

O.A. No. 197/2016.

(D.B.)

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J) and
Shree Bhagwan, Member(A)
Dated : 4th October 2018.

C.P. 11/2016.

None for the applicant. Heard Shri A.M. Khadatkar, the learned P.O. for the respondent Nos.1 to 4. None for R.5 & 6.

The Ld. P.O. submits that the Hon'ble High Court has granted stay to the impugned order passed by this Tribunal in O.A. Nos. 108, 176 and 197 of 2016. He has placed on record a copy of order which is marked "X" for identification, from which it seems that the order passed by this Tribunal has been stayed. In view thereof, there will be no question of challenging the said order and consequently there is no question of contempt. C.P. 11/2018 stands disposed of accordingly.

Member(A)

Vice-Chairman(J)

pdg.

O.A. No. 197/2016.

(D.B.)

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J) and
Shree Bhagwan, Member(A)
Dated : 4th October 2018.**

C.P. 12/2016.

None for the applicant. Heard Shri A.M. Khadatkar, the learned P.O. for the respondent Nos.1 to 4. None for R.5 & 6.

The Ld. P.O. submits that the Hon'ble High Court has granted stay to the impugned order passed by this Tribunal in O.A. Nos. 108, 176 and 197 of 2016. He has placed on record a copy of order which is marked "X" for identification, from which it seems that the order passed by this Tribunal has been stayed. In view thereof, there will be no question of challenging the said order and consequently there is no question of contempt. C.P. 11/2018 stands disposed of accordingly.

Member(A)

Vice-Chairman(J)

pdg.

O.A. No. 803/2016.

(D.B.)

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J) and
Shree Bhagwan, Member(A)
Dated : 4th October 2018.**

C.P. 42/2018.

Heard Shri D.M. Surjuse, Ld. counsel for the applicant and Shri V.A. Kulkarni, the learned P.O. for the respondent No.1.

2. Issue formal notice to remaining respondents returnable in four weeks.

3. Shri V.A. Kulkarni, the learned P.O. waives notice for the respondent No.1. Hamdast granted.

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

9. S.O. **four weeks.**

Member(A)

Vice-Chairman(J)

pdg.

O.A. No. 92/2009.

(D.B.)

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J) and
Shree Bhagwan, Member(A)
Dated : 4th October 2018.**

C.P. 47/2018.

Heard Shri S. Khandekar, Ld. counsel for the applicant and Shri P.N. Warjekar, the learned P.O. for the respondent No.1 & 2.

2. Issue formal notice to remaining respondents returnable in four weeks.
3. Shri V.A. Kulkarni, the learned P.O. waives notice for the respondent Nos.1 and 2. Hamdast granted.
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. In case notice is not collected within **seven days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

9. S.O. **four weeks.**

Member(A)

Vice-Chairman(J)

pdg.

O.A. No. 639/2018.

(D.B.)

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J) and
Shree Bhagwan, Member(A)
Dated : 4th October 2018.**

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

Ld. P.O. has filed on record office note. The Ld. counsel for the applicant wants to go through it.

S.O. **5.10.2018.**

Member(A)

Vice-Chairman(J)

pdg.

O.A. No. 581/2017.

(D.B.)

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J) and
Shree Bhagwan, Member(A)
Dated : 4th October 2018.**

Heard Shri N.R. Saboo, Ld. counsel
for the applicant and Shri V.A. Kulkarni, the
learned P.O. for the respondents 1 to 3.
None for R.4.

S.O. **23.10.2018.**

Member(A)

Vice-Chairman(J)

pdg.

O.A. No. 48/2017.

(D.B.)

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J) and
Shree Bhagwan, Member(A)
Dated : 4th October 2018.**

Heard Shri, S.R. Deshpande, Ld. counsel for the applicant and Shri H.K. Pande, the learned P.O. for the respondents.

Ld. P.O. files return on behalf of R.4 alongwith a copy of G.R. dated 27th June 2008. Same is taken on record and a copy thereof is served to the Ld. counsel for the applicant. He wants to go through it.

S.O. **last week of October 2018.**

Member(A)

Vice-Chairman(J)

pdg.

O.A. No. 769/2018.

(D.B.)

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J) and
Shree Bhagwan, Member(A)
Dated : 4th October 2018.**

Heard Miss R. Pande, Ld. counsel for the applicant and Shri A.M. Ghogre, the learned P.O. for the respondent No.1.

2. The applicant has challenged the order of reversion dated 10.4.2018. Since the reversion order is already served on the applicant, there is no question of granting any interim relief at this juncture. Whether the matter is legal or not will have to be considered on merit for which reply of respondents will be necessary.

3. Issue notices to R. 2 to 4 returnable in four weeks.

4. Shri A.M. Ghogre, the learned P.O. waives notice for the respondent No.1. Hamdast granted.

4-A. 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. In case notice is not collected within **seven days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

9. S.O. **four weeks.**

Member(A)

Vice-Chairman(J)

pdg.

O.A. No. 290/2013, 304,305 & 306 of 2014.
(D.B.)

Coram:Shri J.D. Kulkarni,
Vice-Chairman (J) and
Shree Bhagwan, Member(A)
Dated : 4th October 2018.

C.P. Nos. 30,31,32 & 33 of 2018.

Heard Shri N.R. Saboo, Ld. counsel
for the applicants and Shri S.A Sainis,the
learned P.O. for the respondents.

S.O. 5.10.2018.

Member(A)

Vice-Chairman(J)

pdg.

O.A. No. 780/ 2018.

(D.B.)

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J) and
Shree Bhagwan, Member(A)**

Dated : 4th October 2018.

Heard Shri R.N. Chavan, the Ld. counsel for the applicant and Shri A.M. Khadatkar, the learned P.O. for the respondent No.1.

2. The applicant has applied for the post of Police Sub-Inspector under NT(B) (Sports) category. One post was reserved for NT category. It is stated that the applicant has cleared preliminary examination and at the time of preliminary examination also, it was made obligatory for the candidates to get verified the sports certificate from the competent authority before the particular date. The applicant has cleared the preliminary examination and was eligible for main examination. The applicant has also cleared main examination. He has to appear for

physical test and oral interview, which is scheduled to be held on 8.10.2018 and onwards. However, as per declaration dated 21.9.2018, candidates have been directed to produce duly verified sports certificates which must be prior to 16th May 2017. The applicant has produced the sports certificate, which bears no date and shows that he has participated in the sports events in 2009-2010 i.e. in between 25th to 30th September 2009. He has also applied for verification of certificates prior to 10.4.2017. But the certificate was issued late i.e. on 29th May 2017 and, therefore, the applicant apprehends that he may not be allowed to participate in the physical and oral test. The Ld. counsel for the applicant submits that the notification dated 21.9.2018 has been issued all of a sudden after recruitment process was initiated. In the notification dated 2.8.2018, it has been mentioned in note No.2 as under:-

“प्रस्तुत निकालाआधारे मुख्य परीक्षेच्या प्रवेशासाठी पात्र ठरलेल्या व अर्जात प्राविण्यप्राप्त (गुणवत्ताधारक) खेळाडूचा दावा केलेल्या उमेदवारांनी शालेय शिक्षण व क्रीडा विभागाच्या दि. १.७.२०१६ रोजीच्या शासन निर्णयानुसार व त्यास अनुसरून प्रसिद्ध करण्यात आलेले दि. १८.८.२०१६ रोजीचे शुद्धीपत्रक आणि तदनंतर शासनाने या संदर्भात वेळोवेळी निर्गमित केलेल्या आदेशानुसार विषयांकित गट-ब पदांसाठी निश्चित केलेली क्रीडा विषयक अर्हता धारण करित असल्याबाबत, पूर्व परीक्षेचा अर्ज सादर करण्याचा अंतिम दिनांकाचे म्हणजेच दि. १६ मे २०१७ रोजीचे किंवा तत्पूर्वीचे क्रीडा प्रमाणपत्र व मुख्य परीक्षेचा अर्ज सादर करण्याच्या अंतिम दिनांकाचा म्हणजेच दि. १७ ऑक्टोबर २०१७ किंवा तत्पूर्वीच क्रीडा उपसंचालकांचा, क्रीडा प्रमाणपत्र पडताळणीबाबतचा अहवाल सादर करणे अनिवार्य राहिल.”

From which, it seems that, the sports certificate should be prior to 18.8.2016 and it should have been verified from the competent authority before 17.10.2017. As per this condition, the applicant has obtained the said certificate. But the notification dated 21.9.2018 show that the certificate shall be verified prior to 16th May 2017. The Ld. counsel for the applicant submits that the

respondents have changed the date after the process was initiated. Considering these facts, it will be in the interest of justice to protect the applicant for the time being and, therefore, the respondents are directed not to disqualify the applicant only on the ground that he does not possess and verified the sports certificate on or before 16.5.2017. If he cleared the physical and oral tests on merits, his result may be kept in a sealed cover.

3. Issue formal notices to respondents 2 to 4 returnable in four weeks.

3-A. Shri A.M. Khadatkar, the learned P.O. waives notice for the respondent No.1. Hamdast granted.

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

9. S.O. **four weeks.**

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

Member(A)

Vice-Chairman(J)

Dt. 4.10.2018.

pdg.

O.A.No.612/2017 (D.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 04.10.2018.

Ms. Shibha Thakur holding for Shri P.S.Sahare, the Id. counsel for the applicant and Shri A.M.Ghogre, Id. P.O. for the respondent nos. 1 & 2. None for the respondent no. 3.

The Id. P.O. seeks two weeks time to file affidavit-in-reply. At his request, **S.O.**
two weeks for reply.

Member

(A)

aps.

O.A.Nos.667, 668, 669/2017 (D.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 04.10.2018.

C.A.Nos.423, 424 & 425/2017:-

Heard Shri S.Borkute, the Id. counsel for the applicant and Shri A.M.Ghogre, Id. P.O. for the respondents.

The Id. P.O. filed the affidavit-in-reply on behalf of the respondent nos. 1 & 2. It is taken on record. Copy is served to the other side.

In this O.As., the Id. counsel for the applicant has made the party to the respondent no. 3 i.e. Union of India, through the Cabinet Secretary, President House, New Delhi-110 004 and the respondent no. 4 i.e. Union of India, through the Ministry of Rural Development, Krishi Bhavan, Dr. Rajendra Prasad Road, New Delhi-110 001.

The above respondent nos. 3 & 4 are not in the Jurisdiction of this Tribunal. The Id.

P.O. submits that matter should be heard before the regular Division Bench, which is already decided that once the affidavit-in-reply as well as Rejoinder are filed, the matter is finally heard with the regular Division Bench.

In view of making party to respondent nos. 3 & 4, this O.A. is not maintainable in this Tribunal. The objection raised in the affidavit-in-reply on behalf of the respondent nos. 1 & 2 are also considered and on the same line.

Hence, with the consent of both the parties C.As. alongwith the O.As. are fit for disposed. However, it will be kept in regular D.B. on 23/10/2018.

S.O. 23/10/2018.

Member

(A)

aps.

O.A.No.687/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 04.10.2018.

Rev.No.19/2018:-

Heard Shri G.G.Bade, the Id. counsel for the applicant and Shri A.M.Ghogre, Id. P.O. for the respondents.

In order dated 11/09/2018, *it has been pointed out by the Id. C.P.O. and it was mentioned that the applicant was absent from 15/03/2018 to 21/08/2018 and for this he has submitted medical certificate and department has referred to the medical board.*

Actually, the applicant has submitted medical certificate of his father and not his own. In view of this, sending the applicant to medical board was not mandatory on the part of department. However, it is clarified that Civil Servants are governed by many sets of rule, out of which three are as follows:-

1. The Maharashtra Civil Services (Discipline & Appeal) Rules, 1979.
2. The Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005.
3. There performance by way of Annual Confidential Record/ Performance Appraisal Report.

The respondents should make difference between all these three categories of rules and their applicability with its objectives. All these categories of rules like 1, 2 & 3 have entirely different sets of objectives and employee should be treated by these rules keeping in mind of the objectives of rules.

However, in this case, it appears that respondents are mixing Discipline and Appeal Rule alongwith the Transfer Act, 2005. Mixing

these rules is highly unfair because both have different objectives as far as absent part is concerned or any other kind of Indiscipline. Discipline and Appeal (Rules), 1979 is concerned about the applicant for these issues. Respondents are at liberty to proceed with the Discipline and Appeal Rule, 1979 as per the needs. However, Transfer Act, 2005, is related to the Human Resource Management and requirement of the administration.

In view of this, it is observed that relieving of applicant is related to The Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005. So, transfer policy should be complied **within one week** from the date of this order as mentioned above and applicant be relieved **within one week** from this order. As far as disciplinary proceedings and conducts are concerned of the applicant, that issue may be considered under The Maharashtra Civil

Services (Discipline & Appeal) Rules, 1979 as per the requirements of the respondents.

Hence, review application is disposed of with no order as to costs.

Member (A)

aps.

O.A.No.807/2017 (D.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 04.10.2018.

Shri A.A.Dhavas, the Id. counsel for the applicant and Shri A.P.Potnis, Id. P.O. for the respondents.

The Id. P.O. seeks four weeks time to file affidavit-in-reply. At his request, **S.O.**
four weeks for reply, as a last chance.

If reply is not filed till next date, the matter will be heard on merit.

Member

(A)

aps.

O.A.No.232/2018 (D.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 04.10.2018.

Smt. Saboo holding for Shri A.P.Tathod,
the Id. counsel for the applicant and Shri
M.I.Khan, Id. P.O. for the respondent nos. 1 to
3. Await service of respondent no. 4.

As per the request of Id. counsel for the
applicant, **S.O. two weeks for service
affidavit.**

Member

(A)

aps.

O.A.No.257/2018 (D.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 04.10.2018.

Smt. Saboo, the Id. counsel for the applicant and Shri A.M.Ghogre, Id. P.O. for the respondents.

The Id. P.O. seeks two weeks time to file affidavit-in-reply. At his request, **S.O. two weeks for reply.**

Member

(A)

aps.

O.A.No.391/2018 (D.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 04.10.2018.

C.A.No.266/2018:-

Shri C.N.Funde, the Id. counsel for the applicant and Shri P.N.Warjurkar, Id. P.O. for the respondents.

The Id. counsel for the applicant has pressed G.R. No. '111 u fu.11 dekd&l dkfu&1518@iz dz168@l dk&2] dated 29/08/2018 of Public Health Department. It seems that, the applicant grievances have been covered by this G.R.. However, the Id. counsel for the applicant desires specific order from the Government.

In view of this, the Id. P.O. is requested to take necessary instructions and submit on record about grievances of the applicant. **S.O. two weeks.**

Hence, C.A. No. 266/2018 is allowed.

Member

(A)

aps.

O.A.No.407/2018 (D.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 04.10.2018.

Shri S.N.Gaikwad, the Id. counsel for the applicant and Shri V.A.Kulkarni, Id. P.O. for the respondents.

The Id. P.O. requires two weeks time to file affidavit-in-reply. However, the Id. counsel for the applicant submits that this should be the last chance. In view of this, this should be treated as a last chance for filing reply. **S. O. two weeks.**

Put up along with the O.A. No. 453/2018.

Member

(A)

aps.

O.A.No.453/2018 (D.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 04.10.2018.

Shri S.N.Gaikwad, the Id. counsel for the applicant and Shri V.A.Kulkarni, Id. P.O. for the respondent nos. 1 to 3. None for the respondent no. 4.

The Id. P.O. requires two weeks time to file affidavit-in-reply. However, the Id. counsel for the applicant submits that this should be the last chance. In view of this, this should be treated as a last chance for filing reply. **S. O. two weeks.**

Put up along with the O.A. No. 407/2018.

Member

(A)

aps.

O.A.No.530/2018 (D.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 04.10.2018.

Shri S.M.Khan, the Id. counsel for the applicant and Shri A.M.Ghogre, Id. P.O. for the respondents.

The Id. P.O. requires four weeks time to file affidavit-in-reply. At his request, **S.O. four weeks.**

Member

(A)

aps.

O.A.Nos.547 & 550/2018 (D.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 04.10.2018.

Shri S.G.Jagtap, the Id. counsel for the applicant and Shri P.N.Warjurkar, Id. P.O. for the respondents.

The Id. P.O. requires four weeks time to file affidavit-in-reply. At his request, **S.O. four weeks.**

Member

(A)

aps.

O.A.No.547 & 550/2018 (D.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 04.10.2018.

Shri S.G.Jagtap, the Id. counsel for the applicant and Shri P.N.Warjurkar, Id. P.O. for the respondents.

The Id. P.O. requires four weeks time to file affidavit-in-reply. At his request, **S.O. four weeks.**

Member

(A)

aps.

O.A.No.640/2018 (D.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 04.10.2018.

C.A.No.284/2018:-

Shri S.G.Jagtap holding for Shri A.Z.Jibhkate, the Id. counsel for the applicant and Shri M.I.Khan, Id. P.O. for the respondents.

C.A. No. 284/2018 is allowed.

The Id. P.O. requires three weeks time to file affidavit-in-reply. At his request, **S.O.**
three weeks for reply.

Member

(A)

aps.

O.A.No.677/2018 (D.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 04.10.2018.

None for the applicant. Shri A.M.Ghogre, Id. P.O. for the State. Await service of respondent nos. 2 & 3.

There is an await service of respondent nos. 2 & 3. The matter will be listed after filing service affidavit, **S.O. four weeks.**

Member

(A)

aps.

O.A.No.696/2018 (D.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 04.10.2018.

Shri S.P.Palshikar, the Id. counsel for the applicant and Shri S.A.Sainis, Id. P.O. for the State. Await service of respondent nos. 2 & 3.

The Id. counsel for the applicant submits that service affidavit is filed on Monday i.e. 01/10/2018, but office has not taken care of the same.

The Id. P.O. seeks three weeks time to file affidavit-in-reply. **S.O. three weeks.**

Member

(A)

aps.

