

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

MA NO. 445/2016 WITH O.A. ST. NO. 1876/2016

(Smt. Surekha J. Pawar Vs. The State of Mah. & Ors.)

Coram : Hon'ble Shri Justice M.T. Joshi, Vice Chairman

Date : 30-06-2017

ORAL ORDER:-

Heard Shri D.K. Rajput, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. By the present misc. application the applicant is seeking condonation of 342 days' delay caused in filing the accompanying original application before the Tribunal. By the accompanying original application the applicant is seeking directions to the respondents to consider her case for appointment on compassionate ground.

3. It is an admitted fact that the present applicant is the only daughter of her deceased father – Narayansing Rajput, who died in harness on 7.5.2013 while in service as a Peon with the respondents. The present applicant is admittedly a only married daughter and sole legal representative left behind by the deceased Narayansing Rajput. The present applicant had married with Shri Jitendrasingh Rajput on 22.5.1997.

4. While father of the present applicant viz. Narayansing Rajput died on 7.5.2013, the Government has issued G.R. dated 26.2.2013 (Annex. R-4 paper book page 15 of the M.A.). This G.R. inter alia provides that, if deceased Government employee has left behind him only his married daughter or if the family of the deceased would be dependent on the married daughter, then the married daughter is entitled for compassionate appointment. The relevant portion of G.R. in Marathi reads as under :-

“दिवंगत राज्य शासकीय कर्मचा-याच्या कुटुंबामध्ये फक्त विवाहित मुलगी हे एकमेव आप्त्य असल्यास किंवा त्यांचे कुटुंब फक्त विवाहित मुलीवर अवलंबून असेल अशा प्रकरणी दिवंगत शासकीय कर्मचा-याची विवाहित मुलगी ही अनुकंपा नियुक्तीसाठी पात्र राहिल.”

5. In the affidavit in reply the res. nos. 3 & 4 interpreted this provision that, as there is no member dependent in the family, after the death of Narayansing Rajput, the present applicant would not be entitled for consideration for appointment on compassionate ground.

6. Unfortunately, the respondents have wrongly translated the Marathi G.R. in para no. 3 of the reply as under :-

“If there is married female child in family of deceased employee **and** family of deceased employee is dependent on the married daughter in such case married daughter of deceased employee is eligible for compassionate appointment.”

7. It is to be noted that the word “**and**” is the wrong translation of the word “**Or**” contained in the G.R. It is, prima-facie, an apparent mistake on the part of the respondents for opposing the claim of the applicant for compassionate appointment.

8. In the circumstances, the concerned respondents are directed to again reconsider the matter and find out as to whether any corrective measures can be taken. If the respondent comes to the conclusion that, corrective measures can be taken, the same shall be taken and report about the same shall be filed in the present proceedings on or before 10.8.2017. S.O. to 10.8.2017.

9. The learned P.O. to act upon the Steno copy of this order.

VICE CHAIRMAN

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 633/2012

(Shri Sachin S. Unawane & Ors. Vs. The State of Mah. & Ors.)

**Coram : Hon'ble Shri Justice M.T. Joshi, Vice Chairman
(This matter is placed before the Single Bench
due to non-availability of Division Bench.)**

Date : 30-06-2017

ORAL ORDER:-

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

2. It appears that, the S.L.P. regarding the same issue is still pending with the Hon'ble Supreme Court.

3. In the circumstances, the present matter is removed from the board. Liberty to both the sides is granted to circulate the matter, as and when the said S.L.P. is decided by the Hon'ble Supreme Court, or if occasion arises.

VICE CHAIRMAN

ARJ ORAL ORDERS 30.6.2017

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 789/2007

(Shri Sunil R. Shirsat Vs. The State of Mah. & Ors.)

**Coram : Hon'ble Shri Justice M.T. Joshi, Vice Chairman
(This matter is placed before the Single Bench
due to non-availability of Division Bench.)**

Date : 30-06-2017

ORAL ORDER:-

None appears for the applicant. Shri S.K. Shirse, learned Presenting Officer for the respondents, is present.

2. The learned P.O. seeks time to take instructions from the concerned respondents in the matter. At his request, S.O. to 25.7.2017.

VICE CHAIRMAN

ARJ ORAL ORDERS 30.6.2017

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 609/2012

(Shri (Dr.) Arun P. Deshpande & Ors. Vs. The State of Mah. &
Ors.)

**Coram : Hon'ble Shri Justice M.T. Joshi, Vice Chairman
(This matter is placed before the Single Bench
due to non-availability of Division Bench.)**

Date : 30-06-2017

ORAL ORDER:-

Heard Shri N.S. Shah, learned Advocate holding for Shri S.V. Natu, learned Advocate for the applicants and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. At the request and by consent of both the sides, the matter is taken up for hearing and final disposal.

3. The learned Advocate for the applicants has filed on record the copy of the order dated 6.1.2017 passed by this Tribunal at Nagpur Bench in O.A. no. 662/2012 with C.A. no. 46/2015 and 549/2016 [Mrs. (Dr.) Nita Vijay Godbole and Ors. Vs. the State of Maharashtra & Ors.]. The same is taken on record and marked as document 'X' for the purpose of identification. Similarly, the learned P.O. has also filed on record the additional reply of res. no. 2 in view of the order of the Tribunal dated 17.10.2016. It is taken on record and copy thereof has been served upon the learned Advocate for the applicants.

4. Shri Shah, learned Advocate, on instructions from Shri S.V. Natu, learned Advocate for the applicant, submits that, in view of the aforesaid order dated 6.1.2017 passed by the Division Bench of this Tribunal at Nagpur Bench and in view of the contents contained in the additional affidavit in reply filed by the res. no. 2, nothing survives in the present matter for further adjudication. He, however, prays for liberty to approach the Tribunal, if cause of action again arose.

5. In the circumstances, the present original application stands disposed of as nothing survives therein for further adjudication, with liberty as prayed for. There shall be no order as to costs.

VICE CHAIRMAN

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

MA 386/2016 IN CP ST. 1771/2016 IN OA 614/2015
(Shri Bhanudas K. Waghmare Vs. The State of Mah. & Ors.)

Coram : Hon'ble Shri Justice M.T. Joshi, Vice Chairman
(This matter is placed before the Single Bench
due to non-availability of Division Bench.)

Date : 30-06-2017

ORAL ORDER:-

Mrs. A.N. Ansari, learned Advocate for the applicant has filed leave note. Shri I.S. Thorat, learned Presenting Officer for the respondents, is present.

2. The learned P.O. seeks time to take further instructions in the matter. At his request, S.O. to 1.8.2017.

VICE CHAIRMAN

ARJ ORAL ORDERS 30.6.2017

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 246/2006

(Shri Shankar H. Rathod & Ors. Vs. The State of Mah. & Ors.)

**Coram : Hon'ble Shri Justice M.T. Joshi, Vice Chairman
(This matter is placed before the Single Bench
due to non-availability of Division Bench.)**

Date : 30-06-2017

ORAL ORDER:-

Heard Shri G.R. Jadhav, learned Advocate holding for Shri A.S. Shelke, learned Advocate for the applicants and Smt. Sanjivani Deshmukh Ghate, learned Presenting Officer for the respondent nos. 1 to 5. Shri R.S. Bihani, learned Advocate for respondent no. 6 **(absent)**. Smt. A.N. Ansari, learned Advocate for respondent no. 9 has filed her leave note. None appear for respondent nos. 7, 8, 10 & 11 though duly served.

2. At the request and by consent of learned Advocate for the applicants and learned P.O. for respondent nos. 1 to 5, the present matter is taken up for hearing and final disposal.

3. The issue involved in the present matter is answered by the Division Bench of Hon'ble Bombay High Court, Aurangabad Bench in the judgment delivered on 11.11.2014 in writ petition no. 4547/2001. The true copy of the said judgment is filed on record by the learned Advocate for the applicants. It is taken on record and marked as document 'X' for the purpose of identification.

4. The present applicants claim appointment in Class-IV posts as they were previously working as Kotwals. The reliance was placed by the applicants for this purpose on the Government Resolution issued by the Revenue & Forest Department dated 19.7.2001 (Exh. D paper book page 36 of the O.A.). It, however, provides that, at the time of selection for the post in Class-IV cadre, Kotwal should not be of more than 45 years' of age. The age of the present applicants is shown in the title cause of the O.A. as under :-

Sr. no.	Name of Applicant	Age as per title cause
01.	Shankar Haridas Rathod	48 years
02.	Manik Gangadhar Patharkar	46 years
03.	Sayyed Hamid Sayyed Jilani	45 years
04.	Sonaji Dnyanoba Pawar	46 years
05.	Shaikh Abdul Kadar Shaikh	44 years

5. In fact, the copy of the seniority list dated 1.8.2001 filed on record by the applicants themselves at paper book pages 41 & 42 would show the correct age of the present applicants as under:-

Sr. no.	Name of Applicant	Date of birth as per seniority list
01.	Shankar Haridas Rathod	05.07.1957 49 years
02.	Manik Gangadhar Patharkar	15.03.1959 47 years
03.	Sayyed Hamid Sayyed Jilani	27.5.1960 46 years
04.	Sonaji Dnyanoba Pawar	09.10.1957 49 years
05.	Shaikh Abdul Kadar Shaikh	Not included in the seniority list.

6. The said G.R. was challenged by the Maharashtra Rajya Kotwal Parishad through its District Branch President, Nanded Shri Nagesh Kondaji Kamble before this Tribunal. The said dispute ultimately went to Hon'ble High Court vide writ petition referred hereinabove. The Division Bench of Hon'ble High Court has upheld the said condition of fixation of upper age limit of 45 years for absorption of Kotwals in Class IV cadre and dismissed the writ petition.

7. In the circumstances, in my view, nothing survives in the present original application for further adjudication and the same is hereby dismissed without any order as to costs.

VICE CHAIRMAN

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 838/2016
(Dr. Deepak S. Thakare V/s. the State of Mah. & Ors.)**

CORAM: HON'BLE SHRI B.P. PATIL, MEMBER (J).

DATE : 30.06.2017.

ORAL ORDER:-

Heard Shri J.B. Choudhary, learned Advocate for the applicant, Shri S.K. Shirse, learned Presenting Officer for respondent nos. 1 to 3 and Smt. Vaishali S. Choudhary, learned Advocate for respondent no. 4.

2. At the request and by consent of both the parties, S.O. to 06.07.2017.

3. The matter is to be treated as part heard.

MEMBER (J)

KPB ORAL ORDER 30-06-2017

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 839/2016
(Dr. Anil G. Valvi V/s. the State of Mah. & Ors.)**

CORAM: HON'BLE SHRI B.P. PATIL, MEMBER (J).

DATE : 30.06.2017.

ORAL ORDER:-

Heard Shri J.B. Choudhary, learned Advocate for the applicant, Shri I.S. Thorat, learned Presenting Officer for respondent nos. 1 to 3 and Smt. Vaishali S. Choudhary, learned Advocate for respondent no. 4.

2. At the request and by consent of both the parties, S.O. to 06.07.2017.

3. The matter is to be treated as part heard.

MEMBER (J)

KPB ORAL ORDER 30-06-2017

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 891/2016
(Shri Anil P. Salve V/s. the State of Mah. & Ors.)**

CORAM: HON'BLE SHRI B.P. PATIL, MEMBER (J).

DATE : 30.06.2017.

ORAL ORDER:-

Shri S.D. Dhongde, learned Advocate holding for Smt. S.A. Dhongde, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for respondents.

2. At the request of learned Advocate for the applicant, S.O. to 28.07.2017.

KPB ORAL ORDER 30-06-2017

MEMBER (J)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

**M.A. No. 215/2017 in O.A. St. No. 813/2017
(Shri Sanjay S. Ramod V/s. the State of Mah. & Ors.)**

CORAM: HON'BLE SHRI B.P. PATIL, MEMBER (J).

DATE : 30.06.2017.

ORAL ORDER:-

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

2. Issue notices to the respondents in M.A., returnable on 02.08.2017.

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

4. Applicant is authorized and directed to serve on respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the M.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. S.O.to 02-08-2017.

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

MEMBER (J)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 652/2016
(Shri Bhimraj R. Thorat V/s. the State of Mah. & Ors.)**

CORAM: HON'BLE SHRI B.P. PATIL, MEMBER (J).

DATE : 30.06.2017.

ORAL ORDER:-

Shri K.B. Jadhav, learned Advocate holding for Shri H.U. Dhage, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for respondents.

2. At the request of learned Advocate for the applicant,
S.O. to 10.07.2017.

KPB ORAL ORDER 30-06-2017

MEMBER (J)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 409/2017
(Shri Bhujang R. Rithe V/s. the State of Mah. & Ors.)**

CORAM: HON'BLE SHRI B.P. PATIL, MEMBER (J).

DATE : 30.06.2017.

ORAL ORDER:-

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

2. The learned Advocate for the applicant has submitted that the applicant has not completed his 9 years' tenure in the region as provided in the Divisional Cadre Structure and Divisional Cadre Allotment for direct appointment by nomination to the post of Group A and Group B (Gazatted and Non Gazatted) of the Government of Maharashtra Rules, 2010. She has submitted that the applicant has completed his normal tenure of posting at Aurangabad and he is ready to work elsewhere in the same region i.e. Aurangabad region, but the respondents have transferred him from Aurangabad region and posted him in the Nashik region. She has submitted that the said transfer is in contraventions of the provisions of the

said Rules. Therefore, she prayed to stay the execution of the impugned transfer order dated 31.05.2017. She has submitted that the matter was kept before this Tribunal yesterday and at that time, the applicant was not relieved.

3. Today, the learned Chief Presenting Officer has placed on record a copy of letter dated 29.06.2017 stating that the applicant has been relieved yesterday i.e. on 29.06.2017 afternoon.

4. The learned Advocate for the applicant has submitted that the applicant is present in the office afternoon at 5.30 p.m. He was not served with the relieving order. She has submitted that the respondents have played mischief by taking disadvantage of the fact that the matter has been adjourned. Therefore, she prayed to protect the applicant by granting interim relief.

5. Learned Chief Presenting Officer has submitted that the applicant has already been relieved from his post yesterday i.e. on 29.06.2017 afternoon. He has

submitted that the transfer of the applicant has been made as per the provisions of Transfer Act, 2005. He has argued that, as the applicant has been relieved from his post, no question of granting interim relief arises and therefore, he prayed to reject the interim relief as prayed for by the applicant.

6. On perusal of the documents, it reveals that the applicant has been appointed as a Skill Development Employment & Entrepreneurship Guidance Officer, Group-B by order dated 16.12.2013 and since then, he is working at Aurangabad. He has completed his normal tenure of posting at Aurangabad in view of the provisions of the Transfer Act, 2005. The only grievance of the applicant is that he has not completed his 9 years' tenure at Aurangabad in view of the Divisional Cadre Structure and Divisional Cadre Allotment for direct appointment by nomination to the post of Group A and Group B (Gazatted and Non Gazatted) of the Government of Maharashtra Rules, 2010. The applicant was appointed in the Aurangabad Region vide order dated 16.12.2013

and he has not completed 9 years' tenure in the Aurangabad Region and he transferred to Nashik Division by the impugned order. The applicant has been relieved on 29.06.2017. In these circumstances, in my opinion it is not a fit case to grant interim relief as prayed for. Therefore, interim relief as claimed by the applicant is rejected.

7. In the meantime, issue notices to the respondents, returnable on 11.07.2017.

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

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

10. 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.

11. 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.

12. S.O.to 11-07-2017.

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

MEMBER (J)

KPB ORAL ORDER 30-06-2017

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

ORIGINAL APPLICATION NOS.760/2016 & 761/2016

(Shri Gopal Mule & Ors. V/s. The State of Mah. & Ors.)

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

DATE : 30-06-2017

ORAL ORDER:-

Heard Smt. Vidya Taksal learned Advocate holding for Shri A.S.Deshmukh learned Advocate for the applicant, Shri M.P.Gude, Smt. Priya Bharaswadkar learned Presenting Officers for the respondents in both O.As. and Shri P.G.Patil learned Advocate holding for Shri G.N.Patil learned Advocate for respondent nos.2 & 4 (O.A.No.761/2016). Shri Shamsundar B. Patil learned Advocate for respondent no.4 (O.A.No.760/2016) is **absent.**

2. In these O.As. vide order dated 12-04-2017 this Tribunal has directed the Government to take decision as regards clarification raised by the A.G.-II, Nagpur vide communication dated 07-02-2017 within a period of one month. On receiving clarification, Government and A.G.-II Nagpur may take necessary decision within 1 month thereafter.

3. Learned P.Os. have submitted copy of communication dated 15/18-04-2017 thereby respondent no.1 was intimated about the order passed by this Tribunal on 12-04-2017 and the respondent no.1 was requested to treat it as most urgent and that failing which adverse order may be passed by the Tribunal. Learned P.Os. further submitted that inspite of such instructions no communication is received from the Government as regards compliance of the order passed by the Tribunal on 12-04-2017.

4. Learned P.Os., however, submit that respondents may be granted a week's time to get clarification in this regard and also to know the status of the decision to be taken by the Government, if any, as per order dated 12-04-2017.

5. In view thereof, S.O. to 07-07-2017.

VICE-CHAIRMAN (J)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.884/2016

(Shri Lahu Gajdhane V/s. The State of Mah. & Ors.)

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

DATE : 30-06-2017

ORAL ORDER:-

Heard Shri V.G.Salgare learned Advocate for the applicant is **absent**. Smt. Priya Bharaswadkar learned Presenting Officers for the respondents is present.

2. Learned P.O. seeks 2 weeks' time to file reply affidavit on behalf of respondent nos.1 to 3. Time granted.

3. S.O.14-07-2017.

VICE-CHAIRMAN (J)

YUK ORAL ORDER 30-06-2017

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD.

ORIGINAL APPLICATION NO.404/2017.
(Shri R. R. Mungale Vs. State of Mah. & Ors.)

CORAM: Hon Shri Justice M. T. Joshi, Vice Chairman.
(This matter is placed before the Single Bench
due to non-availability of Division Bench.)

DATE : 30-06-2017

ORAL ORDER:-

Heard Shri J. B. Choudhary learned Advocate for the applicant and Smt P. R. Bharaswadkar learned Presenting Officer for the respondents.

2. The learned Advocate for the applicant seeks time to make submissions on the line that, after service of the inquiry report on the applicant whether a show cause notice is required to be issued before imposing the minor penalty.

3. S. O. to 10.7.2017.

VICE CHAIRMAN.

ORAL ORDERS 30-06-2017-ATP

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD..

ORIGINAL APPLICATION NO.259/2016.
(Shri R. M. Shete Vs. State of Mah. & Ors.)

CORAM: Hon Shri Justice M. T. Joshi, Vice Chairman.
(This matter is placed before the Single Bench
due to non-availability of Division Bench.)

DATE : 30-06-2017

ORAL ORDER:-

None appears for the applicant. Smt D. S. Deshpande learned Presenting Officer for the respondents is present.

2. The previous record would show that, on 18.4.2017 none appeared for the applicant. On the last date i.e. on 15.6.2017 the learned Advocate for the applicant sought time though the facts were placed before the applicant that he did not secure the required marks in the examination held for selection.

3. In view of the absence of the learned Advocate for the applicant S. O. to 26.7.2017 either for hearing on the line of the order dated 15.6.2017 or to pass necessary orders.

VICE CHAIRMAN.

ORAL ORDERS 30-06-2017-ATP

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD..

ORIGINAL APPLICATION NO.859/2016.
(Shri Pravin Rambhau Wagh Vs.
The State of Mah. & Oths.)

CORAM: Hon Shri Justice M. T. Joshi, Vice Chairman.
(This matter is placed before the Single Bench
due to non-availability of Division Bench.)

DATE : 30-06-2017

ORAL ORDER:-

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

2. The applicant is seeking appointment as against available 28 vacancies of Class IV cadre with Respondent no.2 Bhausahab Hire Medical College and Hospital, Dhule.

3. The applicant as shown in the application is aged as 51 years. According to the learned Advocate for the applicant since the applicant worked at Badli Kamgar with the Respondent no.2 during the period from 14.4.1999 to 14.5.1999, he was placed at Sr.No.1 in the seniority list as can be seen from Annexure-A-1, page no.10.

4. Therefore, in view of the judgment of the Maharashtra Administrative Tribunal in OA No. 138 of 2003 dated 18.6.2004 as quoted in page no.22 as quoted in the next of the judgment of the Maharashtra Administrative Tribunal Mumbai Bench at Aurangabad (Annexure A-3, page 21) he should have been placed in the seniority list for appointment and as per the direction and ought to have been appointed on that basis. However, since no appointments are made the present application is filed.

6. The learned P.O. points that, the conditions prescribed in the order in OA No.138/2003 are also quoted in the next of the order referred above. One of the condition prescribes age limit as 45 years. He further points towards the factual position that, in the list of eligible candidate the present applicant does not find place and statement on oath in this regard is made in para no.4 of the reply at page no.36.

7. Additionally Shri S. D. Dhongde learned Advocate for the applicant fairly files on record true copy of the

judgment delivered by the Division Bench of the Hon'ble High Court in Writ Petition No.5700 of 2007 dated 28.11.2016. The same is marked as "X" for the purpose of identification.

8. In para no.6 of the said judgment the condition that the candidate would not be eligible for appointment if he had crossed the upper age limit of 45 years is quoted and approved.

9. Taking into consideration all these facts there is no force in the present application. O.A. is therefore, dismissed in limine without any order as to costs.

VICE CHAIRMAN.

ORAL ORDERS 30-06-2017-ATP

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD..

ORIGINAL APPLICATION NO.227/2017.
(Shri A. B. Pawar & Ors. Vs. State of Mah. & Ors.)

CORAM: Hon Shri Justice M. T. Joshi, Vice Chairman.
(This matter is placed before the Single Bench
due to non-availability of Division Bench.)

DATE : 30-06-2017

ORAL ORDER:-

Heard Shri M.G. Deokate learned Advocate for the applicants and Shri M. P. Gude learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant submitted that due to his personal difficulties he could not collect the notices and requested to issue fresh notices to the respondents. Hence, issue fresh notices to the respondents returnable on 8th August, 2017.

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

4. Applicants are authorized and directed to serve on respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete

paper book of O.A. 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. Applicants are directed to file affidavit of compliance and notice.

7. S.O. to 8th August, 2017.

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

VICE CHAIRMAN.

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD..

ORIGINAL APPLICATION NO.914/2016.
(Shri R. A. Jadhav Vs. State of Mah. & Ors.)

CORAM: Hon Shri Justice M. T. Joshi, Vice Chairman.
(This matter is placed before the Single Bench
due to non-availability of Division Bench.)

DATE : 30-06-2017

ORAL ORDER:-

Heard Shri I. D. Maniyar learned Advocate for the applicant and Shri M. P. Gude learned Presenting Officer for the respondents.

2. The learned Advocate for the applicant seeks liberty to file affidavit in rejoinder to the reply. Liberty granted.
3. S. O. to 25.7.2017 for filing affidavit in rejoinder.

VICE CHAIRMAN.

ORAL ORDERS 30-06-2017-ATP

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD..

ORIGINAL APPLICATION NO.108/2017.
(Shri K. P. Shinde Vs. State of Mah. & Ors.)

CORAM: Hon Shri Justice M. T. Joshi, Vice Chairman.
(This matter is placed before the Single Bench
due to non-availability of Division Bench.)

DATE : 30-06-2017

ORAL ORDER:-

Heard Shri R. B. Bhosale learned Advocate for the
applicant and Smt P. R. Bharaswadkar learned
Presenting Officer for the respondents.

2. The 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 other side.

3. S. O. to 02.08.2017 for hearing on admission.

VICE CHAIRMAN.

ORAL ORDERS 30-06-2017-ATP

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD..

MA No.149/2017 IN CP St.480/2017 IN OA 220/2016.

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

CORAM: Hon Shri Justice M. T. Joshi, Vice Chairman.

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

DATE : 30-06-2017

ORAL ORDER:-

Heard Shri K. B. Jadhav learned Advocate for the applicant and Smt P. R. Bharaswadkar learned Presenting Officer for the respondents.

2. The learned P.O. submit on the basis of the instructions that, two weeks time will be required for calculation of the interest sanction for the said amount, prepare the bill. Taking into consideration even present contempt petition is pending since long as a last chance eight weeks time is granted with a caveat that in case the action is not completed within the said time the Tribunal would be constrained to take coercive action as may be deemed fit according to law.

3. S. O. to 28.8.2017.

4. The learned P.O. is directed to act on the Steno copy of this order.

VICE CHAIRMAN.

ORAL ORDERS 30-06-2017-ATP

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD..

ORIGINAL APPLICATION NO.689/2015.
(Dr. S. B. Tambe Vs. State of Mah. & Ors.)

CORAM: Hon Shri Justice M. T. Joshi, Vice Chairman.
(This matter is placed before the Single Bench
due to non-availability of Division Bench.)

DATE : 30-06-2017

ORAL ORDER:-

Heard Miss. Ashlesha Raut learned Advocate holding Shri S. B. Talekar learned Advocate for the applicant and Shri N. U. Yadav learned Presenting Officer for the respondents.

2. Miss. Ashlesha Raut learned Advocate holding Shri S. B. Talekar learned Advocate for the applicant seeks time. At her request, S. O. to 10.7.2017.

VICE CHAIRMAN.

ORAL ORDERS 30-06-2017-ATP

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD..

ORIGINAL APPLICATION NO.743/2016.
(Shri R. D. Barela Vs. State of Mah. & Ors.)

CORAM: Hon Shri Justice M. T. Joshi, Vice Chairman.
(This matter is placed before the Single Bench
due to non-availability of Division Bench.)

DATE : 30-06-2017

ORAL ORDER:-

Heard Shri D. K. Rajput learned Advocate for the applicant and Shri V. R. Bhumkar learned Presenting Officer for the respondents no.1 to 3. None appears for the respondent nos. 4 & 5.

2. Call the record and papers of O.A. No.146 of 2017, which according to the learned Advocate for the applicant is already disposed of.

3. S. O. to 11.07.2017.

VICE CHAIRMAN.

ORAL ORDERS 30-06-2017-ATP

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 405 OF 2017

**(Shri. Wali Abdul Khadar Syed Vs. The State of
Maharashtra and Others.)**

CORAM : HON'BLE SHRI B.P. PATIL, MEMBER (J)

DATE : 30.06. 2017.

ORAL ORDER:

1. Shri A.S. Reddy – learned Advocate for the applicant and Shri M.S. Mahajan – learned Chief Presenting Officer for the respondents.
2. Heard both sides on the issue of interim relief.
3. Learned Advocate for the applicant has submitted that the applicant entered Government service on 30.07.1979 as a Police Constable. Thereafter the applicant came to be promoted to the post of the Head Constable in the year 1992 and thereafter, since the applicant's services were excellent, he came to be promoted on the post of Assistant Sub Inspector of Police in the year 2004. He has submitted that the applicant has been retired on attaining the age of superannuation on 30.06.2014. He has further submitted that at the time of retirement of the applicant, he was working in Class-III cadre. He has further submitted that the pension has been sanctioned to the applicant. Thereafter by the impugned order dated 15.09.2016 the Accountant General, Nagpur, directed the Treasury Officer, Latur, to recover a sum of Rs. 93,480/- from the pension of the applicant towards excess amount paid to the applicant. He has submitted that the applicant is a Class-III employee and the recovery has been started after his retirement. He has further submitted that till today the respondents have been recovered an amount of Rs. 35,000/- from the monthly pension of the applicant. He has submitted

that in view of the judgment delivered by the Hon'ble Supreme Court in the case of **STATE OF PUNBAJ AND OTHERS VS. RAFIQ MASIH (WHITE WASHER) AND OTHERS** reported in **(2015) 4 Supreme Court Cases 334**, the recovery is not permissible. Therefore, he prayed to stay the execution of the impugned order of recovery dated 15.09.2016

4. Learned Chief Presenting Officer sought time to file detailed affidavit in reply.

5. The applicant is Class-III employee. He has been retired on attaining the age of superannuation on 30.06.2014 and the recovery started after his retirement, which is not permissible in view of the principles laid down by the Hon'ble Supreme Court in the case of STATE OF PUNBAJ AND OTHERS VS. RAFIQ MASIH (WHITE WASHER) AND OTHERS (supra). Therefore, it is just and proper to stay the execution of impugned order of recovery dated 15.09.2016 until further orders.

6. Issue notices to the respondents, returnable on 1st August, 2017.

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

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

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

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

11. S.O. to 1st August, 2017.

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

MEMBER (J)

ORAL ORDERS 30.06.2017-HDD

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 68 OF 2017

**(Shri. Prakash E. Dadpe Vs. The State of Maharashtra and
Others.)**

CORAM : HON'BLE SHRI B.P. PATIL, MEMBER (J)

DATE : 30.06. 2017.

ORAL ORDER:

1. Heard Shri M.S. Dhapate, learned Advocate holding for Shri R.P. Bhumkar – learned Advocate for the applicant and Mrs. Deepali S. Deshpande – learned Presenting Officer for the respondent Nos.1, 3 to 5. Shri Shamsundar Patil – learned Advocate for respondent No. 2 (**absent**).

2. It transpires from the proceedings that the service affidavit has been filed on record by the applicant on 22.06.2017. On perusal of the service affidavit it reveals that the applicant has served notices on respondent Nos. 1 to 5.

3. Hence, S.O. to 28th July, 2017.

MEMBER (J)

ORAL ORDERS 30.06.2017-HDD

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

M.A. 40/17 IN M.A.ST.103/17 IN O.A. 199/16

**(Smt. Jayshree A. Landge Vs. The State of Maharashtra
and Others.)**

CORAM : HON'BLE SHRI B.P. PATIL, MEMBER (J)

DATE : 30.06. 2017.

ORAL ORDER:

1. Heard Shri S.S. Ambore – learned Advocate for the applicant and Smt. Resha S. Deshmukh – learned Presenting Officer for respondent No. 1. Shri D.M. Shinde – learned Advocate for respondent No. 2.

2. This Miscellaneous Application No. 40/2017 has been filed by the applicant for condonation of delay of about 18 days caused in filing restoration application in the O.A. No. 199/2016.

3. Learned Advocate has submitted that fresh notice may be issued to respondent No. 2 in M.A. No. 40/2017.

4. Hence, issue fresh notice to respondent No. 2 in M.A. No. 40/2017, returnable on 3rd August, 2017.

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

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

7. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988,

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**M.A. 40/17 IN M.A.ST.103/17
IN O.A. 199/16**

and the question such as limitation and alternate remedy are kept open.

8. 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.

9. S.O. to 3rd August, 2017.

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

MEMBER (J)

ORAL ORDERS 30.06.2017-HDD

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 151 OF 2017

**(Shri. Nagorao Hulaji Failwad Vs. The State of
Maharashtra and Others.)**

CORAM : HON'BLE SHRI B.P. PATIL, MEMBER (J)

DATE : 30.06. 2017.

ORAL ORDER:

1. Heard Shri S.B. Bhosale, learned Advocate holding for Shri S.P. Brahme – learned Advocate for the applicant and Mrs. Priya R. Bharaswadkar – learned Presenting Officer for the respondents.

2. Learned Advocate has submitted that fresh notice may be issued to respondent No. 2 only.

3. Hence, issue fresh notice to respondent No. 2, returnable on 2nd August, 2017.

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

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

O.A. NO. 151 OF 2017

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

8. S.O. to 2nd August, 2017.
9. Steno copy and hamdust is allowed to both the parties.

MEMBER (J)

ORAL ORDERS 30.06.2017-HDD

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 164 OF 2017

(Shri. Nilesh R. Pawar Vs. The State of Maha. and Others.)

CORAM : HON'BLE SHRI B.P. PATIL, MEMBER (J)

DATE : 30.06. 2017.

ORAL ORDER:

1. Heard Shri Amol N. Patale – learned Advocate for the applicant and Shri S.K. Shirse – learned Presenting Officer for the respondents.

2. Learned Presenting Officer has filed affidavit in reply on behalf of respondent Nos. 1 to 4 and the same is taken on record and copy thereof has been served upon the learned Advocate for the applicant.

3. In that view of the matter and considering the cause made out in the present original application, the same is **admitted** with liberty to the applicant to file rejoinder affidavit, if any.

4. S.O. to 25th July, 2017.

MEMBER (J)

ORAL ORDERS 30.06.2017-HDD

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION ST. NO. 423 OF 2017

(Shri. Tushar P. Mahajan Vs. The State of Maha. and Ors.)

CORAM : HON'BLE SHRI B.P. PATIL, MEMBER (J)

DATE : 30.06. 2017.

ORAL ORDER:

1. Heard Shri R.N. Bharaswadkar – learned Advocate for the applicant and Shri V.R. Bhumkar – learned Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicant, S.O. to 1st August, 2017 to enable him to file miscellaneous application for condonation of delay.

MEMBER (J)

ORAL ORDERS 30.06.2017-HDD

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION ST. NO. 786 OF 2017

**(Shri. Suryakant S. Dhanshetti Vs. The State of Maha. and
Ors.)**

CORAM : HON'BLE SHRI B.P. PATIL, MEMBER (J)

DATE : 30.06. 2017.

ORAL ORDER:

1. Heard Shri R.M. Deshmukh – learned Advocate for the applicant and Shri M.S. Mahajan – learned Chief Presenting Officer for the respondents.
2. At the request of learned Advocate for the applicant, S.O. to 14th July, 2017.

MEMBER (J)

ORAL ORDERS 30.06.2017-HDD

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 911 OF 2016

(Shri Nagnath P. Kokane Vs. The State of Maha. and Ors.)

CORAM : HON'BLE SHRI B.P. PATIL, MEMBER (J)

DATE : 30.06. 2017.

ORAL ORDER:

1. Shri R.V. Naiknavare – learned Advocate for the applicant (**absent**). Shri M.S. Mahajan – learned Chief Presenting Officer for the respondents, present.

2. Learned Chief Presenting Officer has filed affidavit in reply on behalf of respondent Nos. 1 to 7 and the same is taken on record. The copy of the same could not be served on the applicant, as nobody appeared on his behalf.

3. Since nobody appears on behalf of the applicant, S.O. to 2nd August, 2017.

MEMBER (J)

ORAL ORDERS 30.06.2017-HDD

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 912 OF 2016

**(Shri Ramakant G. Kulkarni Vs. The State of Maha. and
Ors.)**

CORAM : HON'BLE SHRI B.P. PATIL, MEMBER (J)

DATE : 30.06. 2017.

ORAL ORDER:

1. Shri R.V. Naiknavare – learned Advocate for the applicant (**absent**). Mrs. Deepali S. Deshpande – learned Chief Presenting Officer for the respondents, present.
2. Learned Presenting Officer has filed affidavit in reply on behalf of respondent Nos. 1 to 7 and the same is taken on record. The copy of the same could not be served on the applicant, as nobody appeared on his behalf.
3. Since nobody appears on behalf of the applicant, S.O. to 2nd August, 2017.

MEMBER (J)

ORAL ORDERS 30.06.2017-HDD

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 14 OF 2017

(Shri Ravindra H. Varade Vs. The State of Maha. and Ors.)

CORAM : HON'BLE SHRI B.P. PATIL, MEMBER (J)

DATE : 30.06. 2017.

ORAL ORDER:

1. Heard Smt. Vidya Taksal, learned Advocate holding for Shri Avinash S. Deshmukh – learned Advocate for the applicant and Mrs. Priya R. Bharaswadkar – learned Presenting Officer for the respondents.
2. Learned Presenting Officer prays for time for filing affidavit in reply. Time granted as a last chance.
3. S.O. to 28th July, 2017.

MEMBER (J)

ORAL ORDERS 30.06.2017-HDD

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 148 OF 2017

(Shri Kailash M. Gosawmi Vs. The State of Maha. and Ors.)

CORAM : HON'BLE SHRI B.P. PATIL, MEMBER (J)

DATE : 30.06. 2017.

ORAL ORDER:

1. Heard Shri R.D. Biradar – learned Advocate for the applicant and Shri M.S. Mahajan – learned Chief Presenting Officer for the respondents.

2. Learned Advocate for the applicant has submitted that the applicant was serving as Divisional Deputy Director at Latur, at the time of issuance of the impugned order dated 1st March, 2017. He was suspended by the respondents on account of misconduct. He has submitted that the respondents have taken the said action against the applicant on the complaint filed by one Rajkumar Suryawanshi. He has submitted that no departmental enquiry has been initiated against the applicant and no opportunity of being heard was given to him before passing the impugned order. He has submitted that three months' time has been lapsed from since the date of impugned order dated 1st March, 2017 was issued, but no charge-sheet has been served on the applicant. Therefore, the present Original Application is filed. He has submitted that the O.A. is maintainable in view of the

provisions of section 19 of the Administrative Tribunals Act, 1985.

3. He has submitted that after filing the Original Application the applicant made several representations with the concerned authorities, but they have not taken any decision on it and, therefore, the present Original Application is maintainable in view of provisions of Section 20 of the Administrative Tribunals Act, 1985. He has submitted that this Tribunal is competent to entertain the present Original Application as the applicant has challenged the suspension order.

4. In support of his aforesaid submissions, he has placed reliance on the judgment in case of **AJAY KUMAR CHOUDHARY VS. UNION OF INDIA reported in 2015 DGLS (SC) 186**. He has submitted that the suspension order is illegal and, therefore, it can be challenged before this Tribunal. He has further submitted that Nagpur Bench of this Tribunal has decided Original Applications, wherein similar issues were involved. He has placed reliance on the judgment in case of **MANOHAR ANNAJI INGALE Vs. State of Maharashtra & Others [O.A. NO. 530/2015]** decided on 27th October, 2016 by the Nagpur Bench of this Tribunal. He has also placed reliance

on the judgment in case of **Mr. Shrikant Vinayak Varunjikar Vs. State of Maharashtra and Others [O.A. No. 52/2016]** decided on 01.12.2016 by the Principal Seat of this Tribunal at Mumbai and on the decision in case of **Kiran Dnyandeo Salve Vs. State of Maharashtra & Others [O.A. No. 532/2016]** decided on 15th October, 2016 by the Nagpur Bench of this Tribunal.

5. Learned Chief Presenting Officer has submitted that the suspension order is appealable in view of the provisions of Rule 17 of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 (In short M.C.S. (D & A) Rules of 1979). The Appellate Authorities have been defined under Rule 18 M.C.S. (D & A) Rules of 1979. He has submitted that in view of the said provision the Governor is the Appellate Authority in the instant case to challenge the impugned suspension order as the impugned order has been passed by the Government. He has submitted that the applicant ought to have challenged the impugned order before the appropriate Appellate Authority in view of the provisions of M.C.S. (D & A) Rules of 1979, but the applicant without availing remedy available to him under the said provisions, approached this Tribunal on the very next day i.e. on 2nd March, 2017. Therefore, the present Original

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Application cannot be admitted in view of the provisions of Section 20 of the Administrative Tribunals Act, 1985. He has submitted that the applicant has made several representations after filing the present Original Application, to the appropriate authority, but no such representations are placed on record. He has submitted that even assuming that the applicant has filed representation, the present O.A. is not maintainable in view of the provisions of Section 20 (1) (b) of the Administrative Tribunals Act, 1985, as the present Original Application is premature as it has been filed before expiry of period of six months from the date of representation. Therefore, he prayed to dismiss the present Original Application.

6. On going through the record, it reveals that the applicant is challenging the impugned suspension order dated 1st March, 2017. The applicant has filed the present Original Application on the next day i.e. on 2nd March, 2017. It shows that the applicant has not challenged the said order before the appropriate Appellate Authority as provided under Rule 17 and 18 of M.C.S. (D & A) Rules of 1979. The applicant neither filed representation nor preferred an appeal against the said order before Appellate Authority. In this case, the impugned order has been passed by the Principal Secretary, Education and

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Sports Department, Mantralaya, Mumbai. The order of suspension made under Rule 4 of M.C.S. (D & A) Rules of 1979, is appellable in view of the provisions of Rule 17 of D & A Rules of 1979. The Governor is the Appellate Authority in view of the provisions of Rule 18 of D & A Rules of 1979 for the order passed by the Government. Therefore, the impugned suspension order can be challenged by the applicant before the Governor by filing an appeal as provided under Rule 17 and 18 of the M.C.S. (D & A) of 1979. The applicant has not availed the remedy available to him as per the provisions of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 for redressal of his grievance. Without approaching the appropriate authority, he has filed the present Original Application on the very next day i.e. on 2nd March, 2017 before this Tribunal. Challenge to the order of suspension should not be ordinarily entertained by the Tribunal unless the remedy as provided under the relevant service rules, is availed by the applicant. Therefore, in view of the provisions under Section 20 of the Administrative Tribunals Act, 1985, the present Original can be entertained.

7. So far as the submissions made on behalf of the applicant as regards subsequent representation filed by him

O.A. NO. 148 OF 2017

before the Government authorities, no such representations are placed on record. Even, presuming that he has made representations after filing the present Original Application in view of the Section 20 (2) (b) of the Administrative Tribunals Act, 1985, the present original application cannot be entertained before expiry of period of six months'. On that ground also the present Original Application is not maintainable as it is premature.

8. On going through the decisions referred above by the learned Advocate for the applicant, it reveals that no point regarding maintainability of the Original Application in view of the Section 20 of the Administrative Tribunals Act, 1985 were raised in those decisions and no findings in that regard had been recorded therein. Therefore, the said decisions are not much useful to the applicant in this case. Some decisions of the Tribunal in Original Application, copies of which are placed on record, show that in those matters the applicants challenged the order of suspension by making representation before competent authorities before filing O.As. Those representations had not been considered by the appropriate authorities and, therefore, the Tribunal entertained those applications in view of the provisions of Section 20 of the

O.A. NO. 148 OF 2017

Administrative Tribunals Act, 1985. Therefore, the said decisions are not applicable in this case.

9. In view of the above facts and circumstances of the present case, the present Original Application cannot be entertained and admitted in view of the provisions of Section 20 of the Administrative Tribunals Act, 1985. Therefore, it deserves to be dismissed. Consequently the O.A. stands dismissed with no order as to costs.

MEMBER (J)

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