

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 100 OF 2012

**[Dr. MeenaRaghunathraoSawate Vs.The State of
Maharashtra &Ors.]**

**CORAM : HON'BLE SHRI RAJIV AGARWAR, V.C. (A)
AND
HON'BLE SHRI J.D. KULKARNI, MEMBER (J)**

DATE : 15.12.2016.

ORAL ORDER:

Heard Shri GajananKadam, learned Advocate holding for Mrs. SheelaKadam, learned Advocate for the Applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondent Nos. 1, 2 & 4 and Ms. PradnyaTalekar, learned Advocate holding for Shri S.B. Talekar, learned Advocate for respondent no. 5. None appears for respondent no. 3.

2. In this Original Application, the applicant has challenged the selection of respondent no. 5 for the post of Assistant Professor in Ayurvedic Medical College in the State of Maharashtra.

3. Learned Advocate Ms. PradnyaTalekar for respondent no. 5 draws our attention to the copy of the mark sheet showing marks obtained by the various candidates in the interview conducted by the Maharashtra Public Service Commission (M.P.S.C.). It is seen that the applicant has

scored 30 marks out of 100. As per the procedure of M.P.S.C., any candidate who obtained 40 or less marks is not eligible for recommendation. As such, the applicant is not liable to be considered for appointment to the post of Assistant Professor. As such, there is no locus as far as the applicant is concerned to challenge eligibility of any other candidate selected by M.P.S.C.

4. Learned Advocate Shri Gajanan Kadam, for applicant strongly opposed any order of this Tribunal at this stage and he sought opportunity to file affidavit in rejoinder. We are however, not convinced that this matter should have any further hearing when the applicant does not have any locus standi in this O.A. to challenge selection of any candidate, as she was found ineligible for selection.

5. In view thereof, the O.A. stands dismissed with no order as to costs.

MEMBER (J)

VICE CHAIRMAN (A)

15.12.2016Kpb (DB)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**O.A. Nos. 639, 640, 676, 681, 682, 803, 860, 864, 897,
905, 906, 907, 908, 909 and 910 all of 2012
[L.J.Shinde&Ors. Vs. The State of Maharashtra &Ors.]**

**CORAM : HON'BLE SHRI RAJIV AGARWAR, V.C. (A)
AND
HON'BLE SHRI J.D. KULKARNI, MEMBER (J)**

DATE : 15.12. 2016.

ORAL ORDER:

Shri S.S. Dambe, learned Advocate for the Applicants in all these matters and Shri D.R. Patil& Smt. Priya R. Bharaswadkar, learned Presenting Officers for the respondents in respective matters.

2. At the request of learned Advocate for the Applicants, S.O. to 13.02.2017.

MEMBER (J)

VICE CHAIRMAN (A)

15.12.2016Kpb (DB)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 36 OF 2013
[Shri Anil B. Tirthkar Vs.The State of Maharashtra &Ors.]**

**CORAM : HON'BLE SHRI RAJIV AGARWAR, V.C. (A)
AND
HON'BLE SHRI J.D. KULKARNI, MEMBER (J)**

DATE : 15.12. 2016.

COMMON ORAL ORDER:

Shri HemantSurve, learned Advocate for the Applicant
(**absent**). Shri V.R. Bhumkar, learned Presenting Officer for
the respondents, present.

2. Since nobody appeared for the applicant today, place
this matter on 16th December, 2016 for dismissal

MEMBER (J)

VICE CHAIRMAN (A)

15.12.2016Kpb (DB)

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

**ORIGINAL APPLICATION NO. 15/2013
[B.N. Gawade&Ors.Vs. The State of Mah.&Ors.]**

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

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

DATE : 15.12.2016.

ORAL ORDER:

Shri M.U. Shelke, learned Advocate for the Applicant (**Absent**). Shri V.R. Bhumkar- learned Presenting Officer for the respondents, present.

2. This matter was lastly heard on 19.10.2016 by this very Bench. Considering that the applicant has been constantly remaining absent, this Tribunal has directed that the matter be kept for dismissal on 21.10.2016. However, on that date the matter could not be reached and therefore, it has been placed before us today for dismissal. As today also none present for the applicant, it appears that the Applicant is no longer interested in prosecuting the matter.

3. In view thereof, the O.A. stands dismissed in default with no order as to costs.

MEMBER (J)

VICE CHAIRMAN (A)

14.12.2016-KPB(DB)

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

ORIGINAL APPLICATION NO. 09/2013

[Dr. Pralhad R. RathodVs.The State of Mah.&Ors.]

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

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

DATE : 15.12.2016.

ORAL ORDER:

Heard Shri K.G. Salunke, learned Advocate for the Applicant and Shri I.S. Thorat- learned Presenting Officer for the respondents.

2. In this case, the Applicant has applied for one post of Associate Professor in Government Medical College reserved for V.J. (A) category. The Applicant's claim is that in S.T. category, one Shri ManojYelappaHarnalikardid not have requisite experience of five years, but in his case, experience was relaxed and he was selected. The same criteria should have been applied in V.J. (A) category also in which case the applicant could have been given relaxation in experience and called for interview by M.P.S.C. Affidavit filed by the M.P.S.C. is totally silent on this aspect as to why in the case of applicant experience was not relaxed and why he could not be called for interview. M.P.S.C. should file affidavit clarifying the following issues:-

- (a) How many candidates were called against vacancy was reserved for V.J. (A) category.
 - (b) Their qualification and experience.
 - (c) Marks obtained by the candidates in the interview process.
 - (d) Person who was recommended for the post.
3. This should have done within a period of a month.
This O.A. may be placed before Single Bench if the Division Bench is not available to ensure compliance of this order.
4. S.O. 19.01.2017.
5. Steno copy allowed to the learned P.O. at his request.

MEMBER (J)

15.12.2016-KPB(DB)

VICE CHAIRMAN (A)

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

**ORIGINAL APPLICATION NO. 37/2013
[Mohan M. Daskhedkar Vs. The State of Mah. & Ors.]**

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

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

DATE : 15.12.2016.

ORAL ORDER:

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

2. This Original Application has been filed by the Applicant challenging alleged de-novo enquiry against the order of the Government contained in Memorandum issued on 21.11.2012. The Applicant's claim is that he had already been punished on many of the charges which are included in the charge sheet against him. As the Applicant is Class-III employee, the competent authority to impose punishment is Dy. Director of Land Records and the said authority had imposed punishment on the Applicant on many charges which are included in charge sheet dated 21.11.2012. However, now along with some other officers the State Government has ordered joint Departmental Enquiry against the applicant. Learned Advocate Shri V.B. Wagh, for the applicant stated that the enquiry was

initiated more than four years back and it not yet completed. He therefore, prayed that the Departmental Enquiry may be quashed.

3. Learned Presenting Officer stated that the Applicant was involved in various nefarious activities including making payment in excess of their entitlement to employees when he was holding additional charge as Account Clerk. He was given the task of drawing arrears of the employee as per the recommendation of the 6th Pay Commission. He not only drew various allowances in excess but was also instrumental in granting of pay and allowances to the employees for the period when they were under suspension and that period was yet to be regularized.

4. We find that the charges against the Applicant are serious in nature and as Joint Departmental Enquiry is being conducted, sometime is required to be granted to the respondents to complete the Departmental Enquiry against the Applicant.

5. We are not convinced by the arguments put forth by the learned P.O., that D.E. could not be concluded as it is a joint D.E. against many employees. More than four years are sufficient to complete any D.E. regardless of nature of the charges and the number of delinquent Government servants involved in the said enquiry. However, considering the fact that the nature of the charges are against the delinquent Government servants, including the Applicant are serious in nature, we are inclined to grant sometime to complete the aforesaid D.E. In the normal course also, D.E. has to be completed within a period of six months. We are therefore, granting six months time to the respondents to complete D.E. against the Applicant in all respect including award of punishment, if any, to him. The fact that he has already been punished on some of the charges included in the charge-sheet, in our view will have to be considered by the Enquiry Officer and the competent authority before taking any adverse action against the Applicant who is at liberty to raise this issue before the Enquiry Officer.

6. If the enquiry is not completed within six months, without any further reference of this Tribunal it will stand quashed unless it can be proved that the applicant has contributed to delay in completion of the enquiry.

7. In view thereof, the O.A. stands disposed of with no order as to costs.

MEMBER (J)

14.12.2016-KPB(DB)

VICE CHAIRMAN (A)

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

ORIGINAL APPLICATION NO.42/2013

[Shri R.N. Chauhan Vs. The State of Mah.&Ors.]

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

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

DATE : 15.12.2016.

ORAL ORDER:

Shri M.S. Deshmukh- learned Advocate for the Applicant(**Absent**). Shri M.P. Gude- learned Presenting Officer for the respondents, present.

2. The Applicant is absent today. In view of the fact that the applicant constantly remained absent in this proceeding, when the matter was last heard by this Tribunal on 20.10.2016, it was ordered that it may be kept for dismissal on 21.10.2016. On that date, the matter could not come up for final hearing and it is kept before us today.

3. As the applicant is absent today, it is clear that he is not interested in prosecuting the O.A. and hence, the same stands dismissed in default with no order as to costs.

MEMBER (J)

VICE CHAIRMAN (A)

14.12.2016-KPB(DB)

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

ORIGINAL APPLICATION NO. 44/2013

[Dr. Rashmi P. DhaleVs.The State of Mah.&Ors.]

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

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

DATE : 15.12.2016.

ORAL ORDER:

Shri Abasaheb D. Shinde- learned Advocate for the Applicant (**Absent**). Shri I.S. Thorat- learned Presenting Officer for the respondents, present.

2. The Applicant is absent today. In view of the fact that the Applicant constantly absent remained in this proceeding, when the matter was last heard by this Tribunal on 2010.2016,it was ordered that it may be kept for dismissal on 21.10.2016. On that date, the matter could not come up for final hearing and it is kept before us today.

3. As the applicant is absent today, it is clear that he is not interested in prosecuting the O.A. and hence, the same stands dismissed in default with no order as to costs.

MEMBER (J)

VICE CHAIRMAN (A)

14.12.2016-KPB(DB)

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

**ORIGINAL APPLICATION NO. 67/2013
[L.P. Pathan Vs. The State of Mah. & Ors.]**

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

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

DATE : 15.12.2016.

ORAL ORDER:

Shri A.D. Gadekar, learned Advocate for the Applicant (**Leave Note**). Smt. Deepali S. Deshpande-learned Presenting Officer for the respondent No.1, present. Shri S.D. Dhongde, learned counsel for respondent no. 2, **absent**.

2. As the leave note filed by the applicant, place this matter before the next Division Bench as and when it is available.

MEMBER (J)
14.12.2016-KPB(DB)

VICE CHAIRMAN (A)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 87 OF 2013

[Shri A.G. Yangad Vs.The State of Maharashtra &Ors.]

**CORAM : HON'BLE SHRI RAJIV AGARWAL, V.C. (A)
AND
HON'BLE SHRI J.D. KULKARNI, MEMBER (J)**

DATE : 15.12. 2016.

ORAL ORDER:

Shri HemantSurve, learned Advocate for the Applicant (**absent**). Shri N.U. Yadav, learned Presenting Officer for the respondents, present.

2. This matter was heard by this very Bench on 20.10.20-16. Considering the fact that the applicant has not been remaining present this Tribunal has directed that the matter may be placed for dismissal on 21.10.2016. On that day the matter did not reach and it is placed before this Bench today for dismissal. Today also none is present for the applicant. It appears that the applicant is no longer interested in pursuing this O.A. It is therefore, dismissed in default.

MEMBER (J)

VICE CHAIRMAN (A)

ORAL ORDERS 15.12.2016 – ATP(DB)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 165 OF 2013.

[Shri A.M. Vidyagar Vs.The State of Maharashtra &Ors.]

CORAM : HON'BLE SHRI RAJIV AGARWAL, V.C. (A)

AND

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

DATE : 15.12. 2016.

ORAL ORDER:

Heard Shri J. B. Choudhary, learned Advocate for the Applicant and Smt S.K. Ghate - Deshmukh, learned Presenting Officer for the respondents no.1 to 3. None present for the Respondent no.4.

2. Learned Advocate for the Applicant filed affidavit in rejoinder. The same is taken on record. Its copy is served on the other side.

3. This O.A. is regarding appointment to the post of District Sports Officer, Group-A pursuant to the Advertisement No.88/2009 issued on 28.01.2009 by the Maharashtra Public Service Commission, who is Respondent no.2 in this O.A. It appears that the Respondent no.4 namely KiranShamraoBorwadikar was recommended by M.P.S.C. by their letter dated 6.2.2013. It appears that earlier by letter dated 2.7.2012 the Respondent no.2 had informed the Respondent no.4 that he was not recommended for selection. The Respondent no.2 is therefore, required to explain the circumstances in which it

decided to change its recommendation as regards the Respondent no.4. The letter of the Respondent no.2 dated 6.2.2013 also mentions that the said appointment is subject to the final decision of this Tribunal by Nagpur Bench in OA No.289/2011. Learned P.O. should obtain the copy of the judgment delivered by this Tribunal in aforesaid O.A. In case it is still pending the present stage of O.A. may be mentioned. Another judgment of this Tribunal in OA No.446/11 of Bombay Bench may also placed on record by the learned P.O. Whether Bombay High Court decided the Writ Petition No.5777/2012 may also be indicated. Learned Advocate for the Applicant filed rejoinder. Liberty is granted to Respondent no.2 to file sur-rejoinder, if any. This O.A. may be kept before Single Bench, if Division Bench is not available to ensure compliance of this order.

4. S.O. to 18.1.2016.
5. Steno copy may be provided to learned P.O.

MEMBER (J)

VICE CHAIRMAN (A)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 04 OF 2015.

[Dr. P. G. Rathod Vs.The State of Maharashtra &Ors.]

**CORAM : HON'BLE SHRI RAJIV AGARWAL, V.C. (A)
AND
HON'BLE SHRI J.D. KULKARNI, MEMBER (J)**

DATE : 15.12.2016.

ORAL ORDER:

Heard Shri R.P. Bhumkar, learned Advocate for the Applicant and Smt R.S. Deshmukh, learned Presenting Officer for the respondents, present.

2. This Tribunal by order dated 20.10.2016 has directed the Respondent no.1 i.e. State Government to file affidavit in reply. Learned P.O. has sought four weeks time. Today almost 8 weeks have passed, but no reply is forthcoming. Learned P.O. states that, the Govt. is still seeking 3 weeks time to file affidavit in reply. It is not acceptable. Cost of Rs.2500/-is imposed on the Respondent no.1 i.e. Principal Secretary, Public Health Department, Mantralaya, Mumbai, which should be deposited in the Registry by Govt. cheque on or before the next date. The affidavit in reply should be filed on the next date without fail failing which further stringent action may be taken. The matter

-2- **ORIGINAL APPLICATION NO. 04 OF 2015.**

can be placed before Single Bench to ensure that this order is complied with.

3. S.O. to 19.01.2017.

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

MEMBER (J)

VICE CHAIRMAN (A)

ORAL ORDERS 15.12.2016 – ATP(DB)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.718 & 719 of 2012.
[Shri P.C. Chavan&Ors. Vs. The State of Maharashtra &Ors.]**

**CORAM : HON'BLE SHRI RAJIV AGARWAL, V.C. (A)
AND
HON'BLE SHRI J.D. KULKARNI, MEMBER (J)**

DATE : 15.12. 2016.

COMMON ORAL ORDER:

Heard Shri A.G. Talhar, learned Advocate for the Applicants and Smt P.R. Bharaswadkar, learned Presenting Officer and Shri M.S. Mahajan, learned Chief Presenting Officer, for the respondents.

2. Learned Advocate for the Applicants have placed copy of order dated 23.09.2016 in OA No.717/2012 on record. He states that, the present applicants are also seeking identical reliefs. In the aforesaid order this Tribunal has observed that the seniority list of Group "A" post in Department of Social Justice has been published on 2.6.2014. As such, the prayer of the present applicants that the seniority list of Group "A" Officer may be finalized at an early date has already been fulfilled. The only issue now remaining is deemed date of promotion to the applicants in the cadre of Group "A". Their representations are pending before the Respondent no.2. Learned Advocate for the Applicants contended that considering the time which has

elapsed the Applicants will make fresh representation and respondents may be directed to dispose it of within a time frame as was done in OA No.717/2012.

3. Considering the facts and circumstances of this O.A. if the applicants so desires, he may make a fresh representation for deemed date of promotion in Group 'A' based on the final seniority list and his eligibility. If the said representation is filed by the applicants within one month from the date of this order the Respondents shall take decision on the same within a further period of three months and communicate the same to the applicants in writing.

4. These original applications stand disposed of accordingly with no order as to costs.

MEMBER (J)

VICE CHAIRMAN (A)

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD.

ORIGINAL APPLICATION NO.454/2016.

[Shri D. R. Mote Vs. The State of Maharashtra &Ors.]

CORAM : HON'BLE SHRI RAJIV AGARWAL, V.C. (A)
AND
HON'BLE SHRI J.D. KULKARNI, MEMBER (J)

DATE : 15.12.2016.

ORAL ORDER:

Shri V. B. Wagh, learned Advocate for the Applicant and Shri D.R. Patil, learned Presenting Officer for the respondents no.1 to 3 and Shri VivekBhavthankar, learned Special Counsel for the Respondent no.4.

2. Learned Special Counsel Shri VivekBhavthankar for the Respondent no.4 sought time to file reply. In fact affidavit in reply should have been filed long back. However, last chance is granted to file reply. If the reply is not filed on the next date it will be presumed that, the respondents have nothing to say in this matter. The matter may be placed before the Single Bench to ensure that, the affidavit in reply is filed on the next date i.e. on 10.1.2016.

3. The matter may be placed before the Division Bench, as and when it is available.

MEMBER (J)
ORAL ORDERS 15.12.2016 – ATP(DB)

VICE CHAIRMAN (A)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**MA ST.NO.2084/16 IN T.A.NO.3/2016 (W.P.12032/15).
[Shri K. S. Tidke Vs. The State of Maharashtra &Ors.]**

**CORAM : HON'BLE SHRI RAJIV AGARWAL, V.C. (A)
AND
HON'BLE SHRI J.D. KULKARNI, MEMBER (J)**

DATE : 15.12.2016.

ORAL ORDER:

Heard Shri S. R. Shirsath, learned Advocate h/d Shri S.S. Jadhavar, learned Advocate for the Applicant and Smt R.S. Deshmukh, learned Presenting Officer for the respondents.

2. This matter may be placed before Hon'ble Chairman.

MEMBER (J)

VICE CHAIRMAN (A)

ORAL ORDERS 15.12.2016 – ATP(DB)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

M.A.No.165/2016 IN C.P.St.No.611/2016

IN

O.A.No.487/2014

(Dr. S.S.Kulkarni V/s. State of Maharashtra &Ors.)

CORAM : HON'BLE SHRI JUSTICE A.H. JOSHI, CHAIRMAN

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

DATE : 15-12-2016.

ORAL ORDER:

1. Heard Shri A.S.Deshmukh learned Advocate for the applicant and Shri M.P.Gude learned Presenting Officer for the respondents.

2. Learned P.O. states that he has received communication from Mantralaya requesting 4 weeks' time for filing affidavit on the ground of the priority business to be transacted during the current Assembly Session at Nagpur.

3. It is a matter of common knowledge that Assembly Session is going to end on 16th December, 2016. Moreover, applicant has served notice on the Secretary in the official capacity on 18-06-2016 and the Principal Secretary SujataSaunik on 20-06-2016.

4. Order in O.A.No.487/2014 has been passed by the Tribunal on 15th April, 2015 and its compliance has not done. No grounds are emerging for justifying 4 weeks' time for filing

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M.A.No.165/2016 IN C.P.St.No.611/2016
IN
O.A.No.487/2014

affidavit in reply. Compliance of the order is primarily required, affidavit is latter end to be done.

5. If compliance is not done forthwith, matter would be heard for taking cognizance of the contempt on 19th December, 2016.

6. In view of foregoing, case is adjourned till 19-12-2016.

7. Steno copy be granted to the learned P.O. on his request.

CHAIRMAN

\2016\YUK ORAL ORDER 15-12-2016 HON. CHAIRMAN

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**M.A.No.340/2016 IN C.P.St.No.1574/2016 IN
O.A.No.516/2003**

(Dr. V.B.Sarwade V/s. State of Maharashtra &Ors.)

**CORAM : HON'BLE SHRI JUSTICE A.H. JOSHI, CHAIRMAN
(This case is placed before the Single Bench
due to non-availability of Division Bench)**

DATE : 15-12-2016.

ORAL ORDER:

1. Heard Shri V.B.Wagh learned Advocate for the applicant, Smt. DeepaliDeshpande learned Presenting Officer for the respondent nos.1 and 2 and Shri P.R.Tandale learned Advocate for respondent no.3.
2. Learned P.O. prays for adjournment till tomorrow. Adjournment granted.
3. S.O. 16-12-2016.

CHAIRMAN

\2016\YUK ORAL ORDER 15-12-2016 HON. CHAIRMAN

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

Original Application No.505/2016

(M.A.Suralkar V/s. State of Maharashtra &Ors.)

CORAM : HON'BLE SHRI JUSTICE A.H. JOSHI, CHAIRMAN

DATE : 15-12-2016.

ORAL ORDER:

1. Heard Shri N.K.Tungar learned Advocate for the applicant and Shri S.K.Shirse learned Presenting Officer for the respondent nos.1 to 3. Shri N.L.Jadhav/K.N.Faro0qui learned Advocate for the applicant (**absent**).

2. Learned Advocate for the applicant states that applicant wants to amend the O.A. by substituting the memo. He also prays for leave to substitute index and synopsis and also add annexures.

3. Leave to add, amend and substitute the O.A. as prayed for, is granted.

4. S.O. 16-12-2016.

CHAIRMAN

\2016\YUK ORAL ORDER 15-12-2016 HON. CHAIRMAN

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**M.A.No.463/2016 IN O.A.No.508/2016
(Dr. S.R.Phadnis V/s. State of Maharashtra &Ors.)**

**CORAM : HON'BLE SHRI JUSTICE A.H. JOSHI, CHAIRMAN
DATE : 15-12-2016.**

ORAL ORDER:

1. Heard Shri R.P.Bhumkar learned Advocate for the applicant, Shri D.R.Patil learned Presenting Officer for the respondents.
2. By filing M.A.No.463/2016, learned Advocate for the applicant prays for leave to substitute the O.A.
3. Leave granted.
4. Accordingly, M.A. stands disposed of with no order as to costs.

CHAIRMAN

\2016\YUK ORAL ORDER 15-12-2016 HON. CHAIRMAN

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**Original Application No.508/2016
(Dr. S.R.Phadnis V/s. State of Maharashtra &Ors.)**

**CORAM : HON'BLE SHRI JUSTICE A.H. JOSHI, CHAIRMAN
DATE : 15-12-2016.**

ORAL ORDER:

1. Heard Shri R.P.Bhumkar learned Advocate for the applicant, Shri D.R.Patil learned Presenting Officer for the respondents.
2. Learned Advocate for the applicant tenders substituted paper book of O.A. It is taken on record.
3. Learned P.O. prays for time for filing affidavit in reply on behalf of the respondents. Time granted.
4. S.O.30-01-2017.

CHAIRMAN

\2016\YUK ORAL ORDER 15-12-2016 HON. CHAIRMAN

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**Original Application No.191/2015
(S.C.Hazari&Ors.V/s. State of Maharashtra &Ors.)**

**CORAM : HON'BLE SHRI JUSTICE A.H. JOSHI, CHAIRMAN
(DIVISION BENCH MATTER)**

DATE : 15-12-2016.

ORAL ORDER:

1. Heard Ku. BhavanaPanpatil learned Advocate holding for Shri S.B.Talekar learned Advocate for the applicant and Shri D.R.Patil learned Presenting Officer for the respondents.

**GENERAL OBSERVATIONS REGARDING FUNCTIONING BY
LAW OFFICERS BEFORE THE TRIBUNAL**

2. This O.A. is filed by dependents of deceased Government servant.

3. Retirement dues and pensionary benefits are not released on the ground that a Departmental Enquiry in charge sheet which was sought to be served on the applicant in 1990 is still pending.

4. According to the applicant, any such enquiry is incompetent due to the bar created by Rule 27(2)(b)(ii) of the Maharashtra Civil Services (Pension) Rules, 1982. Averments to that effect are seen in ground no. IV of the O.A.

5. In the reply filed by the respondents, all grounds averred in the O.A. are enveloped in a short reply which reads as under (page 65):

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*“6. As regards to contents in para Para No.3
(19 (I, II, III, IV, V, VI, VII, VIII, IX, X),”*

*(reproduced ad verbatim from page 65 of the
O.A.)*

6. It is seen that the reply is drafted either unmindfully or it seems that parawise remarks as received are copied and formed as affidavit.

7. It is noticed in most of the cases that parawise remarks which are drafted by the department are either approved by the highest authority in the Government or otherwise, are simply filled and converted into affidavit in reply. It has been generally observed as regards the affidavits drafted and filed before this Tribunal that those totally lack the touch, approach and attitude of professionalism.

8. It is necessary to bring the aforesaid situation to the notice of CPO, all the POs, Joint Secretary as well as Secretary, Law & Judiciary Department of Government of Maharashtra.

9. CPO and all POs were called to appear. Except Smt. SanjivaniGhate, CPO and all POs are present before the Tribunal when the deficiencies and lack of professional approach was being observed.

10. Shri S.D.Digraskar, Joint Secretary, Law & Judiciary Department, Government of Maharashtra, Aurangabad was sent amessage for remaining present. Accordingly, he has

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remained present before this Tribunal. His presence was considered necessary to draw his attention to the situation. He was called upon to offer his suggestion, for improving skills of the CPO &POs.

11. The Law Officers were asked as to how the situation be dealt with and what measures need to be taken for improvement in the quality of drafting of affidavits. CPO & all POs have assured that they will strive to improve and will take all possible efforts to bring positive change in their work.

12. It seems that inculcating due and adequate professionalism and quality cannot be achieved with a device such as by a swing of the magician's stick. Some time will have to be given to the Law Officers to attain certain minimum of compulsory required standards, and to prove their devoted efforts.

13. Serious efforts by and on the part of Law Officers is immensely necessary, because, by now it has duly surfaced that they are not able to cope up with day to day workload of reading the briefs, taking instructions and then to devote for drafting. All these jobs, it is seen, is becoming too much a head load, which their back bones are complaining to sustain.

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14. Interest of justice and of the parties can be safeguarded only and only if proper representation of cases for and on behalf of the Government takes place.

15. Joint Secretary, Law & Judiciary Department was asked as to whether the work of drafting affidavit can be outsourced for some period i.e. for a duration of few months in order to have load of new CPO & POs being reduced and also to lend due and adequate training to the CPO & POs as one amongst various measures to be taken. This outsourcing may be done by handing over the work of drafting affidavits in reply to panel Advocate/s or Special Counsel/s, depending on the nature of the cases, and in the process of drafting learned CPO/POs can be involved along with Special/Panel Counsels, as a part of training to them.

16. The Joint Secretary, Law & Judiciary Department has assured to look into the matter and work out some modality, if necessary, after discussion with Law Officers and also with Secretary, Law & Judiciary Department.

17. Steno copy of this order be supplied to the learned CPO, Maharashtra Administrative Tribunal at Aurangabad, Joint Secretary, Law & Judiciary Department, Maharashtra State at Aurangabad as well as Principal Secretary & R.L.A., Law &

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Judiciary Department, Mantralaya, Mumbai for necessary action.

FOR CONSIDERATION BY CPO

18. A grievance is made by various Advocates that assignment of cases to POs keeps on changing. Result is that there is lack of coherence and consistency in keeping track of the case. Ordinarily, CPO has primacy so far as the matter of allotment of cases is concerned. However this Tribunal including other Hon'ble Members have noted that if entrustment of brief keeps on changing, it definitely results in POs losing mastery on facts and lack/want of accountability. Therefore, CPO should not just for sake of desire or convenience change the assignment. For good reasons, CPO may rather shall change the entrustment, however the change should be an exception than a usual conduct in day to day business.

ORDER ON FACTS

19. It is seen that the Joint Director, Public Health by his letter dated 07-04-2015 has communicated that the retirement dues be released subject to pending enquiry as is evident from Exhibit R-5 (paper book page 75).

20. In this background, respondents are directed to place on record, by filing affidavit, the steps taken for releasing

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pensionary benefits in favor of the dependents of the deceased. It is hoped that if there be no legal impediments, payment of dues be commenced at once

21. Affidavit in this regard be filed on 19-12-2016.

22. S.O.19-12-2016.

CHAIRMAN

\2016\YUK ORAL ORDER 15-12-2016 HON. CHAIRMAN

ORIGINAL APPLICATION NO. 547 OF 2016

{Shri Dattaram U. Rathod Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Justice Shri A.H. Joshi, Chairman
(D.B. MATTER)**

DATE :- 15.12.2016

Oral Order :-

1. Heard Shri Suresh D. Dhongde, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.
2. The learned P.O. prays for time on the ground that the contents of the O.A. needs to be contested by respondent nos. 1 & 2.
3. It is, however, seen that the O.A. is not properly drafted.
4. The learned Advocate for the applicant states as follows :-
 - (a) That the leave be granted to redraft the O.A., arrange pleadings with proper paras, sub paras and grounds etc. and also substitute the synopsis and if needed the index may please be granted.
 - (b) That filing of fresh affidavit of the applicant in support of the O.A. be dispensed with, as no new facts would be pleaded.

O.A. NO. 547 OF 2016

- (c) Time to file the verification of amended O.A., duly signed by the applicant after one week, may be granted.
4. Leave to amend & substitute the O.A., if needed, the synopsis and index as prayed for by the learned Advocate for the applicant is granted.
5. S.O. to 19.12.2016.

ARJ 15.12.2016 HON. CHAIRMAN

CHAIRMAN

ORIGINAL APPLICATION NO. 575 OF 2016

{Shri Aniket N. Mundhe Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Justice Shri A.H. Joshi, Chairman
(D.B. MATTER)**

DATE :- 15.12.2016

Oral Order :-

1. Heard Shri P.R. Kadam, learned Advocate for the applicant, Smt. Priya B. Bharaswadkar, learned Presenting Officer for the respondent nos. 1 to 3 and Shri A.S. Savale, learned Advocate for respondent no. 4.
2. The learned Advocate for the applicant states that the copy of the affidavit in reply filed by res. no. 4 is received to him just now and he needs time to read it.
3. Time granted.
4. S.O. to 19.12.2016.

ARJ 15.12.2016 HON. CHAIRMAN

CHAIRMAN

ORIGINAL APPLICATION NO. 747 OF 2016

{Shri Vijay B. Thakur Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Justice Shri A.H. Joshi, Chairman
(D.B. MATTER)**

DATE :- 15.12.2016

Oral Order :-

1. None appears for the applicant. Shri S.K. Shirse, learned Presenting Officer for the respondents, is present.
2. The learned P.O. states that, though the draft affidavit in reply of the respondents is ready, he wants to check the position of Law on the issue involved in this O.A. He, therefore, prays for time.
3. Time granted.
4. S.O. to 16.12.2016.

ARJ 15.12.2016 HON. CHAIRMAN

CHAIRMAN

MA NO. 369/2016 IN OA NO. 225/2012

{Eranna M. Kongalwar Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Justice Shri A.H. Joshi, Chairman
(D.B. MATTER)**

DATE :- 15.12.2016

Oral Order :-

1. None appears for the applicant. Smt. Resha S. Deshmukh, learned Presenting Officer for the respondents, is present.

2. At the request of learned P.O. for the respondents, S.O. to 16.12.2016 to study the matter.

ARJ 15.12.2016 HON. CHAIRMAN

CHAIRMAN

MA 358/2014 IN OA ST. 1184/2014

{Dr. Gangadhar D. Chate Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Justice Shri A.H. Joshi, Chairman
(D.B. MATTER)**

DATE :- 15.12.2016

Oral Order :-

1. None appears for the applicant. Shri V.R. Bhumkar, learned Presenting Officer for the respondents, is present.
2. The learned P.O. states that the office brief of this matter is not traced in the office of C. P. O. and he prays a day's time.
3. Time granted for tracing papers till tomorrow.
4. S.O. to 16.12.2016.

CHAIRMAN

ARJ 15.12.2016 HON. CHAIRMAN

MA 278/2015 IN OA ST. 1137/2014

{Smt. Kalpana J. Shinde Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Justice Shri A.H. Joshi, Chairman
(D.B. MATTER)**

DATE :- 15.12.2016

Oral Order :-

1. Heard Shri Vinod Patil, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.
2. The learned Advocate for the applicant states that :-
 - (a) In the fitness of the things it would be proper on the part of the applicant to file application under Right to Information Act, 2005 to know the exact reason for rejection of his candidature.
 - (b) One week's time to enable the applicant to submit such an application to the concerned authority is necessary, which may be granted.
3. Time as prayed for is granted.
4. The learned P.O. is directed to inform the concerned respondents, that if the applicant files an application under R.T.I. or otherwise too, information & documents as may be available with the respondents be supplied to the applicant as expeditiously as possible.
5. S.O. to 19.12.2016.
6. Steno copy allowed for the use of learned P.O. for the respondents.

CHAIRMAN

ARJ 15.12.2016 HON. CHAIRMAN

MA 423/2015 IN OA ST. 1369/2015

{Shri Navnath B. Khaire Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Justice Shri A.H. Joshi, Chairman
(D.B. MATTER)**

DATE :- 15.12.2016

Oral Order :-

1. Heard Shri H.M. Shaikh, learned Advocate for the applicant, Shri I.S. Thorat, learned Presenting Officer for the respondent no. 1 and Shri Vivek Bhavthankar, learned Advocate for respondent nos. 2 to 5.
2. Shri Bhavthankar, learned Advocate states that the copy of the amended O.A. has been served on the respondent nos. 2 to 5 directly, and he wants a copy.
3. The learned Advocate for the applicant undertakes to supply additional copy of amended O.A. to the learned Advocate for res. nos. 2 to 5.
4. The affidavit in reply to the M.A. and amended O.A. be filed by the respondents on or before 16.1.2017.
5. Matter to come up on board on 30.1.2017.

CHAIRMAN

ARJ 15.12.2016 HON. CHAIRMAN

MA 407/2016 IN CP ST. 1831/2016 IN OA 624/2012

{Shri Vijay S. Tak Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Justice Shri A.H. Joshi, Chairman
(D.B. MATTER)**

DATE :- 15.12.2016

Oral Order :-

1. Heard Shri K.G. Salunke, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. The contemnor no. 2 Shri (Dr.) Mahesh Shivankar, Joint Director of Technical Education, Aurangabad is present and he has tendered apology of the Tribunal, on affidavit. The para nos. 1 & 2 of the affidavit is a copy & paste and computer generated apology. The said apology does not show the exact words regarding reasons of delay in complying the order dated 9.3.2016 passed by this Tribunal in O.A. no. 624/2012 and exact acts which were required to be done but not done and apology towards said failure / lapse.

3. The legal notice sent by the learned Advocate for the applicant on contemnor no. 1 is also not replied by him.

4. The contemnor no. 1 Shri Subhash Mahajan, Director of Technical Education, Mumbai has not cared to file any reply / apology etc. though Director of Technical Education was a party respondent. Probably he is waiting for formal notice being served.

5. At this juncture, the contemnor no. 2 states as follows :-

He will contact contemnor no. 1 and enquire with the contemnor no. 1 as to whether he has desire to appear before Tribunal on 19.12.2016, and whether he would like to tender proper apology.

6. In view of the request of contemnor no. 2, S.O. to 19.12.2016.

7. Steno copy allowed for the use of learned P.O. for the respondents.

ARJ 15.12.2016 HON. CHAIRMAN

CHAIRMAN

ORIGINAL APPLICATION NO. 697 OF 2016

{Dr. Santosh S. Hindole & 5 Ors.Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Justice Shri A.H. Joshi, Chairman
(D.B. MATTER)**

DATE :- 15.12.2016

Oral Order :-

1. Heard Shri J.S. Deshmukh, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.
2. The learned Advocate for the applicant prays for time to study and address on the point of grounds on which the vires or constitutional validity of the impugned Government Resolution can be challenged.
3. Time granted.
4. S.O. to 16.12.2016.

ARJ 15.12.2016 HON. CHAIRMAN

CHAIRMAN

MA 427/2016 IN OA 325/2012

{The State of Mah. & Ors. Vs. Shri Ratan A. Suradkar}

**CORAM :- Hon'ble Justice Shri A.H. Joshi, Chairman
(D.B. MATTER)**

DATE :- 15.12.2016

Oral Order :-

1. Heard Shri M.S. Mahajan, learned Chief Presenting Officer for the applicants in M.A. / respondents in O.A. None appears for the respondent in M.A. / applicant in O.A.
2. At the request of learned C.P.O., S.O. to 16.12.2016.

ARJ 15.12.2016 HON. CHAIRMAN

CHAIRMAN

O.A. NO. 743/2016

{Shri Rakesh D. Barela Vs. the State of Mah. & Ors.}

**CORAM :- Hon'ble Justice Shri A.H. Joshi, Chairman
(D.B. MATTER)**

DATE :- 15.12.2016

Oral Order :-

1. None appears for the applicant. Shri M.S. Mahajan, learned Chief Presenting Officer for the respondent nos. 1 to 3 and Shri Vivek Bhavthankar, learned Advocate for respondent nos. 4 & 5 are present.

2. The learned Advocate for res. nos. 4 & 5 states that the draft affidavit in reply is furnished to the Secretary, Revenue & Forest Department, Mantralaya, Mumbai for approval.

3. The learned C.P.O. for res. nos. 1 to 3 also prays for time to file affidavit in reply. He was called to state as to whether any instructions are received from the res. nos. 1 to 3. He states that instructions are still awaited.

4. The record shows that the notices are sent to the res. nos. 1 to 3 and the same are served on res. no. 2 & 3 on 5th October, 2016 & 7th October, 2016 respectively.

5. Applicant has not taken steps to serve Res. no. 1.

6. The learned C. P.O. is directed to furnish the names of res. no. 2 the Commissioner of Tribal Development, Nashik and res. no. 3 the Project Officer, Consolidated Tribal Development Project, Yaval, Dist. Jalgaon.

O.A. NO. 743/2016

7. Upon instructions, the learned C.P.O. submits the names of res. nos. 2 and 3 as follows :-

- (i) Res. no. 2 – Shri Rajiv Jadhav.
- (ii) Res. no. 3 – Shri Rejendra Hiwale.

8. The Res. no. 2 Shri Rajiv Jadhav, the Commissioner of Tribal Development, Nashik Division, Nashik and the Res. no. 3 Shri Rejendra Hiwale, Project Officer, Consolidated Tribal Development Project, Yaval, Dist. Jalgaon are hereby directed to file affidavit on the following points :-

- (i) The exact date on which their offices has received the notice of this Tribunal.
- (ii) The date on which the notice was brought to their notice.
- (iii) Who is officer / staff who is responsible towards the delay in bringing it to their notice, if it was not brought to his / their notice.
- (iv) Reasons due to which the matter is not attended by the offices and / or reasons for not contacting or not giving the instructions to the P.O.
- (v) Is there any legal impediment in filing affidavit in reply in this O.A..
- (vi) Why they should not be saddled with costs for not furnishing instructions to the learned P.O. for filing affidavit in reply, well in advance.

::-3-::
O.A. NO. 743/2016

9. Affidavit answering the O.A. as well as to foregoing points as directed in foregoing paragraphs be filed on or before 30.1.2017.
10. The learned C.P.O. agrees to communicate this order to the concerned respondents.
11. Applicant shall serve Res. no. 1 the notice as ordered on 22.9.2016, returnable on 30.1.2017.
12. S.O. to 30.1.2017.
13. Steno copy & hamdast is granted to the learned P.O. for communication of order to the respondent nos. 1 & 2.

CHAIRMAN

ARJ 15.12.2016 HON. CHAIRMAN

**MA 148/2015 IN MA ST. 65/2015 IN CP 15/2001 IN OA
1178/1999**

{Satish B. Ohal Vs. The State of Mah. & Ors.}

**CORAM :- Hon'ble Justice Shri A.H. Joshi, Chairman
(D.B. MATTER)**

DATE :- 15.12.2016

Oral Order :-

1. Heard Shri M.M. Manjaramkar, learned Advocate for the applicant, Shri N.U. Yadav, learned Presenting Officer for the respondent nos. 1 & 2 and Shri S.B. Mene, learned Advocate holding for Shri Ajay Deshpande, learned Advocate for respondent no. 3.
2. With the consent of both the parties, the present M.A. no. 148/2015 is taken up for final disposal
3. M.A. No. 148/2015 has been filed by the applicant for condonation of 5 years' and 2 months' delay caused in filing application for restoration of contempt petition no. 15/2001 in O.A. no. 1178/1999 to its original position, which was dismissed by this Tribunal by its order dated 6.10.2009.
4. The contempt petition no. 15/2001 was filed by the applicant for non compliance of the order dated 11.4.2000 passed by this Tribunal in O.A. no. 1178/1999.
5. In order to consider whether the applicant is entitled for sympathetic consideration for condonation of 5 years' and 2 months' delay in filing M.A. no. 148/2015, this Tribunal has examined the merit of the matter. For this purpose Advocate for applicant was allowed to address.

**MA 148/2015 IN MA ST. 65/2015
IN CP 15/2001 IN OA 1178/1999
(2)**

Perused the order passed in the O.A. as well as final order passed in the C.P.

6. This Tribunal while disposing the O.A. had observed as under :-

“The applicant’s services on ad-hoc basis to be continued on till District Selection Board candidate is made available and posted on the post, if there is workload to maintain the post and be paid accordingly.”

7. It is not disputed that, nobody is appointed on ad-hoc basis on the post of Driver and also no candidate from the District Selection Board is made available.

8. It appears that in the contempt petition Shri Sunil Narayan Chavan, Superintendent of State Excise, Osmanabad had filed his affidavit in reply on behalf of res. no. 3.

9. The applicant has filed his rejoinder to the reply affidavit of res. no. 3, on 24.7.2001. In the said rejoinder, the applicant has not denied the fact that the post of Driver was not filled in. He has also averred in the rejoinder that the res. no. 3 himself drives the vehicle so that the applicant should not be required to be employed.

10. In view of the foregoing observations, it seems that, no justifiable reason is putforth by the learned Advocate

**MA 148/2015 IN MA ST. 65/2015
IN CP 15/2001 IN OA 1178/1999
(3)**

showing that the dismissal of C.P. is in default, rather the order dismissing C.P. is speaking and upon adverting to the record and respective pleadings.

11. In these premises, no grounds emerge for condonation of delay of 5 years' and 2 months' caused in filing application for restoration of contempt petition to its original position.

12. Moreover even if the delay is condoned in view of eloquent facts restoration of contempt petition would be a futile exercise.

13. Therefore, M.A. no. 148/2015, deserves to be dismissed and is dismissed. There shall be no order as to costs.

CHAIRMAN

ARJ 15.12.2016 HON. CHAIRMAN