

O.A. No. 545/2008 (DB)

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 6.12.2017

C.A.546/2017

Shri P.B. Patil, Id. counsel for the applicants.

Shri S.A. Sainis, Id .P.O. for the respondents.

Put up the matter before regular D.B. whenever is available.

Vice Chairman (J)

dnk.

O.A. No. 615/2017 with C.A. 545/17 **(DB)**

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 6.12.2017

None for the applicants.

Shri S.A. Deo, Id. CPO for the respondents. None for Intervener.

The O.A. 615/2017 has already been heard on merits and Judgment is delivered today and therefore the C.A. No.545/2017 for intervention stands dismissed.

Vice Chairman (J)

dnk.

O.A. No. 649/2017 **(SB)**

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 6.12.2017

Shri S.P. Palshikar, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for the respondents.

At the request of Id. P.O., **S.O. three weeks** for filing reply.

Vice Chairman (J)

dnk.

O.A. No. 564/2017 (DB)

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 6.12.2017

None for the applicant.

Shri H.K. Pande, Id. P.O. for the respondents.

The learned P.O. files reply-affidavit on behalf of R-1. It is taken on record.

S.O. four weeks for filing rejoinder, if any.

Vice Chairman (J)

dnk.

O.A. No. 193/2015 (DB)

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 6.12.2017

Shri G.G. Bade, Id. counsel for the applicant and Shri M.I. Khan, Id .P.O. for the respondent nos.1&2. None for R-3.

S.O. four weeks for filing rejoinder, if any.

Vice Chairman (J)

dnk.

O.A. No. 45/2017 (DB)

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 6.12.2017

Shri A.N. Ansari, Id. counsel for the applicant and Shri A.M. Ghogre, Id. P.O. for the respondent nos. 1 to 4.

2. Issue notice to the newly added respondent no.5, returnable in **four weeks**. Hamdast allowed.

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

4. 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. 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. four weeks.**

Vice Chairman (J)

dnk.

O.A. No. 242/2017 (DB)

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 6.12.2017

Heard Shri Bharat Kulkarni, Id. counsel for the applicant and Shri S.A. Sainis, Id. P.O. for the respondents.

2. The learned P.O. submits that during the pendency of this O.A. the applicant has been promoted and therefore the applicant's grievance has been redressed. The learned counsel for the applicant also admits that the applicant's grievance has been redressed and hence the application can be disposed of.

3. In view thereof, the O.A. stands disposed of since the grievance of the applicant has been redressed. No order as to costs.

Vice Chairman (J)

dnk.

O.A. No. 600/2017 (DB)

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 6.12.2017

None for the applicant.

Shri A.M. Ghogre, Id. P.O. for the respondents.

The learned P.O. files reply-affidavit on behalf of R-3. It is taken on record.

The learned P.O. seeks time to file reply on behalf of other respondents. At his request, **S.O. four weeks.**

Vice Chairman (J)

dnk.

O.A. No. 638/2017 (DB)

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 6.12.2017

Shri S.S. Rene, Id. counsel for the applicant, Shri P.N. Warjurkar, Id. P.O. for the respondent nos. 1&3 and Shri A.R. Fule, Id. counsel for R-2.

The learned P.O. seeks time to file reply on behalf of R-1. The learned counsel for R-2 also seeks time to file reply.

At the request of Id. P.O. as well as Id. counsel for R-2, **S.O. four weeks** for filing reply.

Vice Chairman (J)

dnk.

O.A. No. 671/2017 (DB)

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 6.12.2017

None for the applicant.

Shri M.I. Khan, Id. P.O. for the
respondents.

At the request of Id. P.O., **S.O. last
week of January, 2018.**

Vice Chairman (J)

dnk.

O.A. No. 226/2017 **(SB)**

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 6.12.2017

C.A.110/2017

Shri R.S. Khobragade, Id. counsel for the applicant, Shri S.A. Deo, Id. C.P.O. for R-1&2 and Shri S.D. Ukey, Id. counsel holding for Shri A.M. Kukday, Id. counsel for R-3&4.

At the request of Id. C.P.O., **S.O.**
20/12/2017.

Vice Chairman (J)

dnk.

O.A. No. 327/2017 **(SB)**

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 6.12.2017

C.A.343/2017

Shri N.S. Warulkar, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for the respondent nos. 1,2&3. Await service of R-4.

The learned counsel for the applicant seeks time to file service affidavit of R-4. At his request, **S.O. two weeks.**

Vice Chairman (J)

dnk.

O.A. No. 494/2015 (SB)

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 6.12.2017

C.A.529/17

None for the applicant. Heard Shri M.I. Khan, Id. P.O. for R-1&2 and Shri R.V. Shiralkar, Id. counsel for R-3.

2. Perused the application for amendment. By way of amendment the applicant wants to bring on record certain facts which may be helpful to decide the controversy involved. The said amendment may not change the nature of the original claim of the applicant.

3. For the reasons stated in the application and in the interest of justice, the amendment application is allowed. The applicant to carry out the amendment within two weeks. After amendment the respondents may file their reply to the amended portion of the O.A.

O.A. 494/2015 –

S.O. two weeks.

Vice Chairman (J)

dnk.

O.A. No. 762/2017 **(SB)**

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 6.12.2017

Shri S.N. Gaikwad, Id. counsel for the applicant and Shri S.A. Deo, Id. C.P.O. for R-1. Await service of R-2 to 4.

The learned counsel for the applicant submits that he will file service affidavit of R-2 to 4 within two days.

The learned CPO seeks time to file reply. At his request, **S.O. four weeks.**

Vice Chairman (J)

dnk.

O.A. No. 840/2016 (SB)

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 6.12.2017

Heard Shri N.A. Autkar, Id. counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the respondents.

2. The learned P.O. seeks further time to file reply. He submits that in spite of intimation to the concerned department, necessary instructions are not received and therefore a most last chance may be granted for filing reply. In fact, on the last date a most last chance has already been granted to the Id. P.O. It is however know that the reply of R-1 will be necessary to solve the controversy.

3. In view thereof, a very most last chance is again granted to the Id. P.O. for filing reply subject to the condition that in case reply is not filed on the next date, the cost of Rs.10,000/- will be saddled.

S.O. four weeks.

Steno copy be given to the Id. P.O.

Vice Chairman (J)

dnk.

O.A. No. 259/2017 **(SB)**

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 6.12.2017

None for the applicant.

Heard Shri M.I. Khan, Id. P.O. for
R-1 to 4. None for R-5.

Since the pleadings are complete,
the matter is admitted and kept for final
hearing.

The learned P.O. waives notice for
R-1 to 4.

S.O. in due course.

Vice Chairman (J)

dnk.

Rev. A.21/17 in O.A. 376/17 **(SB)**

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 6.12.2017

Heard Shri S.K. Thengre, Id. counsel for the applicant and Shri S.A. Sainis, Id. P.O. for the respondents.

2. The learned P.O. submits that he does not want to file any reply-affidavit to the review application since there are no grounds made out for review.
3. In view thereof, the matter be heard on merits on the review application, it be closed for passing necessary orders.

Vice Chairman (J)

dnk.

O.A. No. 382/2017 **(SB)**

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 6.12.2017

Shri Ms. R.R. Bagde, Id. counsel
for the applicant and Shri V.A. Kulkarni,
Id. P.O. for the respondents.

At the request of Id. P.O., **S.O. two
weeks** for filing reply.

Vice Chairman (J)

dnk.

O.A. No. 494/2017 **(SB)**

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 6.12.2017

None for the applicant. Shri V.A.
Kulkarni, Id. P.O. for the respondents.

At the request of Id. P.O., **S.O.**
four weeks for filing reply.

Vice Chairman (J)

dnk.

O.A. No. 527/2017 **(SB)**

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 6.12.2017

None for the applicant. Shri P.N.
Warjurkar, Id. P.O. for the respondents.

At the request of Id. P.O., **S.O. two
weeks** for filing reply.

Vice Chairman (J)

dnk.

O.A. No. 577/2017 **(SB)**

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 6.12.2017

Shri D.M. Surjuse, Id. counsel for the applicant, Shri S.A. Sainis, Id. P.O. for the respondent nos.1,2,4,5&6 and Shri S.D. Ukey, Id. counsel holding for Shri V.G. Palshikar, Id. counsel for R-3.

At the request of Id. P.O., **S.O. three weeks** for filing reply as a last chance.

Vice Chairman (J)

dnk.

O.A. No. 771/2017 **(SB)**

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 6.12.2017

Shri S.R. Renu, Id. counsel for the applicant and Shri A.M. Ghogre, Id. P.O. for the respondent nos. 1 to 3. None for R-4.

At the request of Id. P.O., **S.O. two weeks** for filing reply.

Vice Chairman (J)

dnk.

O.A. No. 923/2017 **(SB)**

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 6.12.2017

Heard Ms. S.S. Dhone, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for the State. Shri Shaikh Majid, Id. counsel appeared and filed Vakalatnama on behalf of R-4.

2. The learned counsel for the applicant insists for interim relief to the effect that the applicant may be allowed to join his original post on transfer at Pachgaon. However, it is stated that the applicant has joined at Makardhokda under protest. Since the applicant has already joined at Makardhokda there is no question of granting interim stay.

3. Issue notice to R-2,3 & 5, returnable in **four weeks**. Learned C.P.O. waives notice for R-1. Hamdast allowed.

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

5. 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. 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. four weeks.**

Vice Chairman (J)

dnk.

O.A. No. 937/2017 (SB)

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 6.12.2017

Heard Shri N.S. Warulkar, Id. counsel for the applicant and Shri Shri S.A. Deo, Id. CPO for the State.

2. The applicant is working as a Senior Clerk in the office of Government Residential School of Scheduled Castes and Nabudha Boys, Wangepalli Aheri, District Gadchiroli and vide impugned order dated 31/5/2017 he was transferred at the office of District Caste Scrutiny Committee, Wardha. The said order was however stayed by respondent no.2 itself temporarily. Subsequently, vide order dated 10/8/2017 it was directed that the applicant be relieved as early as possible and accordingly on 22/11/2017 the applicant has been relieved from the post. All these orders are challenged in this O.A.

3. The learned counsel for the applicant submits that the order of transfer is illegal and that his daughter is studying at Gadchiroli in 12th Standard and there is no male member in his family to take care. It is further stated that the applicant's daughter is suffering from stomach disease also and is undergoing regular treatment at Gadchiroli and therefore

it is requested that the applicant's impugned order may be cancelled.

4. The learned C.P.O. submits that the applicant never challenged the transfer order at Wardha. On the contrary the said order has been passed in view of the request made by the applicant. It was temporarily stayed due to administrative difficulty and on own request of the applicant, but subsequently the applicant requested that his order may be cancelled. In the said request letter however the applicant never stated about educational difficulty of his daughter. For whatever reasons, it is true that the applicant has already been relieved from the post and therefore at this juncture it will not be proper to stay the order. If on merits the applicant succeeds and it is found that the impugned orders are illegal, the applicant can be re-posted at Gadchiroli. It is necessary to obtain the say of the respondents on the application. Hence the following order -

5. Issue notice to R-2 returnable in **four weeks**. Learned C.P.O. waives notice for R-1. Hamdast allowed.

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

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

8. 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.

9. 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.

10. **S.O. four weeks**

Vice Chairman (J)

dnk.

O.A. No. 417/2013 **(SB)**

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 7.12.2017

MCA Nos. 52 & 53 of 2017

Heard Shri A.S. Moon, Id. counsel for the applicant and Shri S.A. Sainis, Id. P.O. for the respondents.

2. The MCA No.52/2017 is for condonation of delay in filing application for restoration of O.A. 417/2013. The said O.A. was dismissed on 18/3/2017. It is stated that there is a delay of 128 days in filing application for restoration. According to the applicant, the matter was listed for final hearing on 18/3/2017 when the Id. counsel for the applicant appeared and requested that the matter be kept back. Accordingly, the matter was kept back at the bottom of board. The Id. counsel was however held up in matter before another Court and therefore could not attend the Tribunal. Though he sent his junior colleague for seeking adjournment, but his junior colleague also could not attend the Tribunal and therefore it was dismissed.

3. It is the case of the applicant that the Advocate was under impression that the matter was adjourned and will be listed on

further date, but consequently found that the matter was dismissed. However, there was delay in filing application for restoration. The delay is of 128 days and requested that the same may be condoned.

4. In MCA No.53/2017 the applicant has requested that the O.A.417/2013 be restored to its original file. Similar grounds are taken as to why the applicant could not appear before this Tribunal on 18/3/2017. The learned P.O. strongly objected for restoration and condonation of delay for restoration application.

5. Perusal of the order dated 18/3/2017 shows that nobody appeared for the applicant on 18/3/2017 when the matter was fixed for final hearing. The Tribunal also observed that nobody appeared for the applicant on 9/2/2017 and therefore the matter was kept for dismissal on 3/3/2017. On 3/3/2017 the Advocate Shri A.S. Moon appeared for the applicant and requested that the matter be kept at the bottom of the board, but thereafter he did not appear. The matter thereafter was kept on 18/3/2017 and on that date also nobody appeared for the applicant and therefore presuming that the applicant was not interested in prosecuting the matter, the O.A. was dismissed in default. Considering the averments in the application, it seems that when the matter was kept at the bottom of board at the request of junior counsel appearing on behalf of applicant's counsel

Shri Moon, it was incumbent upon the applicant's counsel to appear before the Tribunal subsequently, but he failed to appear and not only that even on the adjourned date the applicant's counsel did not appear. However for the fault on the part of Advocate, it will not be proper to deny the legal right to the applicant, if any.

6. In view of this and for the reasons stated in the applications, both the applications for condonation of delay as well as restoration of O.A are allowed in the interest of justice. Hence, the following order:-

ORDER

The MCA Nos. 52&53 of 2017 are allowed. The O.A.No.417/2013 is restored to its original file. This being a matter of 2013, it be kept for final hearing after two weeks.

S.O. after two weeks.

Vice Chairman (J)

dnk.