

ORIGINAL APPLICATION NO.227/2020
(Jeevan K. Patil Vs. State of Maharashtra & Ors.)

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

[This matter is placed before the Single Bench due to non-availability of Division Bench.]

DATE : 27.05.2021

ORAL ORDER :

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

2. The applicant through his Advocate has made an application which is marked as document "X" for identification seeking permission to withdraw the O.A. The learned Advocate for the applicant has annexed a copy of communication dated 18-03-2021 received by him from the applicant thereby the applicant intends to withdraw the O.A. for his personal reasons.

3. I have no reason to refuse permission as the applicant is seeking withdrawal unconditional. Hence, the O.A. stands disposed of as withdrawn. No order as to costs.

MEMBER (J)

ORIGINAL APPLICATION NO.25/2021
(Shankar P. Dange Vs. State of Maharashtra & Ors.)

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

[This matter is placed before the Single Bench due to non-availability of Division Bench.]

DATE : 27.05.2021

ORAL ORDER :

Heard Shri R.J.Nirmal, learned Advocate for the applicant, Shri M.S.Mahajan, learned Chief Presenting Officer for the respondent nos.1 to 3 and Shri S.B.Jadhav learned Advocate for respondent no.4.

2. Record shows that the affidavit in reply on behalf of respondent nos.1 to 3 is already filed.

3. Learned Advocate for respondent no.4 seeks time to file affidavit in reply. Time is granted.

4. S.O. to 30-06-2021.

MEMBER (J)

M.A.NO.277/2020 IN O.A.NO.26/2020
(Sanjay Salunke Vs. State of Maharashtra & Ors.)

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

[This matter is placed before the Single Bench due to non-availability of Division Bench.]

DATE : 27.05.2021

ORAL ORDER :

Heard Shri Yogesh H. Jadhav, learned Advocate for the applicant, Shri V.R. Bhumkar, learned Presenting Officer for the respondent nos.1 to 3. Shri D.A. Madke learned Advocate for respondent no.19 is **absent**. None appears for respondent nos.4 to 18.

2. Learned P.O. for respondent nos.1 to 3 requests time for filing affidavit in reply.

3. Learned Advocate for the applicant submits that this M.A.No.277/2020 is filed by the applicant seeking interim relief. He requests for early hearing of the applicant.

4. In view of above, **S.O. to 12-06-2021** for filing reply in the O.A.

MEMBER (J)

**M.A.NO.116/2021 WITH M.A.NO.237/2019 IN
O.A.NO.42/2014
(State of Maharashtra & Ors. V/s. Surekha Andhale & Anr.)**

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

[This matter is placed before the Single
Bench due to non-availability of Division
Bench.]

DATE : 27.05.2021

ORAL ORDER :

Heard Shri D.R.Patil, learned Presenting Officer for the applicants (original Respondents) and Shri S.S.Jadhavar learned Advocate for the respondents (original Applicant).

2. Learned Advocate for the respondents (original applicants) submits that the respondents (original applicants) do not wish to file reply to this application and the O.A. can be taken up for final hearing as the pleadings are complete. Learned P.O. for the applicants (original respondents) submits that there is urgency in the matter and he opposes the same.

3. Record shows that original interim order passed in O.A.No.42/2014 is dated 03-04-2019. By subsequent order dated 04-06-2019 original interim relief order is modified thereby the applicants (original respondents) were permitted to complete the process of selection of the candidates but held the hands at the time of issuing the appointment order. In the said modified order dated 04-06-2019, respondents (original applicants) were allowed to file appropriate representation exacting their grievance.

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M.A.NO.116/2021 WITH M.A.NO.237/2019 IN O.A.NO.42/2014

It is submitted that the applicants would file representation and after considering the same notification dated 27-02-2019 new recruitment rules have been framed.

4. Learned Advocate for the respondents (original applicants) submits that the said amended recruitment rules have been challenged by the respondents (original applicant no.1 and another) by filing separate Original Applications No. 225/2021 & 227/2021.

5. Record further reveals that meanwhile Public Interest Litigation No.47/2021 is being filed before the Hon'ble High Court of Judicature of Bombay Bench at Aurangabad and by order dated 07-02-2021, it is expected that the Government would start process of filling in the vacancies of the employees in the Health Department within a week from today and take emergent steps to fill in the vacancies expeditiously. In view of the said order, applicants (original respondents) are seeking to vacate the interim relief order.

6. In the circumstances discussed above and subsequent developments, in my considered opinion, O.A.No.42/2014 along with related matters is required to be heard and decided at the earliest.

7. S.O. to 02-06-2021.

MEMBER (J)

M.A. No. 79/2021 in O.A. St. No. 288/2021
(Pralhad V. Fiske Vs. State of Maharashtra & Ors.)

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

(This matter is placed before the Single Bench
due to non-availability of Division Bench.)

DATE : 27.05.2021

ORAL ORDER :

Heard Shri H.D. More, learned Advocate for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents.

2. Learned Chief Presenting Officer seeks time for filing affidavit in reply on behalf of respondents in M.A. Time granted.

3. S.O. to 06.07.2021.

MEMBER (J)

ORIGINAL APPLICATION NO. 173 OF 2021
(Waman B. Gaikwad Vs. State of Maharashtra & Ors.)

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

DATE : 27.05.2021

ORAL ORDER :

Heard Shri G.N. Patil, learned Advocate for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents.

2. Issue notices to the respondents, returnable on 08.07.2021.

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

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

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

6. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and

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O.A. No. 173/2021

produced along with affidavit of compliance in the Registry before due date. Applicants are directed to file affidavit of compliance and notice.

7. S.O. to 08.07.2021.

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

MEMBER (J)

KPB ORAL ORDERS 27.05.2021

ORIGINAL APPLICATION ST. NO. 530 OF 2021
(Vikram B. Garje Vs. State of Maharashtra & Ors.)

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

DATE : 27.05.2021

ORAL ORDER :

Heard Shri K.D. Bade Patil, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. Record shows that the office of this Tribunal has raised the office objection on 25.05.2021 stating that the O.A. appears to be barred by limitation in view of prayer clause B in respect of representation dated 03.05.2008, made for correction in date of birth in office record.

3. Learned Advocate for the applicant submits that the cause of action is continuous one. He has invited my attention to reminder dated 05.05.2021 (page No. 28 of paper book).

4. Considering the facts and circumstances as above, in my opinion, opportunity should be given to the respondents to deal with this office objection which goes to the root of the matter. It is to be decided as to whether the cause of action would arise from the original representation dated 03.05.2008 or whether it is continuous and can be revived by the reminder dated 05.05.2021.

5. In view of above, office to register O.A. by keeping open the office objection.

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O.A. St. 530/2021

6. In view of above, issue notices to the respondents, returnable on 08.07.2021.
7. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.
8. Applicants are 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.
9. 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.
10. 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. Applicants are directed to file affidavit of compliance and notice.
11. S.O. to 08.07.2021.
12. Steno copy and Hamdast is allowed to both parties.

MEMBER (J)

**M.A. 123/21 in M.A.ST. 416/21 IN O.A.ST.NO. 417/21 WITH
M.A. 124/21 in M.A.ST. 418/21 IN O.A.ST.NO. 419/21 WITH
M.A. 125/21 in M.A.ST. 420/21 IN O.A.ST.NO. 421/21 WITH
M.A. 126/21 in M.A.ST. 422/21 IN O.A.ST.NO. 423/21 WITH
M.A. 127/21 in M.A.ST. 424/21 IN O.A.ST.NO. 425/21 WITH
M.A. 128/21 in O.A.ST. 426/21 WITH
M.A. 129/21 in O.A.ST. 427/21 AND
M.A. 130/21 in O.A.ST. 428/21
(Pandurang H. Bhalerao & Ors. Vs. State of Maharashtra & Ors.)**

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

DATE : 27.05.2021

ORAL ORDER :

Heard Shri Vikram S. Kadam, learned Advocate for the applicants in all these matters and S/Shri M.S. Mahajan, N.U. Yadav, D.R. Patil, S.K. Shirse, M.P. Gude & Mrs. Deepali S. Deshpande, Smt. Sanjivani K. Deshmukh-Ghate & M.S. Patni, learned Chief Presenting Officer & learned Presenting Officers for the respective respondents in respective matters.

2. By this M.As., the applicants in all these matters are seeking condonation of delay of 16 days in filing the O.As.

3. The applicants in all the matters are working under the Irrigation Division, Nanded, which comes under the supervision of respondent Nos. 2 and 3. Some of the applicants are employees of Class-II and some other employees are of Class-III. It is main contentions of the applicants that from time to time they requested the respondent authorities to grant service benefits in view of the judgment and order dated 16.02.2010 passed by this Tribunal in O.A. No. 818/2009, judgment and order dated

//2// M.A. 123/21 in M.A.ST.
416/21 IN O.A.ST.NO. 417/21 & Ors.

20.06.2011 passed by this Tribunal in O.A. Nos. 64, 65, 66 & 194 of 2011 and Government Notification dated 28.02.2019 (page No. 55 of paper book) and to forward the proposal of the applicants. The applicants, however, did not receive any consequential benefits thereon in spite of persuasion made by them. Hence, they were constrained to file the O.As. seeking relief to the effect that the respondent authorities to forward and to consider the proposal of the applicants as per the Government Notification dated 28.02.2019 for granting service benefits of G.R. dated 29.09.2003 itself and fix the pay scale of the applicants on higher post w.e.f. 29.09.2003 itself and grant monetary benefits and arrears w.e.f. 29.09.2003. It is contention of the applicants that the cause of action is continuous as the respondent Nos. 2 and 3 have failed to forward the requisite proposal. Moreover, at the relevant time, there were situation of Covid-19 pandemic and various news for not to travel etc. Further, due to nationwide Lockdown declared by the Central Government, the Hon'ble Supreme Court took suo-moto cognizance of Covid-19 continued and suspended the period of limitation from 15.03.2020 till further orders.

4. In view of above, the learned Advocate for the applicants seeks condonation of delay caused in filing the accompanying O.As.

//3// M.A. 123/21 in M.A.ST.
416/21 IN O.A.ST.NO. 417/21 & Ors.

5. Learned P.Os. for the respondents in respective matters opposed the said submissions.

6. Considering the facts and circumstances as discussed above, it is seen that the applicants are seeking relief in the O.As. on the basis of the Government Notification dated 28.02.2019 issued by the respondent No. 1. O.As. are filed on or about 09.04.2021. As per the Section 21 of the Administrative Tribunals Act, 1985 limitation is of one year. The said limitation period would come to an end on 27.02.2020. As per the order of the Hon'ble Supreme Court, under suo-moto cognizance of Covid-19 limitation is suspended w.e.f. 15.03.2020 till further orders. In view of the same, the delay seems to be of 16 days.

7. It is a settled principle of law that the expression "sufficient cause" is to be construed liberally. There is marginal delay of 16 days in the present matters. In such circumstances, refusing to give indulgence in the matters is likely to defeat cause of justice at the threshold. It would be appropriate to give fair opportunity to the applicants to deal with matters. Hence, these are the fit cases to condone the delay.

//4// M.A. 123/21 in M.A.ST.
416/21 IN O.A.ST.NO. 417/21 & Ors.

8. In the result, all the M.As. are allowed. The delay of 16 days caused in filing the accompanying O.As. is condoned. The office is directed to register all the O.As. in accordance with law by taking into consideration other office objections, if any.

Accordingly, the present M.As. stand disposed of with no order as to costs.

MEMBER (J)

**M.A.ST. 416/21 IN O.A.ST.NO. 417/21 WITH
M.A.ST. 418/21 IN O.A.ST.NO. 419/21 WITH
M.A.ST. 420/21 IN O.A.ST.NO. 421/21 WITH
M.A.ST. 422/21 IN O.A.ST.NO. 423/21 AND
M.A.ST. 424/21 IN O.A.ST.NO. 425/21
(Pandurang H. Bhalerao & Ors. Vs. State of Maharashtra & Ors.)**

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

DATE : 27.05.2021

ORAL ORDER :

Heard Shri Vikram S. Kadam, learned Advocate for the applicants in all these matters and S/Shri M.S. Mahajan, N.U. Yadav, D.R. Patil, S.K. Shirse, M.P. Gude & Mrs. Deepali S. Deshpande, Smt. Sanjivani K. Deshmukh-Ghate & M.S. Patni, learned Chief Presenting Officer & learned Presenting Officers for the respective respondents in respective matters.

2. This is an applications preferred by the applicants seeking leave to sue jointly.

3. For the reasons stated in the applications, and since the cause and the prayers are identical and since the applicants have prayed for same relief, and to avoid the multiplicity, leave to sue jointly granted, subject to payment of court fee stamps, if not paid.

4. Accompanying O.As. be registered and numbered, after removal of office objections, if any. The present M.As. stands disposed of accordingly without any order as to costs.

MEMBER (J)

**O.A.ST.NO. 417/21 WITH O.A.ST.NO. 419/21 WITH
O.A.ST.NO. 421/21 WITH O.A.ST.NO. 423/21 WITH
O.A.ST.NO. 425/21 WITH O.A.ST. 426/21 WITH
O.A.ST. 427/21 AND O.A.ST. 428/21
(Pandurang H. Bhalerao & Ors. Vs. State of Maharashtra & Ors.)**

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

DATE : 27.05.2021

ORAL ORDER :

Heard Shri Vikram S. Kadam, learned Advocate for the applicants in all these matters and S/Shri M.S. Mahajan, N.U. Yadav, D.R. Patil, S.K. Shirse, M.P. Gude & Mrs. Deepali S. Deshpande, Smt. Sanjivani K. Deshmukh-Ghate & M.S. Patni, learned Chief Presenting Officer & learned Presenting Officers for the respective respondents in respective matters.

2. Issue notices to the respondents, returnable on 19.07.2021.

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

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

5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure)

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O.A. ST. 417/21 & Ors.

Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

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

7. S.O. to 19.07.2021.

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

MEMBER (J)