. Ld. PO draws attention to the affidavit in rejoinder dated 1.1.2020 filed by the applicant. Para 11 of the same reads as under:

"11. I say that after filing the present application in this Hon'ble Tribunal on 7.4.2019 the details of salary received and also salary which is unpaid are as follows:

Month	Salary received	NPA Paid	NPA Not paid	Salary not received
1.8.2018 to 30.8.2018	87416	00	15775/-	15775/-
1.9.2018 to 30.9.2018	87942	526/-	15249/-	15249/-
1.10.2018 to 30.10.2018	44775/-	8651/-	7124/-	58316/-
1.11.2018 to 30.11.2018	103191	15775/-	---	000/-
1.11.2019 to 31.1.2019	103191	15775/-	---	000/-
1.2.2019 to 28.2.2019	102737	15775/-	---	000/-
1.3.2019 to 31.3.2019	115845	15775/-	---	000/-
TOTAL	6,45,09			89,340/-

Office Notes, Office Memoranda of Coram,
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Tribunal's orders

I say that so far as salary from 1.10.2018 to 30.10.2018 is concerned the leave of 15 days is pending and the same is not yet decided. Moreover it is stated in the affidavit in reply that the same is pending with Standing Committee of Zilla Parishad. However, it may be noted that I am near superannuation and I will be retiring from service by Jan 2019. Till at the end the same cannot be kept pending. Therefore, appropriate directions be issued in this regard."

3. Ld. PO points out that the pending matter as mentioned by the applicant pertains to ZP for whom Ld. PO submits that he has no instructions. Other matters have been resolved to the satisfaction of the applicant.

4. As far as matters pending with the ZP are concerned the applicant may consider making representation to the concerned authority and competent concerned authority may decide the matter as per rules within a period of four weeks and inform the applicant within two weeks thereafter. As nothing remains pending to be done by the respondents no.1 to 3 OA is disposed off. Ld. PO is directed to communicate this order to all the respondents. Hamdast granted.

Sd/- -

(P.N. Dixit)
Vice-Chairman (A)
24.1.2020

(sgj)

(Advocate

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 24.01.2020</p> <p>O.A.No.1190 of 2019</p> <p>C.V. NairApplicant</p> <p>Versus</p> <p>The State of Maharashtra & Ors. ...Respondents.</p> <p>1. Heard Shri M. D. Lonkar, learned Counsel for the Applicant and Smt. Archana B. K., learned Presenting Officer for the Respondents.</p> <p>2. Today, learned P.O. has filed reply on behalf of the Respondent No.1. It is taken on record.</p> <p>3. Matter is adjourned for hearing at the stage of admission.</p> <p>4. In the meantime, Respondents are directed to finalise the process of grant of remaining retiral benefits as per his entitlement in accordance to law.</p> <p>5. Progress in this behalf be informed to this Tribunal on next date.</p> <p>6. S.O.to 31.01.2020.</p> <p style="text-align: center;">Sd/- (A.P. Kurhekar) Member(J)</p> <p>vsm</p> <p style="text-align: right;">[P.T.O.]</p>

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	<p data-bbox="760 814 1015 849">Date : 24.01.2020</p> <p data-bbox="1003 887 1282 922">O.A.No.416 of 2019</p> <p data-bbox="760 953 1526 995">D. M. BirajdarApplicant</p> <p data-bbox="760 1035 852 1066">Versus</p> <p data-bbox="760 1114 1453 1156">The State of Maharashtra & Ors. ...Respondents.</p> <p data-bbox="760 1196 1526 1382">1. Heard Shri S. S. Dere holding for Shri Arvind V. Bandiwadekar, learned Counsel for the Applicant and Smt. Archana B. K. holding for Smt. Kranti Gaikwad, learned Presenting Officer for the Respondents.</p> <p data-bbox="760 1417 1526 1515">2. Today, learned Counsel for the Applicant has filed Rejoinder. It is taken on record.</p> <p data-bbox="760 1539 1445 1581">3. Adjourned for final hearing on 25.02.2020.</p> <p data-bbox="1226 1670 1291 1714" style="text-align: right;">Sd/-</p> <p data-bbox="1136 1780 1356 1858" style="text-align: right;">(A.P. Kurhekar) Member(J)</p> <p data-bbox="743 1858 787 1880">vsm</p>

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Date : 24.01.2020

O.A.No.866 of 2019

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2. Learned Counsel for the Applicant has pointed out that though his client is transferred by order dated 15.06.2019 and modified order dated 29.07.2019, he is not relieved from Karjat. By impugned transfer order, he is transferred to Goregaon, Mumbai.

3. Strangely in Affidavit filed by Respondent Nos.1 to 5, the Applicant is blamed for non compliance of order at the place of transfer though in fact he is not at all permitted to be relieved.

4. Learned Counsel for the Applicant has also pointed that by letter dated 10.01.2020, the Applicant had requested to relieve him but Respondent No.3-District Deputy Commissioner, Raigad is not ready to relieve him for want of staff. As such, the averment made in Para No.4 is ex-facie incorrect. This needs to be explained by Shri Mahavir Shankar Patil, Senior Administrative Officer, Regional Joint Commissioner of Animal Husbandry, Mumbai who has sworn the Affidavit. *Ex-facie*, submissions are not based upon the correct facts and Affidavit seems to have been filed without ascertaining the facts.

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6. S.O. to 05.02.2020.

Sd/-

(A.P. Kurhekar)
Member(J)

vsm

Date : 24.01.2020

O.A.No.41 of 2020

S. S. Bharadkar

....Applicant

Versus

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...Respondents.

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5. Respondent No.1 should, therefore, clarify this position by filing Affidavit within a week.
6. S.O. to 31.01.2020.

Sd/-

(A.P. Kurhekar)
Member(J)

(Advocate

(A.P. Kurhekar)
Member(J)vsm
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 ordersTribunal's orders
Date : 24.01.2020

O.A.No.347 of 2019

P. A. Gangarde

....Applicant

Versus

The State of Maharashtra & Ors. ...Respondents.

1. Heard Shri R. M. Kolge, learned Counsel for the Applicant and Smt. Archana B. K. holding for Smt. Kranti Gaikwad, learned Presenting Officer for the Respondents.

2. Today, learned P.O. has filed reply on behalf of the Respondent No.2 and the same is adopted on behalf of Respondent No.1. It is taken on record.

3. On request of learned Counsel for the Applicant, two weeks time is granted for filing Rejoinder.

4. S.O. to 07.02.2020.

Sd/-

(A.P. Kurhekar)
Member(J)

vsm

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION No.77 of 2020

Shrikant V. Varunjikar

)..... **Applicant**

Versus

State of Maharashtra & Ors.

)...**Respondents**

Shri Uday Warunjikar holding for Shri P.S.Pathak, Counsel for the Applicant
Shri A. J. Chougule, Presenting Officer for the Respondents

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

DATE : 24.01.2020.

ORDER

1. Heard Shri Uday Warunjikar holding for Shri P. S. Pathak and Omkar Keni, learned Counsel for the Applicant and Shri A. J. Chougule, learned Presenting Officer for the Respondents.
2. The Applicant has challenged the impugned transfer order dated 22.01.2020 whereby he was transferred from the Fisheries Development Officer, Satara to Fisheries Development Officer and Assistant Commissioner of Fisheries at Malvan, Dist. Sindhudurg.
3. Learned Counsel for the Applicant assailed the impugned transfer order on the ground that it is mid-term as well as mid-tenure transfer without compliance of Section 4(5) of Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act. 2005 (hereinafter referred to as 'Act 2005') and seeks interim stay.



4. Per contra, learned P.O. submits that Applicant was transferred on account of administrative exigency. Learned P.O. has tendered the file for perusal of Tribunal.

5. On perusal of file, it is noticed that Applicant is shown transferred by Civil Establishment Board only under the caption 'administrative exigency' without explaining what was the administrative reason. Apart in note placed before CSB, there is absolutely no reason or ground as to what constitute administrative reason and how it is special case for mid-term and mid-tenure transfer as contemplated under section 4(5) of 'Act 2005'. Besides, there is no approval of Hon'ble Chief Minister to the transfer as mandated under section 4(5) of 'Act 2005'. It is only approved by the Hon'ble Minister in charge which is not enough.

6. In view of above, prima-facie, the impugned transfer order is not sustainable in law and deserves to be stayed.

7. For the aforesaid reasons, interim relief as prayed in para No.10(1) is granted.

8. Issue notice before admission returnable on 20.02.2020.

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

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

11. 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.

12. 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.

13. In case notice is not collected within seven days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

14. S.O. to 20.02.2020.

Sd/-

(A.P. KURHEKAR)
MEMBER (J)

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 style="text-align: center;"><u>O.A. No.965 of 2019</u></p> <p>V.J. Pagare ..Applicant Vs. The State of Maharashtra & Ors. ..Respondents</p> <p>Applicant is present in person. Heard Smt. Archana B.K., learned Presenting Officer for the Respondents.</p> <p>2. Applicant has submitted a pursis dated 22.1.2020 for change of bench. The matter may be placed before Hon'ble Acting Chairman for necessary orders.</p> <p style="text-align: right;">Sd/- (P.N. Dixit) Vice-Chairman (A) 24.1.2020</p> <p>(sgj)</p>

IN

FARAD CONTINUATION SHEET No.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p style="text-align: center;"><u>O.A. No.149 of 2019</u></p> <p>S.S. Suryavanshi & Ors. ..Applicants Vs. The State of Maharashtra & Ors. ..Respondents</p> <p>Heard Shri M.D. Lonkar, learned Advocate for the Applicants and Shri A.J. Chougule, learned Presenting Officer for the Respondents.</p> <p>2. Ld. Advocate for the applicant draws attention to the affidavit in reply filed by respondent no.2 (Under Secretary, Finance Department). Relevant portion of para 7 of the same reads as under:</p> <p style="padding-left: 40px;"><i>"7. Once the proposal pertaining to parawise replies to the affidavit in rejoinder is receive from respondent no.1 by respondent no.2, then necessary approval/comments of respondent no.2 will be given to the same and on the basis of the same the respondent no.2 is supposed to file sur-rejoinder to the rejoinder of the applicant before the Hon'ble Tribunal."</i></p> <p style="text-align: right;">(Quoted from page 265-266 of OA)</p> <p>3. Ld. PO seeks adjournment to get this reconciled and submit fresh affidavit by respondent no.2.</p> <p>4. At his request adjourned to 24.2.2020.</p> <p style="text-align: right;">Sd/- </p> <p style="text-align: right;">(P.N. Dixit) Vice-Chairman (A) 24.1.2020</p> <p>(sgj)</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

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

I N

Original Application No. _____ of 20____

FARAD CONTINUATION SHEET No.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
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O.A. No.386 of 2019

Dr. D.R. Jadhav ..Applicant
Vs.
The State of Maharashtra & Ors. ..Respondents

Applicant as well as Advocate for the Applicant are absent. Heard Shri A.J. Chougule, learned Presenting Officer for the Respondents.

2. Ld. PO draws attention to the affidavit in rejoinder dated 1.1.2020 filed by the applicant. Para 11 of the same reads as under:

"11. I say that after filing the present application in this Hon'ble Tribunal on 7.4.2019 the details of salary received and also salary which is unpaid are as follows:

Month	Salary received	NPA Paid	NPA Not paid	Salary not received
1.8.2018 to 30.8.2018	87416	00	15775/-	15775/-
1.9.2018 to 30.9.2018	87942	526/-	15249/-	15249/-
1.10.2018 to 30.10.2018	44775/-	8651/-	7124/-	58316/-
1.11.2018 to 30.11.2018	103191/-	15775/-	---	000/-
1.11.2019 to 31.1.2019	103191/-	15775/-	---	000/-
1.2.2019 to 28.2.2019	102737	15775/-	---	000/-
1.3.2019 to 31.3.2019	115845	15775/-	---	000/-
TOTAL	6,45,09			89,340/-

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

Tribunal's orders

I say that so far as salary from 1.10.2018 to 30.10.2018 is concerned the leave of 15 days is pending and the same is not yet decided. Moreover it is stated in the affidavit in reply that the same is pending with Standing Committee of Zilla Parishad. However, it may be noted that I am near superannuation and I will be retiring from service by Jan 2019. Till at the end the same cannot be kept pending. Therefore, appropriate directions be issued in this regard."

3. Ld. PO points out that the pending matter as mentioned by the applicant pertains to ZP for whom Ld. PO submits that he has no instructions. Other matters have been resolved to the satisfaction of the applicant.

4. As far as matters pending with the ZP are concerned the applicant may consider making representation to the concerned authority and competent concerned authority may decide the matter as per rules within a period of four weeks and inform the applicant within two weeks thereafter. As nothing remains pending to be done by the respondents no.1 to 3 OA is disposed off. Ld. PO is directed to communicate this order to all the respondents. Hamdast granted.

Sd/- -

(P.N. Dixit)
Vice-Chairman (A)
24.1.2020

(sgj)