

O.A. No.737/2017.

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

Dated : 3rd October 2017.

Oral order

Heard Shri Kiran S. Malokar, the learned counsel for the applicant and Shri S.A. Deo, the learned C.P.O. for the respondent/State.

2. Vide order dated 17th July 2017, the applicant has been transferred from the post of Senior Lecturer, District Institute of Educational Continuous Professional Development, Nagpur to the post of Senior Lecturer, District Institute of Educational Continuous Professional Development, Yavatmal. Admittedly, the applicant has completed her tenure at Nagpur and only objection that seems to be legal is that, the order of order is mid-term. However, it is material to note that, as many as 36 applicants are transferred by this order. It has been mentioned in the order that the

same has been issued as per the provisions of Section 4 (4) and 4 (5) of the Maharashtra Government Servants Regulation of Transfer and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred to as, "Transfer Act, 2005"). The learned counsel for the applicant submits that out of 36 applicants, 6 persons have obtained stay to the order from the Division Bench of this Tribunal. However, that itself cannot be a ground to stay the order, since those orders might have been passed on different grounds, considering individual cases and in any case not on merits.

The learned counsel for the applicant submits that the applicant has already filed one representation on 18th July 2017 for her posting. It is stated that the applicant is not yet relieved, as she is on leave. The learned counsel for the applicant submits that the application may be disposed of with directions to the respondents to decide this application and the applicant may not be forced to join at Yavatmal till the representation is decided within stipulated period. In view thereof, application stands disposed of with

directions to respondent No.1 to take a decision on the representation filed by the applicant dated 18th July 2017 (P.17 of the O.A.) within one month from today and till that time, the applicant may not be forced to join at Yavatmal or in case the applicant is not yet relieved from her post prior to impugned order of transfer, she may be allowed to continue till decision on her representation.

Vice-Chairman(J)

pdg

O.A. No.740/2017.

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

Dated : 3rd October 2017.

Oral order

Heard Shri G.N. Khanzode, the learned counsel for the applicant and Shri S.A. Deo, the learned P.O. for the respondent/State.

2. Vide order dated 17th July 2017, the applicant has been transferred from the post of Senior Lecturer, District Institute of Educational Continuous Professional Development, Gadchiroli to the post of Senior Lecturer, District Institute of Educational Continuous Professional Development, Beed. Admittedly, the applicant has completed her tenure at Nagpur and only objection that seems to be legal is that, the order of order is mid-term. However, it is material to note that, as many as 36 applicants are transferred by this order. It has been mentioned in the

order that the same has been issued as per the provisions of Section 4 (4) and 4 (5) of the Maharashtra Government Servants Regulation of Transfer and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred to as, "Transfer Act, 2005"). The learned counsel for the applicant submits that out of 36 applicants, 6 persons have obtained stay to the order from the Division Bench of this Tribunal. However, that itself cannot be a ground to stay the order, since those orders might have been passed on different grounds, considering individual cases and in any case not on merits.

The learned counsel for the applicant submits that the applicant has already filed one representation on 18th July 2017 for his posting. It is stated that the applicant is not yet relieved, as she is on leave. The learned counsel for the applicant submits that the application may be disposed of with directions to the respondents to decide this application and the applicant may not be forced to join at Beed till the representation is decided within stipulated period. In view thereof,

application stands disposed of with directions to respondent No.1 to take a decision on the representation filed by the applicant dated 18th July 2017 within one month from today and till that time, the applicant may not be forced to join at Beed or in case the applicant is not yet relieved from his post prior to impugned order of transfer, he may be allowed to continue till decision on her representation.

Vice-Chairman(J)

pdg

O.A. No.755/2017.

Coram: Shri J.D. Kulkarni,

Vice-Chairman (J).

Dated : 3rd October 2017.

C.A.No.478/2017.

By this C.A., the applicants are seeking leave to sue jointly. 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.755/2017.

Heard Shri S.M. Puranik, the learned counsel for the applicants and Shri S.A. Deo, the learned C.P.O. for the respondent No.1/State.

2. The applicant has challenged the order dated 27.9.2017 whereby he has been reverted from the post of Junior Engineer to the post of Civil Engineering Assistant. The learned counsel for the applicant submits that the said order of reversion has been passed even without

issuing a show cause notice to the applicant and, therefore, the same may be stayed.

3. Perusal of the impugned order show that the same has been passed in view of order passed in W.P. No. 741/2015 by the Honble High Court of Judicature at Bombay, Bench at Nagpur on 27th July 2017. Thus the impugned order shows that the Honble High Court has taken a decision after hearing the parties and even though the applicant was not party to the petition, the applicant himself filed intervention application and was heard. In view thereof, it will not be in the interest of justice and equity to grant any stay to the order of reversion. It seems that as many as 22 persons are reversed in view of the order of the Honble High Court. The respondents will have to be heard on merit.

4. In view thereof, issued notice to respondent Nos. 2 to 6 returnable after **three weeks**.

5. Shri S.A. Deo, the learned P.O. waives notice for respondent No.1/State. Hamdast granted.

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

8. 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.

9. 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.

10. **three weeks.**

Vice-Chairman(J)

O.A. No.157/2008.

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

Dated : 3rd October 2017.

C.A. 459/2017.

Heard Shri S.P. Palshikar, the learned counsel for the applicant and Shri P.N. Warjekar, the learned P.O. for the respondents 1 to 4. None for R.5 and 6.

The C.A. is for directions to the respondents to decide the representation filed by the applicant and to grant further promotion to the applicant by giving him time bound promotion. The Ld. P.O. submits that since the O.A. is already admitted and it is a matter of 2008, matter shall be decided itself on merit. The learned counsel for the applicant, however, submits that fixed date be given after vacation. In view thereof, O.A. shall be kept for final hearing on **31st October 2017.**

C.A. will be considered alongwith the O.A. on the next date.

Vice-Chairman(J)

pdg

O.A. No.613/2016.

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

**Dated : 3rd October 2017.
MCA No.33/2017.**

Shri P.P. Khaparde, Adv. holding for
Shri G.G. Bade, the learned counsel for the
applicant and Shri S.A. Sainis, the learned
P.O. for the respondents.

At the request of Ld. P.O., S.O. **one**
week.

Vice-Chairman(J)

pdg

O.A. No.533/2017.

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

Dated : 3rd October 2017.

C.A.No.454/2017.

None for the applicant. Shri V.A. Kulkarni, the learned P.O. for the respondents 1 and 2. None for R.3.

At the request of Ld. P.O., S.O. **two weeks** for filling reply.

Vice-Chairman(J)

pdg

O.A. No.534/2017.

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

Dated : 3rd October 2017.

C.A.No.455/2017.

None for the applicant. Shri V.A. Kulkarni, the learned P.O. for the respondents 1 and 2. None for R.3.

At the request of Ld. P.O., S.O. **two weeks** for filling reply.

Vice-Chairman(J)

pdg

O.A. No.832/2016.

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

Dated : 3rd October 2017.

None for the applicant. Shri H.K. Pande, the learned P.O. for the respondents.

It is stated that ten applicant has already removed office objection, but has not carried out the amendment as prayed for. The applicant may face consequences of not carrying out amendment. In view thereof, matter be kept for passing necessary order after **Diwali vacation.**

Vice-Chairman(J)

pdg

O.A. No.416/2017.

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

Dated : 3rd October 2017.

None for the applicant. Shri H.K. Pande, the learned P.O. for the respondents.

It is stated that ten applicant has already removed office objection, but has not carried out the amendment as prayed for. The applicant may face consequences of not carrying out amendment. In view thereof, matter be kept for passing necessary order after **Diwali vacation.**

Vice-Chairman(J)

pdg

O.A. No.604/2017.

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

Dated : 3rd October 2017.

Shri V.P. Karhade, the Ld. counsel for the applicant and Smt. S.V. Kolhe, the learned P.O. for the respondents.

The Ld. counsel for the applicant submits that he will collect hamdast today itself and will serve copies to the respondents.

Hence, **after three weeks for return of notice.**

Vice-Chairman(J)

pdg

O.A. No.380/2017.

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

Dated : 3rd October 2017.

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

At the request of Ld. CPO, S.O. two weeks.

Vice-Chairman(J)

pdg

O.A. No.498/2017.

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

Dated : 3rd October 2017.

Heard Shri N.D. Thombre, the Ld. counsel for the applicant and Shri V.A. Kulkarni, the learned P.O. for the respondents.

The Ld. P.O. seeks time to file reply affidavit. Time is granted subject to the condition that the impugned order as regards recovery is stayed till filing of reply.

S.O. four weeks.

Vice-Chairman(J)

pdg

O.A. No.407/2017.

Coram: Shri J.D. Kulkarni,

Vice-Chairman (J).

Dated : 3rd October 2017.

Smt. K.N. Saboo, the Ld. counsel for the applicant and Shri M.I. Khan, the learned P.O. for the respondents 1 and 2. Miss P.D. Rane, Adv. for R.3. None for R.4.

Reply of respondent No.1 has already been filed on record. Hence, the matter is admitted and kept for final hearing after **Diwali vacation.**

Shri M.I. Khan, the learned P.O. waives notice for the respondents 1 and 2.

In the meantime, Zilla Parishad, Nagpur (R.3) is allowed to file reply and to supply a copy to the Ld. P.O. and Ld. counsel for the applicant.

Vice-Chairman(J)

pdg

O.A. No.508/2017.

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

Dated : 3rd October 2017.

Heard Shri S.B. Tiwari, the Ld. counsel for the applicant and Smt. S.V. Kolhe, the learned P.O. for the respondents.

The Ld. counsel for the applicant submits that no rejoinder is necessary.

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

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

Vice-Chairman(J)

pdg

O.A. No.543/2017.

Coram: Shri J.D. Kulkarni,

Vice-Chairman (J).

Dated : 3rd October 2017.

None for the applicant. Smt. S.V. Kolhe,
the learned P.O. for the respondents.

S.O. **two weeks** for filing reply by Ld. P.O.

Vice-Chairman(J)

pdg

O.A. No.556/2017.

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

Dated : 3rd October 2017.

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

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

Vice-Chairman(J)

pdg

O.A. No.625/2017.

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

Dated : 3rd October 2017.

Heard Shri S.P. Palshikar, Ld. counsel for the applicant and Shri P.N. Warjekar, the learned P.O. for the respondents.

Ld. P.O. submits that the respondents are already served.

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

Vice-Chairman(J)

pdg

O.A. No.629/2017.

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

Dated : 3rd October 2017.

Shri N.D. Thombre, Ld. counsel for the applicant and Smt. S.V. Kolhe, the learned P.O. for the respondents.

Shri S.P. Palshikar, newly Ld. counsel for the applicant submits that he is going to file reply affidavit to the amended application during the course of the day.

S.O. 4th October 2017.

Vice-Chairman(J)

pdg

O.A. No.730/2017.

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

Dated : 3rd October 2017.

None for the applicant. Shri S.A. Sainis, the learned P.O. for the respondent/State

S.O. **one week.**

Vice-Chairman(J)

pdg

O.A. No. 259/2017 (S.B.)

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

Dated : 03.10.2017.

Shri Vishal Anand, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for R-1 to 4. None for R-5.

At the request of Id. counsel for the applicant, **S.O. two weeks.**

Vice Chairman (J)

dnk.

O.A. No. 562/2016 (D.B.)

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

Dated : 3.10.2017.

MCA 61/2017 -

None for the applicant. Heard Smt. S.V. Kolhe, Id. P.O. for the respondent nos. 1 to 3. None for R-4&5.

2. Perused the Judgment. It is admitted that there are some typographical mistakes in the Judgment which are required to be corrected. For the reasons stated in the application, the application is allowed.

3. The necessary amendment be carried in the original Judgment and thereafter the Registry to issue corrected certified copies to the Id. counsel for parties.

Vice Chairman (J)

dnk.

O.A. No. 564/2017 (D.B.)

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

Dated : 03.10.2017.

None for the applicant.

Shri H.K. Pande, Id. P.O. for R-2. Await service of R-1.

The applicant to file service affidavit of R-1.

S.O. one week.

Vice Chairman (J)

dnk.

O.A. No. 611/2017 (D.B.)

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

Dated : 03.10.2017.

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

The learned counsel for the applicant
submits that he has served the respondents and
he will file the acknowledgment to that effect.

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

Vice Chairman (J)

dnk.

O.A. No. 640/2017 (D.B.)

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

Dated : 03.10.2017.

Shri M.M. Sudame, Id. counsel for the applicant and Smt. S.K. Kolhe, Id. P.O. for R-1. Await service of R-2 to 6.

2. The learned P.O. files Pursis as regards to the address of respondent no.6. Copy of the same is taken on record and marked Exh-X for the purposes of identification.

3. The learned counsel for the applicant submits that he has served the notice on respondent no.3 at Mumbai. However, the envelope has come back with endorsement that it shall be served on the address of Amravati. He, therefore, seeks permission to correct the address of respondent no.3. He is permitted to do so and serve the notice on respondent no.3. He also submits that he will file service affidavit in respect of other respondents.

S.O. two weeks.

Vice Chairman (J)

dnk.

O.A. No. 651/2017 (D.B.)

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

Dated : 03.10.2017.

None for the applicant.

Shri A.M. Khadatkar, Id. P.O. for R-1.
Await service of R-2&3.

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

Vice Chairman (J)

dnk.

O.A. No. 244/2013 (D.B.)

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

Dated : 03.10.2017.

Heard Ms. N.S. Pathan, Id. counsel for the applicant and Smt. S.V. Kolhe, Id. P.O. for the respondent nos. 1 to 3. None for R-4.

The learned P.O. files reply of R-2. It is taken on record. Copy is served to the Id. counsel for the applicant.

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

The learned P.O. waives notice for the respondent nos. 1 to 3.

S.O. 1st week of After Vacation.

Vice Chairman (J)

dnk.

O.A. No. 383/2016 (D.B.)

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

Dated : 03.10.2017.

Shri P.S. Patil, Id. counsel for the applicants and Shri A.M. Khadatkar, Id., P.O. for the respondents.

The learned P.O. submits that he will take instructions that as to within how many days the result can be declared. Hence, the matter be kept on **9/10/2017**.

Vice Chairman (J)

dnk.

O.A. No. 665/2016 (D.B.)

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

Dated : 03.10.2017.

None for the applicant.

Shri S.A. Sainis, Id. P.O. for Respts.

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

Vice Chairman (J)

dnk.

O.A. No. 764/2016 (D.B.)

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

Dated : 03.10.2017.

Shri Girdekar, Id. counsel holding for Shri A.P. Tathod, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for the respondents.

At the request of Id. counsel for the applicant, **S.O. two weeks for filing rejoinder.**

Vice Chairman (J)

dnk.

O.A. Nos. 459 & 503 of 2017 (D.B.)

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

Dated : 03.10.2017.

None for the applicants.

Shri P.N. Warjurkar, 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. 570/2017 (D.B.)

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

Dated : **03.10.2017.**

1. Heard Shri Sunil Lacharwar, Id. Counsel for the applicant and Shri S.A. Deo, Id. C.P.O. for R-1.

2. Issue notice to R-2 to 4, returnable in **four weeks**. Learned C.P.O. waives notice for R-1. 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. 754/2017 (D.B.)

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

Dated : 03.10.2017.

Heard Ku.K.K. Pathak, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for the State.

2. In this O.A. the applicant has claimed direction to hold and declare that action of the respondents in selecting the respondent nos.4,5 & 6 for the post of Clinical Assistant by ignoring the merit category bifurcation stated in the advertisement is illegal, arbitrary, malafide and contrary as well as violative of Article 14 & 16 of the Constitution of India. By way of interim relief she is claiming stay to the effect, operation,

implantation and execution of the select list dated 28/9/2017 issued by the respondents for the post of Clinical Assistant or in alternatively she has asked for direction to respondent no.3 to keep one post of Clinical Assistant vacant or that appointment shall be outcome of this O.A.

3. The applicant and respondents have participated in the recruitment process for the post of Clinical Assistant in response to the advertisement dated 1-4/9/2016 at Annex-A-5. According to the applicant 4 posts were reserved for open category and as per merit list three persons are appointed as per Annex-A-7 in which only one person from Open category, whereas the candidate at sr.no.1 is from OBC category and candidate at sr.no.3 is from SC category and they are wrongly incorporated in the merit list of open. So far as the applicant is concerned, it is stated that the applicant got 1171 marks which is more than all the three persons mentioned in Annex-A-7, i.e., Open merit.

4. The learned CPO submits that the advertisement has been issued in view of the rules for the selection and appointment of Clinical Assistants at Government Dental Colleges and Hospitals in the State of Maharashtra and Dental Surgeons under the Directorate of Medical Education and Research, Bombay+ and these rules clearly states preference to be given to the candidates from the Government Dental colleges. He submits that the 3 candidates selected on

merits from Open category as per Annex-A-7 are from Government colleges, whereas the merit list of the candidates from private colleges is at P.B. page no. 39 which shows that the applicant stands at sr.no.4 in merit and the candidate at sr.no.1 Krutika Dekraj Borkar has been selected from the private colleges as she got highest marks i.e. 1240 marks.

5. The learned counsel for the applicant submits that she will amend the O.A. by challenging the rules for the selection and appointment of Clinical Assistants at Government Dental Colleges and Hospitals in the State of Maharashtra and Dental Surgeons under the Directorate of Medical Education and Research, Bombay+ for which she will file amendment application.

6. It is necessary to give opportunity to the respondents to file affidavit-in-reply for which notices are required to be issued. It is however made clear that the appointment of respondent nos. 4,5&6 shall be subject to outcome of this O.A.

The applicant is at liberty to file application for amendment. The Id. CPO submits that the candidate Dr. Manjusha Ravishankar Pardhi who

is at sr.no.1 in the merit list is not party to this O.A. The learned counsel for the applicant submits that she will add her as party by amending to the O.A.

7. In view of the facts referred above, issue notice to R-2 to 6, returnable in four weeks. Learned C.P.O. waives notice for R-1. Hamdast allowed.

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

9. 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.

10. 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.

11. 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.

12. **S.O. four weeks.**

Vice Chairman (J)

dnk.