

**O.A. No 95/2005.**

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

**Dated : 9<sup>th</sup> March 2017.**

Heard Dr. (Mrs.) R.S. Sirpurkar with Shri R.V. Shiralkar, the learned Counsels for the applicant and Shri A.M.Ghogre, learned P.O. for the respondents 1 to 3. None for R.4.

Closed for orders.

Member (J)

Vice-Chairman (A)

pdg

**O.A. No 584/2005.**

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

**Dated : 9<sup>th</sup> March 2017.**

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

Closed for orders.

Member (J)

Vice-Chairman(A)

pdg

**O.A. No 122/2012.**

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

**Dated : 9<sup>th</sup> March 2017.**

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

Closed for orders.

Member (J)

Vice-Chairman(A)

pdg

**O.A. No 592/2016.**

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

**Dated : 9<sup>th</sup> March 2017.**

Heard Shri D.M. Kakani, the learned counsel for the applicant and Shri P.N. Warjekar, the learned P.O. for the respondents.

Closed for orders.

Member (J)

Vice-Chairman(A)

pdg

**O.A. No 29/2016.**

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

**Dated : 9<sup>th</sup> March 2017.**

**C.A.137/2016 in C.P.(St.) 548/2016.**

Heard Shri D.M. Kakani, the learned counsel for the applicant and Shri M.I. Khan, the learned P.O. for the respondents.

2. The learned counsel for the applicant states that he has received information under the Right to Information Act which clearly shows that the respondent No.2 has acted in a malafide manner. In another case, the person who was similarly situated and who has not completed the term of her bond, was relieved to enable her to join as Associate Professor under the Directorate of Medical Health and Research, while the applicant was not relieved despite there being clear orders from respondent No.1 this Tribunal dated 10.2.2016.

3. Cost of Rs. 5,000/- is imposed on respondent No.2 for his failure to file affidavit in reply in this C.A. The same should be deposited by a personal cheque by respondent No.2 in the Registry of this Tribunal before the next date and no further time will be granted to file his personal affidavit in this matter.

S..O. **6<sup>th</sup> April 2017.**

Member (J)

Vice-Chairman(A)

Pdg

**O.A. No.641 /2015.**

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

**Dated : 9<sup>th</sup> March 2017.**

**C.A.283/2016 in C.P.(St.) 1059/2016.**

Heard Shri R.V. Shiralkar, the learned counsel for the applicant and Shri H.K. Pande, the learned P.O. for the respondents.

The learned counsel for the applicant states that during the pendency of this C.A., the applicant has been reinstated ins service. As the grievance of the applicant has been redressed, we dispose of this C.A. with no order as to costs.

Member (J)

Vice-Chairman(A)

Pdg

**O.A. No. 321/2009.**

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

**Dated : 9<sup>th</sup> March 2017.**

**C.A. 282/2016 in C.P.(St.) 1116/2016.**

Heard Shri R.V. Shiralkar, Adv.  
holding for Shri A.C. Dharmadhikari,  
the learned counsel for the applicant  
and Smt. S.V. Kolhe, the learned P.O.  
for the respondents.

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

Member (J)

Vice-Chairman(A)

Pdg

**O.A. No. 08/2015.**

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

**Dated : 9<sup>th</sup> March 2017.**

**C.A. 271/2016 in C.P.(St.) 1055/2016.**

Heard Shri S.P. Palshikar, the learned counsel for the applicant and Shri S.A. Deo, the learned C.P.O. for the respondent No.1. None for R.2.

At the request of the learned counsel for the applicant, S.O. **23<sup>rd</sup> April 2017.**

Member (J)

Vice-Chairman(A)

Pdg

**O.A. No. 466/2002.**

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

**Dated : 9<sup>th</sup> March 2017.**

**C.A. 142/2016 in C.P.(St.) 576/2016.**

Heard Shri G.K. Iyer, Adv. holding for Shri S.S. Ghate, the learned counsel for the applicant and Shri A.M. Ghogre, the learned P.O. for the respondents.

At the request of the learned counsel for the applicant, S.O. **6<sup>th</sup> April 2017.**

Member (J)

Vice-Chairman(A)

Pdg

**O.A. No. 639/2009.**

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

**Dated : 9<sup>th</sup> March 2017.**

**C.A. 371/2016 in C.P.(St.) 1477/2016.**

Heard Shri V.V. Tekade, the learned counsel for the applicant and Smt. M.A. Barabde, the learned P.O. for the respondents.

It appears that our order dated 28.4.2016 was challenged by the State by filing writ petition which was dismissed by the Hon'ble High Court on 7.2.2017. Thereafter the respondents have taken action to pay pensionary benefit to the applicant. The learned P.O., on instructions from Shri S.D. Sakhre, Taluka Krishi Adhidkari, Hinganghat, Distt. Wardha states that pension papers of the applicant will be submitted to the Accountant General, Nagpur within a month. This is taken as undertaking. The matter may be placed before the appropriate Bench after four weeks.

**S.O. 6<sup>th</sup> April 2017.**

Member (J)

Vice-Chairman(A)

Pdg

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

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

**Dated : 9<sup>th</sup> March 2017.**

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

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

The present O.A. has been filed seeking permission to file C.A. for not complying with the order of this Tribunal dated 11.6.2015. The applicant has retired on 30<sup>th</sup> June 2013 and he has not yet been paid any of his retiral dues. The learned counsel for the applicant states that leave encashment, GPF, GIS and other dues for which there is no impediment in paying him, have also not been released. The applicant has also not been paid any provisional pension. Because of the period of his absence from 29.1.1990 to 24.4.1996 is yet to

be decided. The learned P.O. states that he has instructions from respondent No.1 that the proposal for releasing pensionary benefits to the applicant will be submitted to the Accountant General, Nagpur within a period of one month. Matter may, therefore, be placed before the Single Bench, if the Division Bench is not available after a period of four weeks. This Tribunal has already issued notice on 9.2.2017. However, not affidavit is forthcoming. If reply is not filed on the next date, necessary consequences will follow.

S.O. 6<sup>th</sup> April 2017.

Member (J)

Vice-Chairman(A)

Pdg

**O.A. No. 554/2004.**

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

**Dated : 9<sup>th</sup> March 2017.**

**C.A. 399/2015 in C.P.(St.) 1669/2015.**

None for the applicant. Smt.  
M.A. Barabde, the learned P.O. for the  
respondents.

**S.O. 6<sup>th</sup> April 2017.**

Member (J)

Vice-Chairman(A)

Pdg

**O.A. No. 305/2013.**

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

**Dated : 9<sup>th</sup> March 2017.**

**C.A. 391/2015 in C.P.(St.) 1595/2015.**

Heard Shri R.V. Shiralkar, learned counsel for the applicant and Shri A.M. Ghogre, the learned P.O. for the respondents.

The learned P.O. has placed on record a copy of letter on behalf of respondent No.3 on record, enclosing the minutes of D.P.C. meeting held on 16.3.2016 and also seniority list of Wireless Operators as on 1.1.2016. The learned P.O. states that the orders of this Tribunal have been fully complied with.

Copy of the said communication should be given to the learned counsel for the applicant and the matter may be placed before the D.B. on **6<sup>th</sup> April 2017** or when it is available.

Member (J)

Vice-Chairman(A)

Pdg

**O.A. No.812/2015.**

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

**Dated : 9<sup>th</sup> March 2017.**

**C.A. 457 /2016 in C.P.(St.) 1839/2016.**

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

The learned P.O. placed on record the copy of order dated 23.2.2017 granting deemed date of promotion to the applicant. Copies of the same are placed on record. Learned P.O. states that the order of this Tribunal has been fully complied with. If some consequential benefits are to be paid, the applicant shall make any appropriate representation to the respondents for release of such payment if covered under the order of this Tribunal. C.A. stands disposed of with no order as to costs.

Member (J)

Vice-Chairman(A)

Pdg

**O.A. No.799/2014.**

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

**Dated : 9<sup>th</sup> March 2017.**

**C.A. 557/2016 in C.P.(St.) 2286/2016.**

None for the applicant. Shri A.M. Khadatkar, the learned P.O. for the respondents.

The learned P.O. states that the order of this Tribunal has been fully complied with. It is seen that none was present for the applicant on 9.2.2017 and the matter was kept for final hearing on 2.3.2017. On 2.3.2017, none was present for the applicant and the matter was kept today for passing necessary order. Today also, none is present for the applicant. The C.A. is, therefore, dismissed in default.

Member (J)

Vice-Chairman(A)

Pdg

**O.A. No.360/2014.**

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

**Dated : 9<sup>th</sup> March 2017.**

**C.A. 392/2016 in C.P.(St.) 1591/2016.**

Heard Shri Vishal Anand the learned counsel for the applicant and Shri A.M. Ghogre, the learned P.O. for the respondents.

By order dated 12.8.2015, this Tribunal had directed the Finance Department to decide the representation filed by the Applicant-Union. In affidavit in reply to this C.A., respondents have stated that it is not possible for the Finance Department to consider the hike in the pay scale of the post under consideration. The learned counsel for the applicant states that this amounts to defiance the order of this Tribunal as the Finance Department is not even ready to consider the representation of the Applicant-Union. It is mentioned that the it is not possible or the Finance Department to consider the proposal received by it.

The learned P.O. states that this Tribunal has only given directions to the Finance Department to consider the

proposal received from Revenue and Forest Department on the representation of the Applicant-Union. The Finance Department has not found it fit to take any action on the proposal, as the appropriate time to consider such proposal was when the Pay Anomaly Committee was appointed. He stated that there is no defiance of the order of this Tribunal.

We agree with the contention raised by the learned P.O. The phraseology that it is not possible to consider the proposal actually means that the proposal has been rejected. We are not convinced that there is any contempt committed on the part of the respondents. This C.A, therefore, stands dismissed with no order as to costs.

Member (J)

Vice-Chairman(A)

Pdg

**T.A. No. 02/2004 in W.P. No. 2693/1990.**

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

**Dated : 9<sup>th</sup> March 2017.**

**C.A. 495/2015 in C.P.(St.) 2145/2015.**

**Oral order**

Heard Shri M.R. Rajgure, the learned counsel for the applicants and Shri A.M. Ghogre, the learned P.O. for the respondent No.1 Shri R.S. Khobragade, Ld. Adv. for R.2. None for R. 3 to 5.

A show cause notice was given to the respondents asking them to show cause as to why contempt proceedings should not be started against them under Rule 8 of the Maharashtra Administrative Tribunal (Contempt of Court) Rules. The said notice was issued on 15.6.2016. Affidavit in reply has been filed on behalf of respondent No.5 dated 5<sup>th</sup> July 2016, stating that the applicant is not entitled to consequential monetary benefit from

the date of acceptance of the charge of Medical Officer.

On 19.8.2015, this Tribunal in M.C.A. No. 23/2013 directed as under:

We, therefore, direct that the order passed in T.A. No. 2/2004 in W.P. No.2693/1990 should be complied with in its letter and spirit. The consequential monetary benefits following from granting the deemed date of promotion shall be computed and paid to the heirs of the applicant within two months from the date of passing this order along with interest @ 12% p.a. to be reckoned from 1.4.2015 till the date of payment.+

Prima facie, it appears that the respondents are willfully defying the order of this Tribunal. The learned counsel for the applicant may give the

names and designations of the persons who are to be proceeded against for contempt.

Register the case under Contempt of Court Act and rules framed under the Administrative Tribunals Act, 1985 against the respondents, asking them to remain present before this Tribunal after four weeks i.e. **6<sup>th</sup> April 2017.** C.A. for permission to start contempt proceedings is accordingly disposed of.

Member (J)

Vice-Chairman(A)

Pdg

**O.A.No. 645/2012**

**Coram: Shri Rajiv Agarwal,**

**Vice-Chairman (A) and**

**Shri J.D. Kulkarni, Member (J)**

**Dated : 9<sup>th</sup> March 2017.**

**C.A. 313/2016 in C.P.(St.) 1278/2016.**

Heard Shri P.V. Thakre, the learned counsel for the applicant and Shri H.K. Pande, the learned P.O. for the respondents.

Keep this matter before the Single Bench after four weeks, if necessary.

**S.O. 6<sup>th</sup> April 2017.**

Member (J)

Vice-Chairman(A)

Pdg

**O.A.No. 173/2006**

**Coram: Shri Rajiv Agarwal,**

**Vice-Chairman (A) and**

**Shri J.D. Kulkarni, Member (J)**

**Dated : 9<sup>th</sup> March 2017.**

**C.A. 389/2016 in C.P.(St.) 1528/2016.**

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

The C.A. seeking permission to start contempt proceedings was in regard to the order of this Tribunal dated 4.8.2015. However, by order dated 30.1.2017 in W.P. No. 4978/2016 against the aforesaid order, the Hon $\phi$ le High Court has set aside the aforesaid order and the O.A. has been restored to the file of this Tribunal. In view of the aforesaid judgment of the Hon $\phi$ le High Court, nothing survives in this C.A. which is disposed of with no order as to costs.

Member (J)

Vice-Chairman(A)

Pdg

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

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

**Dated : 9<sup>th</sup> March 2017.**

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

Heard Shri S.D. Zoting, the learned counsel for the applicant and Shri V.A. Kulkarni, the learned P.O. for the respondents.

**S.O. 16<sup>th</sup> March 2017.**

Member (J)

Vice-Chairman(A)

Pdg

**O.A.No. 161/2016.**

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

**Dated : 9<sup>th</sup> March 2017.**

**C.A. 354/2016 in C.P.(St.) 1415/2016.**

Heard Shri P.V. Thakre, the learned counsel for the applicant and Shri M.I. Khan, the learned P.O. for the respondents.

**S.O. 6<sup>th</sup> April 2017.**

Member (J)

Vice-Chairman(A)

Pdg

**O.A.No. 173/2006.**

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

**Dated : 9<sup>th</sup> March 2017.**

**C.A. No. 69/2017.**

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

This C.A. is filed for seeking amendment to the O.A. The learned counsel for the applicant states that the applicant wants to amend the O.A. to bring the fact that at the relevant time vacancy of Professor (PSM) was available at Indira Gandhi Govt. Medical College and Hospital, Nagpur. This is the only amendment which he is seeking. This will not change the nature of relief sought in the O.A.

We find that the amendment is within the parameters of law of amendments and can be safely allowed. The respondents will get full opportunity to meet the issues raised by the applicant while filing affidavit in reply to the amendment application. The C.A. stands allowed. The learned counsel for the applicant states that he will amend the O.A. within one week and serve a copy of amended application on the respondents.

S.O. 6<sup>th</sup> April 2017.

Member (J)

Vice-Chairman(A)

Pdg

**Cont. Petn. St. No. 137/2017 in O.A.**

No.17/2016

CORAM : Rajiv Agarwal : Vice- Chairman

&

J.D. Kulkarni : Member ( J ).

DATE : 9/3/2017

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C.A. No.20/2017

Learned Advocate A.V. Kale, for the applicant  
and Shri A.M. Ghogare, Id. P.O. for the respondents.

S.O.23/3/2017

Member (J).

Vice-Chairman.

Skt.

Cont. Petn. St. No. 202/2017 in O.A.

No.100/2010

CORAM : Rajiv Agarwal : Vice- Chairman

&

J.D. Kulkarni : Member ( J ).

DATE : 9/3/2017

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C.A. No.32/2017

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

This Tribunal by its order dtd. 10/9/2015 in O.A. No.100/2010 directed the respondents to pay all the pensionary dues to the family members of the deceased police personnel who had filed O.A. No.100/2010 after his demise. The order was to be complied with within a period of 6 months. The Id. counsel for the applicant stated that till today the family members of the deceased police personnel have not got a single pai pursuant to the order passed by this Tribunal. Thus, clearly it is in defiance of the order passed by this Tribunal.

In the present C.A. also the Respondent no. 2 has neither remained present in the Tribunal nor filed affidavit-in-reply personally. In contempt matters, it is expected that the respondents should have filed affidavit-in-reply personally. As such powers are not delegated to the sub-ordinate officer

who has filed affidavit-in-reply on behalf of Respondent no.2, which actually amount to aggravate the contempt.

The Learned Presenting Officer stated that the Respondent no. 2 will file affidavit-in-reply explaining the steps taken by him for implementing the order of this Tribunal.

We are not satisfied with the response of the Respondent no. 2 . Prima facie it appears that the order of this Tribunal has not been complied with in true letter and spirit and the family of the deceased police personnel is not able to get any benefit for more than a year after the time limit extended to them by this Tribunal. Hence C.A. for permission to file contempt petition against the respondents is allowed. No order as to costs.

Member (J).

Vice-Chairman.

Skt.

Cont. Petn. St. No. 169/2017 in O.A.

No.696/2014

CORAM: Rajiv Agarwal :Vice-Chairman

&

J.D. Kulkarni : Member ( J ).

DATE : 9/3/2017

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C.A. No.25/2017

Heard the Applicant in person and Shri S. Khadatkar, Id. Presenting Officer for the Respondents.

The Learned P.O. stated that the order of this Tribunal dtd. 13/1/2015 in O.A. No. 696/2014 has been fully complied with. He stated that the Respondent no. 2 was directed to decide the representation of the applicant dtd. 7/7/2014 within two months from the date of receipt of the order passed by this Tribunal. By order dtd. 1/12/2014 the representation of the applicant was rejected and a detailed reply has been given to the applicant considering all the issues raised by him. The applicant who is personally present, admits that the said letter dtd. 1/12/2014 has been received to him.

Though there appears to be some delay in taking decision on the representation of the applicant, however we are satisfied that the Respondent no. 2 has considered the representation of the applicant and given a reasoned order. Hence there appears no defiance of the order passed by this Tribunal.

C.A. no. 25/2017 is therefore dismissed with  
no order as to costs.

Member (J).

Vice-Chairman.

Skt.

Cont. Petn. St. No. 193/2017 in O.A.

No.98/2016

CORAM : Rajiv Agarwal : Vice- Chairman

&

J.D. Kulkarni : Member ( J ).

DATE : 9/3/2017

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C.A. No.20/2017

Heard Shri S.R. Charpe, Id. counsel for the applicants and Shri A.M. Ghogre, Id. P.O. for the respondents.

The Learned counsel for the

Applicants stated that by the interim order dtd. 10/2/2016 the applicants were permitted by this Tribunal to apply for the post of Multipurpose Health Workers pursuant to the advertisement issued by the District Malaria Officer, Akola, who is Respondent No. 4. He further stated that though this Tribunal has given clear orders that the applicants be permitted to apply for the said post without considering the fact that they were over aged as per the advertisement, the system did not permit them to apply for the said post online. The applicants have served the notices on the Respondents by RPAD and they were duly received by the Respondent No. 4. The Respondent No. 4 has held the examination for the said posts on 8/1/2017 and the applicants were not called for the

said examination. The Id. counsel for the applicant stated that the respondents may declare the results which will cause grave prejudice to the applicants. He therefore, stated that he may be permitted to file contempt application.

The Id. Presenting Officer stated that today is the first date and he has no instructions from the respondents yet. Hence C.A. is allowed.

Issue notices to the respondents returnable on 23/3/2017.

Hamdast granted.

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

Applicant is authorized and directed to serve on the Respondents intimation/ notice of date of hearing duly authenticated by Registry, along with complete paper book of Contempt Petition and O.A.

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. 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 three weeks. Applicant is directed to file Affidavit of compliance of notice.

Member (J).

Vice-Chairman.

Skt.

Cont. Petn. St. No. 09/2017 in O.A.

No.28/2010

CORAM :Rajiv Agarwal:Vice-Chairman

&

J.D. Kulkarni : Member ( J ).

DATE : 9/3/2017

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C.A. No.3/2017

Heard Shri S.D. Shukla, Learned Advocate for the applicant and Shri H.K. Pande, Id. P.O. for the respondents.

The Learned P.O. states that he has received instructions that the matter regarding implementation of the order of this Tribunal is in the last stages and it will be complied with within a period of 1 month. The communication dtd.8/3/2017 received from the Regional Dairy Development Officer, Nagpur is taken on record.

The matter may be placed before the appropriate Bench on 6/4/2017.

Member (J).

Vice-Chairman.

Skt.

**Cont. Petn. St. No. 155/2017 in O.A.**

**No.849/2014**

**CORAM: RajivAgarwal:**

**ViceChairman(A)**

**&**

**J.D. Kulkarni:**

**Vice-Chairman( J ).**

**DATE : 9/3/2017**

**\*\*\***

**C.A. No.23/2017**

Heard Shri S.M. Khan, Advocate holding for Shri P.C. Marpakwar, Learned Advocate for the applicant and Shri H.K. Pande, Id. P.O. for the respondents.

This Tribunal by order dtd. 9/2/2016 has directed the respondents to treat the period of temporary service of the applicant from 11/5/1990 to 8/7/2008 as regular service and the respondents were directed to issue necessary orders within a period of 8 weeks. Today, the Learned P.O. places on record some communication from the Public Health Department stating that they have decided not to file Writ Petition challenging the aforesaid order of the Tribunal and steps are being taken to issue necessary orders in consultation of the Finance Department. We are not satisfied with this approach of the respondents in this matter when clear orders are issued by this Tribunal. It is necessary for the respondents to comply with our orders. Prima facie case is made out that the order of this Tribunal has not been complied with in true letter and spirit. Therefore C.A. for permission to file contempt petition is allowed.

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

Skt.

**Cont. Petn. St. No. 702/2016 in O.A.**

**No.513/2015**

**CORAM :Rajiv Agarwal:Vice-Chairman  
&**

**J.D. Kulkarni : Member ( J ).**

**DATE : 9/3/2017**

**\*\*\***

**M.C.A. no.86/2016 in C.A. No.167/2016**

Heard Shri P.V. Thakre, Id. Advocate for the applicant and Shri P.N. Warjurkar, Id. P.O. for the respondents.

Issue Notice to the respondents returnable on 6/4/2017.

Hamdast granted.

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

Applicant is authorized and directed to serve on the Respondents intimation/ notice of date of hearing duly authenticated by Registry, along with complete paper book of Contempt Petition and O.A.

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.

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 three weeks. Applicant is directed to file Affidavit of compliance of notice.

**Member (J).**

**Vice-Chairman.**

Cont. Petn. St. No. 2292/2016 in O.A.

No.602/2003

**CORAM :Rajiv Agarwal:Vice-Chairman  
&**

**J.D. Kulkarni : Member ( J ).**

**DATE : 9/3/2017**

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**C.A. No.558/2016**

Heard Shri G.N. Khanzode, Learned Advocate for the applicant and Shri S. Deo, Id. C.P.O. for the respondents.

The claim of the applicant is that this Tribunal has passed an order on 23/1/2006 in O.A. No.602/2003, which has not yet been complied with. He therefore filed C.A. No. 558/2016 seeking permission to file contempt petition against the respondents. The Id. C.P.O. argued that the applicant has earlier also filed Civil Application no. 67/2011 in Cont. St. No.281/2011 in the same O.A. No. 602/2003. All the issues which are raised in the present C.A. were duly considered by the Tribunal while deciding the aforesaid C.A. No.67/2011. The applicant has filed Annexure-A-4, in which it is mentioned as follows :-

***“ That in spite of these communication no order came to be passed by the Respondent and therefore the applicant was constrain to file the Contempt Petition Stamp no.281/2011 along with Civil Application No.67/2011 for permission to file claim petition. That the Respondent no.1 and 2 as well as Respondent no. 3 appeared and filed their written submission and admitted that they have already initiated the process of regularization/absorption of his service as per the***

***order passed by this Hon'ble Tribunal, the copies of both the replies dated 9/6/11 and 13/06/11 filed by the Respondents are collectively marked hereto as Annexure-A-4. On the basis of the said reply the contempt petition came to be disposed of by this Hon'ble Tribunal on the ground that the process is already initiated however till date the applicant has not been absorbed as per order of this Hon'ble Tribunal dated 23/01/2006 against Class III cadre along with all the consequential benefits arising there from and the applicant is continuously making his efforts for the said benefit of which he has been deprived for no reason therefore the applicant needs to be compensated by directing the respondent to pay the interest at the rate of 10% per annum on the claims he is entitled to receive as per the order referred above which has neither challenged nor set aside by any order in appeal till date. It is submitted that due this inaction on the part of Respondents has amounted the willful and deliberate disobedience of the order passed by this Hon'ble Tribunal ".***

The Id. C.P.O. points out that this Annexure-A-4 is referring to the affidavit-in-replies filed by the Divisional Commissioner, Nagpur and the Collector, Chandrapur in C.A. No.67/2011. However, the affidavit-in-reply in that C.A. filed by the Divisional Commissioner has not been placed on record by the applicant. The Id. C.P.O. has placed on record the affidavit-in-reply of the Collector, Chandrapur in that C.A. The Id. C.P.O. states that from these two affidavit-in-replies, it will be quite clear that no assurance was given to this Tribunal that the matter regarding absorption of the applicant in the Govt. service was under consideration. In fact it was clearly mentioned in that affidavits that the Govt. has decided not to absorb the Muster Assistants working on the Employment Guarantee Scheme who were continued in service on the relevant date due to some court orders. The Id. C.P.O. also pointed out that in the order of this Tribunal dated 15/7/2011 this fact has been clearly noted.

We find that the contention of the Id. C.P.O. is correct. On careful reading of the affidavit-in-replies filed by the Divisional Commissioner, Nagpur and the Collector, Chandrapur in the earlier proceedings we find that the State Govt. has taken a policy decision not to absorb the Muster Assistants working on the E.G.S. works who had continued in service by virtue of some court orders. Without going into the question of validity of the policy decision, fact remains that the respondents have clearly stated that the order of this Tribunal has been complied with by the State Govt. and on that basis this Tribunal has passed the following order in C.A. No.67/2011 in Cont.St.No.281/2011:-

***“ The applicants have filed the present C.A. for initiating contempt proceedings as they were not intimated about the decision taken by the State Government , by the Executive Engineer. We have no iota of doubt that the order passed by the Tribunal has been complied with by the State Government and as such no case for initiation of contempt proceedings is made out. In the result, the C.A. stands dismissed.”***

It is quite clear that mere non-communication of the decision of the Govt. to the applicants that they were not eligible to be absorbed in Regular Govt. Service as held by this Tribunal was not amounting to violation of the order dtd. 6/6/2006. This issue has already been decided by this Tribunal in C.A. No.67/2011 and we do not see any reason as to why entertain the present C.A. The present C.A. is, therefore, dismissed with no order as to costs.

The Id. C.P.O. also states that as per the order of this Tribunal dtd. 2/3/2017 the Collector Chandrapur is present before this Tribunal. His presence is noted.

**Member (J).**

**Vice-Chairman.**

O.A. No. /2015

**CORAM :Rajiv Agarwal:Vice-Chairman  
&**

**J.D. Kulkarni : Member ( J ).**

**DATE : 9/3/2017**

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Heard Shri V.A. Kothale, Learned Advocate  
for the applicant and Shri P.N. Warjurkar, Id. P.O. for  
the respondents.

**Member (J).**

**Vice-Chairman.**

**Skt.**