

O.A. NO. 929 OF 2016

(Vinod A. Wagh Vs. The State of Maharashtra & Ors.)

CORAM :- Hon'ble Shri J.D. Kulkarni, Member (J)
(This matter is placed before the Single Bench due to non-availability of Division Bench.)

DATE :- 23.12.2016

Oral Order :-

1. Heard Ms. Preeti Wankhade, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.
2. Issue notices to the respondents, returnable on 11.1.2017.
3. Tribunal may take the cases 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 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. 11.1.2017.

8. Steno copy & hamdust allowed to both the parties.

MEMBER (J)

ARJ 23.12.2016

O.A. NO. 935 OF 2016

(Ananta R. Raykar Vs. The State of Maharashtra & Ors.)

CORAM :- Hon'ble Shri J.D. Kulkarni, Member (J)
(This matter is placed before the Single Bench due to non-availability of Division Bench.)

DATE :- 23.12.2016

Oral Order :-

1. Heard Shri Avinash Deshmukh, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents.
2. Issue notices to the respondents, returnable on 9.1.2017.
3. Tribunal may take the cases 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 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. 9.1.2017.
8. Steno copy & hamdust allowed to both the parties.

MEMBER (J)

ARJ 23.12.2016

MA NO. 474/2016 IN OA ST. 2044/2016

(Suresh M. Tulapurkar Vs. The State of Maharashtra & Ors.)

CORAM :- Hon'ble Shri J.D. Kulkarni, Member (J)

(This matter is placed before the Single Bench due to non-availability of Division Bench.)

DATE :- 23.12.2016

Oral Order :-

1. Heard Shri S.B. Mene, learned Advocate holding for Shri A.S. Deshpande, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.
2. Issue notices to the respondents in M.A. no. 474/2016, returnable on 24.1.2017.
3. Tribunal may take the cases 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 M.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

-2-

MA NO. 474/2016 IN
OA ST. NO. 2044/2016

along with affidavit of compliance in the Registry before due date.
Applicant is directed to file affidavit of compliance and notice.

7. S.O. 24.1.2017.
8. Steno copy & hamdust allowed to both the parties.

MEMBER (J)

ARJ 23.12.2016

MA ST. NO. 3025/2016 IN OA ST. 3026/2016

(Narsing R. Thakur Vs. The State of Maharashtra & Ors.)

CORAM :- Hon'ble Shri J.D. Kulkarni, Member (J)
(This matter is placed before the Single Bench due to non-availability of Division Bench.)

DATE :- 23.12.2016

Oral Order :-

1. Heard Shri P.B. Salunke, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.
2. Issue notices to the respondents in M.A. St. no. 3025/2016, returnable on 24.1.2017.
3. Tribunal may take the cases 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 M.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

-2-

**MA ST. NO. 3025/2016 IN OA
ST. 3026/2016**

along with affidavit of compliance in the Registry before due date.
Applicant is directed to file affidavit of compliance and notice.

7. S.O. 24.1.2017.
8. Steno copy & hamdust allowed to both the parties.

MEMBER (J)

ARJ 23.12.2016

O.A. NO. 191 OF 2015

(Smt. Surekha C. Hazari & Ors. Vs. The State of Maharashtra & Ors.)

CORAM :- Hon'ble Shri J.D. Kulkarni, Member (J)
(This matter is placed before the Single Bench due to non-availability of Division Bench.)

DATE :- 23.12.2016

Oral Order :-

1. None appears for the applicants. Shri N.U. Yadav, learned Presenting Officer for the respondents, is present.
2. At the request of learned P.O. for the respondents, S.O. to 18.1.2017.

MEMBER (J)

ARJ 23.12.2016

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

BENCH AT AURANGABAD

ORIGINAL APPLICATION ST. NO. 2047 OF 2016

[Desai Chandrasing Rathod Vs. the State of Maharashtra & Ors.]

APPEARANCE : Shri D.R. Irale Patil, learned Advocate
for the applicant.

: Smt. Priya R. Bharaswadkar, learned
Presenting Officer for respondents.

**CORAM : HON'BLE SHRI J. D. KULKARNI,
MEMBER (J)**

ORDER

{Delivered on this 23rd day of December, 2016}

1. The applicant has challenged the order dated 26.9.2016 passed by the res. no. 2 the Accountant General (A&E) II, Maharashtra, Nagpur from which it seems that the res. no. 2 has refused to grant family pension to the applicant's second wife viz. Shakuntala.

2. It is contended by the applicant that the first wife of the applicant viz. Shashikala remained issue less and as she was suffering from various decease and, therefore, the applicant got married with said Shakuntala. The second marriage. of

::-2-::
O.A. ST. NO. 2047/16

the applicant was performed on 21.10.2008, whereas his first wife viz. Shashikala died on 2.9.2014. Thus, admittedly, the second marriage of the applicant is not legal as per the Hindu Marriage Act, 1955.

3. The learned Advocate for the applicant has placed reliance on the judgment in the case of **UNION OF INDIA AND ANOTHER VS. JAYWANTABAI WD/O RAMRAO KEWOO [2015 (2) Mh. L.J. 328]**, wherein the similar provisions to grant pension to more than one widows, under Railway Services Rules, has been upheld. The said order seems to have been confirmed by the Hon'ble Supreme Court in Special Leave to Appeal (C) No. 11491/2015 on 8.5.2015. However, Hon'ble Supreme Court in the case of **RAMESHWARI DEVI VS. STATE OF BIHAR AND OTHERS [AIR 2000 SUPREME COURT 735]** has observed as under :-

“Under Section 16 of Hindu Marriage Act, children of void marriage are legitimate, under the Hindu Succession Act, 1956 property of a male Hindu dying intestate devolve firstly on heirs in Clause (i) which include widow and son. Among the widow

::-3-::
O.A. ST. NO. 2047/16

and son, they all get shares. The second wife taken by deceased Government employee during subsistence cannot be described a widow of deceased employee, their marriage void. Sons of the marriage between deceased employee and second wife being the legitimate sons of deceased would be entitled to the property of deceased employee in equal shares along with that of first wife and the sons born from the first marriage. That being the legal position when Hindu male dies intestate, the children of the deceased employee born out of the second wedlock would be entitled to share in the family pension and death-cum-retirement gratuity. The second wife was not entitled to anything and family pension would be admissible to minor children only till they attained majority.”

4. The learned P.O. has invited my attention to the judgment delivered by this Bench of the Tribunal in **O.A. NO. 169/2015 [RADHABAI RANUJI MULEY VS. THE STATE OF MAHARASHTRA & ORS.]**, on **30.11.2016**. In the said case this Tribunal has observed that as per rule 115 of the Maharashtra Civil Services (Pension) Rules, 1982, though the

::-4-::
O.A. ST. NO. 2047/16

Government servant can change the nomination for pension, the nominee must be the member of the family. In the present case Smt. Shakuntala cannot be said to be a family member of the applicant and, therefore, prima-facie, the rejection of her nomination seems to be illegal.

5. In view of the aforesaid legal submissions, I feel that, it will be in the interest of justice to decide the O.A. on merits, keeping open all points such as maintainability of the O.A. etc. and for that purpose, it is necessary that the respondents shall be given an opportunity to file affidavit in reply in the matter.

6. Hence, issue notices to the respondents, returnable on 1.2.2017.

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

::-5-::
O.A. ST. NO. 2047/16

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

11. S.O. 1.2.2017.

12. Steno copy & hamdust allowed to both the parties.

MEMBER (J)

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI,
BENCH AT AURANGABAD.

MA NO.475/2016 IN OA ST.NO.2087/2016.

(N.G. Khardekar Vs. State of Mah.& Ors.)

CORAM :HON'BLE SHRI J.D. KULKARNI, MEMBER (J).

DATE :23.12.2016.

ORAL ORDER:-

Heard Miss Preeti Wankhade, learned Advocate for the applicant and Shri M. S. Mahajan, learned Chief Presenting Officer for the Respondents.

2. Issue notices to the respondents in M.A., returnable on 8.2.2017.

3. Applicant is authorized and directed to serve on all respondents notice of O.A. authenticated by Registry, along with complete paper book of O.A. stating that this Tribunal may take the case for final disposal at this stage and a separate notice for final disposal not be issued.

4. Authorization for service of 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.

5. The service of notice may be done by the applicant by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry as far as possible before the due date.

-2- **MA NO.475/2016 IN OA ST.NO.2087/2016.**

6. Affidavit of service be filed one week before due date.
7. Learned P.O. is directed to communicate this order.
8. Affidavit in reply be filed before due date.
9. Steno copy and Hamdast is allowed to both parties.
10. S.O. to 8.2.2017.

MEMBER (J).

ORAL

ORDERS

23.12.2016-ATP

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI,
BENCH AT AURANGABAD.**

ORIGINAL APPLICATION ST.NO.883/2016.

(D. P. Ramteke Vs. State of Mah.& Ors.)

CORAM :HON'BLE SHRI J.D. KULKARNI, MEMBER (J).

DATE :23.12.2016.

ORAL ORDER:-

None present for the applicant. Heard Shri M. S. Mahajan, learned Chief Presenting Officer for the Respondents.

2. On 9.12.2016 also nobody appeared for the applicant and the matter was kept for dismissal today. In spite of chances given to the applicant no application for condonation of delay is also filed, and therefore, detail order was passed on 9.12.2016. It seems that, the applicant may not be interested in prosecuting the O.A. Hence, the O.A. is dismissed in default with no order as to costs.

MEMBER (J).

ORAL ORDERS 23.12.2016-ATP

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI,
BENCH AT AURANGABAD.

ORIGINAL APPLICATION ST.NO.933/2016.

(Dr. P.P. Bodewar Vs. State of Mah.& Ors.)

CORAM :HON'BLE SHRI J.D. KULKARNI, MEMBER (J).

DATE :23.12.2016.

ORAL ORDER:-

Heard Shri J. S. Deshmukh, learned Advocate for the applicant. Heard Shri N. U. Yadav, learned Presenting Officer for the Respondents.

2. The applicant has been transferred from Trauma Care Unit, Rural Hospital, Pachod, tq. Paithan, Dist. Aurangabad to Primary Health Centre Rajgad, Tq. Kinwat, Dist. Nanded vide impugned order dated 29.4.2016. Accordingly the applicant went there, but he was not allowed to join on the ground that the post is not vacant. He therefore, submitted representation on 29.10.2016 to the Director, Medical Health Services, Mumbai and requested that he may be posted in any of the five options given by him. However, no reply is received and applicant is now nowhere.

3. The learned P.O. is directed to take instructions in this regard and submit a short affidavit as to why the applicant has not been accommodated and whether he can be accommodated on any of the options as stated in the representation. The short reply should be filed within two weeks.

4. S.O. to 17.1.2017.

5. Steno copy be supplied to the learned P.O.

MEMBER (J).

ORAL

ORDERS

23.12.2016-ATP

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI,
BENCH AT AURANGABAD.**

ORIGINAL APPLICATION ST.NO.470/2016.

(T. K. Patil Vs. State of Mah.& Ors.)

CORAM :HON'BLE SHRI J.D. KULKARNI, MEMBER (J).

DATE :23.12.2016.

ORAL ORDER:-

Heard Shri M. K. Deshpande, learned Advocate for the applicant. Heard Shri M.P. Gude, learned Presenting Officer for the Respondents.

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

3. S.O. to 25.1.2017.

MEMBER (J).

ORAL

ORDERS

23.12.2016-ATP

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI,
BENCH AT AURANGABAD.

ORIGINAL APPLICATION ST.NO.754/2016.

(R. A. Vhatkar Vs. State of Mah.& Ors.)

CORAM :HON'BLE SHRI J.D. KULKARNI, MEMBER (J).

DATE :23.12.2016.

ORAL ORDER:-

Heard Shri V. B. Wagh, learned Advocate for the applicant.
Heard Smt S.K. Ghate Deshmukh, learned Presenting Officer for
the Respondents.

2. Learned P.O. files reply affidavit on behalf of Respondent
no.1 and on behalf of Respondents 2 & 3 separately. They are
taken on record. Its copies are served on the other side.

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

4. S.O. to 25.1.2017.

MEMBER (J).

ORAL

ORDERS

23.12.2016-ATP

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI,
BENCH AT AURANGABAD.

ORIGINAL APPLICATION ST.NO.823/2016.

(B. R. Wakode Vs. State of Mah.& Ors.)

CORAM :HON'BLE SHRI J.D. KULKARNI, MEMBER (J).

DATE :23.12.2016.

ORAL ORDER:-

Heard Shri M. K. Deshpande, learned Advocate for the applicant. Heard Smt D.S. Deshpande, learned Presenting Officer for the Respondents.

2. Learned P.O. seeks time to file reply. However, considering the prayer made in this O.A. the matter can be disposed of with directions.

3. The applicant is claiming direction to Respondent no.1 to decide his representation dated 5.6.2015 and further direction to Respondent no.1 to pass suitable order for regularization of period of suspension from 7.4.2007 to 30.6.2008. It seems that, till filing of the application no decision was taken by the competent authority on his representation. The learned Advocate for the applicant submits that, the application can be disposed of by giving directions in prayer clause-11 (C) and further that such decision be taken within time frame limit. In view thereof, the O.A. stands disposed of with following directions :-

(i) Respondent no.1 is directed to take decision on representation dated 5.6.2015 filed by the applicant and pass suitable orders for regularization of period of suspension of the applicant from 7.4.2007 to 30.6.2008. Such decision shall be taken within two months from the date of this order and shall communicated to the applicant in writing.

ii) At the request of the learned Advocate for the applicant Hamdust allowed.

MEMBER (J).

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI,
BENCH AT AURANGABAD.

ORIGINAL APPLICATION ST.NO.853/2016.

(S.P. Gavit Vs. State of Mah.& Ors.)

CORAM :HON'BLE SHRI J.D. KULKARNI, MEMBER (J).

DATE :23.12.2016.

ORAL ORDER:-

None present for the applicant. Heard Shri M.S. Mahajan, learned Chief Presenting Officer for the Respondents.

2. Learned C.P.O. has filed reply affidavit on behalf of Respondent no.3. The same is taken on record. He submits that, the reply of other respondents is not necessary.

3. S.O. to 8.2.2017.

MEMBER (J).

ORAL

ORDERS

23.12.2016-ATP

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI,
BENCH AT AURANGABAD.**

ORIGINAL AKPPPLICATION ST.NO.861/2016.

(H. M. Deshmukh Vs. State of Mah.& Ors.)

CORAM :HON'BLE SHRI J.D. KULKARNI, MEMBER (J).

DATE :23.12.2016.

ORAL ORDER:-

Heard Shri V.G. Pingle, learned Advocate for the applicant and Shri N. U. Yadav, learned Presenting Officer for the Respondents.

2. Learned P.O. seeks time to file reply affidavit. Time granted.

3. S.O. to 6.2.2017.

MEMBER (J).

ORAL ORDERS 23.12.2016-ATP

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI,
BENCH AT AURANGABAD.**

MA NO.1377/2015 IN OA ST.942/2015.

(C.B. Dhabadge Vs. State of Mah.& Ors.)

CORAM :HON'BLE SHRI J.D. KULKARNI, MEMBER (J).

DATE :23.12.2016.

ORAL ORDER:-

None present for the applicant. Heard Shri S.K. Shirse,
learned Presenting Officer for the Respondents.

2. Since nobody appears for the applicant, S. O. to 8.2.2017.

MEMBER (J).

ORAL

ORDERS

23.12.2016-ATP

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI,
BENCH AT AURANGABAD.

ORIGINAL APPLICATION ST.NO.276/2016.

(G. H. Khandagale & Ors. Vs. State of Mah.& Ors.)

CORAM :HON'BLE SHRI J.D. KULKARNI, MEMBER (J).

DATE :23.12.2016.

ORAL ORDER:-

None present for the applicants. Heard Smt D.S. Deshpande, learned Presenting Officer for the Respondents.

2. A detailed order was passed on 20.12.2016 from which it seems that, the applicants and their Counsel were not attending the matter since long and therefore, the matter was kept today for passing dismissal order. Today also the applicants and their Counsel remained absent. In view thereof, it seems that, the applicants may not be interested in prosecuting the O.A. Hence the O.A. stands dismissed in default with no order as to costs.

MEMBER (J).

ORAL ORDERS 23.12.2016-ATP

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,
BENCH AT AURANGABAD**

**M.A. 351/16 with M.A. St.1540/16 in C.P. St. 1541/16 in O.A. 571/12
[Jagannath N. Ghatge & Ors. Vs. The State of Mah. & Ors.]**

CORAM : Hon'ble Shri J.D. Kulkarni, Member(J).

[This matter is placed before Single Bench due to non-availability of Division Bench]

DATE : 22.12.2016

ORAL ORDER:

Shri B.R. Survase, has filed appearance pursis on behalf of respondents. It is taken on record.

2. Shri B.R. Survase, submits that he has instruction from the respondents to appear as Special counsel. He files affidavit in reply on behalf of respondent no. 1 as directed by this Tribunal vide order dated 14.12.2016 and requests that the said affidavit may be taken on board. It is taken on record.

3. The learned Special counsel Shri B.R. Survase, submits that he has informed the learned counsel for the applicant Shri A.S. Shelke, in this regard. Since, the matter is already fixed on 20.01.2017, S.O. to 20.01.2017.

Member (J)