

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NOS.319/2013, 321/2013,  
322/2013, 323/2013, 324/2013, 330/2013,  
332/2013, 744/2013, 634/2014, 682/2014,  
721/2015, 722/2015 AND 340/2015**

(Shri A.P.Bawa & Ors. V/s. The State of Mah. & Ors.)

**CORAM : Hon'ble Shri Rajiv Agarwal,  
Vice-Chairman (A)**

**AND**

**Hon'ble Shri B. P. Patil, Member (J)**

**DATE : 16<sup>TH</sup> FEBRUARY, 2017**

**ORAL ORDER:**

Heard Shri Y.P.Patil learned Advocate holding for Shri Anant Devkate learned Advocate for the Applicants and Shri V.R.Bhumkar learned Presenting Officer for the Respondents.

2. These O.As. were heard for some length on 13<sup>th</sup> February, 2017. The parties were asked to produce certain documents, recruitment rules and relevant extracts of report of the Pay Equalization Committee appointed as per 5<sup>th</sup> Pay Commission.

3. Learned Advocate Shri Y. P. Patil states that Shri Anant Devkate learned Advocate for the Applicants is busy in the Hon'ble High Court.

4. All these matters are being heard as per direction of the Hon'ble High Court and to be disposed of expeditiously. We are unable to do so, as this Bench is

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O.A.No.319/13 & Ors.

constituted only for 5 days, and on 2 occasions, these matters are heard, but cannot be concluded finally.

5. Hence, these matters may be placed before the Division Bench as and when it is constituted.

**MEMBER (J)**

**VICE CHAIRMAN (A)**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NOS.485/2015, 768/2015  
AND 769/2015**

(Dr. P.N.Pensalwar & Ors. V/s. The State of Mah. &  
Ors.)

**CORAM : Hon'ble Shri Rajiv Agarwal,  
Vice-Chairman (A)  
AND  
Hon'ble Shri B. P. Patil, Member (J)**

**DATE : 16<sup>TH</sup> FEBRUARY, 2017**

**ORAL ORDER:**

Heard Shri B.K.Patil learned Advocate for the Applicant in O.A.No.485/16, Shri J.S.Deshmukh learned Advocate for the Applicants in O.A.No.768/15 and 769/15, respectively, and Shri S.K.Shirse learned Presenting Officer for the Respondents in respective matters.

2. This Tribunal has passed a detailed order on 14-12-2016 directing the respondent no.1 i.e. Public Health Department, Government of Maharashtra to file an affidavit at least at the level of Deputy Secretary working in that Department. The matter was kept before the Single Bench for want of Division Bench on 19-01-2017 and 27-01-2017, however, affidavit in reply is not forthcoming.

3. Learned P.O. was also asked to place on record a copy of judgment delivered by this Tribunal at Mumbai in a similar matter. Copy of that judgment is also not placed on record till today. This is a very sad state of

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O.A.NOS.485/2015, 768/2015 AND 769/2015

affairs that the learned P.O. working in the Aurangabad Bench is not able to procure the judgment delivered by the Principal Bench of this Tribunal.

4. We do hope that on the next date copy of that judgment will be placed for our perusal. Separate costs of Rs.10,000/- (Rs. Ten Thousand Only), in each of the O.As., are imposed on the respondent no.1 i.e. Principal Secretary, Public Health Department for failure to file affidavit in reply, which has resulted in wasting of judicial time and our inability to decide this matter, expeditiously. These costs be deposited in the Registry of this Tribunal by Government cheque.

5. S.O. 27<sup>th</sup> March, 2017.

**MEMBER (J)**

**VICE CHAIRMAN (A)**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.482/2016**

(Shri H.V.Patil V/s. The State of Mah. & Ors.)

**CORAM : Hon'ble Shri Rajiv Agarwal,  
Vice-Chairman (A)**

**AND**

**Hon'ble Shri B. P. Patil, Member (J)**

**DATE : 16<sup>TH</sup> FEBRUARY, 2017**

**ORAL ORDER:**

Heard Shri A.S.Deshmukh learned Advocate for the Applicant and Shri S.K.Shirse learned Presenting Officer for the Respondents.

2. This matter may be placed before the Division Bench as per its turn.

**MEMBER (J)**

**VICE CHAIRMAN (A)**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.491/2013**  
(Shri D.T.Patil V/s. The State of Mah. & Ors.)

**CORAM : Hon'ble Shri Rajiv Agarwal,  
Vice-Chairman (A)  
AND  
Hon'ble Shri B. P. Patil, Member (J)**

**DATE : 16<sup>TH</sup> FEBRUARY, 2017**

**ORAL ORDER:**

Heard Shri Ashish Rajkar learned Advocate holding for Shri S.D.Joshi learned Advocate for the Applicant and Shri V.R.Bhumkar learned Presenting Officer for the Respondents.

2. This matter may be placed before the Division Bench as per its turn as and when the Division Bench is available.

**MEMBER (J)**

**VICE CHAIRMAN (A)**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.42/2016**

(Shri Jailal Kasliwal V/s. The State of Mah. & Ors.)

**CORAM : Hon'ble Shri Rajiv Agarwal,  
Vice-Chairman (A)**

**AND**

**Hon'ble Shri B. P. Patil, Member (J)**

**DATE : 16<sup>TH</sup> FEBRUARY, 2017**

**ORAL ORDER:**

Heard Shri A.D.Gadekar learned Advocate for the Applicant and Shri M.S.Mahajan learned Chief Presenting Officer for the Respondents.

2. Learned CPO has filed additional affidavit of respondent no.1 as per direction of the Tribunal dated 04-04-2016. It is taken on record. Copy thereof has been served on the other side.

3. Case be kept for final hearing whenever Division Bench is available.

**MEMBER (J)**

**VICE CHAIRMAN (A)**

**ORIGINAL APPLICATION ST. NO. 169 OF 2017**

{Shri Tulshiram M. Lande Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Shri Justice M.T. Joshi, Member (J)**

**DATE :- 16.02.2017**

**Oral Order :-**

1. Heard Shri S.S. Dixit, 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 7.3.2017.
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 5respondents 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

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**O.A. NO. 169/17**



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

7. S.O. 7.3.2017.

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

**MEMBER (J)**

ARJ ORAL ORDERS 16.2.2017

**ORIGINAL APPLICATION NO. 52 OF 2016**

{Dr. Waman C. Rathod Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Shri Justice M.T. Joshi, Member (J)**

**DATE :- 16.02.2017**

**Oral Order :-**

1. None appears for the applicant. Shri M.P. Gude, learned Presenting Officer for the respondent nos. 1 to 3 is present. None appears for respondent no. 4.
2. The learned P.O. seeks time to file affidavit in reply. Time granted.
3. S.O. to 2.3.2017.

**MEMBER (J)**

ARJ ORAL ORDERS 16.2.2017

**ORIGINAL APPLICATION NO. 284 OF 2016**

{Dr. Usha N. Bholane Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Shri Justice M.T. Joshi, Member (J)**

**DATE :- 16.02.2017**

**Oral Order :-**

1. Heard Shri K.A. Ingle, learned Advocate for the applicant, Shri M.S. Mahajan, learned Chief Presenting Officer for res. nos. 1 to 4 and Shri B.S. Deshmukh, learned Advocate for respondent no. 5.

2. The affidavit in reply is filed by the learned Presenting Officer for res. nos. 1 to 4. It is taken on record and copy thereof has been served upon the learned Advocate for the applicant.

3. S.O. to 17.3.2017. The presence of the Officer is no more required before the Tribunal.

**MEMBER (J)**

ARJ ORAL ORDERS 16.2.2017

**ORIGINAL APPLICATION NO. 381 OF 2016**

{Smt. Nitu M. Chihgalwar Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Shri Justice M.T. Joshi, Member (J)**

**DATE :- 16.02.2017**

**Oral Order :-**

1. Shri S.B. Ghute, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.
2. The learned P.O. submits that, he will take instructions from the res. no. 3 – the Joint Director, Health Services, Pune – about the representation made by the present applicant, which was received by the office of res. no. 3 on 26.2.2016 for transfer at suitable / proper place. It was submitted at bar by the learned advocate for the applicant that the post at Parbhani, as suggested by the applicant, is vacant.
3. At the request of learned P.O., S.O. to 7.3.2017.
4. The P.O. to act upon the steno copy of this order.

**MEMBER (J)**

ARJ ORAL ORDERS 16.2.2017

**ORIGINAL APPLICATION NO. 662 OF 2016**

{Dr. Laxman P. Durgawad Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Shri Justice M.T. Joshi, Member (J)**

**DATE :- 16.02.2017**

**Oral Order :-**

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

2. The learned P.O. seeks time to file reply. The record shows that on last two occasions, last chance was granted for filing reply. It is, however, made clear that, in case affidavit in reply is not filed by the respondents on the next date, the order regarding imposing heavy costs and calling the respondents to appear before the Tribunal, may be passed.

3. S.O. to 21.3.2017.

4. The learned P.O. to act upon the steno copy of this order.

**MEMBER (J)**

ARJ ORAL ORDERS 16.2.2017

**MA 296/2016 IN OA ST. 1298/2016**

{Dr. Dhanraj W. Kendre Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Shri Justice M.T. Joshi, Member (J)**

**DATE :- 16.02.2017**

**Oral Order :-**

1. Heard Shri S.K. Sawangikar, learned Advocate for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents.

2. The learned P.O. has filed affidavit in reply in the misc. application. It is taken on record and copy thereof has been served upon the learned Advocate for the applicant.

3. The learned Advocate for the applicant submits that, in fact, representation of the applicant seeks deemed date of promotion dated 7.2.2013 is still pending with the concerned authority and, therefore, in fact, there is no delay in filing the accompanying original application.

4. Period of 2 years and 6 months is passed from the date of making the representation. The learned Advocate for the applicant submits that, in fact, the applicant was waiting for the decision on the representations and, therefore, bona-fide the proceeding was not filed by the applicant before this Tribunal.

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**MA 296/2016 IN OA**  
**ST. 1298/2016**

5. The learned P.O. opposed the application. Considering the aforesaid facts, in my view, the case has been made out by the applicant for condoning the delay caused in filing the original application before this Tribunal. Accordingly, the delay caused in filing the misc. application is condoned and the misc. application is disposed of without any order as to costs.

6. The office to register the original application after its proper scrutiny.

**MEMBER (J)**

**MA 67/16 WITH M.A. ST. 235/2017 IN O.A. NO. 437/2012**

{Shri Shivshankar T. Munde Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Shri Justice M.T. Joshi, Member (J)**

**DATE :- 16.02.2017**

**Oral Order :-**

1. Heard Shri G.J. Karne, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. M.A. no. 67/2016 has been filed by the applicant for condonation of 8 months and 9 days delay in filing misc. application st. No. 235/2017 for filing restoration of original application.

3. Perused the application. Considered the contentions.

4. For the reasons stated in the misc. application no. 67/2016 the same is allowed and accordingly delay of 8 months and 9 days caused in misc. application for restoration of original application is condoned. There shall be no order as to costs.

**MEMBER (J)**

ARJ ORAL ORDERS 16.2.2017



**M.A. ST. 235/2017 IN O.A. NO. 437/2012**

{Shri Shivshankar T. Munde Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Shri Justice M.T. Joshi, Member (J)**

**DATE :- 16.02.2017**

**Oral Order :-**

1. Heard Shri G.J. Karne, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.
2. M.A. st. no. 235/2017 is filed by the applicant for restoration of original application no. 437/2012, which was dismissed in default by this Tribunal vide its order dtd. 6.5.2016.
3. Perused the application. Considered the contentions.
4. For the reasons stated in the misc. application the same is allowed and accordingly original application is restored to its original position. There shall be no order as to costs.

**MEMBER (J)**

ARJ ORAL ORDERS 16.2.2017

**O.A. NO. 437/2012**

{Shri Shivshankar T. Munde Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Shri Justice M.T. Joshi, Member (J)**

**DATE :- 16.02.2017**

**Oral Order :-**

1. Heard Shri G.J. Karne, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.
2. By the order passed today in misc. application st. No. 235/2017, the original application is restored to its original position. Hence, issue notices to the respondents after restoration, returnable on 22.3.2017.
3. Steno copy & hamdust allowed to both the parties.

**MEMBER (J)**

ARJ ORAL ORDERS 16.2.2017

**O.A. ST. NOS. 135, 170 AND 195 ALL OF 2017**

**CORAM :- Hon'ble Shri Justice M.T. Joshi, Member (J)  
(Division Bench matter)**

**DATE :- 16.02.2017**

**Oral Order :-**

1. Heard Shri S.D. Joshi, learned Advocate for the applicants in all these three matters and Shri M.S. Mahajan, learned Chief Presenting Officer & Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents in respective matters.

2. At the request of learned Advocate for the applicant, leave to amend the prayer clause (A) of the three original applications and the nomenclature of res. no. 3 in O.A. st. No. 195/2017 is granted. The said amendment be carried out within a period of one week.

3. Upon carrying out above amendment, issue notices to respondents in the original applications, returnable on 29.3.2017.

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

**O.A. ST. NOS. 135, 170 AND  
195 ALL OF 2017**

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.As. 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.

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. S.O. 29.3.2017.

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

**MEMBER (J)**

ARJ ORAL ORDERS 16.2.2017

**C.P. NO. 16/2014 IN O.A. NO. 330/2009**

(Shri Sharad W. Pande Vs. the State of Mah. & Ors.)

**CORAM :- Hon'ble Shri Justice M.T. Joshi, Member (J)**  
**(Division Bench matter)**

**DATE :- 16.02.2017**

**Oral Order :-**

1. Heard Shri Ajay Deshpande, learned Advocate for the petitioner and Shri S.K. Shirse, learned Presenting Officer for the respondents.
2. With the consent of both the sides, the matter is taken up for disposal.
3. The present petitioner is seeking permission to initiate the contempt proceeding against the respondents for non compliance of the order dated 7.12.2010 passed by this Tribunal in O.A. no. 330/2009. The relevant directions issued by this Tribunal vide para 9 of the said order are as under :-

“9. In the circumstances, O.A. is allowed. Respondents are directed to consider the case of applicant for promotion as on the date on which D.P.C. was held, as a result of recommendations of which promotion order dt. 17.6.08 was issued. In other words, the D.P.C. should consider the case of the applicant for promotion along with nine promotee Officers by considering the annual

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**C.P. NO. 16/2014 IN O.A. NO.  
330/2009**

confidential reports of the same years of which years A.C.Rs of promoted Officers were considered. If the applicant is found fit for promotion on the basis of parameters applicable, he should be given deemed date promotion on 17.6.2008. His salary should be fixed in the promotional pay scale as on 17.6.2008, and although he may not be entitled for arrears for the period between 17.6.08 to 31.3.09, his pension case will have to be revised in accordance with salary that applicant was entitled in March, 2009 by such notional pay fixation.”

4. The admitted facts are that the present respondents have accordingly carried the pay fixation and the proposal was sent to the Accountant General (A&E) – II, Maharashtra, Nagpur. The Accountant General approved pension, however, he did not partly agree with the fixation and vide letter dated 10.10.2014 communicated as under :-

“Since he was allowed notional fixation only from 17.6.2008 till D.O.R. i.e. 31.3.2009 revised D.C.R.G. and Commuted Value is not

admissible. Only pension and family pension admissible.”

5. Shri Deshpande, learned Advocate for the petitioner submits that, though the Accountant General was not a party respondent to the original application and the present contempt petition, still directions can be issued to the said authority for implementing the order passed by this Tribunal in the original application (supra).

6. The learned P.O. opposed the submissions. He submits that, for a period between 17.6.2008 to 31.3.2009 i. e. till the date of superannuation of the applicant, only pay scale in respect of promotional cadre was fixed and he was not entitled for any arrears for the said period. As he was superannuated on 31.3.2009, his actual pay was not in the promotional cadre and, therefore, the Accountant General has rightly disallowed to grant of D.C.R.G. and commutation value of pension to that extent.

7. Upon hearing both the sides, in my view, beside the fact that the Accountant General is not a party to the

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**C.P. NO. 16/2014 IN O.A. NO.  
330/2009**

original application and party to the present contempt petition, the communication cannot be faulted with. The actual pay of the applicant was not his promotional pay scale, but the actual pay was less on the date of his retirement and on the basis of the last drawn salary, the fixation of amount towards D.C.R.G. and commutation value of pension was made by the Accountant General.

8. In the circumstances, contempt petition is dismissed with no order as to costs.

**MEMBER (J)**

ARJ ORAL ORDERS 16.2.2017



**O.A. NO. 261/2016**

{Shri Baban M. Darade Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Shri Justice M.T. Joshi, Member (J)**

**DATE :- 16.02.2017**

**Oral Order :-**

1. None appears for the applicant. Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondent nos. 1 to 3 and Shri Vinay B. Anjanwatikar, learned Advocate holding for Shri N.B. Narwade, learned Advocate for respondent no. 4, are present.

2. At the request of learned P.O. S.O. to 15.3.2017 for filing affidavit in reply.

**MEMBER (J)**

ARJ ORAL ORDERS 16.2.2017

**O.A. NO. 421/2016**

{Shri Sachin V. Khillare Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Shri Justice M.T. Joshi, Member (J)**

**DATE :- 16.02.2017**

**Oral Order :-**

1. Heard Shri V.B. Wagh, learned Advocate for the applicant, Shri M.P. Gude, learned Presenting Officer for the respondent no. 1 and Shri Shamsundar B. Patil, learned Advocate for respondent no. 2.

2. At the request of learned Advocate for the applicant, S.O. to 20.2.2017.

**MEMBER (J)**

ARJ ORAL ORDERS 16.2.2017

**O.A. NO. 656/2016**

{Shri Gangaram D. Maske Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Shri Justice M.T. Joshi, Member (J)**

**DATE :- 16.02.2017**

**Oral Order :-**

1. Heard Smt. S.P. Chate, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. The learned Advocate for the applicant has filed rejoinder. It is taken on record and copy of the same is served upon the learned Presenting Officer for the respondents.

3. S.O. to 5.4.2017.

**MEMBER (J)**

ARJ ORAL ORDERS 16.2.2017

**O.A. NO. 762/2016**

{Shri Nakul S. Mhaske & 9 Ors. Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Shri Justice M.T. Joshi, Member (J)**

**DATE :- 16.02.2017**

**Oral Order :-**

1. Heard Smt. Vidya Taksal, learned Advocate holding for Shri A.S. Deshmukh, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicant, S.O. to 17.2.2017.

**MEMBER (J)**

ARJ ORAL ORDERS 16.2.2017

**O.A. NO. 817/2016**

{Dr. Sanjay A. Joshi Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Shri Justice M.T. Joshi, Member (J)**

**DATE :- 16.02.2017**

**Oral Order :-**

1. None appears for the applicant. Shri D.R. Patil, learned Presenting Officer for the respondent authorities, is present.
2. Today, Shri Avinash D. Aghav, learned Advocate has filed his V.P. for res. no. 4. It is taken on record.
3. The learned P.O. seeks time to file reply. Time granted.
4. S.O. to 30.3.2017.

**MEMBER (J)**

ARJ ORAL ORDERS 16.2.2017

**O.A. NO. 878/2016**

{Shri Nitinkumar T. Adhe Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Shri Justice M.T. Joshi, Member (J)**

**DATE :- 16.02.2017**

**Oral Order :-**

1. Heard Shri A.D. Sugdare, learned Advocate for the applicant, Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondent nos. 1 & 2 and Shri S.D. Shelke, learned Advocate for respondent nos. 3 & 4.

2. At the request of learned P.O., S.O. to 23.3.2017 for filing affidavit in reply.

**MEMBER (J)**

ARJ ORAL ORDERS 16.2.2017

**O.A. NO. 217/2016**

{Smt. Tanuja R. Patil alias Sau. Tanuja U. Patil Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Shri Justice M.T. Joshi, Member (J)**

**DATE :- 16.02.2017**

**Oral Order :-**

1. None appears for the applicant. Shri V.R. Bhumkar, learned Presenting Officer for the respondent nos. 1 to 3 and Shri A.I. Deshmukh, learned Advocate for respondent no. 4 are present.

2. Shri Deshmukh, learned Advocate has filed reply for res. no. 4. It is taken on record and copy thereof has been served upon the learned Advocate for the applicant.

3. S.O. to 15.3.2017.

**MEMBER (J)**

ARJ ORAL ORDERS 16.2.2017

**O.A. NO. 237/2016**

{Shri Mohmmad Salim Moh. Naim Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Shri Justice M.T. Joshi, Member (J)**

**DATE :- 16.02.2017**

**Oral Order :-**

1. Heard Shri V.S. Tanwade, learned Advocate holding for Shri S.R. Pande, learned Advocate for the applicant, Smt. Deepali S. Deshpande, learned Presenting Officer for the respondent nos. 1 & 2 and Shri U.D. Dalvi, learned Advocate for respondent no. 3.

2. With the consent of both the sides, S.O. to 21.2.2017.

**MEMBER (J)**

ARJ ORAL ORDERS 16.2.2017



**O.A. NO. 712/2016**

{Shri Ashok V. Dahiwal Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Shri Justice M.T. Joshi, Member (J)**

**DATE :- 16.02.2017**

**Oral Order :-**

1. None appears for the applicant. Shri N.U. Yadav, learned Presenting Officer for the respondents, is present.
2. As none appears for the applicant, S.O. to 23.3.2017.

**MEMBER (J)**

ARJ ORAL ORDERS 16.2.2017

**O.A. NO. 792/2016**

{Smt. Sarika B. Wandhekar Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Shri Justice M.T. Joshi, Member (J)**

**DATE :- 16.02.2017**

**Oral Order :-**

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

2. At the request of learned Presenting Officer, S.O. to 8.3.2017.

**MEMBER (J)**

ARJ ORAL ORDERS 16.2.2017

**O.A. NO. 219/2016**

{Smt. Shobha K. Ovhal Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Shri Justice M.T. Joshi, Member (J)**

**DATE :- 16.02.2017**

**Oral Order :-**

1. Heard Shri Vikram S. Undre, learned Advocate for the applicant, Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondent nos. 1 to 4 and Shri Ganesh Jadhav, learned Advocate holding for Shri A.S. Shelke, learned Advocate for respondent no. 6.

2. At the request of learned Advocate for the applicant, S.O. to 22.3.2017.

**MEMBER (J)**

ARJ ORAL ORDERS 16.2.2017

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

{Miss. Chaya B. Dhabadge Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Shri Justice M.T. Joshi, Member (J)**

**DATE :- 16.02.2017**

**Oral Order :-**

1. Heard Shri K.V. Pawar, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicant, S.O. to 22.2.2017.

**MEMBER (J)**

ARJ ORAL ORDERS 16.2.2017

**ORIGINAL APPLICATION NO. 109 OF 2017**

{Shri Bhimrao V. Deshmukhe Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Shri Justice M.T. Joshi, Member (J)**

**DATE :- 16.02.2017**

**Oral Order :-**

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

2. The present original application is filed seeking the following reliefs :-

“A. This original application may kindly be allowed.

B. The impugned order dated 9.9.2016 issued by Respondent no. 3 i. e. the Superintendent of Police, Hingoli thereby directing to recover arrears of excess amount paid to applicant as alleged in the order for the period of 14.8.2013 to 13.8.2016 & fixed his pay scale 5200 + Grade 2400 may kindly be quashed and set aside.

C. The respondents be directed not to recover the excess amount paid for the period of 14.8.2013 to 13.8.2016 to the applicant as alleged in the orders from monthly salary.

D. The respondents be directed to protect the basis pay Rs. 10890/- + Grade pay 2400/- already fixed by the Respondent no. 3 on dated 9.5.2016.

**::-2-::**

**O.A. NO. 109 /17**

E. Pending hearing and final disposal of this original application the execution, operation and implementation of the impugned order dated 9/9/2016 issued by Police Superintendent Hingoli i. e. respondent no. 3 thereby recovery of alleged excess amount paid to the applicant & applicant is placed on basis pay of Rs. 5200/- + Grade pay 2400 may kindly be stayed.

F. Pending hearing and final disposal of the original application to continue the pay scale of the applicant Rs. 10890/- + Grade pay of Rs. 2400/- which applicant received prior to issuing the impugned order dated 9.9.2016 passed by Police Superintendent Hingoli.

G. Respondents No. 1 to 3 may kindly be directed to return the whole amount which is recovered from the applicant forthwith.

H. Any other relief to which the applicants are found entitled to may kindly be granted in the interest of justice.”

3. The record would show that the present applicant faced the departmental enquiry. The punishment of removal from service was imposed upon him by the res. no. 3 - the Superintendent of Police, Hingoli. In the appeal, the res. no. 2 – the Special Inspector General, Nanded, however, decided to set the said punishment and vide order dated 21.9.2015 (Exh. A. 5) directed that the applicant should be reinstated and he should be kept on the starting pay scale of Police Constable for a period of 3 years. In view of the said order, the res. no. 3 vide order dated 9.9.2016 (Exh. A.1) directed that the

**::-3-::**

**O.A. NO. 109 /17**

applicant shall be granted pay for a period from 1.7.2014 to 1.7.2016 on the starting pay, though notional increments for that period were granted. Thereafter the applicant was granted the regular pay from 14.8.2016 (paper book page 16).

4. In view of the rejection of the pay for 3 years, the excess salary that was paid to the applicant was directed to be recovered. This direction is challenged by the applicant in the present O.A. on the ground that, no recovery can be made from the salary. The learned Advocate for the applicant relied on the order dated 17.3.2016 passed by this Tribunal in O.A. no. 755 of 2015 and more particularly on para nos. 6 & 7 of the said order, which reads thus :-

“6. The learned Counsel for the applicant has placed reliance on the judgment delivered by the Hon’ble High Court of Judicature at Bombay, Bench at Aurangabad in ‘Writ Petition No. 10982/2014, Shankar Narsinh Dange Vs. State of Maharashtra & Ors.’ delivered on 1.7.2015. In the said case the Hon’ble High Court has referred to the judgment delivered by the Hon’ble Apex Court in State of Punjab & Ors. Vs. Rafiq Mashih (White Washer etc.) and also referred to the observations made by the Hon’ble Apex Court as under :-

“4. -----the Apex Court in a case of State of Punjab and others Vs. Rafiq Masih (White Washer) etc. referred supra has laid down the categories wherein recoveries by the employer are impermissible in law. The same are called out by the Apex Court as under :-

i) Recovery from employees belonging to Class III and Class IV service (or Group C and Group D) service.

ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.

iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee; would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employers right to recover.

5. The case of the present petitioner would come under clause (ii) laid down by the Apex Court above.”

7. Perusal of the documents placed on record clearly shows that, the case of the applicant falls within the directions in (i) and (ii) as above.”



5. Upon hearing the learned Advocate for the applicant, in my view, no arguable case is made out. The recovery of excess payment towards the salary is made on the basis of the punishment imposed on the present applicant. It is not the recovery of any excess payment made by mistake by the respondents. The punishment is not at any time challenged and only issue before this Tribunal is only recovery of excess payment made in view of the punishment, imposed upon the applicant. In that view of the matter, there is no merit in the present original application and it is, therefore, rejected. There shall be no order as to costs.

**MEMBER (J)**

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

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**ORIGINAL APPLICATION NO.60/2017.**

(Shri S. K. Jakate Vs. State of Mah.&Ors.)

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**CORAM:HON'BLE SHRI JUSTICE M.T. JOSHI, MEMBER (J).**

(Division Bench matter)

**DATE** : 16.02.2017.

**ORAL ORDER:-**

Heard ShriS. B. Mene, learned Advocate for the Applicant and Shri M. S. Mahajan, learnedChief Presenting Officers for the Respondents.

2. Though the earlier order dated 2.2.2017 passed by this Court to take instructions from the concerned authority, there is no response from the Respondents about the same. Learned C.P.O. furtherseeks time to send reminder of the order passed by this Court on 2.2.2017.At his request, S.O. to1.3.2017.Interim relief to continue till then.

**MEMBER (J).**

ORAL ORDERS 16-2-2017-ATP

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

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**ORIGINAL APPLICATION NO.685/2015.**

(Shri R. B. Kulkarni&Ors. Vs. State of Mah.&Ors.)

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**CORAM:HON'BLE SHRI JUSTICE M.T. JOSHI, MEMBER (J).**

(Division Bench matter)

**DATE** : 16.02.2017.

**ORAL ORDER:-**

Heard Shri R. P. Adgaonkar, learned Advocate for the Applicants and Smt S.K. GhateDeshmukh, learned Presenting Officers for the Respondents.

2. Learned P.O. files on record the affidavit in reply on behalf of Respondent no.1. The same is taken on record. Its copy is served on the other side.

3. S.O. to 30.3.2017. Liberty to file rejoinder, if any, is hereby granted.

**MEMBER (J).**

ORAL ORDERS 16-2-2017-ATP

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

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**ORIGINAL APPLICATION NO.813/2015.**

(SntPriyanka S. Bane Vs. State of Mah.&Ors.)

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**CORAM:HON'BLE SHRI JUSTICE M.T. JOSHI, MEMBER (J).**

(Division Bench matter)

**DATE** : 16.02.2017.

**ORAL ORDER:-**

None present for the Applicant. Shri V. R. Bhumkar, learned Presenting Officers for the Respondents no.1 to 3 and Smt. S. S. Pandit, learned Advocate for the Respondent no.4.

2. Learned P.O. files on record the affidavit in reply on behalf of Respondent no.4. The same is taken on record. Its copy is served on the learned P.O. for the respondents.

3. S.O. to 5.4.2017.

**MEMBER (J).**

ORAL ORDERS 16-2-2017-ATP

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

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**ORIGINAL APPLICATION NO.146/2016.**

(Shri R. A. Thakre Vs. State of Mah.&Ors.)

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**CORAM:HON'BLE SHRI JUSTICE M.T. JOSHI, MEMBER (J).**

(Division Bench matter)

**DATE** : 16.02.2017.

**ORAL ORDER:-**

Heard ShriS. D. Kotkar, learned Advocate for the Applicant, Shri V. R. Bhumkar, learned Presenting Officers for the Respondents no.1 & 2 and ShriVivekBhavthankar, learned Special Counsel for the Respondent no.3.

2. Learned Special Counsel ShriVivekBhavthankar for the Respondent no.3 submit that reply is ready and he will file it during the course of the day and will supply its copy to the other side.

3. S.O. to 30.3.2017.

**MEMBER (J).**

ORAL ORDERS 16-2-2017-ATP

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

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**ORIGINAL APPLICATION NO.307/2016.**

(Dr. N. R. Pawar Vs. State of Mah.&Ors.)

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**CORAM:HON'BLE SHRI JUSTICE M.T. JOSHI, MEMBER (J).**

(Division Bench matter)

**DATE** : 16.02.2017.

**ORAL ORDER:-**

Heard Shri V. B. Wagh, learned Advocate for the Applicant and Shri V. R. Bhumkar, learned Presenting Officers for the Respondents.

2. Learned P.O. seeks time to file affidavit in reply on behalf of Respondents. Time granted.

3. S.O. to 6.4.2017.

**MEMBER (J).**

ORAL ORDERS 16-2-2017-ATP

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

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**ORIGINAL APPLICATION NO.644/2016.**

(Shri R. K. Zade Vs. State of Mah.&Ors.)

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**CORAM:HON'BLE SHRI JUSTICE M.T. JOSHI, MEMBER (J).**

(Division Bench matter)

**DATE** : 16.02.2017.

**ORAL ORDER:-**

Heard ShriSubhasChillarge, learned Advocate for the Applicant and Shri N. U. Yadav, learned Presenting Officers for the Respondents no.1 to 3. None present for the Respondents no.4 to 6.

2. Nobody has appeared on the last date also i.e. on 6.2.2017 on behalf of the Respondents no.4 to 6. In the circumstances, S.O. to 28.2.2017. In case nobody appears on that day the application would be heard in absence of those respondents.

**MEMBER (J).**

ORAL ORDERS 16-2-2017-ATP

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

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**ORIGINAL APPLICATION NO.722/2016.**

(Shri K. S. Hinge Vs. State of Mah.&Ors.)

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**CORAM:HON'BLE SHRI JUSTICE M.T. JOSHI, MEMBER (J).**

(Division Bench matter)

**DATE** : 16.02.2017.

**ORAL ORDER:-**

None present for the Applicant.Smt P. R. Bharaswadkar,  
learned Presenting Officers for the Respondents is present.

2. Learned P.O. submit that in fact the signatures found are  
different by the Expert, she seeks time to collect the documents  
on the basis of which the Expert has come to the said conclusion.

3. S.O. to 12.4.2017.

4. Learned P.O. is directed to act on the Steno copy.

**MEMBER (J).**

ORAL ORDERS 16-2-2017-ATP



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

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**ORIGINAL APPLICATION NO.858/2016.**

(Shri S. L. Jadhav&Ors. Vs. State of Mah.&Ors.)

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**CORAM:HON'BLE SHRI JUSTICE M.T. JOSHI, MEMBER (J).**

(Division Bench matter)

**DATE** : 16.02.2017.

**ORAL ORDER:-**

Heard ShriS. D. Dhongde, learned Advocate for the Applicant and ShriD. R. Patil, learned Presenting Officers for the Respondents.

2. Learned P.O. seeks time to file affidavit in reply.

3. Learned Advocate for the applicant files on record the copy of the order passed by this Court in O.A.No.36/2015. The copy is taken on record. Another copy is also supplied to the learned P.O.

4. At the request of the learned P.O., S.O. to 30.3.2017.Interim relief to continue till then.

**MEMBER (J).**

ORAL ORDERS 16-2-2017-ATP

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

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**M. A. No.379/2016 in OA No.249/2016.**

(Shri P. N. Rankhamb Vs. State of Mah.&Ors.)

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**CORAM:HON'BLE SHRI JUSTICE M.T. JOSHI, MEMBER (J).**

(Division Bench matter)

**DATE** : 16.02.2017.

**ORAL ORDER:-**

Heard ShriSham Patil, learned Advocate for the Applicant and Shri S. K. Shirse, learned Presenting Officers for the Respondents.

2. Learned Advocate for the applicant submit that the applicant does not wish to press the M.A. The same is accordingly disposed of, with no order as to costs.

**MEMBER (J).**

ORAL ORDERS 16-2-2017-ATP

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

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**OA No.249/2016.**

(Shri P. N. Rankhamb Vs. State of Mah.&Ors.)

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**CORAM:HON'BLE SHRI JUSTICE M.T. JOSHI, MEMBER (J).**

(Division Bench matter)

**DATE** : 16.02.2017.

**ORAL ORDER:-**

Heard Shri Sham Patil, learned Advocate for the Applicant and Shri S. K. Shirse, learned Presenting Officers for the Respondents.

2. At the request of the learned Advocate for the applicant, S.O. to 22.3.2017 for hearing.

**MEMBER (J).**

ORAL ORDERS 16-2-2017-ATP

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

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**MA NO.495/2015 IN OA ST.NO.1761/2015.**

(Shri B. C. Savant Vs. State of Mah.&Ors.)

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**CORAM:HON'BLE SHRI JUSTICE M.T. JOSHI, MEMBER (J).**

(Division Bench matter)

**DATE** : 16.02.2017.

**ORAL ORDER:-**

Heard ShriM. R. Kulkarni, learned Advocate for the Applicant and Shri M. P. Gude, learned Presenting Officers for the Respondents.

2. Liberty to file additional document to both the sides is hereby granted, even to prima facie explain merit of the petition.
3. At the request of the both the sides, S.O. to 18.4.2017.

**MEMBER (J).**

ORAL ORDERS 16-2-2017-ATP

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

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**ORIGINAL APPLICATION NO.773/2016.**

(Shri G. D. Nagargoje Vs. State of Mah.&Ors.)

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**CORAM:HON'BLE SHRI JUSTICE M.T. JOSHI, MEMBER (J).**

(Division Bench matter)

**DATE** : 16.02.2017.

**ORAL ORDER:-**

Heard ShriG. J. Karne, learned Advocate for the Applicant and Shri N. U. Yadav, learned Presenting Officers for the Respondents.

2. Learned P.O. files on record the affidavit in reply on behalf of Respondent no.2. It is taken on record.
3. S.O. to 8.3.2017.

**MEMBER (J).**

ORAL ORDERS 16-2-2017-ATP

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

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**ORIGINAL APPLICATION NO.655/2016.**

(Shri S. C. Bhadane Vs. State of Mah.&Ors.)

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**CORAM:HON'BLE SHRI JUSTICE M.T. JOSHI, MEMBER (J).**

(Division Bench matter)

**DATE** : 16.02.2017.

**ORAL ORDER:-**

Heard ShriR. N. Jain, learned Advocate holding for Shri D. S. Bagul, learned Advocate for the Applicant, ShriM. P. Gude, learned Presenting Officers for the Respondents and ShriVivekBhavthankar, learned Special Counsel for the Respondents no.1 and 2.

2. Learned Special Counsel ShriVivekBhavthankar for the Respondents no.1 &2 submit that, he will file reply affidavit during the course of the day and will supply its copy to the other side.

3. S.O. to 30.3.2017.

**MEMBER (J).**

ORAL ORDERS 16-2-2017-ATP

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

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**ORIGINAL APPLICATION NO.728/2016.**

(Shri S. E. Chaudhari&Ors. Vs. State of Mah.&Ors.)

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**CORAM:HON'BLE SHRI JUSTICE M.T. JOSHI, MEMBER (J).**

(Division Bench matter)

**DATE** : 16.02.2017.

**ORAL ORDER:-**

Heard ShriP. G. Tanbade, learned Advocate holding for Shri S.S. Jadhavar, learned Advocate for the Applicant and Shri V. R. Bhumkar, learned Presenting Officers for the Respondents.

2. Learned P.O. files on record the affidavit in reply on behalf of Respondent no.2. The same is taken on record. Its copy is served on the other side.

3. At the request of the learned Advocate for the applicant, S.O. to 18.4.2017.

**MEMBER (J).**

ORAL ORDERS 16-2-2017-ATP

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

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**ORIGINAL APPLICATION NO.466/2016.**

(Shri S. B. Kakandikar&Ors. Vs. State of Mah.&Ors.)

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**CORAM:HON'BLE SHRI JUSTICE M.T. JOSHI, MEMBER (J).**

(Division Bench matter)

**DATE** : 16.02.2017.

**ORAL ORDER:-**

Heard ShriS. D. Dhongde, learned Advocate for the Applicant and ShriS. K. GhateDeshmukh, learned Presenting Officers for the Respondents.

2. Learned P.O. seeks time to file reply affidavit. As a last chance time is granted.

3. S.O. to 7.4.2017.

**MEMBER (J).**

ORAL ORDERS 16-2-2017-ATP



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

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**ORIGINAL APPLICATION NO.873/2016.**

(ShriM. P. Ladde&Ors. Vs. State of Mah.&Ors.)

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**CORAM:HON'BLE SHRI JUSTICE M.T. JOSHI, MEMBER (J).**

(Division Bench matter)

**DATE** : 16.02.2017.

**ORAL ORDER:-**

Heard Smt. VidyaTaksal, learned Advocate holding for Shri A. S. Deshmukh, learned Advocate for the Applicant and Shri M. P. Gude, learned Presenting Officers for the Respondents.

2. Liberty to file additional documents is hereby granted.

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

4. S.O. to 5.4.2017.

**MEMBER (J).**

ORAL ORDERS 16-2-2017-ATP

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

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**ORIGINAL APPLICATION NO.942/2016.**

(Shri S. S. Bhagade Vs. State of Mah.&Ors.)

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**CORAM:HON'BLE SHRI JUSTICE M.T. JOSHI, MEMBER (J).**

(Division Bench matter)

**DATE** : 16.02.2017.

**ORAL ORDER:-**

None present for the Applicant. Shri D. R. Patil, learned  
Presenting Officers for the Respondents is present.

2. S.O. to 30.3.2017.

**MEMBER (J).**

ORAL ORDERS 16-2-2017-ATP

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

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**MA NO.446/2016 in CP St.1979/16 in OA 227/15.**

(Shri K. B. Pawar Vs. State of Mah.&Ors.)

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**CORAM:HON'BLE SHRI JUSTICE M.T. JOSHI, MEMBER (J).**

(Division Bench matter)

**DATE** : 16.02.2017.

**ORAL ORDER:-**

Heard Shri V. B. Wagh, learned Advocate for the Applicant and Smt D. S. Deshpande, learned Presenting Officers for the Respondents.

2. While learned P.O. submitted that the order is complied, the learned Advocate for the applicant seeks time to take instructions from the applicant. At his request, S.O. to 1.3.2017.

**MEMBER (J).**

ORAL ORDERS 16-2-2017-ATP

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

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**M.A. No.432/2015 IN OA No.218/2015.**

(Shri K. M. sharma Vs. State of Mah.&Ors.)

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**CORAM:HON'BLE SHRI JUSTICE M.T. JOSHI, MEMBER (J).**

(Division Bench matter)

**DATE** : 16.02.2017.

**ORAL ORDER:-**

Heard ShriSayyedZahed Ali, learned Advocate holding for ShriGajananKadam, learned Advocate for the Applicant and Smt S. K. GhateDeshmukh, learned Presenting Officers for the Respondents.

2. Learned P.O. files affidavit in reply on behalf of Respondents no.1 & 2. The same is taken on record. Its copy is served on the learned Advocate for the applicant.

3. For the reasons stated in the application, the application is allowed and the O.A. is restored to its original file.

4. Accordingly, the M.A. is disposed of with no order as to costs.

**MEMBER (J).**

ORAL ORDERS 16-2-2017-ATP

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

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**MA NO.8/2017 IN OA NO.550/2012.**

(Shri S. V. Dhage Vs. State of Mah.&Ors.)

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**CORAM:HON'BLE SHRI JUSTICE M.T. JOSHI, MEMBER (J).**

(Division Bench matter)

**DATE** : 16.02.2017.

**ORAL ORDER:-**

Heard ShriS. P. Dhobale, learned Advocate holding for Shri R.K. IngolePatil, learned Advocate for the Applicant and Shri D. R. Patil, learned Presenting Officers for the Respondents.

2. At the request of the learned Advocate for the applicant, S.O. to 7.3.2017.

**MEMBER (J).**

ORAL ORDERS 16-2-2017-ATP



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O.A. No. 325/2015

Recruitment Rules for the said post which are mentioned in the letter dated 17.11.2014 to the applicant, which is challenged in this O.A. may also be placed on record. The learned P.O. states that the short affidavit along with relevant Recruitment Rules will be placed before this Tribunal within a period of four weeks.

5. S.O. to 23.03.2017.

6. Steno copy allowed to the learned Presenting Officer at his request.

**MEMBER (J)**

16.02.2017-KPB(DB)

**VICE CHAIRMAN (A)**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**O.A. Nos. 368/2016, 369/2016, 490/2016 and O.A. No. 67/16 with  
M.A. 372/2016 with M.A. 181/2016**

**[Shri Sudhir Shivaji Ishi Vs. The State of Maharashtra & Ors.]**

**CORAM : HON'BLE SHRI RAJIV AGARWAL, V.C. (A)  
AND  
HON'BLE SHRI B.P. PATIL, MEMBER (J)**

**DATE : 16.02.2017.**

**ORAL ORDER:**

Heard Dr. Smt. Kalpalata Patil-Bharaswadkar, learned Advocate for the Applicants in all these O.As. and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents in all these O.As..

2. The learned Advocate Dr. Smt. Kalpalata Patil-Bharaswadkar for the applicants argued in O.A. No. 369/2016 at length. This O.A. was being heard along with O.A. Nos. 67/2016, 368/2016 and 490/2016. Yesterday however, matters viz. O.A. Nos. 397/2016, 393/2016, 398/2016, 32/2016, 835/2015, 400/2016, 361/2016, 370/2016 & 371/2016 were heard and the matters were closed for orders. It appears that the facts in these four O.As. are materially different from the facts in the earlier O.As., which were heard yesterday. The case of the respondent no. 3 i.e. the Divisional Agricultural Joint Director, Nashik Division, Nashik in the O.As. heard yesterday was that the applicants who have been reverted did not pass the Post Recruitment



Examination as per the relevant Rules within the given chances and time limit prescribed by the Rules. They were given promotion wrongly and in the year 2016 by order dated 22.4.2016 they have been reverted. In the present O.As., except O.A. No. 490/2016 the applicants claim that they passed Post Recruitment Examination within the requisite time limit/chances prescribed in relevant Rules. The facts may not be identical in these three O.As. but the fact remains that the affidavit filed in O.As., which were heard yesterday will not cover issues raised by the applicants in these O.As. It appears that the Divisional Agricultural Joint Director, Nashik Division, Nashik in these O.As. has not taken trouble to read O.As. and has filed pursis in this O.A. and averred that the affidavit filed in O.A. No. 398/2016 may be treated as reply in these O.As. also. As a result, even after we spent a lot of time hearing these O.As. we are not able to appreciate the view of the respondents. As a result the respondents have wasted judicial time and it will not be possible to decide these matters expeditiously as directed by Hon'ble High Court because the respondent no. 3 has not taken trouble to file exact affidavits in reply in these O.As..

3. In view thereof, Costs of Rs. 10000/- (Ten Thousand only) is imposed on the respondent no. 3 i.e. Divisional Agricultural Joint Director, Nashik Division, Nashik in three O.As., except O.A. No. 67/2016. The amount of Costs may be deposited in the Registry of this Tribunal by Government cheque before the next date.

4. Learned C.P.O. states that he will file affidavit in reply in these O.As. covering issues involved in the respective O.As., within a period of a week.

5. The matters be placed before Division Bench as and when it is available.

6. Steno copy allowed to the learned Presenting Officer at his request.

**MEMBER (J)**

16.02.2017-KPB(DB)

**VICE CHAIRMAN (A)**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 401 OF 2013**

**(Smt. Anita Mangilal Chavan Vs. The State of Maharashtra and  
Others.)**

**CORAM : HON'BLE SHRI RAJIV AGARWAL,  
VICE CHAIRMAN  
AND  
HON'BLE SHRI B.P. PATIL, MEMBER (J)**

**DATE : 16.02. 2017.**

**ORAL ORDER:**

Heard Smt. Suchita Dhongde, learned Advocate, learned Advocate holding for Shri S.D. Dhongde – learned Advocate for the applicant and Shri M.P. Gude – learned Presenting Officer for the respondents.

2. Yesterday i.e. on 15<sup>th</sup> February, 2017, this Tribunal has passed a short order asking the respondents to file affidavit covering issues mentioned in the order. Today, Shri Sujay Deorao Dodal, Deputy Conservator of Forests, Nanded is present before this Tribunal. However, he states that the file regarding selection process of Forest Guard including Forest Guard, who were to be appointed in Nanded Forest Division was kept in the office of Chief Conservator of Forests, Aurangabad, who was Chairman of the Regional Selection Committee. D.C.F. Nanded office does not have the relevant records. It is seen that the Chief Conservator of Forests, Aurangabad is respondent Nos. 2 and 3, in this Original Application. Respondent No. 2 as Chairman of Regional Selection Committee and respondent No. 3 in his personal capacity.

3. Learned Advocate for the Applicant states that she is seeking leave of this Tribunal to delete the name of Shri Iyer, who is no longer Chief Conservator of Forests and respondent No. 3 will be by designation only. Leave granted to amend the Original Application to

**O.A. NO. 401 OF 2013**

that extent. The learned Advocate for the Applicant shall carry out the necessary amendment in the Original Application forthwith.

4. This Tribunal will like to have an affidavit by the respondent No. 2, who is respondent No. 3 also, which should include the minutes of the Selection Committee, in which the present applicant was first time selected for the post of Forest Guard. The minutes of the Selection Committee, which was held subsequently, in which her name did not appear as the selected candidate and the third list in which she was ultimately placed in the waiting list may also be produced. We would like to have original minutes of the three Selection Committee meetings, merit list of all the candidates who have appeared for selection to the post of Forest Guard in Nanded Division, their names, categories to which they belong, marks obtained by each of the candidates should also be appended.

5. Learned Presenting Officer states that he will file the personal affidavit of the respondent No. 2 along with original records within a period of one month from the date of this order.

6. S.O. to 20<sup>th</sup> March, 2017.

7. Steno copy be provided to both the parties at their request.

**MEMBER (J)**

**VICE CHAIRMAN (A)**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 567 OF 2016  
WITH  
MISCELLANEOUS APPLICATION NO. 39 OF 2017  
(Shri Vijay S/o Kaduji Shirsat Vs. The State of Maharashtra and  
Others.)**

**CORAM : HON'BLE SHRI RAJIV AGARWAL,  
VICE CHAIRMAN  
AND  
HON'BLE SHRI B.P. PATIL, MEMBER (J)**

**DATE : 16.02. 2017.**

**ORAL ORDER:**

Heard Shri Avinash Deshmukh – learned Advocate for the applicant and Smt. Sanjivani Deshmukh-Ghate – learned Presenting Officer for the respondents.

2. The applicant's case is that he was considered by the Departmental Promotion Committee (for short 'DPC') in its meeting held on 13.4.2016 for promotion from the post of Assistant Superintendent to the post of Superintendent from SC reserved category. There were two vacancies from that category and only one vacancy was filled. Next person in the list viz. Smt. N.P. Bankar was also considered and against her in column 'eligible/ineligible', it is mentioned 'reserved pending' and in the next column, it is mentioned that she has not

completed three years in the present post after promotion. The learned Advocate for the Applicant stated that this clearly shows that Smt. N.P. Bankar was not eligible to be promoted to the next post as she has not completed three years in the post of Assistant Superintendent. The Applicant was next in the list and against the column 'eligible/ineligible', no information has been provided [and dash (-) is there]. The applicant claims that he was fully eligible to be promoted as Superintendent and as Smt. N.P. Bankar was not eligible, he should have been promoted. The learned Advocate for the Applicant stated that the next DPC likely to meet on 2<sup>nd</sup> March, 2017 and the respondents may promote Smt. N.P. Bankar on the ground that her case was kept reserved in the last DPC meeting and now she is eligible for promotion. This will be highly prejudicial to the applicant, who was eligible to be promoted on the basis of evaluation of his record in the last DPC. Learned Advocate for the Applicant relied on the judgment delivered by the Hon'ble Supreme Court where it is held that Departmental Promotion Committee has to decide

about the promotion on the basis of the vacancies in the year in which they occur. If a candidate secures necessary qualification for promotion after that year, he can be considered only later and not in an earlier year. Learned Advocate for the Applicant sought interim relief that provisional promotion may be given to Applicant.

3. Learned Presenting Officer strongly opposed to grant of interim relief in favour of the Applicant. She stated that the respondents have not yet filed affidavit in reply and opportunity may be given to them to file affidavit in reply before any interim relief is granted.

4. We find that this Original Application was filed on 19.7.2016 and till today, affidavit in reply has not been filed by the Respondents. The Applicant has not being informed as to why he was not found eligible for promotion. The respondents are directed to file affidavit in reply within a period of three weeks, explaining the reasons for not promoting the Applicant. If the DPC meeting is held before this matter is decided and decision

goes against the applicant, orders of promotion may not be issued till the decision of this Original Application.

5. Learned Advocate for the Applicant sought leave to add Smt. N.P. Bankar as party respondent in this Original Application.

6. Leave as prayed for by the learned Advocate for the Applicant is granted. He undertakes to amend the O.A. within a period of two days and serve amended copy of the O.A. on the respondents.

7. Miscellaneous Application will be heard along with Original Application.

8. S.O. to 23<sup>rd</sup> March, 2017.

9. Steno copy and hamdust is allowed to both the parties.

**MEMBER (J)**

**VICE CHAIRMAN (A)**