

**O.A. No. 358/2009.**

**Coram: Shri Rajiv Agarwal,**  
**Vice-Chairman (A) and**  
**Shri J.D. Kulkarni,**  
**Vice-Chairman (J).**  
**Dated : 6<sup>th</sup> July 2017.**

Heard Shri S.P. Palshikar, the Ld. Counsel for the applicant and Smt. M.A. Barabde, the learned P.O. for the respondents 1 to 3. None for R. 4 and 5.

At the request of the Ld. Counsel for the applicant, S.O. two weeks.

Vice-Chairman(J)

Vice-Chairman (A)

Pdg

**O.A. No. 330/2015.**

**Coram: Shri Rajiv Agarwal,  
Vice-Chairman (A) and  
Shri J.D. Kulkarni,  
Vice-Chairman (J).**

**Dated : 6<sup>th</sup> July 2017.**

**C.A.283/2017 in C.P.(St.) 881/2017.**

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

It seems that the order passed by respondent No.3 on 30<sup>th</sup> March 2017 is not in accordance with the orders passed by this Tribunal on 4.8.2016 and 10.1.2017. He has either to withdraw this order contrary to the findings of this Tribunal or remain present in this Tribunal tomorrow i.e. on 7<sup>th</sup> July 2017 at 11.00 a.m. to explain as to why circumstances in which the order afore-stated has been passed by him. The Ld. P.O. undertakes to communicate the order of this Tribunal to respondent No.3.

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

**S.O. 7<sup>th</sup> July 2017 at 11.00 a.m.**

Vice-Chairman(J)

Vice-Chairman (A)

Pdg

**O.A. No. 849/2014.**

**Coram: Shri Rajiv Agarwal,  
Vice-Chairman (A) and  
Shri J.D. Kulkarni,  
Vice-Chairman (J).**

**Dated : 6<sup>th</sup> July 2017.**

**C.P.02/2017.**

Heard Shri P.C. Marpakwar, the Ld. Counsel for the applicant and Shri H.K. Pande, the learned P.O. for the respondents.

2. The Ld. P.O. has placed on record a copy of letter dated 5.7.2017 from respondent No.1 seeking time to take further action in the matter of implementation of the order of this Tribunal. It is not clear whether it has been decided to implement the order of this Tribunal or the respondent No.1 is bound to challenge it before the higher forum. In any case, that is not relevant, we are not inclined to grant any further time.

3. Notice may be issued to Dr. Vijay Satbir Singh, Secretary, Department of Public Health, Govt. of Maharashtra, Mantralaya, Mumbai, asking him to show cause why action should not be initiated against him for his failure to implement the order passed by this Tribunal dated 9.2.2016 in O.A. No. 849/2014. He should comply with the order before the next date or

remain personally present before this Tribunal to explain the circumstances in which the order could not be implemented.

The Ld. P.O. undertakes to convey this order to the respondent No.1.

S.O. **three weeks.**

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

Vice-Chairman (J)

Vice-Chairman (A)

Pdg

**O.A. No. 499/2014.**

**Coram: Shri Rajiv Agarwal,  
Vice-Chairman (A) and  
Shri J.D. Kulkarni,  
Vice-Chairman (J).**

**Dated : 6<sup>th</sup> July 2017.**

**C.P. 05/2017.**

Heard Shri M.V. Mohokar, the Ld. Counsel for the applicant and Shri M.I. Khan, the learned P.O. for the respondents.

2. The Ld. P.O. has placed on record a copy of letter dated 30<sup>th</sup> June 2017 from respondent No.1 seeking time to take further action in the matter of implementation of the order of this Tribunal. It is not clear whether it has been decided to implement the order of this Tribunal or the respondent No.1 wants to challenge it before the higher forum. In any case, that is not relevant, as we are not inclined to grant any further time.

3. Notice may be issued to Mr. Vijay Satbir Singh, Secretary, Department of Public Health, Govt. of Maharashtra, Mantralaya, Mumbai, asking him to show cause why action should not be initiated against him for his failure to implement the order passed by this Tribunal dated 3.3.2015 in O.A. No. 499/2014. He should comply with the order before the next date or

remain personally present before this Tribunal to explain the circumstances in which the order could not be implemented.

The Ld. P.O. undertakes to convey this order to the respondent No.1.

S.O. **three weeks.**

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

Vice-Chairman (J)

Vice-Chairman (A)

Pdg

**O.A. No. 294/2015.**

**(Nilesh M. Gite V/s State and 3 others)**

**Coram: Shri Rajiv Agarwal,**

**Vice-Chairman (A) and**

**Shri J.D. Kulkarni,**

**Vice-Chairman (J).**

**Dated : 6<sup>th</sup> July 2017.**

**Oral order**

Heard Shri S.K. Verma, the Ld. Counsel for the applicant and Smt. M.A. Barabde, the learned P.O. for the respondents.

2. Case of the applicant is that, he was selected for the post of Police Constable from Open Project Affected Person (PAP) category. He was considered a P.A.P. on the basis of a certificate dated 19.4.2004 (P.19 of the O.A.) issued by District Rehabilitation Officer, Ahmednagar on the behalf of Collector, Ahmednagar. After the applicant was found eligible for selection, the respondent No.2 made a query to respondent No.4 who has issued the aforesaid P.A.P. certificate about the validity of the same. By letter dated 31<sup>st</sup> December 2014, which is available at page No.42 of the O.A. and has been appended with the affidavit in reply dated 19.9.2015 by respondent No.4, discloses that respondent No.4 reported to respondent No.2 that the aforesaid certificate was bogus (अवैध). On that basis, services of the applicant were terminated by order dated 7.4.2015.

3. The applicant again approached respondent No.4, submitting full details showing that he was eligible to get a PAP certificate and the same authority issued another PAP certificate dated 20.4.2015 which is at page No.20 of the O.A. and at Annexure A-5. Respondent No.4 is a party to the proceedings and notice was given to him. He has also filed affidavit in reply in which he has not denied this fact. The only reason for holding the certificate dated 19.4.2004 as invalid is that, entry was not made in the register of PAPs in his office. We are not satisfied with this explanation given by respondent No.4. There appears to be no doubt that earlier certificate dated 19.4.2004 was genuine and if there is no entry in the relevant register taken by respondent No.4, the applicant in no way be held responsible for that. He was not at fault. Order dated 7.4.2015 passed by respondent No.4 is based on the premise that the PAP certificate

Produced by the applicant was invalid. However, it appears that the applicant has been able to obtain a fresh PAP certificate based on same documents and action against him was taken because of administrative inaptitude, and negligence on the part of respondent No.4 who declared earlier P.A.P. certificate as invalid.

4. Another important fact is that, no opportunity was given to the applicant to explain his side before the aforesaid order dated 7.4.2015 was passed which is in violation of principles of natural justice.

5. In the circumstances, order dated 7.4.2015 is quashed and set aside. Respondent No.2 is directed to take the applicant back in service within a period of **seven days** from the date of this order.



6. The applicant will be entitled to continuation of service and all pay, salary and wages as if he was never removed from service.

7. O.A. is accordingly allowed in these terms with no order as to costs.

8. Hamdast is allowed and a steno copy be provided to the Ld. P.O.

Vice-Chairman (J)

Vice-Chairman (A)

Pdg

**O.A. No. 389/2015.**

**(Mahesh S. Sasane /s State and 3 others)**

**Coram: Shri Rajiv Agarwal,**

**Vice-Chairman (A) and**

**Shri J.D. Kulkarni,**

**Vice-Chairman (J).**

**Dated : 6<sup>th</sup> July 2017.**

**Oral order**

Heard Shri S.K. Verma, the Ld. Counsel for the applicant and Smt. M.A. Barabde, the learned P.O. for the respondents.

2. Case of the applicant is that, he was selected for the post of Police Constable from O.B.C. Project Affected Person (PAP) category. He was considered as P.A.P. on the basis of a certificate dated 26.2.2004 (P.19 of the O.A.) issued by the District Rehabilitation Officer, Ahmednagar on the behalf of Collector, Ahmednagar. After the applicant was found eligible for selection, the respondent No.2 made a query to respondent No.4 who has issued the aforesaid P.A.P. certificate about the validity of the same. By letter dated 31<sup>st</sup> December 2014, which is available at page No.36 of the O.A. and has been appended with the affidavit in reply dated 19.3.2016 by respondent No.4, discloses that respondent No.4 reported to respondent No.4 that the aforesaid certificate was bogus (अवैध). On that basis, services of the applicant were terminated by order dated 7.4.2015.

3. The applicant again approached respondent No.4, submitting full details showing that he was eligible to get a PAP certificate and the same authority issued another PAP certificate dated 26.6.2015 which is at page No.20 of the O.A. Respondent No.4 is a party to the proceedings and notice was given to him. He has also filed affidavit in reply in which he has not denied this fact. The only reason for holding the certificate dated 26.2.2004 as invalid is that, entry was not made in the register of PAPs in his office. We are not satisfied with this

explanation given by respondent No.4. There appears to be no doubt that earlier certificate dated 26.2.2004 was genuine and if there is no entry in the relevant register taken by respondent No.4, the applicant in no way be held responsible for that. He was not at fault. Order dated 7.4.2015 passed by respondent No.4 is based on the premise that the PAP certificate

Produced by the applicant was invalid. However, it appears that the applicant has been able to obtain a fresh PAP certificate based on same documents and action against him was taken because of administrative inaptitude, and negligence on the part of respondent No.4 who declared earlier P.A.P. certificate as invalid.

4. Another important fact is that, no opportunity was given to the applicant to explain his side before the aforesaid order dated 7.4.2015 was passed which is in violation of principles of natural justice.

5. In the circumstances, order dated 7.4.2015 is quashed and set aside. Respondent No.2 is directed to take the applicant back in service within a period of **seven days** from the date of this order.

6. The applicant will be entitled to continuation of service and all pay, salary and wages as if he was never removed from service.

7. O.A. is accordingly allowed in these terms with no order as to costs.

8. Hamdast is allowed and a steno copy be provided to the Ld. P.O.

Vice-Chairman (J)

Vice-Chairman (A)

Pdg

**O.A. No. 319/2017.**

**Coram: Shri Rajiv Agarwal,  
Vice-Chairman (A) and  
Shri J.D. Kulkarni,  
Vice-Chairman (J).**

**Dated : 6<sup>th</sup> July 2017.**

**C.A.309/2017 in C.P.(St.) 1039/2017.**

Heard Shri S.B. Tiwari, the Ld. Counsel for the applicant and Shri A.M. Khadatkar, the learned P.O. for the respondents.

2. This Tribunal in O.A. No. 319/2017 passed an order dated 13.6.2017 and directed the respondents not to force the applicant to join at

Alapalli. Today the Ld. P.O. has placed on record the communication from the Chief Conservator of Forests (Territorial), Gadchiroli dated 5.7.2017 to the effect that the applicant was relieved from Sub-Division, Yerkad (Gadchiroli Division) on 17<sup>th</sup> June 2017 which clearly shows that on the date of the order of this Tribunal i.e. 13<sup>th</sup> June 2017, he was not relieved from the post. By this deliberate action, the respondents have probably not violated the order of this Tribunal dated 13.6.2017 in letter, but spirit of the order is definitely violated. The respondents are claiming that the applicant is not being forced to join at Alapalli. As a result, the applicant will be without posting till his O.A. challenging his transfer to Alapalli is decided by this Tribunal.

3. Notice may, therefore, be issued to respondent No.1 as to why he should not be held responsible personally for all the wages and salary which may be required to be paid to the applicant till the O.A. is decided as till then the applicant will remain without posting. The learned P.O. undertakes to communicate this order to respondent No.1.

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

S.O. **after four weeks.**

Vice-Chairman (J)

Vice-Chairman (A)

Pdg

**O.A. No.112 /2015.**

**Coram: Shri Rajiv Agarwal,  
Vice-Chairman (A) and  
Shri J.D. Kulkarni,  
Vice-Chairman (J).**

**Dated : 6<sup>th</sup> July 2017.**

**C.A.281/2016 in C.P.(St.) 1092/2016.**

Heard Shri N.D. Thombre, the Ld. Counsel for the applicant and Shri S.A. Sainis, the learned P.O. for the respondents.

The Ld. P.O. places on record a G.R. dated 5<sup>th</sup> July 2017, regularizing the period of absence of the applicant from 29.1.1990 to 24.4.1996 and also treating his services from 25.1.1996 to 30.6.2013 as qualifying service for pensionery dues. The same is taken on record. Ld. P.O. makes a statement that all the pensionery dues of the applicant will be paid to him within a period of three months.

**S.O. three months.**

Vice-Chairman(J)

Vice-Chairman (A)

Pdg

**O.A. No.617 /2014.**

**Coram: Shri Rajiv Agarwal,  
Vice-Chairman (A) and  
Shri J.D. Kulkarni,  
Vice-Chairman (J).**

**Dated : 6<sup>th</sup> July 2017.**

**C.A.285/2016 in C.P.(St.) 1136/2016.**

Heard Shri S.D. Zoting, the Ld. Counsel for the applicant and Shri S.A. Sainis, the learned P.O. for the respondent Nos.1 & 3. None for R.2.

2. It appears that the Govt. in Rural Development Department as issued an order dated 2.8.2016, authorizing the Zilla Parishad, Gondia to take action to pay pension and all incidental benefits to Shri Sahare, the applicant treating him as having retired from Maharashtra Development Services (MDS) Group-B on 30<sup>th</sup> June 2014. The learned counsel for the applicant states that, though the order of the Government was passed on 2.8.2016, i.e. almost more than one year after the order was passed by this Tribunal on 25<sup>th</sup> June 2015. Still no action has been taken by the Zilla Parishad, Gondia to comply with the order of this Tribunal and consequent order of the State Government.

3. The Ld. Counsel for the applicant is asked to give the name of the current incumbent of the post of C.E.O., Z.P., Gondia. Shri Zoting,

the Ld. Counsel for the applicant gives the name of C.E.O., Z.P., Gondia as follows:-

“Shri R.S. Thakre, C.E.O., Z.P., Gondia.”

4. Notice may be issued to the said Shri R.S. Thakre, C.E.O., Z.P., Gondia calling upon him to show cause as to why action under Contempt of Court Act should not be initiated against him, for failure to comply with the order of this Tribunal and consequent order of the Govt. dated 2.8.2016. He should personally remain present before this Tribunal on the next Thursday i.e. on **13.7.2017**.

S.O. **13<sup>th</sup> July 2017**.

Vice-Chairman(J)

Vice-Chairman (A)

Pdg



**O.A. No. 618/2014.**

**Coram: Shri Rajiv Agarwal,**  
**Vice-Chairman (A) and**  
**Shri J.D. Kulkarni,**  
**Vice-Chairman (J).**

**Dated : 6<sup>th</sup> July 2017.**

**C.A.323/2016 in C.P.(St.)1261/2016.**

Heard Shri S.D. Zoting, the Ld. Counsel for the applicant and Shri S.A. Sainis, the learned P.O. for the respondents 1 to 3. Shri Kaslikar, Adv. holding for Shri Parag Kadu, Ld. counsel for R. 4 .

The Ld. Counsel for respondent No.4 seeks time to comply with the order of this Tribunal and consequent order of the Govt. dated 2.8.2016. The Ld. Counsel for respondent No.4 states that he will seek instructions and make a statement on the next date regarding time frame in which this will be done.

The respondent No. 4 is directed to comply fully with the directions of the State Government given in the order dated 2.8.2016 consequent upon the order of this Tribunal by the next date, failing which he should remain personally present before this Tribunal and state the reason why the order could not be complied with.

The Ld. P.O. undertakes to communicate the decision of this order to respondent No.4 Dr. Kiran Kulkarni, C.E.O., Z.P., Amravati.

S.O. **13<sup>th</sup> July 2017.**

Vice-Chairman(J)

Vice-Chairman (A)

Pdg

**O.A. No.452/2005.**

**Coram: Shri Rajiv Agarwal,**  
**Vice-Chairman (A) and**  
**Shri J.D. Kulkarni,**  
**Vice-Chairman (J).**

**Dated : 6<sup>th</sup> July 2017.**

**M.C.A.09/2017.**

Heard Shri Y.P. Kaslikar, the Ld. Counsel for the applicant and Smt. S.V. Kolhe, the learned P.O. for the respondents.

The MCA is allowed subject to payment of cost of Rs. 5,000/- to be deposited with the Registry of this Tribunal. After depositing the cost, matter will be heard.

**O.A. No.452/2005.**

Heard both sides.

Closed for orders.

Vice-Chairman(J)

Vice-Chairman (A)

Pdg

**O.A. No.485/2014.**

**Coram: Shri Rajiv Agarwal,**  
**Vice-Chairman (A) and**  
**Shri J.D. Kulkarni,**  
**Vice-Chairman (J).**  
**Dated : 6<sup>th</sup> July 2017.**

Heard Mrs. P.D. Sood, the applicant in person  
and Shri P.N. Warjekar, the learned P.O. for the  
respondents.

Closed for orders.

Vice-Chairman(J)

Vice-Chairman (A)

Pdg

**O.A. No.662/2012.**

**Coram: Shri Rajiv Agarwal,  
Vice-Chairman (A) and  
Shri J.D. Kulkarni,  
Vice-Chairman (J).**

**Dated : 6<sup>th</sup> July 2017.**

**C.A.112/2017 in C.P.(St.)506/2017.**

Heard Shri N.R. Saboo, the learned counsel for the applicants and Shri P.N. Warjekar, the learned P.O. for the respondents.

The Ld. P.O. files the affidavit in reply on behalf of R.2 and copy thereof is supplied to the other side.

The learned counsel for the applicants sought leave of this Tribunal to delete the name of the Chairman, MPSC from the list and instead sought permission to implead the Secretary of MPSC as party respondent. Permission is granted. The learned counsel for the applicants stated that he will make out corrigendum forthwith and serve the Secretary, MPSC within one month.

**S.O. one month.**

Vice-Chairman(J)

Vice-Chairman (A)

Pdg

**O.A. No. 556/95.**

**Coram: Shri Rajiv Agarwal,  
Vice-Chairman (A) and  
Shri J.D. Kulkarni,  
Vice-Chairman (J).**

**Dated : 6<sup>th</sup> July 2017.**

**C.A.40/2017.**

Heard Shri B.B. Raipure, the Ld. Counsel for the applicant and Shri A.M. Ghogre, the learned P.O. for the respondents 1 to 3. Shri R.M. Ahirrao, Adv. for R. 4 .

This Tribunal has given a detailed order regarding serving persons who are likely to be affected by the proceedings in the present O.A. The order was issued on 4.1.2017. It is seen that the notices have not been published in the Newspaper as directed by this Tribunal by the aforesaid order. Similarly, it is not clear whether the persons likely to be affected by the outcome of this O.A. were informed by publishing notices on the website of this Tribunal.

The matter, therefore, be placed before the appropriate Bench after order dated 4.1.2017 is complied with.

Vice-Chairman(J)

Vice-Chairman (A)

Pdg

**O.A. No. 560/2016.**

**Coram: Shri Rajiv Agarwal,  
Vice-Chairman (A) and  
Shri J.D. Kulkarni,  
Vice-Chairman (J).**

**Dated : 6<sup>th</sup> July 2017.**

**Shri N.R. Saboo, Id. counsel for the  
applicant and Smt. S.V. Kolhe, Id. P.O. for R-  
1&2. None for R-3.**

**Heard both sides.**

**At the request of both sides, S.O.  
7/7/2017. (P.H.).**

**Vice-Chairman(J) Vice-Chairman (A)**

dnk.

**O.A. No. 379/2015.**

**Coram: Shri Rajiv Agarwal,  
Vice-Chairman (A) and  
Shri J.D. Kulkarni,  
Vice-Chairman (J).**

**Dated : 6<sup>th</sup> July 2017.**

**Heard Shri V.U. Waghmare, Id. counsel for  
the applicant and Smt. S.V. Kolhe, Id. P.O. for  
the respondents.**

**Closed for orders.**

**Vice-Chairman(J) Vice-Chairman (A)**

**dnk.**



**O.A. No. 678/2016.**

**Coram: Shri Rajiv Agarwal,  
Vice-Chairman (A) and  
Shri J.D. Kulkarni,  
Vice-Chairman (J).  
Dated : 6<sup>th</sup> July 2017.**

**Shri G.G. Bade, Id. counsel for the  
applicant and Shri A.M. Khadatkar, Id. P.O. for  
the respondent nos.1 to 4. None for R-5 to 10.**

**S.O. 7/7/2017.**

**Vice-Chairman(J) Vice-Chairman (A)**

dnk.

O.A. No. 521/2016.

Coram: Shri Rajiv Agarwal,  
Vice-Chairman (A) and  
Shri J.D. Kulkarni,  
Vice-Chairman (J).

Dated : 6<sup>th</sup> July 2017.

Heard Shri S.K. Verma, Id. counsel for the  
applicant and Shri P.N. Warjurkar, Id. P.O. for  
the respondents.

Closed for orders.

Vice-Chairman(J) Vice-Chairman (A)

dnk.

O.A. No. 491/2015

**Coram: Shri Rajiv Agarwal,**  
**Vice-Chairman (A) and**  
**Shri J.D. Kulkarni,**  
**Vice-Chairman (J).**  
**Dated : 6<sup>th</sup> July 2017.**

Heard Shri Bharat Kulkarni, learned Advocate for the applicant, Shri P.N. Warjurkar, learned P.O. for respondent nos.1&2 and Shri S.C. Deshmukh, learned Advocate for respondent no.3.

2. The applicant is working as a Junior Auditor. He joined service on 9/4/2010. As per Rule 5 (1) of the Maharashtra Accounts and Local Fund Accounts (Group-C) (Departmental Services Examination) Rules,2012, a Junior Auditor has to pass in three continuous chances part-I & part-II of the Departmental Examination. In case, he failed to do so, under Rule 6 (2), he is liable to lose seniority to those who passed

that examination as per the aforesaid rule 5 (1). The applicant claims that he passed the part-I and part-II of the Departmental Examination in examination held on 7/6/2013

which was the third examination after this appointment to the post of Junior Auditor. Though he was not considered for promotion to the post of Senior Auditor as the Departmental Promotion Committee meeting was held on 16/11/2013 and the result of the examination was declared on 25/2/2014, the fact remains that he has not lost seniority to the respondent no.3. This respondent no.3 claims that she belongs to V.J. (A) category though she joined service from N.T. (B) category. She is undoubtedly junior to the applicant in the seniority list. Even if, the respondent no.3 had passed the departmental examination as per the rules, as the

applicant has also passed the same within the stipulated chances, his seniority vis-à-vis the respondent no.3 will remain undisturbed. As a result in the post which was as per the roster point was for V.J. (A) category, the applicant should be promoted now, if necessary by reverting the respondent no.3.

3. We are not commending on merits of the case at this stage. The respondent nos. 1 and 2 are directed to give their considered response quoting the relevant rules and provisions of Law, on the above issues raised by the applicant.

**S.O. four weeks.**

**Vice-Chairman(J) Vice-Chairman (A)**

dnk.

**O.A. No. 695/2016**

**Coram: Shri Rajiv Agarwal,  
Vice-Chairman (A) and  
Shri J.D. Kulkarni,  
Vice-Chairman (J).**

**Dated : 6<sup>th</sup> July 2017.**

Heard Shri M.R. Pillai, Id. Advocate for the applicant and Shri V.A. Kulkarni, Id. P.O. for the respondents.

2. The learned Advocate Shri M. R. Pillai has filed the counter affidavit on behalf of the applicant in which he has appended statement from one Shri Chandrashekhar Dhole, Police Inspector, Crime Branch, Nagpur dated 20/2/2016. We would like the respondents to file an affidavit clarifying the issues raised in the counter affidavit as well as the authenticity of the aforesaid documents. We would like to peruse the original file of the respondent no.2 in which the decision to dismiss the applicant under Article 11 (2) (b) of the Constitution of India was taken.

**S.O. After one week.**

**Vice-Chairman(J)      Vice-Chairman (A)**

dnk.

**O.A. No. 556/2002**

**Coram: Shri Rajiv Agarwal,  
Vice-Chairman (A) and  
Shri J.D. Kulkarni,  
Vice-Chairman (J).  
Dated : 6<sup>th</sup> July 2017.**

Heard Ms. Meenaxi Iyer, Id. Counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the respondents.

2. The order dated 6/6/2017 in Writ Petition no. 4128 of 2011 the Hon'ble High Court has remanded this O.A. for fresh decision by this Tribunal. However, during the pendency of the Writ Petition, the case papers of this original application has been destroyed and they will have to be re-constructed. Learned Advocate Ms. Meenaxi Iyer is requested to kindly make the copies of the papers available with the applicant to the

Registry of the Tribunal. If she agrees, the file may

be made available to our Registry, three copies may be made, two for this Bench and one for the office of the Presenting Officer. The learned P.O. may also call for copies of necessary documents which are available from the respondents. After the paper book is made available by learned Advocate Ms. Meenaxi Iyer, the Registry is directed to make the copies accordingly and return the papers of Ms. Iyer.

**S.O. four weeks.**

**Vice-Chairman(J) Vice-Chairman (A)**

dnk.



**O.A. No. 65 of 2016**

**Coram: Shri Rajiv Agarwal,  
Vice-Chairman (A) and  
Shri J.D. Kulkarni,  
Vice-Chairman (J).  
Dated : 6<sup>th</sup> July 2017.**

Heard Shri K.V. Deshmukh, Id. Advocate for the applicant and Shri M.I. Khan, Id. P.O. for the respondents.

2. In this O.A. by an order the applicant was allowed to participate in the selection process for the post of Multipurpose Health Worker conducted by respondent no.2. The applicant was allowed to participate in the selection process, however learned Advocate Shri Deshmukh is not aware whether the applicant was successful or not. The respondents may file a reply within a period for four weeks.

**S.O. four weeks.**

Put up along with O.A.No.98/2016.

**Vice-Chairman(J) Vice-Chairman (A)**

dnk.

**O.A. No. 98 of 2016**

**Coram: Shri Rajiv Agarwal,  
Vice-Chairman (A) and  
Shri J.D. Kulkarni,  
Vice-Chairman (J).  
Dated : 6<sup>th</sup> July 2017.**

Heard Shri S.R. Charpe, Id. Advocate  
for the applicant and Shri M.I. Khan, Id. P.O.  
for the respondents.

2. The learned P.O. should file an  
affidavit-reply within a period of four weeks.

**S.O. four weeks.**

Put up along with O.A.No.65/2016.

**Vice-Chairman(J) Vice-Chairman (A)**

dnk.

**O.A. No. 173 of 2006**

**Coram: Shri Rajiv Agarwal,  
Vice-Chairman (A) and  
Shri J.D. Kulkarni,  
Vice-Chairman (J).**

**Dated : 6<sup>th</sup> July 2017.**

Heard Shri R.V. Shiralkar, Id. Counsel for the applicant and Shri S.A. Sainis, Id. P.O. for the respondents.

2. This is a High Court remitted matter where the Hon'ble High Court has desired that the O.A. should be disposed of within a period of three months from 30/1/2017. The applicant was given liberty to amend the O.A. which he has done on 24/3/2017. However, there is an office objection that paras have not been correctly numbered. The learned Advocate Shri Shiralkar undertook to remove the office objection.

3. Copy of the amended O.A. was given to the respondents at the time when amendment was carried out. It appears that more than three months have lapsed, however, though it is a High Court remanded case, no urgency has been shown by the respondents to file a reply to the amended portion. Really speaks the Respondents need not have waited for the applicant to file his amendment application as whatever they wanted to say, was noted by the Hon'ble High Court in the Judgment and on that basis they could have made their additional

affidavit. However, last chance is given to the respondents to file reply.

**S.O. after four weeks.**

**Vice-Chairman(J) Vice-Chairman (A)**

dnk.

**O.A. No. 241/2008**

**Coram: Shri Rajiv Agarwal,  
Vice-Chairman (A) and  
Shri J.D. Kulkarni,  
Vice-Chairman (J).**

**Dated : 6<sup>th</sup> July 2017.**

Heard Shri N.D. Thombre, Id. Counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the respondent nos.1&2. None for Resp.nos. 3 to 7.

2. On 3/7/2017 directing the respondents to file an affidavit, we could have facilitated disposal of this old pending case, which is pending for almost nine years. However, we are highly disappointed to note that the Department is not at all ready to go in this case. Cost of Rs.10,000/-

is imposed on the respondent no.1, the Secretary, Higher & Technical Education Department which should be deposited in the Registry of this Tribunal before the next date.

**S.O. After four weeks.**

**Vice-Chairman(J) Vice-Chairman (A)**

dnk.

**IN THE MAHARASHTRA  
ADMINISTRATIVE TRIBUNAL  
NAGPUR BENCH, NAGPUR**

**ORIGINAL APPLICATION NO 253 OF  
2016**

**DISTR  
ICT :  
NANDED**

**Shri Tukaram S. Kendre,  
)...Applicant**

**Versus**

The State of Maharashtra & Ors  
)...Respondents

Shri N.R Saboo, learned advocate for  
the Applicant.

Smt. S.V.Kolhe, learned Presenting  
Officer for the Respondents.

**CORAM : Shri Rajiv Agarwal (Vice-  
Chairman) (A)**

**Shri J.D Kulkarni (Vice-  
Chairman) (J)**

**DATE : 06.07.2017**

**PER : Shri Rajiv Agarwal (Vice-  
Chairman)**

**ORDER**

1. Heard Shri N.R Saboo,  
learned advocate for the Applicant

and Smt. S.V.Kolhe, learned P.O. for the respondents.

2. The controversy in the Original Application is regarding the methodology adopted for selection to the post of Forest Guards.

3. Learned Advocate Shri Saboo claims that as per relevant provisions there are two parts of the test: one part is based on marks obtained in educational qualification of the Applicant on which marks are assigned and second part is running test in which also marks are assigned. For final selection marks of both these tests are considered.

4. The Applicant scored 62.83 marks on the basis of marks obtained in the educational qualification and zero marks in running test and was entitled to be selected from open PAP category. Respondent no. 4, Shri Maske, who is selected obtained 62

marks on the basis of educational qualification and zero marks in running from open PAP category, was therefore less meritorious than the Applicant and should not have been preferred over the Applicant.

Another person from PAP category, namely, Respondent no. 5 obtained 59.33 marks on the basis of educational qualification. Learned P.O clarified that Respondent no. 5 also scored zero marks in running test. She is also less meritorious than the Applicant.

5. The selection appears to have been done on the basis that even when the candidates scored zero marks in the running test, the time taken by each of them in the running test was the criteria while fixing the merit disregarding marks on the basis of educational performance. Whether that criteria is prescribed in any of the G.R/Recruitment Rules for appointment to the post of Forest Guard is not clear.



6. Learned P.O is directed to produce the relevant G.R/Recruitment Rules for perusal of this Tribunal for the post of Forest Guard wherein it has been prescribed that regardless of the marks assigned on the basis of educational performance, the candidates if they scored zero marks in the running test, will be selected on the basis of time taken in the running test.

7. S.O to four weeks.

**(J.D Kulkarni)**  
**(Rajiv Agarwal)**

**Vice-Chairman (J)**  
**Vice-Chairman (A)**

**Place : Nagpur**

**Date : 06.07.2017**

**Dictation taken by : A.K. Nair.**

D:\MAT NAGPUR BENCH JUDGMENTS July 2017\O.A 253.16  
Selection process challenged, DB.07.17.doc