

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

**ORIGINAL APPLICATION NO.626/2017
(Ashok Sidram Patil V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : J.D.KULKARNI, VICE-CHAIRMAN (J)

DATE : 23.02.2018

ORAL ORDER :

Heard Shri S.A.Wakure learned Advocate for the applicant and Shri N.U.Yadav learned Presenting Officer for respondents.

2. The applicant though appointed as Copying Clerk was working as Surveyor. At present, he is working as Headquarter Assistant with respondent no.5 at Omerga. Vide impugned order dated 12-08-2017, the applicant has been kept under suspension by the District Collector, Osmanabad on the allegations of misconduct mentioned therein. Said order of suspension has been challenged in this O.A.

3. Learned Advocate for the applicant submits that though applicant has been kept under suspension from 12-08-2017, till today, departmental enquiry has not been initiated against the applicant and no chargesheet has been served on him. The applicant has filed

number of representations before the competent authority for revocation of suspension but no action has been taken so far.

4. Learned Advocate for the applicant has placed on record copies of such representations dated 21-08-2017, 26-12-2017 and 21-02-2018, which are marked as document X-1, X-2 and X-3 for the purpose of identification. However, no decision has been on his representations.

5. The applicant has placed reliance on the Judgment reported in the case of **Ajay Kumar Choudhary Vs. Union of India through its Secretary & Ano.**, reported in [(2015) 7 SCC 291]. The Hon'ble Apex Court in the said case has observed that the currency of suspension order should not extend beyond three months if within this period the memorandum of charge/ charge-sheet is not served on the delinquent officer/ employee. If the memorandum of charge / charge-sheet is served, a reasoned order must be passed for extension of suspension. The Hon'ble Apex Court has given guidelines as

regards continuation of suspension order and observed that the suspension, specially preceding formulation of charges, is essentially transitory or temporary in nature, and must perforce be of short duration. Practice of protracted period of suspension and repeated renewal thereof is strongly deprecated.

6. It is admitted fact that the Govt. of Maharashtra has issued number of circulars as regards periodical revocation of suspension cases of the employees. The respondent authorities may consider the representation filed by the applicant in view of such guidelines and circulars issued by the Government from time to time and also considering the guidelines given in the Judgment of Apex Court in the case of **Ajay Kumar Choudhary Vs. Union of India through its Secretary & Ano.**, (cited supra). In view thereof, following order is passed.

ORDER

- (i) O.A.No.626/2017 stands disposed of with direction to the respondent no.2

District Collector, Osmananabd to take decision on the various representations filed by the applicant i.e. document X-1, X-2 and X-3 and to convey the said decision to the applicant in writing.

(ii) The Collector may keep the matter of the applicant before the competent committee for revocation of the suspension and in any case decision shall be taken within 1 month from the date of passing of this order and the decision shall be communicated to the applicant in writing.

(iii) There shall be no order as to costs.

VICE-CHAIRMAN (J)

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

**ORIGINAL APPLICATION NO. 96/2018
(Shri Arun K. Tike V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

**CORAM : J.D. KULKARNI, VICE CHAIRMAN (J)
AND
P.N. DIXIT, MEMBER (A)**

DATE : 23.02.2018

ORAL ORDER :

Heard Shri K.G. Salunke, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for respondents.

2. Issue notices to the respondents in the present O.A., returnable on 2.4.2018.

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 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. Applicant is directed to file affidavit of compliance and notice.

7. S.O. to 2.4.2018.

8. Steno copy / hamdast allowed to the both the sides.

MEMBER (A)

VICE CHAIRMAN (J)

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

**ORIGINAL APPLICATION NO. 102/2018
(Lakshmi P. Dakewad V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

**CORAM : J.D. KULKARNI, VICE CHAIRMAN (J)
AND
P.N. DIXIT, MEMBER (A)**

DATE : 23.02.2018

ORAL ORDER :

Heard Shri S.D. Joshi, learned Advocate holding for Shri Ashish B. Rajkar, learned Advocate for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for respondents.

2. Issue notices to the respondents in the present O.A., returnable on 12.3.2018.

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 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. Applicant is directed to file affidavit of compliance and notice.

7. S.O. to 12.3.2018.

8. Steno copy / hamdast allowed to the both the sides.

MEMBER (A)

VICE CHAIRMAN (J)

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

**ORIGINAL APPLICATION NO. 73/2018
(Kashinath G. Kadam V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

**CORAM : J.D. KULKARNI, VICE CHAIRMAN (J)
AND
P.N. DIXIT, MEMBER (A)**

DATE : 23.02.2018

ORAL ORDER :

Heard Shri P.S. Mehata, learned Advocate holding for Shri Pratap P. Mandlik, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for respondents.

2. Admittedly, the applicant, who is a Jr. Clerk in the office of Integrated Adivasi Development Project, has been convicted. Vide the impugned order dtd. 4.1.2018 (Annex. A. 3) his services have been terminated as per the provisions of rule 13 (1) of the M.C.S. (Discipline & Appeal) Rules, 1979. The learned Advocate for the applicant submits that no opportunity of hearing was given to the applicant by the competent authority before his termination. The learned C.P.O., on instructions, admits the above facts.

3. There is a special procedure to be followed in certain cases under rule 13 of M.C.S. (Discipline & Appeal) Rules, 1979. The said rule 13 contemplates that, when any penalty is imposed on a Government servant on the ground

of conduct, which has led to his conviction on a criminal charge, the disciplinary authority may consider the circumstances of the case and then terminate the services of the said employee. Proviso to said rule 13, however, shows that the Government servant may be given an opportunity of making representation on the penalty proposed to be imposed before any order is made in a case under clause (i) of the said rule.

4. Admittedly in the present matter, no opportunity was given by the disciplinary authority to the applicant before termination of his services. We are, therefore, satisfied that the order of termination has been passed without following the procedure as laid down under rule 13 of M.C.S. (Discipline & Appeal) Rules, 1979 and, therefore, said order stands quashed and set aside.

5. The learned Advocate for the applicant submits that the applicant himself has brought to the notice of the competent authority that he was convicted and impugned termination order is passed after 2 years from his conviction and, therefore, the applicant be reinstated in service.

6. In our opinion, it is not proper to direct the respondents to reinstate the applicant since he has already been convicted. However, mitigating circumstances be considered by the competent

authority while giving opportunity to the applicant and while issuing show cause notice to him for inflicting proposed penalty.

7. In the circumstances, the O.A. stands disposed of with no order as to costs. The respondents are directed to issue show cause notice to the applicant and after giving an opportunity to appear personally before the competent authority and submit his case, may pass necessary order as per the rules and regulations and may also consider all the mitigating circumstances. Any action to be taken shall be completed within a period of 3 months from the date of this order.

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

MEMBER (A)

VICE CHAIRMAN (J)

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

**ORIGINAL APPLICATION NO. 107/2018
(Pankaj K. Kelkar V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

**CORAM : J.D. KULKARNI, VICE CHAIRMAN (J)
AND
P.N. DIXIT, MEMBER (A)**

DATE : 23.02.2018

ORAL ORDER :

Heard Shri P.A. Kulkarni, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for respondents.

2. The applicant, in response to the advertisement dtd. 27.12.2016, has applied for the post of Clerk-cum-Typist. Admittedly, after participation in the various examinations, the applicant's name appeared in the select list, however, he did not get appointment. In fact, the applicant was called upon to produce the documents for verification and accordingly he appeared before the competent authority, but when the final select list published on 14.2.2018 he came to know that his name is not appearing therein. The applicant filed representation on 15.2.2018 (Annex. A.5), however, nothing was done thereon and, therefore, the applicant has filed this O.A. He claims that the res. nos. 2 & 3 be directed to issue letter of appointment in his favour.

3. The learned C.P.O., on instructions, submits that as per the advertisement for the

post of Clerk-cum-Typist, the educational qualification as per clause 2 (page 18) thereof it was necessary for the applicant to have acquired qualification in typing prior to filing of application for the post. Though the applicant was allowed to participate in the selection process, he did not possess the requisite qualification and this fact came to the notice of competent authority when documents were verified. He invited our attention on instruction no. 2, which reads as under :-

“2- य[क]h ijh{ke/;s menokjkuh iklr dsyY; k xqk@; k vk/kks xqkoRrud kj vfire fuoMhl kBh menokjkuk 'k{kf.kd o brj l c/f/kr eG iek.ki=s rikl .khl kBh mi yC/k d: u n; koh ykxrhy- vU; Fkk vfire fuoMhl kBh fopkj dsyk tk.kkj ukgh- dkxni= i MrkG.khl kBh menokj xjgtj jkghY; kl menokjkph fuoM dj.; kl kBh dlskrkgh fopkj dj.; kr ; skkj ukgh-”

4. The learned Advocate for the applicant has invited our attention to the certificate of passing of requisite typing examination by the applicant (page 40) from which it seems that the applicant appeared for the examination, which was held in August, 2017 and the result thereof was declared on 26.10.2017.

5. Admittedly, the advertisement is dtd. 27.12.2016, which means on the date of

submitting application form for the post, the applicant was not holding the requisite qualification in typing. In view of this, the respondents cannot be directed to appoint the applicant on the post. Hence, we pass following order :-

ORDER

The O.A. stands dismissed with no order as to costs.

MEMBER (A)

VICE CHAIRMAN (J)

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

**M.A. 52/2018 in O.A. st. 230/2018
(Dnyaneshwar T. Sakhare & Ors. V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

**CORAM : J.D. KULKARNI, VICE CHAIRMAN (J)
AND
P.N. DIXIT, MEMBER (A)**

DATE : 23.02.2018

ORAL ORDER :

Heard Shri B.R. Kedar, learned Advocate for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for respondents.

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

3. Perused the application. Considered the contentions.

4. For the reasons stated in the M.A., it is allowed and disposed of without any order as to costs. The applicants are permitted to sue jointly the O.A. subject to payment of requisite court fee by each of the applicants.

MEMBER (A)

VICE CHAIRMAN (J)

ARJ ORAL ORDERS 23-02-2018

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

**ORIGINAL APPLICATION ST. NO. 230/2018
(Dnyaneshwar T. Sakhare & Ors. V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

**CORAM : J.D. KULKARNI, VICE CHAIRMAN (J)
AND
P.N. DIXIT, MEMBER (A)**

DATE : 23.02.2018

ORAL ORDER :

Heard Shri B.R. Kedar, learned Advocate for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for respondents.

2. The learned Advocate for the applicants submits that at Annex. A-2 he has filed a wrong document and he wants to replace it by filing correct document. He is permitted to do so. The corrected Annex. A-2 be accepted on record.

3. Admittedly the applicants have participated in the examination of Deputy Education Officer in pursuance of the advertisement issued by the respondents. The only problem as faced by the applicants is that, they could not fulfill the pro-forma (A) in the format on line due to technical defect on the website. However, they have already submitted the said pro-forma (A) before the competent authority. The applicants apprehend that because of technical defect respondents may prevent the applicants from participating in the further process of selection.

4. The learned Advocate for the applicants has invited our attention to one order passed on 13.7.2017 by the principal seat of this Tribunal at Mumbai in O.A. no. 634/2017 (S.D. Sutar & Ors. Vs. The State of Maharashtra & Ors.) (Annex. A.9 pages 53 to 55), wherein interim relief was granted by the Tribunal in favour of the applicants therein.

5. In view of above circumstances, we are of the opinion that the applicants shall not be denied access in the further selection process due to technical defect of website. Hence, the respondents are directed not to prevent the applicants from participating in the further selection process only on the ground that the pro-forma (A) as stated above is not linked by them on the website in proper time. The final result of the applicants be withheld till the next date.

6. Issue notices to the respondents in the present O.A., returnable on 27.3.2018.

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

8. 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.

9. 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.

10. 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.

11. S.O. to 27.3.2018.

12. Steno copy / hamdast allowed to the both the sides.

MEMBER (A)

VICE CHAIRMAN (J)

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

**O.A. st. NO. 1004/2014
(Jaibunbee Rasul Shaikh V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : J.D. KULKARNI, VICE CHAIRMAN (J)

DATE : 23.02.2018

ORAL ORDER :

Heard Shri H.U. Dhage, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for respondents.

2. Admit. Place the matter for final hearing in due course with liberty to both the sides to circulate the matter.

VICE CHAIRMAN (J)

ARJ ORAL ORDERS 23-02-2018

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

**O.A. NO. 891/2016
(Anil P. Salve V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : J.D. KULKARNI, VICE CHAIRMAN (J)

DATE : 23.02.2018

ORAL ORDER :

Heard Smt. Suchita A. Dhongde Upadhyay, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for respondents.

2. At the request of learned C.P.O., S.O. to 12.3.2018.

VICE CHAIRMAN (J)

ARJ ORAL ORDERS 23-02-2018

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

**O.A. NO. 800/2015
(Dattatraya K. Kulkarni V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : J.D. KULKARNI, VICE CHAIRMAN (J)

DATE : 23.02.2018

ORAL ORDER :

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

2. This is an application filed for speaking to minutes dtd. 23.2.2018.

3. The learned Advocate for the applicant submits that in the judgment delivered on 22.9.2017 in O.A. no. 800/2015, there are typographical mistakes and the same are required to be corrected. He has drawn my attention to para 2 of the said judgment, wherein the date of superannuation of the applicant has been mentioned as '2.12.2005', which shall be '31.1.2006'.

4. Similarly in para no. 4 of the said judgment, pay scale of the applicant has been wrongly mentioned as 'Rs. 9300/- and Grade Pay of Rs. 2400/- as on 1.1.2006' and instead the pay scale of the applicant shall be mentioned as 'Rs. 9300-34800 and Grade Pay Rs. 4300/- as on 31.1.2006'.

5. The learned C.P.O. admits that these seem to be typographical mistakes and, therefore, the same are required to be corrected.

6. In the circumstances in para 2 of the judgment the date of superannuation of the applicant be corrected as '31.1.2006' in the place of 2.12.2005. Similarly, in para 4 the pay scale of the applicant be corrected as 'Rs. 9300-34800 and Grade Pay Rs. 4300/- as on 31.1.2006' in place of 'Rs. 9300/- and Grade Pay of Rs. 2400/- as on 1.1.2006'.

7. The Registrar of the Bench to do the needful on the line of this order.

VICE CHAIRMAN (J)

ARJ ORAL ORDERS 23-02-2018

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

**ORIGINAL APPLICATION NO. 534 OF 2014
(Shri Madhukar S. Ingale V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

**CORAM : J.D. KULKARNI, VICE CHAIRMAN (J)
&
P.N. DIXIT, MEMBER (A)**

DATE : 23.02.2018.

ORAL ORDER :

Heard Shri A.S. Deshmukh, learned
Advocate for the applicant and Shri N.U. Yadav,
learned Presenting Officer for respondents.

2. After hearing the matter for considerable
time, it is closed for orders.

MEMBER (A)

VICE CHAIRMAN (J)

Kpb ORAL ORDERS 23-02-2018

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

**O.A.NOS. 319, 321, 322, 323, 324, 330, 332 & 744 ALL OF 2013
WITH O.A.NOS. 634 & 682 BOTH OF 2014 WITH O.A.NOS. 721 &
722 BOTH OF 2015 AND O.A. NO. 340/2016**

[Shri Arungir P. Bawa & Ors. Vs. State of Maharashtra & Ors]

OFFICE ORDER

TRIBUNAL'S ORDERS

**CORAM : J.D. KULKARNI, VICE CHAIRMAN (J)
AND
P.N. DIXIT, MEMBER (A)**

DATE : 23.02.2018.

ORAL ORDER :

Heard Shri Anant Devkate, learned Advocate for the applicants in all these cases and Shri V.R. Bhumkar, learned Presenting Officer for the respondents in all these cases.

2. After hearing the matters for considerable time, same are closed for orders.

MEMBER (A)

VICE CHAIRMAN (J)

Kpb ORAL ORDERS 23-02-2018

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

**O.A. No.122/2012 with O.A. No. 123/2012 with T.A. No.
02/2012 in W.P. NO. 9902/2011**

[Shri Jalindare K Rathod Vs. State of Maharashtra & Ors]

OFFICE ORDER

TRIBUNAL'S ORDERS

**CORAM : J.D. KULKARNI, VICE CHAIRMAN (J)
AND
P.N. DIXIT, MEMBER (A)**

DATE : 23.02.2018.

ORAL ORDER :

Heard Shri S.S. Jadhavar, learned Advocate for the applicants in O.A. Nos. 122/12 and 123/12, Shri N.U. Yadav, learned Presenting Officer for respondents in all the O.As. and Shri V.B. Wagh, learned Advocate holding for Shri A.M. Nagarkar, learned Advocate for respondent No. 3 in O.A. No. 123/2012.

Shri A.L. Tikle, learned Advocate for the applicant in T.A. No. 02/12 in W.P. No. 9902/2011 is **absent**.

2. The matters are kept for final hearing as and when the Division Bench is available.

MEMBER (A)

VICE CHAIRMAN (J)

Kpb ORAL ORDERS 23-02-2018

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

**O.A. No. 232/2016 WITH M.A. 127/16 IN T.A. No. 3/16
(W.P.12032/15)
(Priyanka S. Sanap & Ors. V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

**CORAM : J.D. KULKARNI, VICE CHAIRMAN (J)
AND
P.N. DIXIT, MEMBER (A)**

DATE : 23.02.2018

ORAL ORDER :

Heard Shri R.D. Khadap, learned Advocate holding for Shri S.S. Thombre, learned Advocate for the applicants in O.A. 232/16, Shri P.G. Tambade, learned Advocate holding for Shri S.S. Jadhavar, learned Advocate for the applicant in T.A. 03/16, Shri M.S. Mahajan, learned Chief Presenting Officer for respondent no. 1, Shri M.B. Kolpe, learned Advocate for respondent no. 2 in all the matters and Shri V.B. Wagh, learned Advocate for respondent nos. 3 to 6 in T.A. No. 3/2016.

2. As per the order dated 21.02.2018, the M.P.S.C. was directed to declare the result of the main examination as well as oral examination so far as the applicants are concerned. Accordingly, today the M.P.S.C. has placed on record the result of all the applicants in sealed cover and the same has been opened before this Tribunal. From the said result it seems that the applicant Rucha S. Tandale may be considered on merit, since she has secured more marks than the

benchmark, for the sports category. However, whether she will be entitled to the said appointment or not will have to be considered on merit after hearing the respondents. So far as the applicants Smt. Kiran S. Tidke and Smt. Priyanka S. Sanap are concerned, it seems that both the candidates are not qualified from any category, since they have not obtained minimum benchmark allotted for each category to be considered for selection. In view thereof, the learned respective Advocates agreed that their applications may be disposed of. In view thereof, the O.A. No. 232/2016 and T.A. No. 03/16 (W.P. 12032/15) stand disposed of. Since, the T.A. No. 03/16 (12032/15) is disposed of, nothing survives in the M.A. No. 127/2016 and it also stands disposed of. There shall be no order as to costs.

3. The claim of the applicant Smt. Rucha S. Tandale in T.A. No. 02/2016 (W.P. No. 1209/2015) will be considered on merit. The learned Advocate for the respective parties submitted and agreed that there will be no hurdle to appoint the selected candidates i.e. newly added respondents, however, there may be change in merit list considering the marks obtained by Smt. Rucha S. Tandale. However, that merit list will be changed only after decision on merit. For the time being, the appointment orders can be issued in respect of newly added

respondents on the post of Assistant Engineer Group-B. However, while appointing the newly added respondents, the M.P.S.C. is directed to keep one post vacant in the cadre of Assistant Engineer Group-B, as the said post can be filled in after decision on merit of the T.A. No. 02/2016 filed by Smt. Rucha S. Tandale. It is made clear that whatever appointment orders that may be issued to the newly added respondents will be subject to outcome on merit in the T.A. NO. 02/2016 (W.P. No. 1209/15). We hope that the necessary orders will be passed within a reasonable time.

4. M.P.S.C. is directed to keep a copy of the result on record and the original copy is returned to the Shri Randive H.D., Desk Officer, M.P.S.C. and Shri Kamble U.K., Asst. Desk Officer, M.P.S.C., Mumbai, those who are present before this Tribunal.

5. Accordingly, O.A. No. 232/2016 and T.A. 3/2016 (W.P. 12032/15) with M.A. No. 127/2016 stand disposed of with no order as to costs.

MEMBER (A)

VICE CHAIRMAN (J)

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

**T.A. No. 02/16 (W.P.1209/15)
(Rucha S. Tandale V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

**CORAM : J.D. KULKARNI, VICE CHAIRMAN (J)
AND
P.N. DIXIT, MEMBER (A)**

DATE : 23.02.2018

ORAL ORDER :

Heard Shri R.D. Khadap, learned Advocate holding for Shri S.S. Thombre, learned Advocate for the applicant, Shri M.S. Mahajan, learned Chief Presenting Officer for respondent no. 1, Shri M.B. Kolpe, learned Advocate for respondent no. 2 in all the matters and Shri V.B. Wagh, learned Advocate for respondent nos. 3 to 6.

2. The matter be kept for final hearing as and when Division Bench is available.

MEMBER (A)

VICE CHAIRMAN (J)

Kpb ORAL ORDERS 22-02-2018

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

ORIGINAL APPLICATION NO. 380 OF 2017

[Dr. Prasad V. Kulkarni & Ors. Vs. State of Maharashtra & Ors]

OFFICE ORDER

TRIBUNAL'S ORDERS

**CORAM : J.D. KULKARNI, VICE CHAIRMAN (J)
AND
P.N. DIXIT, MEMBER (A)**

DATE : 23.02.2018.

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. Learned Chief Presenting Officer has filed affidavit in reply on behalf of respondent No. 1 and the same is taken on record and the copy thereof has been served on the learned Advocate for the applicants.

3. S.O. to 23rd March, 2018.

MEMBER (A)

VICE CHAIRMAN (J)

ORAL ORDERS 23.02.2018-HDD

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

ORIGINAL APPLICATION NO. 941 OF 2017

[Dr. Pushpa W. Salunke Vs. State of Maharashtra & Ors]

OFFICE ORDER

TRIBUNAL'S ORDERS

**CORAM : J.D. KULKARNI, VICE CHAIRMAN (J)
AND
P.N. DIXIT, MEMBER (A)**

DATE : 23.02.2018.

ORAL ORDER :

Heard Shri Shamsundar Patil, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. Learned Presenting Officer has placed on record a copy of order date 3rd January, 2018; whereby the applicant's claim for voluntary retirement has been rejected on the ground that the applicant has not completed qualifying service under Rule 66 (1) of the Maharashtra Civil Services (Pension) Rules, 1982. The copy of the said order dated 3rd January, 2018 is taken on record and marked as document 'X' for the purposes of identification.

3. In view of the aforesaid position, the applicant is at liberty to amend the present Original Application, if he wants to challenge the said order.

4. On the request and by consent of both the parties, S.O. to 8th March, 2018.

MEMBER (A)

VICE CHAIRMAN (J)

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

ORIGINAL APPLICATION NO. 498 OF 2015

[Fakirsahab B. Deshmukh Vs. State of Maharashtra & Ors]

OFFICE ORDER

TRIBUNAL'S ORDERS

**CORAM : J.D. KULKARNI, VICE CHAIRMAN (J)
AND
P.N. DIXIT, MEMBER (A)**

DATE : 23.02.2018.

ORAL ORDER :

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

2. Learned Advocate for the applicant has filed short affidavit and the same is taken on record and the copy thereof has been served on the learned Presenting Officer for the respondents.

3. S.O. to 19th March, 2018.

MEMBER (A)

VICE CHAIRMAN (J)

ORAL ORDERS 23.02.2018-HDD

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

**ORIGINAL APPLICATION NO. 111 OF 2018
(Shri Prashant K. Padghan V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : J.D. KULKARNI, VICE CHAIRMAN (J)

DATE : 23.02.2018.

ORAL ORDER :

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

2. Issue notices to the respondents, returnable within 12.03.2018.

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 the case. 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 acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

7. S.O. to 12.03.2018.

8. Steno copy and Hamdast is allowed to both parties.

VICE CHAIRMAN (J)

Kpb ORAL ORDERS 23-02-2018

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

**ORIGINAL APPLICATION NO. 764 OF 2017
(Shri Vijaykumar B. Raut V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : J.D. KULKARNI, VICE CHAIRMAN (J)

DATE : 23.02.2018.

ORAL ORDER :

Heard Smt. Suchita Dhongde (Upadhyay), learned Advocate for the applicant and Smt. Resha S. Deshmukh, learned Presenting Officer for respondents.

2. Learned Presenting Officer has filed affidavit in reply on behalf of respondent No. 3. Same is taken on record and the copy thereof has been served on the other side.

3. Learned Advocate Shri S.B. Mene, has filed Vakalatnama on behalf of respondent No. 4. Same is taken on record. He seeks time to file affidavit in reply on behalf of respondent No. 4.

4. S.O. to 23.03.2018.

VICE CHAIRMAN (J)

Kpb ORAL ORDERS 23-02-2018

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

**ORIGINAL APPLICATION NO. 765 OF 2017
(Shri Ravindra P. Patel V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : J.D. KULKARNI, VICE CHAIRMAN (J)

DATE : 23.02.2018.

ORAL ORDER :

Heard Smt. Suchita Dhongde (Upadhyay),
learned Advocate for the applicant and Smt. Priya
R. Bharaswadkar, learned Presenting Officer for
respondents.

2. Learned Presenting Officer has filed
affidavit in reply on behalf of respondent No. 2.
Same is taken on record and the copy thereof has
been served on the other side.

3. Learned Advocate Shri S.B. Mene, has filed
Vakalatnama on behalf of respondent No. 4.
Same is taken on record. He seeks time to file
affidavit in reply on behalf of respondent No. 4.

4. S.O. to 23.03.2018.

VICE CHAIRMAN (J)

Kpb ORAL ORDERS 23-02-2018

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

**ORIGINAL APPLICATION NO. 110 OF 2018
(Dr. Vijaykumar M. Bhayekar V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : J.D. KULKARNI, VICE CHAIRMAN (J)

DATE : 23.02.2018.

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for respondents.

2. The applicant has challenged the impugned order dated 12.10.2017, whereby he has been directed to pay an amount of Rs. 10,87,250/- on account of excess amount paid to him. The applicant has already retired from service and he is a Class-III employee. Till reply of the respondents is received, the order of recovery dated 12.10.2017 is stayed.

3. In the meantime, issue notices to the respondents, returnable on 23.03.2018.

4. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall 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 the case. Respondents are 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 questions such as limitation and alternate remedy are kept open.

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. Applicant is directed to file affidavit of compliance and notice.

8. S.O. to 23.03.2018.

9. Steno copy and Hamdast is allowed to both parties.

VICE CHAIRMAN (J)

Kpb ORAL ORDERS 23-02-2018

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

**ORIGINAL APPLICATION NO. 506 OF 2017
(Shri Bhimrao V. Pawar V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : J.D. KULKARNI, VICE CHAIRMAN (J)

DATE : 23.02.2018.

ORAL ORDER :

Heard Smt. Suchita Dhongde (Upadhyay), learned Advocate holding for Shri S.D. Dhongde, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for respondents.

2. The applicant is a Head Constable. One Shri Murlidhar Rangrao Mistri, lodged complaint against him and F.I.R. No. 3003/2016 has been lodged against the applicant and the crime under section 7, 13, (1)(d) read with 13 (2) of the Prevention of Corruption Act, 1988 has been registered. It is alleged that the applicant has demanded and accepted Rs. 2000/- considering other remuneration from the complainant. The applicant was accordingly trapped by the ACB and the charge sheet has been filed against the applicant.

3. On the similar facts and circumstances, the department has initiated D.E. against the applicant. The charge sheet in the D.E. has been served on the applicant on 08.06.2017 and the enquiry has been initiated.

4. Learned Advocate for the applicant submits that the facts in the D.E. as well as in the criminal trial are same, witnesses to be examined in both the proceedings are also similar and therefore, it cannot be proper to continue D.E. till conclusion of the criminal trial. The applicant has therefore, prayed that the D.E. be stayed till decision of the criminal trial.

5. I have perused the documents placed on record and it seems that the main witness to be examined in both the trial is complainant, who has lodged complaint for demanding and accepting bribe by the applicant. The witnesses almost are similar in both the trial and therefore, in such circumstances, it may not be proper to continue D.E. till conclusion of the criminal trial. Even if, the applicant is acquitted in the

criminal trial and the department found that he has been acquitted on the basis of benefit of doubt, the department will be at liberty to proceed with the D.E.

6. Learned Advocate for the applicant has placed reliance on the judgment delivered by the Hon'ble High Court of Judicature of Bombay Bench at Aurangabad in W.P. No. 7698/2014 in the case of Ravi S/o Tarachand Dhote Vs. Maharashtra State Electricity Distribution Company Ltd. (MSEDCL) & Anr., the judgment delivered by the Hon'ble Apex Court in Civil Appeal No. 4715/2011 in the case of State Bank of India & Ors. Vs. Neelam Nag and the order passed by this Tribunal in O.A. No. 858/2016 in the case of S.L. Jadhav & Ors. Vs. The State of Maharashtra & Ors. on 21.11.2016, in the similar circumstances, D.Es. have been stayed. I am satisfied that no prejudice will be caused to the respondents, if the D.E. is stayed during pendency of the criminal trial. However, if the proceedings are to be conducted simultaneously,

the applicant may face difficulty and his defence may be disclosed.

7. Considering all these aspects, I pass following order:-

ORDER

1. The Original Application is allowed in terms of prayer clause 9(B).
2. The proceedings in the D.E. initiated against the applicant vide impugned order dated 8.6.2017 is hereby stayed till conclusion of the criminal trial against the applicant.

There shall be no order as to costs.

VICE CHAIRMAN (J)