

ORIGINAL APPLICATION NO. 336 OF 2020
(Shri Balasaheb T. Ambade Vs. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

DATE : 05.11.2020

ORAL ORDER :

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

2. It is submitted by the learned Advocate for the applicant that as per order dated 17.08.2020, the Hon'ble Tribunal was pleased to issue notices to the respondents and the applicant was supposed to collect the notices from the office of this Tribunal. However, the applicant could not collect the notices from the office of this Tribunal due to Corona pandemic situation and lockdown. Hence, the learned Advocate for the applicant prays for issuance of fresh notices to the respondents.

3. Issue fresh notices to the respondents, returnable on 08.12.2020.

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

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O.A. No. 336/2020

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.

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. S.O. to 08.12.2020.

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

VICE CHAIRMAN

KPB/ORAL ORDERS 05.11.2020

ORIGINAL APPLICATION NO. 125 OF 2020
(Shri Venkati B. Pawar Vs. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

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

DATE : 05.11.2020

ORAL ORDER :

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

2. It is submitted by the learned Advocate for the applicant that as per order dated 03.03.2020, he collected the notices from the office of the Tribunal on 05.03.2020 and posted the same with the Post office. All the notices were served upon the respondents before returnable date i.e. on 27.04.2020. However, he could not obtain the track report from the postal department due to Corona pandemic situation and lockdown. Similarly, learned Advocate for the applicant himself was tested positive for Covid-19 and was required to be admitted in the Covid Centre. Therefore, the applicant could not submit the service affidavit before returnable date.

3. However, the learned Advocate for the applicant prays for extension of time with permission to submit service affidavit on record.

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O.A. No. 125/2020

4. Permission granted. The service affidavit be taken on record.

5. S.O. to 08.12.2020.

VICE CHAIRMAN

KPB/ORAL ORDERS 05.11.2020

ORIGINAL APPLICATION NO. 247 OF 2020
(Shri Kiran Ashok Gorde Vs. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

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

DATE : 05.11.2020

ORAL ORDER :

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

2. Learned Advocate for the applicant on instruction states that the applicant does not want to proceed with the present O.A. and wants to withdraw the same. Therefore, he seeks leave of this Tribunal to withdraw the present O.A.

3. Learned P.O. has prayed to pass necessary order.

4. In view of the submissions advanced by the learned Advocate for the applicant, leave as prayed for by the applicant is granted. The O.A. is disposed of as withdrawn with no order as to costs.

VICE CHAIRMAN

ORIGINAL APPLICATION NO. 211 OF 2020
(Shri Nilesh B. Dighe Vs. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

DATE : 05.11.2020

ORAL ORDER :

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

2. Pleadings are complete. Hence, the present O.A. is admitted and it be kept for final hearing on 09.12.2020.

VICE CHAIRMAN

KPB/ORAL ORDERS 05.11.2020

ORIGINAL APPLICATION NO. 186 OF 2020
(Shri Sachin H. Kendre Vs. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

DATE : 05.11.2020

ORAL ORDER :

Heard Shri M.S. Taur, learned Advocate holding for Shri A.B. Kale, learned Advocate for the applicant, Shri V.R. Bhumkar, learned Presenting Officer for the respondent Nos. 1 to 4 and Shri Shrinivas Ambad, learned Advocate for respondent No. 5.

2. Pleadings are complete. Hence, the present O.A. is admitted and it be kept for final hearing on 09.12.2020.

VICE CHAIRMAN

KPB/ORAL ORDERS 05.11.2020

ORIGINAL APPLICATION NO. 406 OF 2020
(Shri Anil Jalu Gavit Vs. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

DATE : 05.11.2020

ORAL ORDER :

Heard Shri V.H. Dighe, learned Advocate for the applicant, Shri M.S. Mahajan, learned Chief Presenting Officer for the respondent Nos. 1 to 3 and Shri A.S. Deshmukh, learned Advocate for respondent No. 4.

2. Learned C.P.O. seeks time for filing affidavit in reply on behalf of respondent Nos. 1 to 3. Time granted.

3. S.O. to 18.11.2020.

VICE CHAIRMAN

KPB/ORAL ORDERS 05.11.2020

ORIGINAL APPLICATION NO. 482 OF 2020
(Shri Kautik Y. Kachole Vs. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

DATE : 05.11.2020

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. Issue notices to the respondents, returnable on 03.12.2020.

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

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

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

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O.A. No. 482/2020

6. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.
7. S.O. to 03.12.2020.
8. Steno copy and Hamdast is allowed to both parties.

VICE CHAIRMAN

KPB/ORAL ORDERS 05.11.2020

ORIGINAL APPLICATION NO. 481 OF 2020
(Shri Sunil Govindrao Machewad Vs. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

DATE : 05.11.2020

ORAL ORDER :

Heard Shri R.D. Khadap, learned Advocate holding for Shri S.S. Thombre, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. The applicant has challenged the impugned transfer order dated 20.10.2020, by which the respondent No. 3 has been posted at his place. It is contention of the applicant that the respondent No. 3 has been posted on the post of the applicant without effecting the transfer of the applicant. He has submitted that the applicant has not completed his normal tenure of posting. He has further submitted that he has not yet been relieved from the present posting and the respondent No. 3 has not joined the post. Therefore, he has prayed to stay the operation and execution of the impugned order of transfer, as it is in violation of the provisions of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (for short 'The Transfer Act, 2005').

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O.A. No. 481/2020

3. Learned C.P.O. has submitted that the respondents will file the detailed reply and therefore, he seeks time.

4. On perusal of record, it reveals that the applicant has not completed his normal tenure on the present post. He has not been transferred till today by the competent transferring authority. Without effecting the transfer of the applicant, the competent authority issued the impugned order of transfer and posted the respondent No. 3 at the place of the applicant. Prima-facie, the impugned order of transfer seems to be in violation of the provisions of the Transfer Act, 2005. Hence, it is just and proper to stay the execution and operation of the impugned transfer order till filing of the affidavit in reply by the respondents.

5. In view of this, the operation and execution of the impugned order of transfer is stayed till filing of the affidavit in reply by the respondents.

6. Issue notices to the respondents, returnable on 03.12.2020.

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

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O.A. No. 481/2020

8. 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.

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. Applicant is directed to file affidavit of compliance and notice.

11. S.O. to 03.12.2020.

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

VICE CHAIRMAN

KPB/ORAL ORDERS 05.11.2020

M.A.NO. 275/2020 IN O.A.NO. 420/2020
(Shri Anish Sunil Patel Vs. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

DATE : 05.11.2020

ORAL ORDER :

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

2. Learned Advocate for the applicant has submitted that the applicant is serving as Sub-Auditor in the office of District Special Auditor Class-I, Co-operative Society, Ahmednagar. He has submitted that the respondents have granted time bound promotion, as well as, additional increment to the applicant. However, it has been noticed by the respondents that the applicant has not passed Hindi language examination, which is necessary as per rules and, therefore, benefits granted to the applicant by the respondents have been withdrawn by the impugned order dated 21.10.2020. The learned Advocate for the applicant has submitted that the applicant has passed the S.S.C. examination with Marathi subject in the year 1987 and he has passed Hindi language examination in the year 2018. He has submitted that the applicant has complied with the necessary qualification. In spite of the said fact that the

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**M.A.NO. 275/2020 IN O.A.NO.
420/2020**

respondents have issued recovery order. He has submitted that the applicant has not been informed by the respondents regarding passing of the Hindi language examination. Therefore, the applicant has not passed the examination within a stipulated period. He has submitted that the impugned order passed by the respondents is illegal. Therefore, he prayed to grant interim relief.

3. Learned Presenting Officer has submitted that the applicant has to pass the Hindi language examination within a stipulated time after joining the service, but the applicant has not been passed the said examination. Therefore, his increment has been stopped by the respondents in the year 1997 (Annexure M.A.1, Page-7 & 8 of the M.A.). Thereafter the respondents have noticed that benefits of 1st and 2nd time bound promotion scheme were wrongly given to the applicant and, therefore, they revised his pay and passed order of recovery of amount paid to the applicant by the impugned order. He has submitted that there is no illegality in the impugned order. Therefore, he prayed to reject the prayer of the applicant for grant of interim relief.

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**M.A.NO. 275/2020 IN O.A.NO.
420/2020**

4. On perusal of the record, it reveals that the applicant has joined the Government service on 4.8.1993 as a Clerk. He was aware of the fact that he has to pass Hindi language examination within a stipulated time, but he could not pass the said examination within stipulated period. He has passed the S.S.C. examination with Marathi subject, but he has not passed the Hindi examination within a stipulated time and within given chances. Therefore, his annual increments have been stopped in the year 1997. He was not eligible to get the time bound promotion, but the Department has granted time bound promotion illegally. After noticing the said mistake, they corrected the said mistake and has withdrawn the benefits of time bound promotion scheme granted to the applicant and directed recovery of the excess amount paid to him. *Prima-facie*, it reveals that the impugned order has been passed by the respondents as per the G.R. issued by the Government and there is no illegality in the impugned order.

5. In view of the above, in my opinion, it is not a fit case to grant interim relief in favour of the applicant.

::-4-:: M.A.NO. 275/2020 IN O.A.NO. 420/2020

Hence, prayer of the applicant to grant interim relief is rejected. Consequently, the Misc. Application No. 275/2020 stands rejected.

VICE CHAIRMAN

ORAL ORDERS 05.11.2020-hdd

ORIGINAL APPLICATION NO.483 OF 2020
(Bhagwan L. Dahale Vs. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

DATE : 05.11.2020

ORAL ORDER :

Heard Shri D.T. Devane, learned Advocate for the Applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. The Applicant has challenged the order dated 03.11.2020 by which the additional charge kept with the Applicant of the post of Account and Auditor, Parbhani and Jintoor has been withdrawn and he has been reposted in Public Works Department, Sub-Division, Sonpeth.

3. He has submitted that the Applicant has been promoted on 08.11.2016 on the post of Senior Clerk in the office of the Public Works Department, Parbhani. The additional charge of the post of Account and Auditor, Jintoor has been kept with him. He has submitted that though the Applicant has originally posted at Parbhani, he has been directed to join the office of P.W.D., Sub-Division, Sonpeth by impugned order. Therefore, he has prayed to grant interim relief.

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O.A.No.483/2020

4. Learned C.P.O. for the Respondents has sought time to file detailed reply and therefore, he prayed to grant time.

5. On perusal of record it reveals that the Applicant has been promoted on the post of Senior Clerk on 08.11.2016 and posted in the office of P.W.D., Parbhani. Thereafter, the additional charge of the post of Account and Auditor, Jintoor has been kept with him. The said charge has been withdrawn by impugned order dated 3.11.2020 and he is directed to join his original post at Sonpeth. But the record shows that his original post is at Parbhani.

6. *Prima-facie* the impugned order seems to be illegal. In the circumstances, it is just to stay the execution and operation of impugned order of posting of the Applicant at Sub-Divisional, Sonpeth. So far the order regarding withdrawal of the charge is not disturbed.

7. In view of the above, execution and operation of the impugned order of posting of the Applicant in the office of Sub-Divisional, Sonpeth is stayed till filing of the affidavit-in-reply by the Respondents.

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O.A.No.483/2020

8. Issue notices to the respondents, returnable on 10.12.2020.

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

10. 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.

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 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.

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O.A.No.483/2020

13. S.O. to 10.12.2020.

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

VICE CHAIRMAN

SAS/ORAL ORDERS 05.11.2020

ORIGINAL APPLICATION NO.484 OF 2020
(Dr. Balasaheb Tak Vs. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

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

DATE : 05.11.2020

ORAL ORDER :

Heard Shri A.N. Manglani, learned Advocate holding for Shri Amit. A. Yadkikar, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. At the request of the learned Advocate for the Applicant, S.O. to 26.11.2020

VICE CHAIRMAN

SAS/ORAL ORDERS 05.11.2020

O.A. NO. 261/2020 WITH CAVEAT 15 & 12/2020
(Parag M. Nawalkar Vs. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN
DATE : 5.11.2020

ORDER

Shri Ajay S. Deshpande, learned Advocate for the applicant, Shri M.S. Mahajan, learned Chief Presenting Officer for the respondent nos. 1 & 2 and Shri Sachin S. Randive, learned Advocate for respondent no. 3.

2. After hearing arguments of both the sides, this matter was closed for orders. But due to shortage of time, the order could not be prepared and pronounced.

3. In the above circumstances, the Registry is directed to place the matter before the appropriate Court for fresh hearing.

4. The original record produced by the respondents be returned to the learned C.P.O. with a direction to produce the same before the Tribunal as and when it is required.

VICE CHAIRMAN

ARJ ORAL ORDERS 5.11.2020

ORIGINAL APPLICATION ST. NO. 357/2020
(Sanjay D. Bobade Vs. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

DATE : 5.11.2020

ORAL ORDER :-

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

2. Learned Advocate for the applicant seeks leave of the Tribunal to amend the O.A. suitably. Leave as prayed for is granted. The applicant shall amend the O.A. within a reasonable time.

3. In the circumstances, S.O. to 23.11.2020

VICE CHAIRMAN

ARJ ORAL ORDERS 5.11.2020

ORIGINAL APPLICATION NO. 962/2019
(Devidas M. Chandane Vs. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN
DATE : 5.11.2020

ORAL ORDER :-

Heard Shri R.R. Bangar, learned Advocate holding for Shri V.S. Panpattet, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

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

3. In the circumstances, S.O. to 10.12.2020

VICE CHAIRMAN

ARJ ORAL ORDERS 5.11.2020

ORIGINAL APPLICATION NO. 438/2020
(Anil P. Chavan Vs. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

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

DATE : 5.11.2020

ORAL ORDER :-

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

2. Issue notice to respondents, returnable on 10.12.2020.

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

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

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

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

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

7. S.O. to 10.12.2020.

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

VICE CHAIRMAN

M.A. 112/2020 IN O.A. 1086/2019
(Chintaman H. Vasave Vs. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

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

DATE : 5.11.2020

ORAL ORDER :-

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

2. Learned Advocate for the applicant seeks extension of time for amending the M.A. & O.A. by way of adding Shri P.A. Bhagwat as party respondent no. 4 as per the leave granted by the Tribunal vide order dtd. 17.3.2020 passed in M.A. Time is extended for carrying out the amendment by way of adding Shri P.A. Bhagwas as party respondent no. 4 in the M.A. & O.A. Learned Advocate for the applicant undertook to carry out amend in the M.A. & O.A. within a period of two days. The said undertaking is accepted and taken on record.

3. After the amendment is carried out, issue notices to the respondents in M.A., returnable on 15.12.2020.

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M.A. 112/2020
IN O.A. 1086/2019

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.

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. S.O. to 15.12.2020.

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M.A. 112/2020
IN O.A. 1086/2019

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

VICE CHAIRMAN

ARJ ORAL ORDERS 5.11.2020