

O.A. No. 808/2016. (D.B.)

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 7th December 2017.

C.A. 512/2017 in C.P.(St.) No.2788/2017.

Heard Shri N.S. Badhe, the learned counsel for the applicants and Shri A.P.Potnis, the learned P.O. for the respondents.

The applicant is seeking permission to initiate contempt proceedings against the respondents for not complying with the order of this Tribunal passé din O.A. No.808/2016 on 10.3.2017 r/w order dated 4.7.2017. The Ld. P.O. has placed on record the communications dated 6.12.2017 and 17.11.2017 which are marked %+ and %-1+ for the purpose of identification and submits that the proposal for compliance of the order has already been submitted to the Finance Department, Govt. of Maharashtra, Mumbai The Ld. P.O. seeks two weeksq time to comply with the order. However, considering the fact that the order was to be complied with in the year 2016 itself. The order was passed in January 2016 and no steps seem to have been taken till 17.11.2017. The respondents are directed to take necessary steps to comply with the order within one week.

Matter be kept on next Thursday i.e. on **14.12.2017.**

Vice-Chairman(J)

pdg

O.A. No.843 /2017. (D.B.)

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

Dated : 7th December 2017.

C.A. 507/2017.

Heard Shri G.G. Badhe, the learned counsel for the applicant and Shri S.A. Deo, the learned C.P.O. for the respondent No.1.

For the reasons stated in the C.A., leave to sue jointly as prayed for is granted, subject to the applicants paying requisite Court fees, if not already paid. C.A. is disposed of accordingly.

O.A. No.843 /2017.

1. Issue notice to respondent Nos. 2 to 4 returnable after **four weeks.**
2. Shri S.A. Deo, the learned C.P.O. waive notice for the respondent No.1. Hamdast granted.
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 Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A.

5. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunals (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 or courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within three weeks. Applicant is directed to file Affidavit of compliance and notice.

Vice-Chairman(J)

pdg

O.A. No.844 /2017. (D.B.)

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

Dated : 7th December 2017.

C.A. 508/2017.

Heard Shri G.G. Badhe, the learned counsel for the applicants and Shri S.A. Deo, the learned C.P.O. for the respondent No.1.

For the reasons stated in the C.A., leave to sue jointly as prayed for is granted, subject to the applicants paying requisite Court fees, if not already paid. C.A. is disposed of accordingly.

O.A. No.844 /2017.

1. Issue notice to respondent Nos. 2 to 5 returnable after **four weeks.**
2. Shri S.A. Deo, the learned C.P.O. waive notice for the respondent No.1. Hamdast granted.
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 Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A.

5. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunals (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 or courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within three weeks. Applicant is directed to file Affidavit of compliance and notice.

Vice-Chairman(J)

pdg

O.A. No.173 /2011. (D.B.)

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

Dated : 7th December 2017.

C.P. 06/2017.

Heard Smt. K.N. Saboo, the learned counsel for the applicant and Shri M.I. Khan, the learned P.O. for the respondents.

In O.A. No. 173/2011, this Tribunal on 11.4.2017 directed the respondents to consider the case of the applicant for promotion to the post of Dy. Director of Education and if the applicant is found entitled to the said post, grant deemed date of promotion as per rules. Since the said order was not complied with within three months as directed by this Tribunal, this application to initiate contempt proceedings was filed alongwith permission to initiate contempt proceedings.

The learned counsel for the applicant submits that the applicant has received communication dated 8.11.2017, a copy of the said communication is placed on record, from which it seems that the applicant's claim for deemed date of promotion has been rejected. However, the order has been complied with in letter and spirit. The learned counsel for the applicant submits that the application may be disposed of with permission to the applicant to

challenge the rejection of deemed date of promotion by filing separate O.A. In view thereof, C.P. No.06/2017 stands disposed of with liberty to the applicant to challenge the rejection of his claim for deemed date of promotion. No order as to costs.

Vice-Chairman(J)

pdg

O.A. No. 61/2010. (D.B.)

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

Dated : 7th December 2017.

C.A. 270/2016 in C.P.(St.) 1057/2016.

Heard Shri Bharat Kulkarni, the learned counsel for the applicant and Shri P.N. Warjekar, the learned P.O. for the respondent Nos. 1 and 2. None for R.3.

The learned counsel for the applicant files on record the statement showing details of payment of pension and other dues and interest. The learned P.O. submits that this Tribunal's order was challenged in the Hon'ble High Court in W.P No.3796/2016 and thereafter in the Hon'ble Supreme Court. S.L.P. in the Supreme Court has been dismissed on 21.8.2017. Admittedly, there was no stay to the order of this Tribunal and on the contrary, in the High Court's order, it was specifically mentioned that the respondents shall comply the Tribunal's order within three months. This Tribunal has directed to pay interest. Considering this fact, the learned P.O. is directed to go through the statement filed by the applicant and just to verify whether the interest calculated is proper or not.

S.O. **four weeks.**

Steno copy be supplied to the Ld. P.O.

Vice-Chairman(J)

pdg

O.A. No. 673/2013. (D.B.)

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

Dated : 7th December 2017.

C.A. 159/2016 in C.P.(St.) No.634/2016.

None for the applicant. Shri S.A. Sainis,
the learned P.O. for the respondents.

At the request of Ld. P.O., **S.O. four**
weeks.

Vice-Chairman(J)

pdg

O.A. No. 695/2016. (D.B.)

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 7th December 2017.
R.A. 20/2017.

Shri S.U. Ambagade, Adv. holding for Shri M.R. Pillai, the learned counsel for the applicant and Shri V.A. Kulkarni, the learned P.O. for the respondents.

At the request of Ld. P.O., **S.O. three weeks.**

Vice-Chairman(J)

pdg

O.A. No. 480/2016. (D.B.)

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 7th December 2017.
MCA 70/2017.

Shri S.P. Palshikar, the learned counsel for the applicant and Shri M.I. Khan, the learned P.O. for the respondents.

At the request of Ld. counsel for the applicant, **S.O. 18.12.2017.**

Vice-Chairman(J)

pdg

O.A. No. 197/2016. (D.B.)

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 7th December 2017.

C.A. 406/2017 in C.P.(St.) No.2311/2017.

None for the applicant. Shri A.M. Khadatkar, the learned P.O. for the respondents 1 to 5. Shri B.N. Jaipurkar, Adv. for R.6.

At the request of Ld. counsel for the applicant, **S.O. four weeks.**

Vice-Chairman(J)

pdg

O.A. No. 197/2016. (D.B.)

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 7th December 2017.

C.A. 407/2017 in C.P.(St.) No.2313/2017.

None for the applicant. Shri A.M. Khadatkar, the learned P.O. for the respondents 1 to 5. Shri B.N. Jaipurkar, Adv. for R.6.

At the request of Ld. counsel for the applicant, **S.O. four weeks.**

Vice-Chairman(J)

pdg

O.A. No. 271/2017. (S.B.)

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 7th December 2017.

None for the applicant. Shri A.P. Potnis,
the learned P.O. for the respondents 1 and 3.

Await service to R. 2 and 4.

S.O. four weeks.

Vice-Chairman(J)

pdg

O.A. No. 690/2017. (S.B.)

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 7th December 2017.

None for the applicant. Shri M.I. Khan, the learned P.O. for the respondents.

The Ld. P.O. submits that affidavit in reply is already filed. Earlier the name of respondent No.2 has been wrongly written and it shall be respondent No.3. He seeks permission to correct the said mistake in the entire application and submits that the said reply shall be treated as reply affidavit on behalf of R.3. It is true that the S.P. (Rural), Amravati is respondent No.3 in this case and, therefore, typographical mistake needs to be corrected. The Ld. P.O. submits that the reply of other respondents is not necessary. Since none appeared for the applicant, matter be kept after four weeks for filing rejoinder, if any.

S.O. four weeks.

Vice-Chairman(J)

pdg

O.A. No. 779/2017. (S.B.)

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 7th December 2017.
C.A. 539/2017.

Shri P.A. Jibhkate, the Ld. counsel for the applicant and Shri M.I. Khan, the learned P.O. for the respondents.

The applicant wants to bring on record some documents i.e. representation which he has earlier filed and also wants to add some grounds. It is true that the said grounds were within the knowledge of the applicant. However, by adding the grounds in the O.A., nature of the O.A. is not going to change. In the interest of justice, therefore, application for amendment is allowed and disposed of. The Ld. P.O. will be at liberty to file reply affidavit to the amended O.A. Copy of the amended O.A. shall be supplied to the applicant.

S.O. **four weeks.**

Vice-Chairman(J)

pdg

O.A. No. 853/2017. (S.B.)

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 7th December 2017.

Shri P.P. Khaparde, the Ld. counsel for the applicant and Shri S.A. Deo, the learned C.P.O. for the respondent No.1.

Await service to R. 2 and 3.

At the request of the Ld. counsel for the applicant, S.O. **two weeks** for filing service affidavit.

Vice-Chairman(J)

pdg

O.A. No. 222/2017. (S.B.)

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 7th December 2017.

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

The Ld. P.O. submits that he has not
received copy of the amended O.A.. Applicant is
directed to supply the copy of amended O.A. to
the Ld. P.O. immediately. The Ld. P.O. seeks
three weeks time for filing reply.

S.O. **three weeks.**

Vice-Chairman(J)

pdg

O.A. No. 380/2017. (S.B.)

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 7th December 2017.

Shri S.C. Deshmukh, the Ld. counsel for the applicant and Shri A.P.Potnis, the learned P.O. for the respondents.

The Ld. P.O. has filed reply affidavit of R.3, it is taken on record and a copy thereof is supplied to the Ld. counsel for the applicant. The Ld. counsel for the applicant seeks time to go through it and file rejoinder, if any.

S.O. **two weeks.**

Vice-Chairman(J)

pdg

O.A. No. 518/2017. (S.B.)

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 7th December 2017.

Heard Miss Neeta Jog, the Ld. counsel for the applicant and Shri H.K. Pande, the learned P.O. for the respondents.

The Ld. counsel for the applicant submits that there is no need to file rejoinder and the matter be admitted.

ADMIT.

Shri H.K. Pande, the learned P.O. waives notice for the respondents.

At the request of both the parties, matter be kept after **two weeks** for final hearing.

Vice-Chairman(J)

pdg

O.A. No. 502/2017. (S.B.)

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 7th December 2017.

Heard Shri M.K. Kulkarni, Ld. counsel for the applicant and Shri S.A. Deo, the learned C.P.O. for the respondents.

2. According to the Ld. P.O., relief claimed by the applicant in this O.A. is vague. Applicant is seeking the relief as under:-

(i) The applicant seeks relief as per tale Nos. at Annexure-19 to Annexure-24 annexed herewith the O.A,

(ii) The applicant further claims the amount stated in statement Annexure-25.+

3. It is true that from this relief claimed by the applicant, it is not clear as to what exact claim the applicant is making. The Ld. CPO further submits that the applicant has referred to one O.A. No. 78/2011, but the copy of the order passed in the said O.A. is not placed on record and, therefore, he is unable to prepare reply. The Ld. CPO will be at liberty to file his preliminary objection in writing. At the same time, the applicants may also give second thought to amend his prayer clause so that the matter can be considered properly. The Ld. counsel for the applicant submits that he be permitted to amend the prayer clause.

S.O. one week.

Vice-Chairman(J)

O.A. No.789 /2017. (S.B.)

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 7th December 2017.

Heard Shri S.B. Tiwari, Ld. counsel for the applicant and Shri M.I. Khan, the learned P.O. for the respondents.

The Ld. P.O. has filed reply affidavit of S.P., Gadchiroli, it is taken on record and a copy thereof is supplied to the Ld. counsel for the applicant. He submits that the reply of other respondents is not necessary.

The Ld. counsel for the applicant submits that the matter be admitted with liberty to file rejoinder, if necessary.

In view thereof, O.A. is admitted and kept for final hearing after **three weeks.**

Shri M.I. Khan, the learned P.O. waive notice for all the respondents

Vice-Chairman(J)

O.A. No. 734/2017. (S.B.)

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 7th December 2017.

Heard Mrs. K.N. Saboo, Ld. counsel for the applicant and Shri A.M. Ghogre, the learned P.O. for the respondents 1 and 2. Shri A.P. Tathod, Ld. Adv. for R.3.

S.O. 15.12.2017.

Vice-Chairman(J)

Pdg

O.A. No. 642/2017. (S.B.)

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 7th December 2017.

None for the applicant. Shri M.I. Khan, the learned P.O. for the respondents.

S.O. four weeks.

Vice-Chairman(J)

Pdg

O.A. No. 625/2017. (S.B.)

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 7th December 2017.

Heard Shri S.P. Palshikar, Ld. counsel for the applicant and Shri M.I.Khan, the learned P.O. for the respondents.

The Ld. P.O. has filed reply of R.1. It is taken on record and a copy thereof is supplied to the Ld. counsel for the applicant.

S.O. three weeks for filing rejoinder by the Ld. counsel for the applicant.

Vice-Chairman(J)

Pdg

O.A. No. 619/2017. (S.B.)

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 7th December 2017.

Heard Shri S.M. Pande, Ld. counsel for the applicant and Shri S.A. Sainis, the learned P.O. for the respondents.

The Ld. P.O. has filed reply of R.2. It is taken on record and a copy thereof is supplied to the Ld. counsel for the applicant.

It is stated that the reply of other respondents is not necessary.

In view thereof, **S.O. three weeks** for filing rejoinder. by the Ld. counsel for the applicant.

Vice-Chairman(J)

O.A. No. 948/2017. (D.B.)

(Dr. Vikas Yeotikar V/s MPSC & one another)

Coram: Shri J.D. Kulkarni,

Vice-Chairman (J).

Dated : 7th December 2017.

Oral order.

Heard Shri A.M. Sudame, Ld. counsel for the applicant and Shri S.A. Deo, the learned C.P.O. for the respondent No.2.

2. In response to the advertisement dated 20.4.2017, the applicant applied for the post of Research Officer, Group-B. He applied from Open category, though he belongs to VJ (A) category. There are 17 posts reserved for Open category, out of which, 10 are for General category, 5 for Female and 2 for sportsperson. The applicant in his application form clearly stated that he was applying from Open category. He is also claiming benefit of participation in Recognized Senior National Championship and National School Competition as sportsperson.

3. The list of all the candidates eligible for interview was published as per Annexure A-15 on 18.11.2017 in which applicant's name figures at Sr. No.42 and he was called for interview on 5.12.2017.

However, the applicant was not interviewed and on the contrary, a letter was issued to him on 5.12.2017 (A-1), from which it seems that the applicant was not allowed to appear for the interview, since he belongs to Rajput Bhamta caste which comes under VJ(A) and it is stated that as per the G.R. dated 13.8.2014, candidate from reserved category cannot be allowed to claim horizontal reservation. Relevant communications is as under:-

शुषयांकृत पदाकरता आपणास मुलाखतीस बोलण्यात आले होते. आपया online अजातील दायानुसार आवश्यक असणारं सव मुल माणपे मुलाखतीया ढवशी सादर करयाबाबत मुलाखत पात आपणास कळण्यात आले होते. तथापे खाल नमूद केलेल मूळ माणपे आयोगास सादर केलेल नाहत्त.

(१) आपल मुल जात व.जा. (अ) राजपूत भामटा असयाने.

यातव जाह्रातीतील / सेवावेश ढयमातील तरतुदनुसार आपण तुत पदाकरता / मुलाखतीकरता अपा ठरत असयाने आपल मुलाखत नाकारयात आल आहे, याची कृमया नद यावी.”

4. It is material to note that in the online application form, the applicant has clearly stated that he had participated in the process as open candidate and, therefore, there was no question of his submitting caste certificate or caste validity certificate before the competent authority.

5. The Ld. counsel for the applicant submits that the interviews are being held in between 5th December 2017 till 11th December 2017 and, therefore, the applicant may be allowed to appear in the interview. No prejudice will be caused to the respondents if the applicant is allowed to appear in the oral interview. Result of the applicant can be declared subject to outcome of this O.A.

6. In view thereof, respondent No.1 is directed to allow the applicant to appear for interview scheduled to be held on 11.12.2017.

7. In the meantime, issue notice to respondent No. 1 (MPSC) returnable after **four weeks**.

8. Shri S.A. Deo, the learned C.P.O. waives notice for the respondent No.2 (State). Hamdast granted.

9. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need 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.

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

(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 or courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within three weeks. Applicant is directed to file Affidavit of compliance and notice.

13. Result of the applicant, for the time being, may not be declared and it will be subject to outcome of this O.A.

Vice-Chairman(J)

pdg

Order on Review Application No. 21/2017 in

O.A. No. 376/2016

(Sharad Dinkar Pachkhede V/s State and 4 Ors.)

(Adv. Shri N.N. Thengre, Adv. for the applicant and Shri S.A. Sainis, P.O for R. 1 to 4. None for R.5)

(Passed on this 7th day of Dec. 2017.)

Heard Shri N.N. Thengre, the learned Adv. for the applicant and Shri S.A. Sainis, the learned P.O for R. 1 to 4. None for R.5).

2. By this review application, the applicant has requested that the judgment and order passed by this Tribunal in O.A. No. 376/2016, Sharad Dinkar Pachkhede V/s State and 4 Ors. On 9.10.2017 be reviewed.

3. In O.A. No. 376/2017, the applicant has challenged the order of his transfer dated 31.5.2017 whereby the applicant was transferred from the post of

Junior Clerk in the office of Sr. Geologist, G.S.D.A., Chandrapur to the same post in the office of Sr. Geologist, G.S.D.A. Gadchiroli in place of one Mr. N.B. Chikhram, who was respondent No.5 in the case. On going through the merits of the case, the Tribunal was pleased to dismiss the O.A.

4. The learned P.O. submits that there is no need to file reply to the application for review, since the review application has been drafted vaguely and nothing can be worked out from the said application as to on what exact ground the applicant wants the review the order passed by this Tribunal.

5. I have perused the application for review. It is necessary to mention that the said application is totally vague and nothing can be gained from that application as to on what exact ground

the applicant wants the review the order. After reading the application for number of times, what I could gather is that, the applicant probably tried to make out a case that his request for transfer was not recommended by the appropriate authority. But the competent authority did not consider the recommendation and passed the order on the same day, transferring the applicant.

6. Perusal of the order passed in O.A. No. 376/2017 clearly shows that this Tribunal has considered the fact that the applicant was overdue for transfer at Chandrapur. He was serving at Chandrapur since prior to regularisation of his service and even thereafter. His earlier request for transfer was rejected on the ground that, he has completed his tenure of one year and nine months only in the office after regularisation and the

said communication was not challenged. The applicant was also given an opportunity to file representation, if he was otherwise eligible for retention at Chandrapur on any other ground and it was clearly observed that there was no malafide or illegality in the impugned order of his transfer.

7. Provisions of section 22 (3) (f) of the Administrative Tribunals Act, 1985 indicate that the power of review available to the Tribunal is the same as has been mentioned U/s 114 r/w Order XLVII of the Code of Civil Procedure. Power can be exercised on the application of a person on the discovery of new and important matter, which after exercise of diligence was not within the knowledge or could not be produced by him at the time when the order was made. The power can be exercised on the ground of some mistake

apparent on the face of record. I do not find any such mistake on the face of record so as to review the order passed on merit in O.A. No. 376/2017. If the applicant is aggrieved by the order of this Tribunal to approach the Appropriate Authority or to file writ petition as may be deemed fit. Hence, the Review Application stands dismissed

Dt. 7.12.2017. (J.D.Kulkarni)
Vice-Chairman(J)

