

O.A. No. 373/2015.

CORAM : S.S. Hingne,V.C.

DATE : 19th December 2016.

Heard Shri S.O. Ahmed, learned counsel for the applicant and Smt. S.V. Kolhe, learned P.O. for the respondents 1 to 3. None for R. 4 to 7.

At the request of learned counsel for the applicant, S.O. **three weeks.**

V.C.

pdg

O.A. No. 374/2015.

CORAM : S.S. Hingne,V.C.

DATE : 19th December 2016.

Heard Shri S.O. Ahmed, learned counsel for the applicant and Smt. S.V. Kolhe, learned P.O. for the respondents 1 to 3. None for R. 4 & 5.

At the request of learned counsel for the applicant, S.O. **three weeks.**

V.C.

pdg

O.A. No. 375/2015.

CORAM : S.S. Hingne,V.C.

DATE : 19th December 2016.

Heard Shri S.O. Ahmed, learned counsel for the applicant and Smt. S.V. Kolhe, learned P.O. for the respondents 1 to 3. None for R. 4 & 5.

At the request of learned counsel for the applicant, S.O. **three weeks.**

V.C.

pdg

O.A. No. 222/2016.

CORAM : S.S. Hingne,V.C.

DATE : 19th December 2016.

Shri G.K. Bhusari, Adv. holding for Shri P.K. Waghmare, learned counsel for the applicant and Smt. S.V. Kolhe, learned P.O. for the respondents.

At the request of learned counsel for the applicant, S.O. **three weeks.**

V.C.

pdg

O.A. No. 696/2016.

CORAM : S.S. Hingne,V.C.

DATE : 19th December 2016.

Shri G.K. Bhusari, the learned counsel for the applicant and Shri A.M. Ghogre, learned P.O. for the respondents.

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

V.C.

Pdg

O.A. No. 602/2016.

CORAM : S.S. Hingne,V.C.

DATE : 19th December 2016.

None for the applicant.

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

Learned P.O. has filed reply on behalf of R. 1 and 2. It is taken on record. She undertakes to supply its copy to the learned counsel for the applicant.

ADMIT.

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

Stand over.

V.C.

pdg

O.A. No. 600/2016.

CORAM : S.S. Hingne,V.C.

DATE : 19th December 2016.

None for the applicant.

Heard Shri V.A. Kulkarni, learned P.O. for the respondents.

Learned P.O. has filed reply on behalf of R.2. It is taken on record. He undertakes to supply its copy to the learned counsel for the applicant.

S.O. **two weeks.**

V.C.

pdg

O.A. No. 590/2016.

CORAM : S.S. Hingne,V.C.

DATE : 19th December 2016.

Shri M.P. Kariya, learned counsel for the applicant and Shri V.A. Kulkarni, learned P.O. for the respondents 1 and 2. None for R. 3 and 4.

Learned P.O. submits that after receiving draft reply, reply was prepared and copy was sent to the respondents.

S.O. 4th January 2017.

V.C.

pdg

O.A. No. 526/2016.

CORAM : S.S. Hingne,V.C.

DATE : 19th December 2016.

Shri A.P. Tathod, learned counsel for the applicant and Shri P.N. Warjekar, learned P.O. for the respondents.

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

V.C.

pdg

O.A. No. 493/2016.

CORAM : S.S. Hingne,V.C.

DATE : 19th December 2016.

Shri P.S. Kshirsagar, Adv. holding for Shri J.S. Wankhede, learned counsel for the applicant and Smt. M.A. Barabde, learned P.O. for the respondents 1 to 3. None for R. 4 & 5.

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

V.C.

pdg

O.A. No.502 /2015.

CORAM : S.S. Hingne,V.C.

DATE : 19th December 2016.

Shri G.K. Bhusari, learned counsel for the applicant and Shri A.M. Ghogre, learned P.O. for the respondents 1 to 3. None for R. 4 and 5.

Put up before regular D.B. when available.

S.O. **5th January 2017.**

V.C.

Pdg

O.A. No. 360/2014.

CORAM : S.S. Hingne,V.C.

DATE : 19th December 2016.
C.A.No.392/2016 in C.P.(St.)1591/2016.

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

Put up before regular D.B. when available.

S.O. **5th January 2017.**

V.C.

pdg

O.A. No. 665/2016.

CORAM : S.S. Hingne,V.C.

DATE : 19th December 2016.

Heard Shri S.P. Palshikar, learned counsel for the applicant and Shri S.A. Sainis, learned P.O. for the respondent No. 1.

2. At the request of learned counsel for the applicant, issue fresh notice to R. 2 to 4 returnable **after service.**

3. Shri S.A. Sainis, learned P.O. waives service for respondent No.1. Hamdast granted.

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

6. 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.

7. 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.

V.C.

pdg

O.A. No. 728 /2015.

CORAM : S.S. Hingne,V.C.

DATE : 19th December 2016.

Shri P.P. Khaparde, learned counsel for the applicant and Shri A.M. Ghogre, learned P.O. for the respondent Nos. 1 & 3. Shri V.B. Gawali, Adv. for R.2.

Ld. counsel for R.2 submits that R.2 is appointed on the basis of order dated 8.7.2015 passed in O.A. No. 823/2014. This aspect is not touched in the O.A.

S.O. **two weeks.**

V.C.

pdg

O.A. No. 159 /2015.

CORAM : S.S. Hingne,V.C.

DATE : 19th December 2016.

C.A. No.154/2016

Shri Vishal Anand, learned counsel for the applicants and Smt. S.V. Kolhe, learned P.O. for the respondents.

At the request of learned P.O., S.O. **three weeks for reply** by way of last chance.

V.C.

Pdg

O.A. No. 308 /2016.

CORAM : S.S. Hingne,V.C.

DATE : 19th December 2016.

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

The O.A. is filed on 24.5.2016. No steps are taken to serve respondent No.2. Even the description of R.2 is also not correct. On the last date, the learned P.O. submitted that the matter is decided by the Apex Court of the land and the O.A. can be disposed of. Today the learned P.O. has filed a copy of judgment in W.P. No. 2908/2016 delivered by Aurangabad Bench of the Bombay High Court. So also the order in S.L.P. date 2.2.2016 which is dismissed by the Apex Court of the land.

S.O. **three weeks for dismissal.**

V.C.

pdg

O.A.No.799/2015

Coram : Hon. Shri S.S. Hingne, V.C.

Dated : 19.12.2016.

Shri S.U. Nemade, Id. counsel for the applicant, Shri M.I. Khan, Id. P.O. for R-1&2 and Shri S.S. Dhengale, Id. counsel for R-3.

At the request of Id. counsel for the applicant, put up this matter along with other similar matters wherein issue of residence is involved.

V.C.

dnk.

O.A.No.120/2016

Coram : Hon. Shri S.S. Hingne, V.C.

Dated : 19.12.2016.

Shri A.U. Tathod, Id. counsel for the applicant, Shri M.I. Khan, Id. P.O. for R-1&2 and Shri T. Deshpande, Id. counsel for R-3.

At the request of Id. counsel for R-3,
S.O. three weeks.

V.C.

dnk.

O.A.No.743/2016

Coram : Hon. Shri S.S. Hingne, V.C.

Dated : 19.12.2016.

Shri A.U.Tathod, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for the Respts.

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

V.C.

dnk.

O.A.No.70/2016

Coram : Hon. Shri S.S. Hingne, V.C.

Dated : 19.12.2016.

Shri S.P. Palshikar, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for the Respts.

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

V.C.

dnk.

O.A. Nos.445,446,447, & 448 & 533 of 2016

Coram : Hon. Shri S.S. Hingne, V.C.

Dated : 19.12.2016.

Shri S.P. Palshikar, Id. counsel for the applicants and Shri P.N. Warjurkar, Id. P.O. for the Respts.

The learned P.O. submits that the O.A.No.533/2016 is also arising out of the incident and therefore all the matters can be heard together. The Id. counsel for the applicant objects it. Unless all the matters are raised, the aspects cannot be decided.

S.O. 4-1-2017 along with O.A.533/2016

V.C.

dnk.

Coram : Hon. Shri S.S. Hingne, V.C.

Dated : 19.12.2016.

Heard Shri B.W. Patil, Id. counsel for the applicant and Shri H.K.Pande, Id. P.O. for the Respts.

On submission made by the Id. counsel for the applicant, the O.A. is disposed of as withdrawn.

V.C.

dnk.

O.A.No.504/2015

Coram : Hon. Shri S.S. Hingne, V.C.

Dated : 19.12.2016.

C.A.37/2016

Shri S.P. Palshikar, Id .counsel for the applicant and Shri M.I. Khan, Id. P.O. for the Respts.

Learned P.O. submits that he has not received the amendment copy and now today he is served. At his request, **S.O.** **three weeks for reply.**

V.C.

dnk.

O.A.Nos.146,208 & 209 of 2016

Coram : Hon. Shri S.S. Hingne, V.C.

Dated : 19.12.2016.

Shri A.J. Thakkar, Id. counsel for the applicants and Shri M.I. Khan, Id. P.O. for the Respts.

S.O. three weeks.

V.C.

dnk.

O.A.No.455/2016

Coram : Hon. Shri S.S. Hingne, V.C.

Dated : 19.12.2016.

Shri S.C. Deshmukh, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for the Respts.

S.O. 1st week After Christmas Vacation.

V.C.

dnk.

O.A.No.789/2016

Coram : Hon. Shri S.S. Hingne, V.C.

Dated : 19.12.2016.

Heard Shri P.J. Mehta, Id. counsel for the applicant, Shri S.A. Deo, Id. CPO for R-1&2 and Shri B.W. Patil, Id. counsel for R-3 (Caveator).

2. The learned counsel for the applicant submits that the applicant was appointed and though he is held to be not eligible vide order dated 18-11-2016 (A-8,P-41) he still holds the post.

3. As against this Id. counsel for R-3 submits that after issuance of this order dated 18-11-2016, R/3 is appointed by the same order and he took up the charge on the next day. The learned counsel for the applicant submits that the order of status-quo as on today be passed.

4. The learned CPO submits that as per telephonic instructions R/3 has taken over the charge. The impugned order is issued long back i.e. one month ago.

5. The learned CPO wants to file written instructions as well as Id. counsel for R-3 wants to file some documents.

6. Issue notice to R-2, returnable on 22-12-2016. Learned C.P.O. waives notice for R-1 and Shri B.W. Patil, Id. counsel waives notice for R-3 (Caveator).

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

8. 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.

9. 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.

10. 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.

11. **S.O. 22-12-2016.**

V.C.

dnk.

O.A.No.765/2016

Coram : Hon. Shri S.S. Hingne, V.C.

Dated : 19.12.2016.

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

The learned P.O. files the modified order dated 13-12-2016 by which the modification is done. That the order is not issued at the instance of the order of the Tribunal but on administration ground. On the last date 15-12-2016 the Id. counsel for the applicant has made statement that he wants to withdraw the O.A.

Accordingly, the O.A. is disposed of as withdrawn.

V.C.

dnk.

O.A.No.795/2016

Coram : Hon. Shri S.S. Hingne, V.C.

Dated : 19.12.2016.

Heard Shri A.M. Sudame, Id. counsel for the applicant, Shri S.A. Deo, Id. CPO for R-1.

2. The applicant has challenged the transfer order dated 20-09-2016 (A-16, P-41) by which R/4 is transferred to GMC, Nagpur. The applicant submits that he is the junior-most at GMC, Nagpur holding the post of Associate Professor and therefore the result of transfer of R/4 is that the applicant may be transferred from Nagpur. The apprehension of the applicant is on the ground that he is the junior-most and there is no other vacant post at Nagpur available to accommodate R/4.

3. It is contended that the applicant is posted on the present post as Associate Professor from 30-06-2016 he being reverted to that post vide order dated 30-7-2016 (A-6,P-26). It is also submitted that R/4 was earlier transferred on promotion to Chandrapur vide order dated 30-05-2016 (A-14, P-37), but he did not join. Thereafter the impugned order is issued and R/4's posting at Chandrapur is modified and he is posted at GMC, Nagpur and therefore applicant will be affected.

4. It is also further contended that it will be a mid-term and mid tenure transfer of the applicant. As per CPO's telephonic instructions the applicant is holding the said post. Thus R/4 has not joined for last six months though posted on promotion and his order is modified on 20-09-2016.

5. In the state of affairs, status-quo as on today be maintained till next date.

6. Issue notice to R-2 to 4, returnable on 23-12-2016. Learned C.P.O. waives notice for R-1. Hamdast allowed.

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

8. 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.

9. 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.

10. 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.

11. **S.O. 23-12-2016.**

12. The order is passed at 2.15 p.m.

V.C.

dnk.

O.A.No.796/2016

Coram : Hon. Shri S.S. Hingne, V.C.

Dated : 19.12.2016.

Heard Shri P.A. Kadu, Id. counsel for the applicant, Shri A.M. Ghogre, Id. PO for R-1.

2. The learned counsel for the applicant prays for interim relief on the ground that the applicant is promoted from physically handicap quota as mentioned in the communications dated 20-04-2007 (A-2,P-16) and 7-8-2015 (A-4,P-18) and as per the Govt. G.R. dated 7-8-2015 (A-3,P-17) such persons are to be accommodated at

the nearest places. The learned P.O. submits that the guidelines are in directive nature and not mandatory and therefore that aspect is to be considered by the department. As against this, the learned counsel for the applicant submits that 3 posts were vacant at Amravati or nearby Amravati and R-4,5 & 6 are posted there ignoring the applicant. The orders are issued on 14-12-2016.

3. In the state of affairs, status-quo as on today be maintained till next date.

4. Issue notice to R-2 to 6, returnable on 23-12-2016. Learned C.P.O. waives notice for R-1. Hamdast allowed.

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

6. 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.

7. 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.

8. 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.

9. **S.O. 23-12-2016.**

10. The order is passed at 2.15 p.m.

V.C.

dnk.

O.A.No.17/2016

Coram : Hon. Shri S.S. Hingne, V.C.

Dated : 19.12.2016.

Shri S.P. Palshikar, Id. counsel for the applicant, Shri P.N. Warjurkar, Id. P.O. for R-1&2 and Shri S.S. Dhengale, Id. counsel holding for Ms. P. Rane, Id. counsel for R-3&4 (Intervener).

The learned counsel for R-3&4 submits that Ms. P.Rane, Id. counsel is busy in the High Court and hence matter be adjourned to next week. However, Id. counsel for the applicant submits that he will be out station in the next week.

S.O. in the 1st week of January,2017.

V.C.

dnk.

O.A.No.751/2016

Coram : Hon. Shri S.S. Hingne, V.C.

Dated : 19.12.2016.

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

Learned P.O. files reply on behalf of R-4. It is taken on record. He undertakes to serve the copy to the Id. counsel for the applicant.

Heard. Admit.

Learned P.O. waives notice for the Respts.

Hearing expedited.

S.O. four weeks.

V.C.

dnk.

O.A.No.721/2016

Coram : Hon. Shri S.S. Hingne, V.C.

Dated : 19.12.2016.

Shri S.S. Ghatge, Id. Counsel for the applicant and Shri S.A. Deo, Id. CPO for the Respts.

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

V.C.

dnk.

O.A.No.704/2016

Coram : Hon. Shri S.S. Hingne, V.C.

Dated : 19.12.2016.

Shri S.P. Palshikar, Id .counsel for
the applicant and Smt. M.A. Barabde, Id.
PO for the Respts.

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

V.C.

dnk.

O.A.No.444/2016

Coram : Hon. Shri S.S. Hingne, V.C.

Dated : 19.12.2016.

Shri S.P. Palshikar, Id .counsel for the applicant and S.A. Sainis, Id. PO for the Respts.

At the request of Id. PO, **S.O. three weeks for reply by way of last chance.**

V.C.

dnk.

O.A.No.396/2016

Coram : Hon. Shri S.S. Hingne, V.C.

Dated : 19.12.2016.

Shri A.P. Tathod, Id .counsel for the applicant and P.N. Warjurkar, Id. PO for the Respts.

At the request of Id. counsel for the applicant, **S.O. 2-1-2017** to make the amendment.

V.C.

dnk.

O.A.No.286/2016

Coram : Hon. Shri S.S. Hingne, V.C.

Dated : 19.12.2016.

Shri S.N. Gaikwad, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for the Respts.

It reveals that the Finance Department had made some queries vide communication dated 20-10-2016. This shows that matter is in process. Learned P.O. to take the instructions as to what steps the D.G. of Police (R/2) has taken.

S.O. four weeks.

V.C.

dnk.

O.A.No.230/2016

Coram : Hon. Shri S.S. Hingne, V.C.

Dated : 19.12.2016.

Shri S.M. Pande, Id. counsel for the applicant and Shri P.N. Warjurkar, Id. P.O .for the Respts.

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

V.C.

dnk.

O.A.No.85/2016

Coram : Hon. Shri S.S. Hingne, V.C.

Dated : 19.12.2016.

Shri P.S. Kshirsagar, Id. counsel for the applicant and Shri A.M. Ghogre, Id. P.O .for the Respts.

Learned P.O. files reply on behalf of R-4. It is taken on record. Copy is served to the Id. counsel for the applicant.

Heard. Admit.

Learned P.O. waives notice for the Respts.

Hearing expedited.

S.O. four weeks.

V.C.

dnk.

O.A.No.822/2015

Coram : Hon. Shri S.S. Hingne, V.C.

Dated : 19.12.2016.

Ms. B.N.Gavhale, Id. counsel holding for Shri A.R. Patil, Id. counsel for the applicant, Shri H.K. Pande, Id. P.O. for R-1 to 4 and Ms. K.E. Meshram, Id. counsel holding for Shri D.M. Kale, Id. counsel for R-5.

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

V.C.

dnk.

O.A.No.485/2016

Coram : Hon. Shri S.S. Hingne, V.C.

Dated : 19.12.2016.

Shri S.N. Gaikwad, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for R-1.

2. At the request of Id. counsel for the applicant, Issue fresh notice to R-2 to 4, returnable **after service**. 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. After service.**

V.C.

O.A.No.484/2016

Coram : Hon. Shri S.S. Hingne, V.C.

Dated : 19.12.2016.

Shri R.M. Mardikar, Id. counsel for the applicant and Shri S.A. Sainis, Id. P.O. for R-1.

2. At the request of Id. counsel for the applicant, Issue fresh notice to R-2 , returnable **after service**. Learned 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. After service.**

V.C.

O.A.No.411/2014

Coram : Hon. Shri S.S. Hingne, V.C.

Dated : 19.12.2016.

C.A.362/2016

Shri A.K. Neware, Id. counsel for the applicant and Smt. S.V. Kolhe, Id. P.O. for the Respts.

S.O. 22-12-2016.

V.C.

dnk.

O.A.No.675/2016

Coram : Hon. Shri S.S. Hingne, V.C.

Dated : 19.12.2016.

C.A.524/2016

Shri S.C. Deshmukh, Id. counsel for the applicant, Smt. M.A. Barabde, Id. P.O. for R-1 to 3 and Shri K.D. Deshpande, Id. counsel for R-4.

On submission made by the Id. counsel for R-4, the C.A. is disposed of.

O.A.675/2016 -

The learned counsel for R-4 files the Pursis (P-54) for disposed of the O.A.

The learned counsel for the applicant submits that the benefits are not released and as such the O.A. cannot be disposed of.

The learned P.O. files reply on behalf of R-5, i.e., A.G. Nagpur. It is taken on record. Copies are given to the other sides.

At the request of ld. P.O., **S.O. four weeks for reply of R/2.**

V.C.

dnk.

O.A. No.740/2016

Coram : S.S. Hingne : V.C.

Dated : 19th December, 2016.

Heard Shri S.P. Palshikar, Id. Counsel for the applicant, S. Deo, Id. C.P.O. for the respondents 1 and 2 and Shri P.S. Kshirsagar, Id. Counsel for R/3.

The applicant and R/3 applied for the post of Assistant Professor Mechanical Engineering consequent to the advertisement dtd. 3/4/2014 (Annex.A-2, page-20) issued by the MPSC(R/2) and both secured equal marks i.e. 110. The post being one, the MPSC recommended the name of R/3(Annex-A-1, page18) consequent to the communication dtd. 3/11/2016. The MPSC filed the reply (page-30) and submitted that it has applied the criteria under Rule 10(7)(v) of the

Maharashtra Public Service Commission Rules of procedure, 2014 (hereinafter referred to as the Procedure Rules).

At the threshold the Id. Counsel for the applicant vehemently argued that if two candidates secure equal marks in interview, then only as per instructions No. 5.10 (Annex.A-5, page-29) the ranking is to be done by the MPSC, however, in the interview the applicant has secured 34 marks and R/3 secured 32 marks i.e. less than the applicant, therefore, question of securing equal marks and to make ranking does not arise. The term No. 5.10.1 runs as under :-

“ अंतिम सिफारस यादी तयार करतांना मुलाखातीमध्ये समान गुण धारण करणा-या पात्र उमेदवारांची प्राधान्य क्रमवारी (Ranking) आयोगाद्वारे खालील निकषानुसार निश्चित करण्यात येईल ”

By way of reply, the Id. C.P.O. relied on Rule No.10(7) of the Procedure Rules which runs as under :-

“ While preparing the final recommendation list for deciding the

ranking of the candidates securing equal marks, the following criteria shall be made use of in a sequential manner or after the other :-”

If the terms and conditions reproduced in Marathi along with the advertisement are considered, there appears substance in the submission of the Id. Counsel for the applicant. However, even though such instructions are there, the rules which govern the cases cannot be ignored and the latter are bound to prevail over the former. It is explicit from Rule 10(7) that when two candidates secure equal marks, the ranking is to be done by the MPSC but the word as per Marathi version ‘securing equal marks in interview’ does not find place in the Rules. This doubt is created due to the word “मुलाखातीमध्ये” appearing in the instructions in Marathi appended to the advertisement. Oft times it is found that several litigations are created by such use of wording which creates doubt in the mind of the candidates. Anyhow fact

remains that as a common logic and as per Rule the total aggregate of the marks is to be considered and if two candidate are equal then only ranking is to be done by the MPSC. In this view of the matter, the submission of the applicant that he secured more marks in the interview therefore the aspect of ranking held not be considered does not appeal to reason.

Secondly the Id. Counsel for the applicant ingeniously argued that as per Clause 5.10.1.2 the date of acquiring the higher educational qualification is to be considered. He proceeded to argue that the applicant has completed the M.E in 2000 whereas the R/3 has completed M.E in 2013 and thus, the applicant's date being earlier, the applicant ought to have been preferred.

The Id. C.P.O. relied on para 17 of the reply of MPSC wherein it is submitted that M.E is the basic qualification and as per Clause

5.10.1 higher qualification is to be considered and that higher qualification is Doctorate or M. Phil, and none of the two holds that qualification and therefore the question of considering the date of M.E. has no significance and cannot be applied.

The Id. Counsel for the applicant relied on Clause 4(3) of the advertisement , which runs as under :-

“शैक्षणिक अर्हता :-

B.E/ B. Tech M.E/M. Tech. in relevant branch with First Class or equivalent in B.E/ B. Tech M.E/M. Tech. शासन निर्णय क्रमांक संकिर्ण . २०१३-(४५/१३) ता. शि-२, दिनांक ०६ मे २०१३ नुसार समकक्ष अर्हता विचारात घेण्यात येतील.”

The Id. Counsel for the applicant proceeded to argue that here M.E and M. Tech is the higher qualification and therefore it is to be considered. From the language employed above, it reveals that B.E and B.Tech is also given as a required qualification and M.E and

M. Tech. also. When post graduation degree is required, usually the qualification of the degree level is not asked for. However, here graduation and post graduation qualification is also mentioned with a rider that as per G.R. dtd. 6/5/2013 the equivalent qualification will also be considered. Meaning thereby there is some other course which is equivalent to B.E and B. Tech and in that case the candidates who are not B.E and B. Tech cannot be considered and therefore M.E and M. Tech is the basic requirement for the post of Assistant Professor. To meet such eventuality the words in the qualification that B.E and B. Tech and ME and M. Tech are used. However, it is manifest that the candidate M.E or M. Tech (with B.E. and B. Tech is the basic requirement and it cannot

be said to be higher qualification. The higher qualification can be only Ph. D. Or M. Phil. In this view of the matter, the word higher qualification used in Clause 5.10.1.2 of the advertisement means the Ph.D. or M. Phil and if the candidates hold that qualification then the preference is to be given to the candidate who has secured the Ph.D. or M. Phil earlier.

When the matter came up for the first time it was opined that there appears to be prima facie case to the applicant. However, after notice to the respondents from the above aspects and provisions it cannot be said that the recommendation made by the MPSC is not well founded. Consequently no case for interim relief is made out to stall the process. However, considering the complicated issues involved in the matter, it is made clear that the appointment if any

will be subject to the decision of this
O.A.

At the request of Id. C.P.O.,
S.O. 3 weeks for filing reply.

V.C.

Skt.

