

**ORIGINAL APPLICATION NO.477/2016**

(A.P.Ghodke V/s. State of Maharashtra & Ors.)

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

DATE : 02-09-2016

**ORAL ORDER:-**

Heard Shri A.L.Kanade learned Advocate for the applicant, Shri V.R.Bhumkar learned Presenting Officer for respondent nos.1 to 3 and Shri B.S.Deshmukh learned Advocate for respondent no.4.

2. Shri B.S.Deshmukh learned Advocate for respondent no.4 submits that he will file a short affidavit on record till 26-09-2016.

3. S.O. 26-09-2016.

**MEMBER (J)**

oral order 02-09-2016

**ORIGINAL APPLICATION NO.496/2016**

(R.A.Mete V/s. State of Maharashtra & Ors.)

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

DATE : 02-09-2016

**ORAL ORDER:-**

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

2. Learned C.P.O. prays for time for filing affidavit in reply on behalf of the respondents. Time granted.

3. S.O.04-10-2016.

**MEMBER (J)**

oral order 02-09-2016

**ORIGINAL APPLICATION NO.542/2016**

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

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

DATE : 02-09-2016

**ORAL ORDER:-**

Heard Shri A.D.Gadekar learned Advocate for the applicant, Shri M.S.Mahajan learned Chief Presenting Officer for respondent nos.1 to 3 and Shri D.T.Devane learned Advocate for respondent no.4.

2. Learned C.P.O. files affidavit in reply on behalf of respondent no.3 i.e. Sub Divisional Magistrate. It is taken on record. Copy thereof has been served on the other side. It is submitted that reply of respondent nos.1 and 2 is not necessary.

3. Learned Advocate for respondent no.4 prays for time for filing affidavit in reply on record. Time granted.

4. S.O. 26-09-2016.

**MEMBER (J)**

oral order 02-09-2016

**ORIGINAL APPLICATION NO.555/2016**

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

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

DATE : 02-09-2016

**ORAL ORDER:-**

Heard Shri A.D.Sugdare learned Advocate for the applicant, Shri D.R.Patil learned Presenting Officer for respondents and Shri G.N.Patil learned Advocate for respondent no.2.

2. Learned P.O. files reply on behalf of respondent no.3. It is taken on record. Copy thereof has been served on the other side.

3. Shri G.N.Patil learned Advocate for respondent no.2 submits that he does not wish to file reply since there is no allegations against respondent no.2.

4. Shri Shankar Bhivajirao Shinde, Additional Treasury Officer, Osmanabad has filed affidavit in reply on behalf of respondent no.3 on record. Today, he is present before the Tribunal. He makes a statement that the amount will be paid to the applicant on or before 09-09-2016.

5. O.A. be kept on 12-09-2016.

**MEMBER (J)**

oral order 02-09-2016

**ORIGINAL APPLICATION NO.558/2016**

(B.K.Shinde V/s. State of Maharashtra & Ors.)

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

DATE : 02-09-2016

**ORAL ORDER:-**

Heard Shri D.J.Patil learned Advocate for the applicant and Shri N.U.Yadav learned Presenting Officer for respondents.

2. Learned P.O. prays for time for filing affidavit in reply on behalf of the respondents. Time granted.

3. S.O.19-09-2016.

**MEMBER (J)**

oral order 02-09-2016

**M.A.No.99/2016 IN O.A.St.No.263/2016**

(R.P.Lokhande V/s. State of Maharashtra & Ors.)

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

DATE : 02-09-2016

**ORAL ORDER:-**

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

2. Learned P.O. files affidavit in reply in M.A. on behalf of respondent nos.2 and 3. It is taken on record. Copy thereof has been served on the other side.

3. Applicant is claiming that he was given time bound promotion on 17-10-2011 but that promotion has been cancelled subsequently vide order dated 29-11-2011 and subsequent orders dated 01-12-2011 and 21-01-2012. However, the very order of his promotion has not been placed on record.

4. Learned Advocate for the applicant prays for time for placing on record the said document. Time granted.

5. S.O.21-09-2016.

**MEMBER (J)**

**M.A.St.No.1377/2015 IN O.A.No.942/2015**

(C.B.Dhabadge V/s. State of Maharashtra & Ors.)

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

DATE : 02-09-2016

**ORAL ORDER:-**

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

2. Applicant is claiming appointment on compassionate ground. It is an admitted fact that at the time of filing of application, the applicant's name was at Sr.No.12 of the waitlist prepared for Class-IV post. Now, it is admitted that, at present, 11 persons have been give posting and the applicant stands at Sr.No.1 in the said list. Learned Advocate for the applicant submits that the applicant has just completed age of 44 years. Therefore, she is claiming appointment on compassionate ground.

3. Learned P.O. is directed to take instruction as to whether any post on which the applicant can be appointed is vacant, if yes, in how many days, the applicant can be accommodated on that post.

4. S.O.06-10-2016.

**MEMBER (J)**

**ORIGINAL APPLICATION NO.691/2012**

(A.D.Thakur V/s. State of Maharashtra & Ors.)

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

DATE : 02-09-2016

**ORAL ORDER:-**

Heard Shri V.B.Wagh learned Advocate for the applicant and Shri I.S.Thorat learned Presenting Officer for respondents.

2. Learned Advocate for the applicant requested for adjournment. Adjournment is granted till 21-09-2016.

3. S.O.21-09-2016.

**MEMBER (J)**

oral order 02-09-2016



**ORIGINAL APPLICATION NO.204/2015**

(S.D.Deshpande V/s. State of Maharashtra & Ors.)

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

DATE : 02-09-2016

**ORAL ORDER:-**

Shri G.G.Suryavanshi learned Advocate for the applicant is **absent**. Smt. Sanjivani Ghate-Deshmukh learned Presenting Officer for respondents is present.

2. Since the matter is transferred to Single Bench in view of Circular dated 28/29-01-2016 nobody is appearing for the applicant. It seems that the applicant and his Advocate were absent on 25-04-2016 and 24-06-2016.

3. As the matter is of compassionate appointment, in the interest of justice, last chance is granted to the applicant.

4. S.O.27-09-2016.

**MEMBER (J)**

oral order 02-09-2016

**ORIGINAL APPLICATION NO.545/2014**

(V.N.Suryavanshi V/s. State of Maharashtra & Ors.)

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

DATE : 02-09-2016

**ORAL ORDER:-**

Heard Shri V.B.Wagh learned Advocate for the applicant and Shri S.K.Shirse learned Presenting Officer for respondents.

2. Applicant is claiming second time bound promotion from 01-10-2006 as according to him he is entitled to the same.

3. From the facts, it seems that the applicant was appointed as Clerk on 31-12-1973 and was promoted as Awwal Karkoon vide order dated 04-07-2009. He retired on superannuation on 31-08-2010. The applicant was given benefit of first time bound promotion on 01-10-1994 and was due for benefit of second time bound promotion on 01-10-2007. Since he did not get the second time bound promotion, he preferred a representation on 02-12-2013, a copy of which is placed on record at paper

book page 78. Respondents vide communication dated 08-01-2014 (page 79) rejected the said benefit. In the impugned letter dated 08-01-2014, it is mentioned that as per the applicable G.R., average quality of ACRs of the employee shall be "B+" for grant of time bound promotion. However, the ACRs for the year 2005-2006, to 2010-2011 of the applicant fall within average "B-", and therefore, the applicant is not entitled to the second time bound promotion.

4. Respondents tried to justify the rejection in their reply affidavit. In paragraph 10 of the reply affidavit there is mention of DPC meeting dated 18-04-2011 and 26-08-2013. Said paragraph 10 is as under (page 108-109):

*"10. As regards Para No.V (11 to 12) of the application I say and submit that the promotion for awwal karkoon is regular promotion and given to applicant on 24-07-2009, and thereafter according to G.R. Finance Department No. Vetan-1109/Pra.Kra.44/Seva-3 dated 1.4.2010*

*proposal of applicant for second time bound promotion is taken before Departmental Promotion Committee in both meetings i.e. on 18.4.2011 and 26.8.2013. In that meetings confidential reports of applicant are peruse from 2001-02 to 2005-06 and 2005-2006 to 2010-11.*

*In proceeding of the meeting on 18.4.2011 following confidential reports of applicant are perused.*

<i>Year reports</i>	<i>Confidential</i>
<i>2001-2002</i>	<i>B(-)</i>
<i>2002-2003</i>	<i>B(-)</i>
<i>2003-2004</i>	<i>B(-)</i>
<i>2004-2005</i>	<i>B(-)</i>
<i>2005-2006</i>	<i>B(-)</i>

*According to above C.R. applicant has not fulfilled the conditions of G.R. Finance Department No.1109/Pra.Kra.44/Seva-3 dated 1.4.2010. Hence claim of applicant mis not considered.*

*In proceeding of the meeting on 26.8.2003 following confidential reports of applicant are perused.*

<i>Year reports</i>	<i>Confidential</i>
2005-2006	B(-)
2006-2007	B
2007-2008	B(+)
2008-2009	B(-)
2009-2010	B(+)
2010-2011	A

*According to above C.R. applicant has not fulfilled the conditions of G.R. Finance Department No.Vetan-1109/Pra.Kra.44/Seva-3, dated 1.4.2010. Hence claim of applicant is not considered.”*

5. Learned Advocate for the applicant placed reliance on judgment delivered by Hon’ble the Apex Court in the case of **Gopal Yeshwantrao Shende V/s. State of Maharashtra and Ors.** reported in **[1989 MhLJ 495]** wherein it has been held by Hon’ble the Apex Court as under:

“It is obligatory upon the Government to communicate the adverse remarks to the employee concerned, because otherwise he is deprived of the valuable right of making a representation against the same, particularly when such an adverse remark is bound to

affect his service career as regards the granting of increment, promotion and ultimately premature retirement, all of which depend upon the scrutiny of the service records. The object of the communication of the adverse remarks is to afford an opportunity to the employee to improve his work and conduct for which reasons the adverse remarks need to be communicated to him within reasonable time.”

6. From the impugned communication dated 08-01-2014, it seems that the respondents have intimated the applicant that his ACRs for the year 2005-2006 to 2010-2011 were considered and the same were of “B” grade. In fact when the applicant was being considered for second time bound promotion on 01-10-2007, his ACRs for earlier 5 years should have been considered but there is no reference to these CRs in the communication. Even for arguments sake, if it is accepted that the CRs of the applicant from year 2001-2002 to 2005-2006 are “B-”.

There is nothing on the record to show that the said CRs were ever communicated to the applicant.

7. In view thereof respondents are directed to file a short affidavit mentioning therein as to whether the CRs of the applicant from 2001-2002 to 2005-2006 were ever communicated, and if those are communicated, acknowledgement thereof, if any, shall be filed on record.

8. This O.A. be treated as part heard.

9. Steno copy be provided to the learned P.O. on his request.

10. S.O.21-09-2016.

**MEMBER (J)**

**M.A.NO. 350/16 WITH M.A.NO. 424/15 IN O.A. No. 628/15**

(Shri Vijay W. Chahakar Vs. The State of Mah. & Ors.)

**CORAM : HON'BLE SHRI J.D. Kulkarni, Member (J)**  
**(This matter is placed before the Single Bench due to**  
**non-availability of Division Bench.)**

DATE : 02.09.2016.

**ORAL ORDER:**

Heard Shri A.S. Deshmukh – learned Advocate for the applicant and Shri I.S. Thorat – learned Presenting Officer for the respondents.

2. This Miscellaneous Application No. 350/2016 has been filed by the applicant praying that the respondent No. 3 shall be restrained from forcing the applicant to undergo the training of Forest Guards during the pendency of the O.A. No. 628/2015 and it is further claimed that the respondent No. 3 shall be directed to permit the applicant to discharge his duties attached to his post of Plantation Kotwal at Shindkheda under the supervision of the Plantation Officer, Social Forestry Range, Shindkheda, by staying the effect & operation of the Memo dated 19/08/2016 (Annex. 'A-4' page-23 of this M.A.).

3. The learned Advocate for the applicant has pointed out that vide earlier order dated 25<sup>th</sup> April, 2016, the applicant was deputed for the said training. However, against the said order the applicant has filed representation on 28.4.2016 pointing out that employees above the age of 45 years shall not be send for such training. Therefore, the applicant was not relieved. However, again vide impugned order dated 19<sup>th</sup> August, 2016 the applicant has been deputed for the training for the period from 1.9.2016 to 28.2.2017.



**M.A.NO. 350/16 WITH M.A.NO. 424/15**  
**IN O.A. No. 628/15        :: - 2 - ::**

4.        The learned Advocate for the applicant submits that the applicant has crossed the age of 45 years long back and he is due for retirement on superannuation within a span of one and half year. He has also invited my attention to the Government Circular dated 30<sup>th</sup> September, 1983, which gives guidelines for deputing the Forest Guards for such training. The said Circular clearly shows that the persons to be deputed shall not cross the age of 45 years on the date of initiation of training and further that those Forest Guards, who have completed the age of 45 years shall not be send for such training.

5.        It seems that in spite of the fact that the O.A. No. 628/2015, wherein applicant has sought exemption from such training is pending, the respondents are insisting the applicant from time to time to undergo the training.

6.        The learned Presenting Officer submits that the applicant has been relieved and the training has been initiated from 27<sup>th</sup> August, 2016.

7.        The learned Advocate for the applicant however, pointed out two communications from which, it seems that the applicant was directed to be relieved and handover the charge and the other communication showing that he was relieved ex-parte. The learned Advocate for the applicant makes a statement that the applicant has not joined the training.

**M.A. 350/16 WITH M.A. 424/15 IN O.A. No. 628/15 ::-3-::**

8. The learned Presenting Officer submits that he will file affidavit in reply within two weeks' in the M.A. and, therefore, considering this aspect, the respondents are directed not to insist the applicant to undergo training vide impugned communication dated 19<sup>th</sup> August, 2016 till filing of affidavit in reply. Since the applicant makes a statement that he has not been relieved, the respondents are directed to allow him to work and discharge his duties as Plantation Kotwal at Shindhkheda.

9. S.O. to 16<sup>th</sup> September, 2016.

10. Steno copy be provided to the learned Presenting Officer for the respondents, at his request.

**MEMBER (J)**

02.09.2016-HDD(DB).doc

**ORIGINAL APPLICATION NO. 707 OF 2016**

(Saurabh R. Bagul Vs. The State of Mah. & Ors.)

**CORAM : HON'BLE SHRI J.D. Kulkarni, Member (J)**  
**(This matter is placed before the Single Bench due to non-availability of Division Bench.)**

DATE : 02.09.2016.

**ORAL ORDER:**

Heard Shri D.T. Devane – learned Advocate for the applicant and Shri M.S. Mahajan – learned Chief Presenting Officer for the respondents.

2. The applicant is claiming appointment to the post of Police Constable on the establishment of Superintendent of Police, Dhule. In fact, the name of the applicant has been shown at Sr. No. 1 in the waiting list from S.C. category (Sports). However, the respondent No. 5 has been shown as selected for the said post, but has not been yet given appointment. The learned Advocate for the applicant submits that the respondent No. 5 has applied for the post of Police Constable for Thane, as well as, Dhule, and in both the recruitment he has been successful. The learned Advocate for the applicant further submits that if the candidate is selected from two or more divisions he has to cancel earlier application and thereafter he can be considered for the post for which he has applied. It is necessary to obtain say of the respondents before passing any interim order and, therefore, issue notices to the respondents, returnable on 30<sup>th</sup> September, 2016.

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

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

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

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

7. It is however, made clear that if the respondent No. 5 appointed, in the meantime, his appointment shall be subject to the outcome of the present O.A.

8. S.O. to 30<sup>th</sup> September, 2016.

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

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 771 OF 2015**

(Shri Shivram B. Dabhade Vs. The State of Mah. & Ors.)

**CORAM : HON'BLE SHRI J.D. Kulkarni, Member (J)**

DATE : 02.09.2016.

**ORAL ORDER:**

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

2. The applicant has joined the Government service of the respondents on 18.11.1977. He was promoted as Clerk in the year 1980. Thereafter, on 24.6.2003 he was promoted as Senior Clerk and he stood retired on attaining the age of superannuation on 25.11.2008. The applicant was granted benefit of first assured progress scheme on 20.4.2011 w.e.f. 1.10.2006 and he was due for getting benefit of second assured progress scheme after completion of 24 years. However, vide impugned communication dated 29.9.2011 he was informed that since he has retired between 1.1.2006 and 31.3.2010, he is not entitled to the benefit of second assured progress scheme.

3. In number of judgments delivered by this Tribunal, as well as, by the Hon'ble Bombay High Court Bench at Aurangabad, it has been held that denial of benefit of second assured progress scheme to the employees, who are retired between 1.1.2006 and 31.3.2010 is not legal and on the basis of such pronouncement it is admitted fact that the benefit been given to number of employees.

4. The learned Presenting Officer however, makes a statement that it has been learnt that some Special Leave Petition has been filed in this matter for which he seeks one week's time.

5. The learned Presenting Officer is, therefore, directed to make a specific statement on the following points : -

- (i) Whether really some Special Leave Petition is filed in the matter, if answer is in affirmative, what is the SLP Number?;
- (ii) Whether any stay has been granted in the said SLP ?; and
- (iii) What is the status of the said SLP?

6. The learned Presenting Officer however, seeks one week's time. Time granted as prayed for.

7. S.O. to 12<sup>th</sup> September, 2016.

**MEMBER (J)**

02.09.2016-HDD(DB).doc

**ORIGINAL APPLICATION NO.704/2016.**

**(P.P. Hiwale Vs. State of Mah. & Ors.)**

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

**DATE :--02.09.2016.**

**ORAL ORDER:-**

Heard Shri RD Khadap, learned Advocate for the applicant and Shri MS Mahajan, learned Chief Presenting Officer for the Respondents.

2. Issue notices to the respondents, returnable on 7.10.2016.
3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
4. Applicant is authorized and directed to serve on respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.
6. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.
7. Steno copy and Hamdast is allowed to both parties.
8. S.O. to 7.10.2016.

**MEMBER (J)**

**02.09.2016-ATP (SB)**



**ORIGINAL APPLICATION NO.695/2015.**

**( A.D. Supekar Vs. State of Mah. & Ors.)**

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

**DATE :--02.09.2016.**

**ORAL ORDER:-**

Heard Shri SK Mathpati, learned Advocate for the applicant and Smt SK Ghate Deshmukh, learned Presenting Officer for the Respondents.

2. Learned P.O. seeks one weeks time. Time granted.

3. S.O. to 23.9.2016.

**02.09.2016-ATP (SB)**

**MEMBER (J)**

**MA NO. 347/2016 IN OA ST.NO.1606/2016.**

**(BL Deshmukh Vs. State of Mah. & Ors.)**

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

**DATE :--02.09.2016.**

**ORAL ORDER:-**

Heard Shri AS Deshmukh, learned Advocate for the applicant and Shri MS Mahajan, learned Chief Presenting Officer for the Respondents.

2. Issue notices to the respondents in M.A., returnable on 7.10.2016.
3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
4. Applicant is authorized and directed to serve on respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.
6. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.
7. Steno copy and Hamdast is allowed to both parties.
8. S.O. to 7.10.2016.

**MEMBER (J)**

**02.09.2016-ATP (SB)**

**OA Nos.633/14, 424/15, 155, 544 and 545 of 2016.**  
**(Dr. Babasaheb Deshmukh & Oths. Vs. State of Mah. & Ors.)**

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

**DATE :--02.09.2016.**

**ORAL ORDER:-**

Heard Shri JS Deshmukh, learned Advocate for the applicants in all the matters and S/Shri DR Patil, MS Mahajan, MP Gude, Shri MS Mahajan and Smt PR Bharaswadkar, Learned C.P.O. and learned Presenting Officers for the Respondents in respective matters. Shri SS Shinde, learned Advocate holding for Shri Vivek Bhavthankar, learned Advocate for the Respondent no.5 in OA No.424/15 & OA No.544/16.

2. Learned Advocate for the Applicants Shri JS Deshmukh requested orally to make corrections in prayer clauses "C" & "D" in OA Nos.155, 544 & 545 of 2016. He is permitted to do so forthwith.

3. Learned Advocate for the applicant placed reliance on judgment in Review Application No.25/2015 in OA No.469/2012 and OA No.160/2016. Both the judgments are passed by the principal Bench of this Tribunal. It is the case of the applicants that, all these original applications are covered under that judgment.

4. Learned C.P.O. and learned P.Os. appearing in these original applications submit that, they will go through the judgment and will file short affidavit making a statement as to whether the matters are covered or not. In view thereof, four weeks time is granted.

5. S.O. to 10.10.2016.

**MEMBER (J)**

**02.09.2016-ATP(SB)**

**ORIGINAL APPLICATION NO.682/2015.**

**(BY Sole & Oths. Vs. State of Mah. & Ors.)**

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

**DATE :--02.09.2016.**

**ORAL ORDER:-**

Heard Shri RV Gore, learned Advocate holding for Smt Vinaya Muley, learned Advocate for the applicant and Shri VR Bhumkar, learned Presenting Officer for the Respondents.

2. Learned P.O. submits that notice to newly added respondents is not served by the applicant. The applicant is directed to file service affidavit.

3. S.O. to 5.10.2016.

**02.09.2016-ATP (SB)**

**MEMBER (J)**

**ORIGINAL APPLICATION NO.830/2015.**

**(Dr. BG Manoorkar Vs. State of Mah. & Ors.)**

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

**DATE :--02.09.2016.**

**ORAL ORDER:-**

None present for the applicant. Smt PR Bharaswadkar, learned Presenting Officer for the Respondents.

2. Learned P.O. files reply affidavit on behalf of respondents no.1 to 3. Same is taken on record.

3. S.O. to 5.10.2016.

**02.09.2016-ATP (SB)**

**MEMBER (J)**

**ORIGINAL APPLICATION NO.207/2016.**

**(GJ Waghmare Vs. State of Mah. & Ors.)**

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

**DATE :--02.09.2016.**

**ORAL ORDER:-**

None present for the applicant. Heard Smt DS Deshpande, learned Presenting Officer for the Respondent no.1 and Shri SS Shinde, learned Advocate holding for Shri Vivek Bhavthankar, learned Advocate for the respondents no.2 to 5.

2. Learned P.O. seeks time to file reply affidavit. Time granted as a last chance.

3. S.O. to 7.10.2016.

**MEMBER (J)**

**02.09.2016-ATP (SB)**

**OA Nos. 49, 118, 119, 120, 121, 122 & 123 of 2016.**

**(Dr. Babasaheb Deshmukh & Oths. Vs. State of Mah. & Ors.)**

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

**DATE :--02.09.2016.**

**ORAL ORDER:-**

Heard Shri JS Deshmukh, learned Advocate for the applicants in all the matters and Smt PR Bharaswadkar, Smt. RS Deshmukh, Smt. SK Ghate Deshmukh, S/Shri DR Patil, & IS Thorat, Learned Presenting Officers for the Respondents in respective matters.

2. Learned Advocate for the Applicants Shri JS Deshmukh requested orally to make corrections in prayer clauses "C" & "D" in OA Nos.155, 544 & 545 of 2016. He is permitted to do so forthwith.

3. Learned Advocate for the applicants submits that he has been instructed by the applicants to withdraw the Original Applications and therefore, seeks permission. In view thereof, applicants are allowed to withdraw the original applications. Accordingly, all the original applications are disposed of, as withdrawn, with no order as to costs.

**MEMBER (J)**

**02.09.2016-ATP (SB)**

**ORIGINAL APPLICATION NO.246/2016.**

**(RM Dabhale & Ors. Vs. State of Mah. & Ors.)**

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

**DATE :--02.09.2016.**

**ORAL ORDER:-**

Heard Shri PV Suryawanshi, learned Advocate for the applicant and Smt PR Bharaswadkar, learned Presenting Officer for the Respondents.

2. Learned P.O. files reply affidavit on behalf of respondents no.2 & 3. Same is taken on record. Its copy is served on the applicant.
3. Learned Advocate for the applicant seeks time to file rejoinder, if necessary.
4. S.O. to 5.10.2016.

**02.09.2016-ATP (SB)**

**MEMBER (J)**



**ORIGINAL APPLICATION NO.255/2016.**

**(HS Maher Vs. State of Mah. & Ors.)**

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

**DATE :--02.09.2016.**

**ORAL ORDER:-**

Heard Shri RV Gore, learned Advocate for the applicant, Shri SK Shirse, learned Presenting Officer for the Respondents nos. 1 to 4 and Shri VB Wagh, learned Advocate for the Respondent no.5.

2. Learned Advocate for the applicant submits that, he has received the copy of reply affidavit of respondent no.4 today.

3. Learned P.O. seeks time to file reply affidavit on behalf of respondents no.1 & 2. Time granted.

4. S.O. to 6.10.2016.

**MEMBER (J)**

**02.09.2016-ATP (SB)**

**ORIGINAL APPLICATION NO.256/2016.**

**(MW Jadhav Vs. State of Mah. & Ors.)**

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

**DATE :--02.09.2016.**

**ORAL ORDER:-**

Heard Shri SR Sapkal, learned Advocate for the applicant and Shri DR Patil, learned Presenting Officer for the Respondents no.1 & 2, and Shri SS Shinde, learned Advocate holding for Shri Vivek Bhavthankar, learned Advocate for the Respondent no.3.

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

3. S.O. to 6.10.2016.

**02.09.2016-ATP (SB)**

**MEMBER (J)**

**ORIGINAL APPLICATION NO.268/2016.**

**(KD Patil Vs. State of Mah. & Ors.)**

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

**DATE :--02.09.2016.**

**ORAL ORDER:-**

Heard Shri AD Sugdare, learned Advocate for the applicant and Smt RS Deshmukh, learned Presenting Officer for the Respondents.

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

3. S.O. to 6.10.2016.

**02.09.2016-ATP(SB)**

**MEMBER (J)**

**ORIGINAL APPLICATION NO.277/2016.**

**(BV Pawar & Ors. Vs. State of Mah. & Ors.)**

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

**DATE :--02.09.2016.**

**ORAL ORDER:-**

Heard Shri Godghase, learned Advocate holding for Shri Hemant Surve, learned Advocate for the applicants, Smt RS Deshmukh, learned Presenting Officer for the Respondents no.1 to 3 and Shri VB Wagh, learned Advocate for the Respondent no.4.

2. Learned Advocate for the applicants seeks time. Time granted.

3. S.O. to 7.9.2016.

**02.09.2016-ATP(SB)**

**MEMBER (J)**

**ORIGINAL APPLICATION NO.421/2016.**

**(SV Khillare Vs. State of Mah. & Ors.)**

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

**DATE :--02.09.2016.**

**ORAL ORDER:-**

Heard Shri VB Wagh, learned Advocate for the applicant, Shri MP Gude, learned Presenting Officer for the Respondent no.1 and Shri Sham Patil, learned Advocate for the respondent no.2.

2. Learned P.O. as well as learned Advocate for the respondent no.2 seek time to file replies. Time granted.

3. S.O. to 10.10.2016.

**MEMBER (J)**

**02.09.2016-ATP(SB)**

**ORIGINAL APPLICATION NO.429/2016.**

**( Dr. SK Shinde Vs. State of Mah. & Ors.)**

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

**DATE :--02.09.2016.**

**ORAL ORDER:-**

Heard Shri VB Wagh, learned Advocate for the applicant, Shri NU Yadav, learned Presenting Officer for the Respondents no.1 to 5 and Shri DT Devane, learned Advocate for the Respondent no.6.

2. Learned P.O. seeks time to file reply on behalf of respondents no. 1 to 5. Learned Advocate for respondent no.6 also seeks time to file reply. Time granted.

3,. S.O. to 27.9.2016.

**MEMBER (J)**

**02.09.2016-ATP(SB)**

**ORIGINAL APPLICATION NO.437/2016.**

**( BB Deore Vs. State of Mah. & Ors.)**

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

**DATE :--02.09.2016.**

**ORAL ORDER:-**

Heard Shri AS Deshmukh, learned Advocate for the applicant, Shri MS Mahajan, learned Chief Presenting Officer for the Respondents no.1 to 3 and Shri VB Wagh, learned Advocate for the Respondent no.4.

2. Learned P.O. files reply affidavit on behalf of respondents no.2 & 3. Same is taken on record. Its copy is served on the applicant.

3. Learned Advocate for the applicant submits that he has been instructed by the applicant to withdraw the O.A. and he seeks permission for the same. In view thereof, the O.A. stands disposed of, as withdrawn, with no order as to costs.

**02.09.2016-ATP (SB)**

**MEMBER (J)**

**M.A.NO. 349/16 IN O.A.ST.NO. 1578/2016**

(Shri Vijay H. Patil & Ors. Vs. The State of Mah. & Ors.)

**CORAM : HON'BLE SHRI J.D. Kulkarni, Member (J)**  
**(This matter is placed before the Single Bench due to non-availability of Division Bench.)**

DATE : 02.09. 2016.

**ORAL ORDER:**

Heard Shri S.D. Dhongde – learned Advocate for the applicant and Smt. Resha S. Deshmukh – learned Presenting Officer for the respondents.

2. This M.A. No. 349/2016 has been filed by the applicants for sue jointly.

3. Perused the application. The cause of action and the relief claimed by the applicants is similar and for the reasons stated in the miscellaneous application, the same is allowed and the applicants are permitted to sue jointly.

4. The M.A. is, therefore, disposed of accordingly with no order as to costs.

**MEMBER (J)**

**02.09.2016-HDD(DB).doc**



**ORIGINAL APPLICATION ST.NO. 1578 OF 2016**

(Shri Vijay H. Patil & Ors. Vs. The State of Mah. & Ors.)

**CORAM : HON'BLE SHRI J.D. Kulkarni, Member (J)**  
**(This matter is placed before the Single Bench due to non-availability of Division Bench.)**

DATE : 02.09. 2016.

**ORAL ORDER:**

Heard Shri S.D. Dhongde – learned Advocate for the applicant and Smt. Resha S. Deshmukh – learned Presenting Officer for the respondents.

2. The learned Advocate for the applicant submits that he is not insisting for interim relief. Hence, issue notices to the respondents, returnable on 5<sup>th</sup> October, 2016.

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

4. Applicant is authorized and directed to serve on respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. 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.

**:: - 2 - ::**

**O.A. ST.NO. 1578 OF 2016**

6. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.
7. S.O. to 5<sup>th</sup> October, 2016.
8. Steno copy and hamdust is allowed to both the parties.

**MEMBER (J)**

**02.09.2016-HDD(DB).doc**

**ORIGINAL APPLICATION ST.NO. 408 OF 2013**

(Shri Gangadhar R. Dahiwal Vs. The State of Mah. & Ors.)

**CORAM : HON'BLE SHRI J.D. Kulkarni, Member (J)**  
**(This matter is placed before the Single Bench due to non-availability of Division Bench.)**

DATE : 02.09. 2016.

**ORAL ORDER:**

Heard Shri S.D. Dhongde – learned Advocate for the applicant and Shri N.U. Yadav – learned Presenting Officer for the respondents.

2. S.O. to 12<sup>th</sup> September, 2016.

**MEMBER (J)**

**02.09.2016-HDD(DB).doc**

**M.A.NO. 123/2014 IN O.A.NO. 227/2014**

(Shri Jijabrao D. Khairnar Vs. The State of Mah. & Ors.)

**CORAM : HON'BLE SHRI J.D. Kulkarni, Member (J)**  
**(This matter is placed before the Single Bench due to non-availability of Division Bench.)**

DATE : 02.09. 2016.

**ORAL ORDER:**

Heard Shri N.B. Jadhav – learned Advocate for the applicant and Shri V.R. Bhumkar – learned Presenting Officer for the respondent Nos. 1 to 3. None appears for respondent No. 4.

2. The learned Advocate for the applicant submits that the address of respondent No. 2 has been changed and, therefore, notice cannot be served. He seeks permission to correct the address of respondent No. 2 and sought permission to serve the notice to respondent No. 2 on the corrected address.

3. In view thereof, he is allowed to make the changes in address of respondent No. 2 and serve the notice on him in M.A. No. 123/2014.

4. S.O. to 5<sup>th</sup> October, 2016.

**MEMBER (J)**

**02.09.2016-HDD(DB).doc**

**M.A. 201/2016 IN C.P.ST. 765/2016 N O.A. 918/2010**

(Gayabai G. Pokale Vs. The State of Mah. & Ors.)

**CORAM : HON'BLE SHRI J.D. Kulkarni, Member (J)**  
**(This matter is placed before the Single Bench due to non-availability of Division Bench.)**

DATE : 02.09. 2016.

**ORAL ORDER:**

Heard Shri M.S. Bhosale – learned Advocate for the applicant and Mrs. Deepali S. Deshpande – learned Presenting Officer for the respondents.

2. The learned Presenting Officer submits that the impugned order passed in O.A. No. 918/2010 has been challenged before the Hon'ble Bombay High Court Bench at Aurangabad and that she will make a statement giving details, as well as, Writ Petition Number and its status. She seeks time. Time granted.

3. S.O. to 12<sup>th</sup> September, 2016.

**MEMBER (J)**

02.09.2016-HDD(DB).doc

**ORIGINAL APPLICATION NO.440/2016.**

**(CS Thikal Vs. State of Mah. & Ors.)**

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

**DATE :--02.09.2016.**

**ORAL ORDER:-**

Heard Shri DA Bide, learned Advocate for the applicant and Shri SK Shirse, learned Presenting Officer for the Respondents.

2. Learned P.O. seeks time to file reply. Time granted as last chance.

3. S.O. to 7.10.2016.

**MEMBER (J)**

**02.09.2016-ATP (SB)**

**ORIGINAL APPLICATION NO.443/2016.**

**( NK Rathod Vs. State of Mah. & Ors.)**

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

**DATE :--02.09.2016.**

**ORAL ORDER:-**

None present for the applicant. Shri SK Shirse, learned Presenting Officer for the Respondents no.1 & 2. None present for the Respondent no.3.

2. The reply is already filed in the matter, hence it is admitted and kept for final hearing.

3. S.O. to 13.10.2016.

**MEMBER (J)**

**02.09.2016-ATP (SB)**

**ORIGINAL APPLICATION NO.442/2016.**  
**(SM Tejale Vs. State of Mah. & Ors.)**

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

**DATE :--02.09.2016.**

**ORAL ORDER:-**

Heard Shri S.D. Dhongde, learned Advocate for the applicant and Shri DR Patil, learned Presenting Officer for the Respondents.

2. The applicant in this O.A. is claiming the amount of DCRG payable to him with interest @18% per annum from the date of amount due till actual payment.

3. In the reply affidavit the respondents have submitted that as per the direction issued from the Govt., the proposal for grant of DCRG has already been submitted to the A.G. Nagpur and amount will paid as soon as the said proposal is sanctioned.

4. The learned P.O. submits that, the amount will paid after due sanction within two months. It is however, surprising as to how such statement can be made, since the A.G. is not party in OA. as A.G. has to pass the proposal.

5. Learned Advocate for the applicant submits that he may be allowed to add A.G. as party. He submits that, he will add the party immediately. In view thereof, applicant is allowed to make A.G. as party respondent, the applicant shall serve the notice to A.G. within four weeks. In the mean time respondents are directed to take efforts to see that amount shall be paid within two months as stated by the learned P.O.



-2- **ORIGINAL APPLICATION NO.442/2016.**

to take efforts to see that amount shall be paid within two months as stated by the learned P.O.

6. S.O. to 7.10.2016.

**02.09.2016-ATP (SB)**

**MEMBER (J)**

**ORIGINAL APPLICATION NO.474/2016.**

**(U.L. Raut & Ors. Vs. State of Mah. & Ors.)**

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

**DATE :--02.09.2016.**

**ORAL ORDER:-**

Heard Shri P.V. Suryawanshi, learned Advocate for the applicants and Smt DS Deshpande, learned Presenting Officer for the Respondents.

2. Vide order dated 24.8.2016 the Respondent no.4 i.e. Superintendent of Police, Parbhani was directed to file affidavit. He accordingly filed the affidavit. The same is taken on record. The Respondent no.5 i.e. Superintendent of Police, Hingoli has also filed affidavit. Same are taken on record.

3. Learned Superintendent of Police, Parbhani has mentioned in clear terms that, he is bound by various judgments delivered by this Tribunal, which are also referred in the O.A. The said judgments are at paper book page nos. 21 to 47 (both inclusive). In all these judgments (i.e. in OA Nos.166/16, 34/16, 192/15, 167/15, and 402/15, it has been held that, the Part Time Sweepers are entitled to wages as per notification dated 28.9.2010. The claim of the applicants as per prayer clause 8 (B) is also same. In view thereof, the O.A. is allowed in terms of prayer clause "B". The Respondents are directed to pay wages to the applicants as per notification dated 28.9.2010. No order as to costs.

**MEMBER (J)**

**02.09.2016-ATP (SB)**

**ORIGINAL APPLICATION NO.462/2016.**

**(IS Kendre Vs. State of Mah. & Ors.)**

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

**DATE :--02.09.2016.**

**ORAL ORDER:-**

Heard Shri AS Deshmukh, learned Advocate for the applicant and Smt PR Bharaswadkar, learned Presenting Officer for the Respondents.

2. Learned P.O. files reply affidavit on behalf of respondent no.2. Same is taken on record. Its copy is served on the applicant.

3. Learned Advocate for the applicant seeks time. Time granted.

4. S.O. to 30.9.2016.

**MEMBER (J)**

**02.09.2016-ATP (SB)**