

**FARAD CONTINUATION SHEET  
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
AURANGABAD BENCH, AURANGABAD**

**M.A. ST. 727/2018 IN O.A. ST. 728/2018  
(Dr. Dattatraya B. Gholap & Ors. V/s. State of Maharashtra & Ors.)**

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**OFFICE ORDER**

**TRIBUNAL'S ORDERS**

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**CORAM : JUSTICE M.T. JOSHI, V.C.**

**DATE : 18.5.2018**

**ORAL ORDER :**

Heard Shri V.B. Wagh, learned Advocate for the applicants and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. The present M.A. has been filed by the applicants for permission to sue jointly the accompanying O.A.

3. For the reasons stated in the present M.A. it is allowed and disposed of without any order as to costs and the applicants are permitted to sue jointly the O.A. subject to payment of requisite court fees.

**VICE CHAIRMAN**

ARJ ORAL ORDERS 18-5-2018

**FARAD CONTINUATION SHEET  
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
AURANGABAD BENCH, AURANGABAD**

**O.A. ST. 728/2018**

**(Dr. Dattatraya B. Gholap & Ors. V/s. State of Maharashtra & Ors.)**

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**OFFICE ORDER**

**TRIBUNAL'S ORDERS**

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**CORAM : JUSTICE M.T. JOSHI, V.C.**

**DATE : 18.5.2018**

**ORAL ORDER :**

Heard Shri V.B. Wagh, learned Advocate for the applicants and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. Issue notice before admission to the respondents, returnable on 20.6.2018.

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

4. Applicants are 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. Respondents are 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.

Applicants are directed to file Affidavit of compliance and notice.

7. In case notice is not collected within seven days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

**8. Upon hearing the learned Advocate for the applicants, interim relief in terms of prayer clause 26 (a) of the present O.A. hereby granted, which reads as under :-**

**“26 (a) Pending hearing and final disposal of this Original Application, the respondent authorities may restrain from effecting the promotion to the cadre of District Health Officer pursuant to the Departmental Promotional Committee Meeting dated 13.4.2018 till the consideration of the applicant’s claim to the extent of applicants.”**

**9. Further without filing any detailed affidavit in reply the concerned respondents are directed to go through the Recruitment Rules of 1981 (page 28) and more particularly rule 9 schedule 3 (A) thereof, which does not provide for any recognition of Medical Council of India for the concerned Diploma in Public Health. Further the concerned respondents shall also take into consideration the notification dtd. 27.10.2017 issued by the Ministry of Health (Annex. A.8 page 74), which would show that after consultation with the Medical Council of India amendment to the first schedule of Indian Medical Council Act**

**be made, wherein course was approved during the relevant period.**

**10. Upon considering these facts the concerned respondents may take the corrective steps by holding fresh meeting of the D.P.C. and report in that regard be filed on the next date.**

**In case for any other reason the concerned respondents are unable to take corrective steps, then a short affidavit mentioning the reasons therefor be filed on the next date.**

11. S.O. to 20.06.2018.

12. Steno copy / humdast allowed for both the sides.

**VICE CHAIRMAN**

**FARAD CONTINUATION SHEET  
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
AURANGABAD BENCH, AURANGABAD**

**ORIGINAL APPLICATION ST. 730/2018  
(Archana N. Muley V/s. State of Maharashtra & Ors.)**

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**OFFICE ORDER**

**TRIBUNAL'S ORDERS**  
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**CORAM : JUSTICE M.T. JOSHI, V.C.**

**DATE : 18.5.2018**

**ORAL ORDER :**

Heard Shri Avinash S. Deshmukh, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. Issue notice before admission to the respondents, returnable on 19.6.2018.

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. Respondents are 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. In case notice is not collected within seven days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

8. Learned Advocate for the applicant submits that interim relief against the impugned transfer order dtd. 10.5.2018 (Annex. A. 2 page 14) be granted. Reading of the impugned order would show that the present applicant is transferred from the post of Tahsildar, Borivali to the post of Tahsildar (Sanjay Gandhi Yojana), Borivali itself.

9. Learned Advocate for the applicant relies on the judgments of Division Bench of this Tribunal at Mumbai in O.A. no. 376/2007 with O.A. no. 377/2007 dtd. 4.10.2007, judgment of Single Bench of the Tribunal at Aurangabad Bench in O.A. no. 403/2007 dtd. 30.10.2007 and the judgment of Hon'ble Bombay High Court in writ petition No. 7554/2013 along with other writ petitions dtd. 22.11.2013.

10. Learned Advocate for the applicant took me through the observations made in the judgment in O.A. no. 376/2007 and observations of Hon'ble High Court in writ petition no. 7554/2013. Upon making pointed query learned Advocate for the applicant submits that issue of transfer from one post to another at the same place was not involved in any of these 2 judgments.

He, however, submits that conclusion reached by the Division Bench of this Tribunal in O.A. no. 376/2007 would show that the decision was rendered regarding placing the Government servant at a particular post for a period of 3 years. Reading of the judgment of the Hon'ble High Court would show that the issue as to whether such transfer from one post to another at same place can be treated as a transfer was not interpreted and Hon'ble High Court dismissed the writ petition filed by the applicants therein against order of this Tribunal passed in their O.As.

11. Solely in the O.A. no. 403/2007 decided by the Single Bench of this Tribunal, the said issue was involved. The Tribunal however relying on the observations of the Division Bench in the O.A. nos. 376 & 377/2007 as detailed above allowed the said O.A. The observations of the Division Bench were obiter.

12. The provisions of sec. 3 of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (for short the Transfer Act, 2005) would show that normal tenure of the Government servant to the post shall be 3 years.

13. In the circumstances, learned Advocate submits that as the applicant is transferred from the post, may be at the same place, within a period of less than 3 years, the impugned transfer order is bad in law in view of the provisions of the Transfer Act, 2005 and, therefore, interim relief be granted in favour of the applicant.

14. It is to be noted that the Transfer Act was enacted for regulation of transfers of the Government servants. Issue would be as to whether mere transfer from one post to another at the same headquarters can be termed as a transfer. In my view any provision of the Transfer Act need not be interpreted in a strict manner as is required for interpreting any criminal Law. The provisions of Transfer Act are not of any nature of defining a criminal liabilities but the same are merely for regulating the administrative law.

15. In these circumstances, liberal interpretation of the provision of Transfer Act is required. Smooth administration should be at



the heart of any action by employer and employee is required to obey any directions if same would not cause any legal difficulty to him. If all these facts are considered in my view no case for interim relief is made out by the applicant. Hence, prayer for interim relief is rejected.

16. At this stage, Shri Deshmukh, learned Advocate, on instructions from the applicant, submits that the present O.A. itself can be disposed of in view of above order.

17. In the circumstances, the present O.A. is dismissed without any order as to costs.

**VICE CHAIRMAN**

**FARAD CONTINUATION SHEET  
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
AURANGABAD BENCH, AURANGABAD**

**ORIGINAL APPLICATION NO. 307 OF 2018  
(Shri Bhaskar K. Patil V/s. State of Maharashtra & Ors.)**

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**OFFICE ORDER**

**TRIBUNAL'S ORDERS**  
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**CORAM : JUSTICE M.T. JOSHI, V.C.**

**DATE : 18.5.2018**

**ORAL ORDER :**

Heard Shri K.N. Farooqi, learned Advocate holding for Shri N.L. Jadhav, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. Issue notices to the respondents, returnable on 19.6.2018.

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

4. Applicants are 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 question such as limitation and alternate remedy are kept open.

6. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in

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**O.A. NO. 307 OF 2018**

the Registry before due date. Applicants are directed to file affidavit of compliance and notice.

7. In case notice is not collected within 7 days or service report on affidavit is not filed 3 days before returnable date, O.A. shall stand dismissed without reference to Tribunal and papers be consigned to the record.

8. S.O. to 19.6.2018.

9. Steno copy allowed for the use of both the sides.

**VICE CHAIRMAN**

ORAL ORDERS 18-5-2018-HDD3

**FARAD CONTINUATION SHEET  
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
AURANGABAD BENCH, AURANGABAD**

**ORIGINAL APPLICATION ST. NO. 733 OF 2018  
(Shri Mohan M. Sonar V/s. State of Maharashtra & Ors.)**

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**OFFICE ORDER**

**TRIBUNAL'S ORDERS**

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**CORAM : JUSTICE M.T. JOSHI, V.C.**

**DATE : 18.5.2018**

**ORAL ORDER :**

Heard Shri (Dr.) R.J. Godbole, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. Issue notices to the respondents, returnable on 19.6.2018.

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

4. Applicants are 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 question such as limitation and alternate remedy are kept open.

6. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicants are directed to file affidavit of compliance and notice.

**O.A. ST. NO. 733 OF 2018**

7. In case notice is not collected within 7 days or service report on affidavit is not filed 3 days before returnable date, O.A. shall stand dismissed without reference to Tribunal and papers be consigned to the record.

**8. Shri (Dr.) R.J. Godbole, learned Advocate for the applicant submits that in case posting at Sangamner is not available, the applicant can be posted at Nandurbar, which post is presently vacant.**

**9. In the circumstances, without filing any affidavit in reply, the respondent No. 1 is directed to take into consideration the fact that the Hon'ble Minister vide order dated 21.6.2017 (Annexure 'A-1', page No. 10 of the O.A.), has already reinstated the present applicant. Respondent No. 1 further shall take into consideration the successive representations made to him by the applicant in this regard and to take corrective step before the returnable date. The report of taking the corrective steps shall be filed on the returnable date. In case, for any valid reason the respondent No. 1 comes to the conclusion that the order of the Hon'ble Minister dated 21.6.2017 cannot be complied with then a short affidavit explaining the reason be filed on record on the next date.**

10. S.O. to 19.6.2018.

11. Steno copy allowed for the use of both the sides.

**VICE CHAIRMAN**

**FARAD CONTINUATION SHEET  
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
AURANGABAD BENCH, AURANGABAD**

**ORIGINAL APPLICATION NO. 306 OF 2018  
(Shri Maruti H. Patil V/s. State of Maharashtra & Ors.)**

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**OFFICE ORDER**

**TRIBUNAL'S ORDERS**  
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**CORAM : JUSTICE M.T. JOSHI, V.C.**

**DATE : 18.5.2018**

**ORAL ORDER :**

Heard Shri P.G. Gunale, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant has filed a true copy of order passed by this Tribunal in similar case i.e. O.A. No. 308/2018 on 15.5.2018 and the same is taken on record and marked as document 'X' for the purpose of identification.

3. Issue notices to the respondents, returnable on 27.6.2018.

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

5. Applicants are authorized and directed to serve on respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

6. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the question such as limitation and alternate remedy are kept open.

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**O.A. NO. 306 OF 2018**

7. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicants are directed to file affidavit of compliance and notice.

8. In case notice is not collected within 7 days or service report on affidavit is not filed 3 days before returnable date, O.A. shall stand dismissed without reference to Tribunal and papers be consigned to the record.

**9. Appointment, if any made to the post of Police Patil of the concerned village, the said appointment shall be subject to the decision in the present Original Application. The applicant shall join the said selected / appointed candidate as respondent, as and when the selection/ appointment shall be made.**

10. S.O. to 27.6.2018.

11. Steno copy allowed for the use of both the sides.

**VICE CHAIRMAN**

ORAL ORDERS 18-5-2018-HDD

**FARAD CONTINUATION SHEET  
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
AURANGABAD BENCH, AURANGABAD**

**ORIGINAL APPLICATION NO. 314 OF 2018  
(Shri Govind S. Surewad V/s. State of Maharashtra & Ors.)**

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**OFFICE ORDER**

**TRIBUNAL'S ORDERS**  
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**CORAM : JUSTICE M.T. JOSHI, V.C.**

**DATE : 18.5.2018**

**ORAL ORDER :**

Heard Shri V.B. Dhage, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. Issue notices to the respondents, returnable on 26.6.2018.

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

4. Applicants are 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 question such as limitation and alternate remedy are kept open.

6. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicants are directed to file affidavit of compliance and notice.



7. In case notice is not collected within 7 days or service report on affidavit is not filed 3 days before returnable date, O.A. shall stand dismissed without reference to Tribunal and papers be consigned to the record.

**8. Learned Advocate for the applicant makes a statement that though the impugned transfer order (Annexure 'A-2', page-12 & 13 of O.A.) is passed on 30.05.2017, till this date the applicant is not relieved from the post. He further submits that several posts including the post sought by the present applicant at Pardi Tq. Loha is vacant. The concerned respondent is required to consider the options of posting within the same District or Tahsil, as per the administrative convenience, in case transfer of the spouse.**

**9. Considering all the statements made at bar, interim relief in terms of prayer clause 9 (a) is hereby granted till filing of the affidavit in reply. The said prayer clause 9 (a) runs as under: -**

**“(9)(a) Pending the hearing and final disposal of this Original Application, direct the respondent No. 4 to not relieve the applicant from his services and for that purpose issue necessary orders”.**

10. S.O. to 26.6.2018.

11. Steno copy allowed for the use of both the sides.

**VICE CHAIRMAN**