

**M.A. 330/2021 IN M.A. 233/2021, M.A. 233/2021
and M.A. 293 OF 2021 IN O.A. 722 OF 2019
(Arvind D. Gaikwad & Ors. Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 16.11.2021.

O R D E R

(Per - Hon'ble Shri Bijay Kumar, Member (A))

**M.A. No. 330/2021 in M.A. No. 233/2021 in O.A. No.
722/2019 and M.A. No. 233/2021 in O.A. No. 722/2019**

Heard final arguments advanced by Shri V.D. Sapkal, learned Senior counsel holding for Shri V.B. Wagh with Ms. Anagha Deshmukh, learned Advocate for the applicants, Shri M.S. Mahajan, learned Chief presenting Officer for respondent Nos. 1 to 3, Shri M.B. Kolpe, learned Advocate for respondent No. 4 and Ajay Deshpande, learned Advocate for respondent Nos. 5 to 9 (Applicants in O.A.).

M.A. No. 293/2021 in O.A. No. 722/2019

Heard final arguments advanced by Shri R.N. Chavan, learned Advocate the applicant, Shri M.S. Mahajan, learned Chief presenting Officer for respondent Nos. 1 to 3, Shri M.B. Kolpe, learned Advocate for respondent No. 4 and Ajay Deshpande, learned Advocate for respondent Nos. 5 to 9 (Applicants in O.A.).

2. The three Miscellaneous Applications i.e., M.A. No. 233 of 2021 in O.A. No. 722 of 2019, M.A. No. 293 of 2021 in O.A. No. 722 of 2021 and M.A. No. 330 of 2021 in M.A.

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No. 233 of 2021 in O.A. No. 722 of 2019, have been filed by total 281 number of candidates, who had participated in selection process for the posts of Police Sub Inspectors (in short, "PSI") to be filled under 25% quota for promotion through Limited Departmental Competitive Examination-2016 (in short, "LDCE-2016) conducted by the Maharashtra Public Service Commission (in short, "MPSC"). The LDCE-2016 is conducted as per provisions of the Maharashtra Police Sub-Inspector (Recruitment) Rules, 1995.

3. M.A. No. 233 of 2021 in O.A. No. 722 of 2019 had been filed by 250 co-applicants and a single applicant had filed M.A. No. 293 of 2021 in O.A. No. 722 of 2019. Applicants in these two M.As. have prayed for common reliefs as quoted below in verbatim, against the respondents who are common for all the three M.As.:-

“(A) The Misc. Application may kindly be allowed.

(B) The Hon’ble Tribunal in the interest of justice may please be grant permission to add the present applicants as party respondents for proper adjudicate of the Original Application No. 722/2019 as the legal right should not be affected.

[C] Any other suitable equitable relief may be granted in favour of the present applicants.”

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4. The third Miscellaneous Application i.e. M.A. No. 330 of 2021 in M.A. No. 233 of 2021 in O.A. No. 722 of 2019 had been filed by 30 co-applicants with prayer which is being reproduced in verbatim as follows :-

“[A] The Miscellaneous Application may kindly be allowed.

[B] The Hon’ble Tribunal in the interest of justice may please be grant permission to add the present co-applicants in Misc. Application No. 233 of 2021 and in Original Application No. 722/2019 as the legal rights should not be affected.

[C] Any suitable equitable relief may be granted in favour of the present applicants.”

5. In view of above facts, it is transpired to take M.A. No. 233 of 2021 in O.A. No. 722 of 2019 as the lead Miscellaneous Application without prejudice to applicants in other two Miscellaneous Application.

6. **Background facts** :- O.A. No. 722 of 2019 relates to filling up vacancies on the post of Police Sub-Inspectors under 25% quota for promotion from feeder cadres of Police Constables, Police Naik, Police Havaldar and Assistant Police Sub-Inspectors through LDCE-2016. The chain of

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events which preceded filing of O.A. No. 722 of 2019 may be summed up as follows-

a. Home Department, Government of Maharashtra had issued a Circular No. PSB-0314/pra.kra. 353/Pol-5 A, Mantralaya, Mumbai, dated 27.06.2016 announcing its decision to conduct of Limited Department Competitive Examination by MPSC for filling up 828 vacancies in the post of Police Sub-Inspectors. In the said Circular total number of vacancies to be filled through LDCE-2016 had been announced as 828, comprising of 642 posts to be filled from open category candidates and 186 posts to be filled from candidates from different reserved categories. However, it was also mentioned that there was possibility of variation in number of posts and reservation details. As per provisions of the said Circular, complete details regarding LDCE-2016 were published on website of MPSC on 27.06.2016 and the LDCE -2016 was conducted on 21.08.2016.

b. Before the result of LDCE-2016 was declared, this Tribunal had passed orders on 27.09.2016 in O.A. No. 652 of 2016 and O.A. No. 856 of 2016 that qualifying maximum age limits for the candidates be changed as per G.R. dated 25.04.2016 making the

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same 38 years for General Category candidates and 43 years for reserved category candidate. Accordingly, the first version of result for LDCE-2016 was published by MPSC on 05.05.2017. However, the orders passed by this Tribunal, as mentioned, were quashed, and set aside by Hon'ble High Court in W.P. No. 6631/2017, 9242/2017 and 10151/2017 on 28.09.2017, which was upheld by Hon'ble Apex Court in SLP (C) No. 29857/2017, by which the upper age limits were restored to 35 years for general category candidates and 40 years for reserved category candidates. Accordingly, modified / revised results were declared by the MPSC on 12.12.2017 recommending names of 642 Open category candidates and 186 reserved category candidates as per vacancies indicated in the notification for conducting LDCE-2016. Till this time, no change in number of posts to be filled and reservation details had been notified by the Government of Maharashtra or communicated to MPSC. According to the revised results, cut off marks for open category candidates were 253 and the same for the last reserved category candidates were 230.

c. At this juncture, a turning point took place. Hon'ble High Court of Judicature at Bombay had

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quashed the G.R. dated 25.05.2004 in W.P. No. 2797 of 2015 vide judgment dated 04.08.2017. In response, State Government filed Special Leave Petition No. 28306 /2017 before Hon'ble Apex Court against the said judgment of Hon'ble High Court but, Hon'ble Apex Court did not grant any stay order on the said judgment of Hon'ble High Court. The State Government had consulted learned Advocate General on 15.12.2017, who strongly advised the State Government against selection of 186 reserve category candidates in view of the judgment of Hon'ble High Court which had not been stayed by the Hon'ble Apex Court. The learned Advocate General also advised that continuing with appointment of 186 reserved category candidates may amount to breach of the order of Hon'ble High Court.

d. However, the State Government considered all 828 names recommended by the MPSC (642 open category and 186 reserved category candidates) for sending them for training at Maharashtra Police Academy, Nashik vide order dated 05.01.2018.

e. It appears from the contents of para 6 to 8 of a copy of internal communication by the Home Department of the Government of Maharashtra with the Director General of Police, Maharashtra, bearing

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outward No. nyaypra.-1018/pra.kra. 1/Pol-5-A, Mantralaya, Mumbai, dated 05.03.2018 (*Annexure A-7, page 34 of paper book of the O.A.*) that the Director General of Police had sent another 32 reserved category candidates for the said training vide order dated 22.01.2018.

f. The Home Department had further mentioned in para 6 to 8 of its above-mentioned communication dated 05.03.2018 that O.A. No. 13 of 2018 had been filed (Shri Rajendra Kumar Chavan vs. State of Maharashtra and Ors.) at the Tribunal's Principal Bench on the ground of contempt of Hon'ble High Court's orders. It is to be noticed that this Tribunal had passed following directions to the Additional Chief Secretary (Home):-

“Additional Chief Secretary, Home is directed that he shall apply mind to present O.A. and state on the next date as to reasons, if any, due to which the applicant cannot be given treatment as per policy of government as is proclaimed through Govt. (General Administration Department's) letter dated 29.12.2017.”

g. Thereafter, the State Government decided to send additional 186 open category candidates purely on merit for training and accordingly informed the

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Director General of Police of the decision of the State Government to send additional 186 candidates as per merit for training subject to outcome of the SLP (C) No. 28306/2017 pending before Hon'ble Apex Court, without calling back 186 candidates from reserved category. The said communication further stated that 32 candidates of reserved category out of 186 additional candidates on merit have already been sent for training, therefore, balance 154 candidates from merit list may be sent for training and the 154 additional candidates being so sent for training be accommodated in training batch no. 115 which was for candidates selected by nomination. With the above stated purpose, the State Government had called for list of 154 candidates as per merit of open category candidates from MPSC vide letter dated 15.02.2018 and received the same vide MPSC letter dated 28.02.2018.

h. O.A. No. 394 of 2018 was filed by 41 applicants before the Principal Bench of this Tribunal and the matter was heard by a Single Judge Bench with consent of the contesting parties. It was prayed by the applicants that the State Government must take corrective measures in view of Order of Hon'ble High Court in W.P. No. 2797 of 2015. The applicants had

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proposed various alternatives for taking corrective measures, which included reversion of 154 reserved category candidates, or, in alternative, the Government should send for training applicants and similarly situated additional number of open category candidates from the merit list who had secured equal to or more than cut-off marks for the reserved category candidates, by employing modalities whatsoever; in other words, the Government should accommodate the candidates like applicants who have secured marks above the cut-off marks of 230 secured by reserved category candidates. This Tribunal vide order passed on 06.11.2018 dismissed the Original Application and vacated interim order (Coram : Hon'ble Shri Justice A. H. Joshi Chairman). However, the Tribunal also observed as follows: -

“It shall be open to the applicants to make suitable representations to the Government if they are so advised, and in case any representation is made Government may consider in due course and on its own merits.”

i. In pursuance of observations made by this Tribunal, as mentioned in preceding para, Government received representations from a number of candidates and decided to send additional 636 candidates from the merit list, solely based on merit,

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who had scored more than 230 marks i.e. more than cut off marks for the reserved category candidates. The Home Department in Government decided to accept the demand and issued Government Resolution No. Police-1818/pra.kra. 355/ Pol-5 A, Mantralaya, Mumbai, dated 22.04.2019 and published a list of additional 636 candidates on its website without having consultation with MPSC. It was also decided that the additional 636 candidates will be accommodated against vacancies which may occur from time to time in future against 25% quota for filling up by LDCE. Thus, this decision of government may have effect of increasing the number of vacancies notified by advertisement dated 27.06.2017 after publication of results by MPSC for LDCE-2016 and, also of exhausting 25% quota for promotion by limited departmental examination out of future vacancies, thereby, limiting promotion avenue of others who could not make through LDCE-2016 for whatsoever reason or for those who may meet eligibility criterion in future years.

j. Subsequently, O.A. (St.) No. 1552 of 2019 had been filed by the five Original Applicants before this Tribunal at Aurangabad Bench, who are challenging the impugned G.R. dated 22.04.2019. Applicants were granted leave to sue jointly by the Principal Bench of

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this Tribunal in M.A. No. 367 of 2019 in O.A. (St.) No. 1552/2019 vide its order passed on 09.08.2019, i.e. during the period Aurangabad bench of the Tribunal was not functional and the said O.A. was registered as O.A. No. 722/2019. This Tribunal had initially granted interim relief in view of interim order passed by the Principal Bench of this Tribunal in O.A. No. 445/2019 on 01.08.2019 and based on the said order this Tribunal was pleased to direct the respondents to maintain status quo in respect of 636 candidates covered by G.R. dated 22.04.2019. However, after an order allowing withdrawal of O.A. No. 545/2019 was passed on 30.11.2019, this Tribunal vacated the said stay granted in O.A. No. 722 of 2019 basically on the grounds that stay order in O.A. No. 445/2019 had become infructuous after O.A. No. 445/2019 having been withdrawn and, also citing that the Hon'ble High Court of Judicature of Bombay, Bench at Nagpur had in W.P. No. 3555/2019 allowed selection process of 636 candidates to go on.

k. The matter is at a stage when Hon'ble Apex Court has passed orders on 05.02.2021 in Civil Appeal No. 104 of 2021 directing that the State Government Resolution No. Police-1818/File 355/Pol-5A, dated

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22.04.2019 will remain stayed during the pendency of proceedings before the Maharashtra Administrative Tribunal. Hon'ble Apex Court has also been pleased to set aside the Order dated 30.11.2019 passed by the Maharashtra Administrative Tribunal which vacated the interim Order 18.10.2019, and the Order dated 06.03.2020 passed by the Hon'ble Bombay High Court in W.P. No. 15045/2019. Hon'ble Apex Court directed the Maharashtra Administrative Tribunal, Aurangabad Bench to decide the pending O.A. (No. 722/2019) within a period of six months from the receipt of the Order and to give notice to the additional 636 candidates about the pending O.A. to enable them to appear and participate in the proceedings. Accordingly, 636 candidates have been added by the Original Applicant as Respondents in the Original Application No. 722/2019 and they have been noticed.

1. The applicants in the M.A. No. 233/2021 in O.A. No. 722 of 2019 have enclosed copies of representations made to Government of Maharashtra on 22.05.2019 thereby, demanding promotion to all remaining 1285 candidates listed by MPSC in the merit list published for LDCE-2016 under orders passed by this Tribunal in O.A. No. 934 of 2018

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dated 27.03.2019. The contention of the applicant in the said representations appears to be that the entire merit list comprising of 2935 names should be treated as eligibility list for promotion and not the list for selection of candidate based on competition to fill the vacancies declared by advertisement dated 27.06.2016. As per the applicants, as no decision has been communicated by the Government of Maharashtra on the representations made by the applicants, the M.A. has been filed. However, it has not been clarified by them as to what constraints have been experienced by them in invoking provisions of Section 19 of the Administrative Tribunals Act, 1985 by filing the Original Application.

7. **Relief Sought by the Original Applicants in O.A. No. 722 /2019-** The original applicants have invoked provisions of Section 19 of the Administrative Tribunals Act, 1985 challenging the Government Resolution No. Police-1818/ pra.kra. 355/ pol-5 a, Mantralaya Mumbai, dated 22.04.2019 and seeking following reliefs :-

[A] Original Application may kindly be allowed by directing the respondents to undertake recruitment strictly as per PSI Recruitment Rules, 1995 without any deviation therefrom.

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[B] *The recruitment by promotion of as many as 636 candidates sought to be made vide Govt. Resolution dated 22.04.2019 may kindly be quashed and set aside, the same being contrary to Recruitment Rules as well as binding precedent of the Hon'ble Court.*

[C] *Pending hearing and final disposal of this application, the respondents No. 1 to 3 kindly be directed not to take any further action in furtherance of the impugned Govt. Resolution dated 22.04.2019.*

[D] *Pending hearing and final disposal of this Application, the respondents No. 1 to 3 may finally be directed to maintain status quo in respect of 636 candidates sought to be appointed by promotion, under the impugned G.R. dated 22.04.2019.*

[E] *Any other suitable and equitable relief to which applicants are entitled to and this Hon'ble Tribunal deems appropriate, may kindly be granted in their favour.*

8. Grievance Mentioned by the Applicants in Miscellaneous Applications under consideration-

Grievances and reliefs sought by the applicants as contained in Annexures R-4 and R-5 of the M.A. No. 233/2021in O.A. No. 722 of 2019 may be summed up as follows: -

(a) Against notified vacancies of 828, all except 1285 candidates from the merit list are being

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appointed which violates right to equality and right to equal opportunity in matters of public employment given to citizens under Article 14 and 16 of the Indian Constitution. Therefore, additional 1285 supernumerary posts be created to accommodate all 1285 remaining candidates on the promotion post of PSI through LDCE-2016.

(b) As per information received by the applicants under Right to Information Act, a revised strength of 17,249 has been recommended as part of revised establishment pattern recommended vide report dated 24.09.2019. There is, therefore, rational to appoint all the remaining 1285 candidates from the merit list, on promotion to post of PSI.

(c) In alternative, additional 1285 candidates may be sent for training subject to appointment as and when vacancies occur in the rank of PSI during next couple of years.

(d) In view of Covid-19 pandemic, additional manpower in Police force at all levels, including PSI is required.

(e) All the applicants have completed 10 years or more length of service in feeder cadre and promoting

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them may not add any additional financial burden on the State.

(f) There is a precedent of increasing number of vacancies over and above the number of vacancies notified by government in respect of LDCE-1998.

9. **Pleadings and Arguments-** No affidavit in reply has been filed on behalf of Respondent No. 1 to 4 in any of the 3 M.A.s though they have filed affidavits in reply in O.A. No. 722 of 2019. However, affidavit in reply has been filed on behalf of Respondent Nos. 5 to 9 in all the 3 M.As. In M.A. No. 233 of 2021 in O.A. No. 722 of 2019 and M.A. No. 330 of 2021 in M.A. No. 233 of 2021 in O.A. No. 722 of 2019 the argument on behalf of applicants was done by learned Senior Counsel Shri V. D. Sapkal holding for learned Advocate Shri V. B. Wagh with Ms. Anagha Deshmukh. Learned advocate Shri R. N. Chavan argued on behalf of the applicant in M.A. No. 293 of O.A. No. 722 of 2019. Shri M. S. Mahajan, the learned Chief Presenting Officer argued on behalf of Respondent No. 1 to 3 in all the 3 M.As. Leaned advocate Shri M. B. Kolpe argued on behalf of Respondent No. 4 in all the 3 M.As. Learned Advocate Shri Ajay Deshpande argued the matter for respondent no. 5 to 9 in all the 3 M.As. Main defence of the applicants had been that the advertisement for 828 posts to be filled by LDCE-2016 has a clear mention in para 2.1 that there was possibility of change in number of posts and reservation

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details as mentioned in the para 2 (*Annexure A-1, page 21-22 of the paper book of O.A. No. 722/2019*). Therefore, all the candidates mentioned in merit list comprising of approx. 3.5 times the number of posts to be filled, can be promoted by increasing the number of posts to be filled by taking a policy decision by the State Government. He also referred to the fact that all the applicants figured in the merit list prepared by MPSC as per orders of the Tribunal in O.A. No. 934 of 2018, dated 27.03.2019 and the said merit list is still valid. Learned Advocate for Respondent No. 5 to 9 in the 3 M.A.s argued that the Applicants are Master of proceedings, and the intervenors are neither proper nor necessary parties to the proceedings before this Tribunal. He also argued that remedy given in O.A. No. 934/2018 was order in *personam* and not in *rem*. Intervenors cannot be said to be aggrieved party by impugned GR dated 22.04.2019 and therefore, have no *locus-standi* in the present proceedings. Learned Advocate Shri R. N. Chavan for Applicant in M.A. No. 295 of 2021 in O.A. No. 722 of 2019 submitted that he adopted the arguments made by Learned Senior Counsel Shri V. D. Sapkal. Learned advocate for Respondent No. 4 argued that the MPSC was not consulted by the state government before issuing impugned G.R. dated 22.04.2019 and listing / notification of names of additional 636 candidates for sending them for training was done by state government without seeking

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recommendations from MPSC. Learned CPO also argued that the State Government has not taken any policy decision to increase number of posts anymore and additional number of candidates have been sent for training guided by various orders of the Tribunal and Hon'ble High Court of Judicature, subject to outcome of judicial proceedings. After the arguments by learned advocates representing all the contesting parties were over the three M.As. had been closed for orders.

10. **Analysis of Facts and Conclusions:** - After hearing counsels representing the contesting parties and having gone through material on records, we are of considered view that :-

i. The applicants in intervening applications i.e. M.A. No. 233/2021, 293/2021 and 330/2021 have had made representations to the State Government for certain relief, which are not the subject matter of the impugned G.R. dated 22.04.2019 which in turn, is the cause of action in O.A. No. 722 of 2019. Therefore, the applicants in the three M.As. are not the proper parties to the proceedings of O.A. No. 722 of 2019.

ii. All the 636 candidates who stand to get benefit from the impugned G.R. dated 22.04.2019 and, therefore, are necessary party to the O.A. No. 722 of

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2019, have been added as respondents in the proceedings. Thus, the participation of proper and necessary respondents in O.A. No. 722/2019 is not representative in nature but it is exhaustive in nature. Therefore, there is no convincing reason advanced by the applicants in the three M.As. for grant of permission to any other candidate of LDCE-2016 to intervene in the proceedings of O.A. No. 722 of 2019.

iii. It is also evident that by inclusion of all 636 candidates who stand to benefit from the impugned G.R. dated 22.04.2019, as respondents in O.A. No. 722 of 2019, there exists no impediment in compliance with principles of natural justice and as such there is no impediment in passing effective order in absence of applicants in the 3 M.As. as intervenors.

iv. From the stated grounds of filing the three M.As. it is apparent that the applicants are advocating the LDCE-2016 as qualifying examination in contrast with its true nature of competitive examination for selecting candidates as per rules in force for carrying out merit-based selection and at the same time, for providing reservation for backward class of candidates.

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v. The applicants in M.A. No. 233/2021 in O.A. No. 722/2019; M.A. No. 293/2021 in O.A. No. 722/2019 and M.A. No. 330/2021 in M.A. No. 233/2021 in O.A. No. 722/2019 have failed to establish that they are proper and necessary parties in the O.A. No. 722/2019.

vi. The intervenors seem to have misconstrued the LDCE-2016 as qualifying examination instead of it being a competitive selection procedure for notified vacancies. LDCE-2016 had never been intended to prepare a list of candidates to be appointed against vacancies of future years which would otherwise, will be at the cost of promotion opportunity for employees of feeder cadres, who may attain requisite eligibility in future and, also those who continue to be eligible but could not make in the LDCE-2016. Therefore, the three M.As. appear to be misconceived and devoid of merit and are wrongly seeking to invoke provisions of Article 15 and 16 of the Constitution.

vii. The applicants have failed to give cogent reason as to what constraints have been experienced by them in invoking provisions of S. 19 of Administrative Tribunals Act, 1985 and seeking relief by filing Original Application after they have exhausted alternative remedy by making representations about their grievances with the state government.

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Conclusions :- Based on above analysis, we are of considered opinion that the applicants in M.A. No. 233 of 2021 in O.A. No. 722 of 2019, M.A. No. 330 of 2021 in M.A. No. 233 of 2021 in O.A. No. 722 of 2019 and M.A. No. 293 of 2021 in O.A. No. 722 of 2019 are neither proper nor necessary parties in proceedings in O.A. No. 722 of 2019. The intervention applications are misconceived, ill-founded and devoid of merit and wrongly seeking to invoke provisions of Article 15 and 16 of the Constitution. Therefore, we pass following order :-

ORDER

- [A] M.A. No. 233 of 2021 in O.A. No. 722 of 2019 is hereby dismissed for being devoid of merit.
- [B] M.A. No. 330 of 2021 in M.A. No. 233 of 2021 in O.A. No. 722 of 2019, therefore, hereby, dismissed for being devoid of merits.
- [C] M.A. No. 293 of 2021 in O.A. No. 722 of 2019 also is, hereby, dismissed for being devoid of merit.
- [D] No orders as to cost.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 722 OF 2019
(Gajanan B. Bansode & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 16.11.2021.

ORAL ORDER :

Heard Shri Ajay S. Deshpande, learned Advocate for the applicants, Shri M.S. Mahajan, learned C.P.O. for respondent Nos. 1 to 3, Shri M.B. Kolpe, learned Advocate for respondent No. 4, Shri A.S. Deshmukh, learned Advocate for the Respondent Nos. 5, 6, 71, 87, 150, 198, 211, 229, 369, 489, 511, 528, 625, 628 & 629 in O.A., Shri G.K. Kshirsagar, learned Advocate for the Respondent Nos. 221, 222, 249, 252, 296, 327, 353, 573, 581, 593, 606 & 627 in O.A., Shri G.M. Ghongade, learned Advocate holding for Shri S.G. Chapalgaonkar, learned Advocate for the Respondent Nos.15, 193, 194, 278, 288, 291, 331, 344, 510, 515 & 554 and Shri Ajay U. Chandel, learned Advocate holding for Shri Sandeep Dere, learned Advocate for Respondent Nos. 142, 248, 412, 20, 22, 23, 30, 33, 36, 58, 60, 75, 78, 79, 84, 90, 92, 94, 109, 111, 115, 117, 121, 123, 126, 130, 132, 133, 158, 162, 171, 173, 177, 178, 180, 189, 196, 200, 205, 209, 210, 213, 216, 218, 226, 240, 255, 258, 260, 267, 271, 272, 594, 277, 279, 298, 303, 309, 315, 320, 326, 339, 343, 349, 351, 359, 372, 377, 382, 390, 391, 400, 402, 407, 411, 415, 417, 422, 426, 428, 436, 442, 450, 451, 453, 325, 456, 458, 467,

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475, 477, 478, 479, 488, 491, 500, 502, 512, 514, 517, 533, 535, 536, 541, 545, 550, 367, 560, 563, 565, 568, 569, 596, 603, 618, 619, 624, 626, 630, 634, 636 & 638 and Shri Ashish Rajkar, learned Advocate for the respondent Nos. 105, 317, 443 & 458.

2. S.O. to 26.11.2021 for hearing.

MEMBER (A)

MEMBER (J)

KPB ORAL ORDERS 16.11.2021

**M.A. No. 16/2020 in O.A. St. No. 2416/2019
(Sunil Laxman Mali Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 16.11.2021.

O R D E R

(Per :- Hon'ble Shri V.D. Dongre, Member (J))

1. The present Misc. Application is made seeking condonation of delay of 8 years and 5 months in filing the accompanying Original Application under Section 19 of the Administrative Tribunals Act, 1985, challenging the order of dismissal of the applicant from service dated 18.07.1996 and subsequent orders passed in first and second administrative appeal dated 27.09.2006 and 31.01.2007 respectively and order dated 16.08.2010 and 19.10.2019 passed in revision and review respectively.

2. Initially the applicant was appointed on the post of Police Constable in the year 1985 in the office of respondent No. 4 i.e. Superintendent of Police, Dhule. Subsequently he was transferred to Nardana Police Station. On 31.07.1994, crime was registered against the applicant under Section 3(1)(xi) of the Schedule

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Castes and Schedule Tribe (Prevention of Atrocities) Act, 1989 on the complaint made by one woman. Thereafter, on 01.11.1994, second crime was registered under Section 509 of I.P.C. and under Section 3 (1) (xi) of the Schedule Castes and Schedule Tribe (Prevention of Atrocities) Act, 1989. In view of that the applicant was suspended by the order dated 15.11.1994 by the respondent No. 4. However, subsequently, the applicant was reinstated in service by the order dated 02.02.1996. As per the judgment and order passed by the Sessions Court, Dhule on 13.03.1996, the applicant was convicted in the case where he was charged of the offences punishable under Section 3(1)(xi) of the Schedule Castes and Schedule Tribe (Prevention of Atrocities) Act, 1989 and u/s 509 of I.P.C. Pursuant to that the applicant was sentenced to suffer R.I. for one year and to pay fine of Rs. 2000/- in default R.I. for six months. In view of conviction and sentence order, the applicant was removed / dismissed from the service vide order dated 18.07.1996.

3. The applicant thereafter preferred Criminal Appeal No. 116/1996 before the Hon'ble High Court

//3// M.A. 16/2020 in
O.A. St. 2416/2019

against the order of conviction and sentence. During pendency of the said appeal, the order of conviction was stayed by the Hon'ble High Court. The said Criminal Appeal was decided by the Hon'ble High Court by the judgment and order dated 13.10.2003, thereby the said appeal was partly allowed. Conviction under Section 3(1)(xi) of the Schedule Castes and Schedule Tribe (Prevention of Atrocities) Act, 1989 was quashed and set aside. The order of conviction under Section 509 of I.P.C. however was maintained and it was directed to suffer imprisonment for the period for which he was in custody and to pay fine of Rs. 2000/-. The applicant preferred Special Leave to Appeal before the Hon'ble Apex Court. However, the said petition of the applicant came to be dismissed by the Hon'ble Apex Court by the order dated 05.05.2004.

4. It is the contention of the applicant that thereafter, the applicant made representation dated 15.12.2005 (Annexure A-1) for his reinstatement in service in view of the decision of the Hon'ble High Court. His representation was rejected vide order dated 23.01.2006 (Annexure A-2).

//4// M.A. 16/2020 in
O.A. St. 2416/2019

5. Thereafter, the applicant preferred departmental appeal before the respondent No. 3 against the order passed by the respondent No. 4 rejecting the request of the applicant for reinstatement in service and dismissal order on 12.04.2006 (Annexure A-3). The respondent No. 3 rejected it vide order dated 27.09.2006 (Annexure A-4). The applicant thereafter preferred second appeal on 16.10.2006 (Annexure A-5) before the respondent No. 2. The respondent No. 2 rejected the said second appeal vide order dated 31.01.2007 (Annexure A-6). The applicant challenged the said order dated 31.01.2007 by filing revision dated 12.02.2007 (Annexure A-7) before the respondent No. 1. The said revision came to be rejected vide order dated 16.08.2010 (Annexure A-8). The applicant thereafter filed review/ revision petition on 17.08.2011 (Annexure A-9) before the Hon'ble Governor. It came to be rejected only on vide order dated 19.10.2019 (Annexure A-10).

6. In view of the above, it is the contention of the applicant that the order of dismissal passed against the applicant is not in accordance with law, as it is passed without holding any Departmental Enquiry.

//5// M.A. 16/2020 in
O.A. St. 2416/2019

The applicant was pursuing the appropriate remedy against the various orders passed by the respondent Nos. 1 to 4. His last review was decided in the year 2019. In the circumstances, according to him the delay of considerable period of 8 years and 5 months is not deliberate because time was consumed pursuing the remedy. The applicant is facing harsh punishment of dismissal and therefore, he seeks condonation of delay.

7. The affidavit in reply is filed on behalf of respondent Nos. 1 to 4 by one Shri Ravindra S/o Dayaram Sonawane, Deputy Superintendent of Police (HQ) in the office of Superintendent of Police, Dhule thereby he has denied the adverse contentions raised by the applicant in the present Misc. Application. It is further stated that no sufficient cause has been shown for condonation of inordinate delay in filing the accompanying O.A. and hence, the Misc. Application is liable to be dismissed.

8. The applicant filed rejoinder affidavit and resisted the contentions made by him in the O.A. denying the adverse contentions raised on behalf of the respondents.

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O.A. St. 2416/2019

9. We have heard the arguments advanced by Shri K.B. Jadhav, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents at length.

10. By filing the Original Application, the applicant intends to challenge the order of dismissal, which was passed in the year 1996. The said dismissal order is passed in view of the conviction of the applicant for the offences punishable under Section 509 of I.P.C. Record shows that the applicant was pursuing remedy till August, 2011. His last review/revision petition dated 17.08.2011 made to the Hon'ble Governor. The said revision decided in the year 2019. But that apart as per the provisions of Section 21 of the Administrative Tribunals Act, 1985, limitation would start from expiry of six months from the date of such last representation dated 17.08.2011. The present Original Application along with delay condonation application is filed in or about December 2019. In view of the same, the delay is of 8 years and 5 months.

11. It is a settled principle of law that the expression "sufficient cause" is to be construed liberally. In the

//7// M.A. 16/2020 in
O.A. St. 2416/2019

case in hand, the applicant is facing serious order of dismissal from service. The applicant has lack of knowledge of law that he ought to have filed Original Application after expiry of six months of making last representation dated 17.08.2011. The said contention of the applicant cannot be said to be unsustainable. If the delay is condoned and the matter is heard on merit, it is not likely to affect the services of the other Government servants in the cadre of the applicant. The order of dismissal and subsequent orders have affected the applicant individually. The applicant has contended that no Departmental Enquiry was held against him before passing the order of dismissal. The case of the applicant therefore, is required to be considered on merits.

12. In the circumstances, in our considered opinion, this is a fit case to condone the delay by imposing costs of Rs. 5000/- on the applicant. In the result, we proceed to pass following order :-

ORDER

The Misc. Application No. 16/2020 is allowed in following terms:-

//8// M.A. 16/2020 in
O.A. St. 2416/2019

- (i) The delay of 8 years and 5 months in filing the accompanying O.A. under Section 19 of the Administrative Tribunals Act, 1985 is hereby condoned subject to payment of costs of Rs. 5000/- by the applicant. The amount of costs shall be deposited in the Registry of this Tribunal by the applicant within a period of one month from the date of this order.
- (ii) Upon satisfaction of the costs as above, the accompanying O.A. be registered and numbered by taking in to account other office objection/s, if any.

MEMBER (A)

MEMBER (J)

**M.A.NO.312/2021 WITH M.A.NO.97/2012 WITH
C.P.NO.20/2019 IN O.A.NO.817/2011
(Mahananda S. Patil Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 16.11.2021

ORAL ORDER :

M.A.NO.312/2021

Heard Shri Ashish B. Rajkar, learned Advocate for the applicant, Shri I.S.Thorat, learned Presenting Officer for the respondent nos.1 and 2 and Shri S.B.Mene learned Advocate for respondent no.3.

2. Application for bringing legal heirs on record is allowed.

3. Delay caused in filing the present application is condoned.

4. M.A.No.312/2021 stands disposed of in above terms with no order as to costs.

**M.A.NO.97/2012 WITH C.P.NO.20/2019 IN
O.A.NO.817/2011**

5. S.O. to 24-12-2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.501/2020
(Dr. Prashant Shamkuwar Vs. State of Maharashtra & Ors.)

CORAM : **Hon'ble Justice Shri P.R. Bora, Member (J)**
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : **16.11.2021**

ORAL ORDER :

Heard Shri V.G.Pingle, learned Advocate for the applicant and Shri D.R.Patil, learned Presenting Officer for the respondents.

2. Sur-rejoinder is not filed. Matter be fixed for final disposal on 22-12-2021.

3. S.O. to 22-12-2021.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO.698/2021
(Jitesh Wagh Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 16.11.2021

ORAL ORDER :

Heard Shri S.D.Munde, learned Advocate for the applicant and Shri M.S.Mahajan, learned Chief Presenting Officer for the respondents.

2. After having heard learned Counsel appearing for the applicant, it appears that relevant facts required for granting interim relief in terms of prayer clause E, F and G have not been brought out. In the circumstances, while issuing notice to the respondents following order is passed:

3. It is clarified that in the meanwhile if appointments are made on the said posts, said appointments will be subject to the outcome of the present matter.

4. Issue notice to the respondents, returnable on 15-12-2021.

5. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

6. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly

=2=

O.A.No.698/2021

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.

7. 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.

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 15.12.2021.

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

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO.1075/2019
(Rohini Mugale @Bhosale Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 16.11.2021

ORAL ORDER :

Heard Shri Krishna P. Rodge learned Advocate holding for Shri P.G.Rodge, learned Advocate for the applicant and Shri I.S.Thorat, learned Presenting Officer for the respondents.

2. When the present application is taken up for hearing, learned Advocate tendered at bar a purshis signed by the applicant and it is contended that the present applicant is not intending to prosecute the matter. Hence, the following order is passed.

3. Matter is disposed of as withdrawn in view of the purshis filed by the learned Advocate for the applicant with no order as to costs.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO.48/2018
(Sanjay Nade Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 16.11.2021

ORAL ORDER :

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

2. At the request and consent of both the parties, S.O. to 22-12-2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.232/2019
(Maruti Kamble & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 16.11.2021

ORAL ORDER :

Heard Shri V.G.Pingle, learned Advocate for the applicant and Shri I.S.Thorat, learned Presenting Officer for the respondents.

2. At the request and consent of both the parties, S.O. to 22-12-2021.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO.350/2021
(Shaikh Chand Badshaha Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 16.11.2021

ORAL ORDER :

Heard Shri Ashish B. Rajkar, learned Advocate for the applicant and Shri S.K.Shirse, learned Presenting Officer for the respondents.

2. Time is sought for filing affidavit in reply. Granted.
3. S.O. to 03-01-2022.

MEMBER (A)

MEMBER (J)

M.A.NO.308/2021 IN O.A.NO.492/2021
(Ganesh Chate & Anr. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 16.11.2021

ORAL ORDER :

Heard Shri V.B.Wagh, learned Advocate for the applicant and Shri M.S.Mahajan, learned Chief Presenting Officer for the respondents.

2. Record is not yet received.
3. S.O. to 08-12-2021.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO.297/2018
(Ajay Umale Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 16.11.2021

ORAL ORDER :

Heard Shri Vivek V. Deshmukh, learned Advocate for the applicant and Smt. Deepali Deshpande, learned Presenting Officer for the respondents.

2. At the request and consent of both the parties, S.O. to 10-12-2021.

MEMBER (A)

MEMBER (J)

**O.A.NO.436/2017 WITH T.A.NO.03/2021 IN
W.P.NO.3742/2021
(Shreya Mamode Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 16.11.2021

ORAL ORDER :

Heard Ku. Anagha Pandit learned Advocate holding for Shri S.B.Talekar, learned Advocate for the applicant and Shri M.S.Mahajan, learned Chief Presenting Officer for the respondents.

2. Learned CPO seeks time to file affidavit in reply on behalf of the respondents. Time is granted.

3. S.O. to 17-12-2021.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO.30/2018
(Rohini Deokar Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 16.11.2021

ORAL ORDER :

Heard Shri V.B.Wagh, learned Advocate for the applicant and Shri M.S.Mahajan, learned Chief Presenting Officer for the respondents.

2. At the request and consent of both the parties, S.O. to 07-12-2021.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO.107/2019
(Manjusha Kute (Khade) Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 16.11.2021

ORAL ORDER :

Heard Shri S.D.Joshi, learned Advocate for the applicant, Shri M.S.Mahajan, learned Chief Presenting Officer for the respondent nos.1 to 4 and Shri V.B.Wagh learned Advocate for respondent no.5.

2. At the request and consent of both the parties, S.O. to 07-12-2021.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO.39/2018
(Ravi Wankhade Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 16.11.2021

ORAL ORDER :

Heard Shri Sandesh R. Patil, learned Advocate for the applicant and Smt. Deepali Deshpande, learned Presenting Officer for the respondents.

2. At the request and consent of both the parties, S.O. to 10-12-2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.213/2018
(Balaji Sontakke Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 16.11.2021

ORAL ORDER :

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

2. At the request and consent of both the parties, S.O. to 08-12-2021.

MEMBER (A)

MEMBER (J)

**O.A.NO.339/2019 WITH O.A.NO.340/2019
(Dr. Kishor Ubale Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 16.11.2021

ORAL ORDER :

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

2. At the request and consent of both the parties, S.O. to 03-12-2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 981 OF 2019
(Ravindra K. Deshmukh Vs. State of Maha. & Ors.)

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

DATE : 16.11.2021

ORAL ORDER :

Heard Shri V.B. Dhage, learned Advocate holding for Shri Ganesh V. Mohekar, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicant, time is granted for filing affidavit-in-rejoinder.

3. S.O. to 21.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.439 OF 2020
(Bhimroa B. Bangar Vs. State of Maha. & Ors.)

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

DATE : 16.11.2021

ORAL ORDER :

Shri Milind K. Deshpande, learned Advocate for the applicant is **absent**. Heard Shri M.P. Gude, learned Presenting Officer for the respondents.

2. At the request of learned P.O., time is granted for filing affidavit-in-sur-rejoinder on behalf of the respondents, if any.

3. S.O. to 16.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO. 445 OF 2020
(Narsing N. Mudiraj Vs. State of Maha. & Ors.)

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

DATE : 16.11.2021

ORAL ORDER :

Heard Shri V.B. Dhage, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. At the request of learned P.O., time is granted as a last chance for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 16.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.456 OF 2020
(Parvatibai B. Mali Vs. State of Maha. & Ors.)

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

DATE : 16.11.2021

ORAL ORDER :

Heard Shri V.B. Dhage, learned Advocate for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents.

2. At the request of learned P.O., time is granted as a last chance for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 16.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.566 OF 2020
(Nathu N. Khadtare & Ors. Vs. State of Maha. & Ors.)

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

DATE : 16.11.2021

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicants and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. Affidavit-in-reply filed on behalf of the respondent Nos.1 to 3 is taken on record and copy thereof has been served on the other side.

3. At the request of learned Advocate for the applicants, time is granted for filing affidavit-in-rejoinder, if any.

4. S.O. to 17.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.701 OF 2019
(Bapusaheb V. Patare Vs. State of Maha. & Ors.)

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

DATE : 16.11.2021

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. Record shows that affidavit-in-reply is filed on behalf of the respondent No.1.

3. Learned P.O. submits that the respondent No.2 adopts affidavit-in-reply of respondent No.1.

4. At the request of learned Advocate for the applicant, time is granted for filing affidavit-in-rejoinder, if any.

5. S.O. to 17.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.50 OF 2021
(Ravindra K. Deshmukh Vs. State of Maha. & Ors.)

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

DATE : 16.11.2021

ORAL ORDER :

Heard Shri V.B. Dhage, learned Advocate holding for Shri Ganesh V. Mohekar, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. Learned P.O. submits that he would file affidavit-in-reply of all respondents during the course of day.

3. S.O. to 21.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.109 OF 2021
(Ashok D. Shradkar & Ors. Vs. State of Maha. & Ors.)

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

DATE : 16.11.2021

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicants and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. Record shows that affidavit-in-reply is already filed on behalf of respondent Nos.3 & 4 separately.

3. At the request of learned P.O., time is granted for filing affidavit-in-reply on behalf of the respondent Nos.1 & 2.

4. At the request of learned Advocate for the applicants, time is granted for filing affidavit-in-rejoinder to the affidavit-in-reply filed on behalf of the respondent Nos.3 & 4, if any.

5. S.O. to 17.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.113 OF 2021
(Vajinath B. Navande Vs. State of Maha. & Ors.)

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

DATE : 16.11.2021

ORAL ORDER :

Heard Shri V.B. Dhage, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. Record shows that affidavit-in-reply of respondent Nos.1 to 4 is already filed (wrongly mentioned in title as on behalf of respondent Nos.1 & 4).

3. Affidavit-in-reply today filed on behalf of the respondent No.5 is taken on record and copy thereof has been served on the other side.

4. At the request of learned Advocate for the applicant, time is granted for filing affidavit-in-rejoinder, if any.

5. S.O. to 16.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.115 OF 2021
(Kadubai S. Gaikwad Vs. State of Maha. & Ors.)

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

DATE : 16.11.2021

ORAL ORDER :

Heard Shri R.K. Khandelwal, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. Affidavit-in-reply filed on behalf of the respondent Nos.3 & 4 is taken on record and copy thereof has been served on the other side.

3. At the request of learned P.O., time is granted for filing affidavit-in-reply on behalf of the respondent Nos.1 & 2.

4. S.O. to 20.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.290 OF 2021
(Sayyed Yusuf Syyad lal and Ors. Vs. State of Maha. & Ors.)

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

DATE : 16.11.2021

ORAL ORDER :

Heard Shri P.V. Suryawanshi, learned Advocate for the applicants and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. Affidavit-in-reply filed on behalf of the respondent Nos.1 to 4 is taken on record and copy thereof has been served on the other side.

3. Learned Advocate for the applicants submits that the applicants do not wish to file affidavit-in-rejoinder.

4. S.O. to 13.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.314 OF 2021
(Govind A. Jadhav & Ors. Vs. State of Maha. & Ors.)

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

DATE : 16.11.2021

ORAL ORDER :

Heard Ms. Anagha Pandit, learned Advocate holding for Shri S.B. Talekar, learned Advocate for the applicants and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant produces the copy of communication dated 11.10.2021 received from the respondent No.5. It is taken on record and marked as document 'X' for the purpose of identification.

3. Record shows that affidavit-in-reply is already filed on behalf of the respondent No.5. On the last occasion, time was granted for filing affidavit-in-reply on behalf of other respondents.

4. Today also, learned P.O. seeks time for filing affidavit-in-reply on behalf of the respondent Nos.1 to 4. Time is granted.

5. S.O. to 09.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.501 OF 2021
(Anita D. Damodar & Ors. Vs. State of Maha. & Ors.)

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

DATE : 16.11.2021

ORAL ORDER :

Heard Shri P.V. Suryawanshi, learned Advocate for the applicants and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. Affidavit-in-reply filed on behalf of the respondent Nos.1 to 4 is taken on record and copy thereof has been served on the other side.

3. Learned Advocate for the applicants submits that the applicants do not wish to file affidavit-in-rejoinder.

4. S.O. to 13.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.612 OF 2021
(Dr. Arun B. Morale Vs. State of Maha. & Ors.)

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

DATE : 16.11.2021

ORAL ORDER :

Heard Shri Y.H. Lagad, learned Advocate holding for Shri Suresh P. Salgar, learned Advocate for the applicant, Shri S.K. Shirse, learned Presenting Officer for the respondent Nos.1 & 2 and Shri P.A. Pisal, learned Advocate for the respondent Nos.3 to 5.

2. At the request made on behalf of the respondents, time is granted for filing affidavit-in-reply.

3. S.O. to 15.12.2021. Interim relief granted earlier to continue till then.

MEMBER (J)

**ORIGINAL APPLICATION NO.626 OF 2021
(Rajendra B. Telap Vs. State of Maha. & Ors.)**

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

DATE : 16.11.2021

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. At the request of learned P.O., time is granted for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 14.12.2021. Interim relief granted earlier to continue till then.

MEMBER (J)

ORIGINAL APPLICATION NO.629 OF 2021
(Dr. Archana V. Bhosle Vs. State of Maha. & Ors.)

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

DATE : 16.11.2021

ORAL ORDER :

Shri Sudhir R. Chavan, learned Advocate for the applicant is **absent**. Heard Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. At the request of learned C.P.O., time is granted for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 14.12.2021.

MEMBER (J)

**M.A.NO.457 OF 2019 IN O.A.ST.NO.1693 OF 2019
(Sakharam B. Rakh Vs. State of Maha. & Ors.)**

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

DATE : 16.11.2021

ORAL ORDER :

Heard Shri V.G. Pingle, learned Advocate for the applicant, Shri I.S. Thorat, learned Presenting Officer for the respondent No.1 and Shri S.B. Mene, learned Advocate for the respondent Nos.2 to 4.

2. At the request made on behalf of the respondents, time is granted for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 15.12.2021.

MEMBER (J)

**M.A.NO.592 OF 2019 IN O.A.ST.NO.2196 OF 2019
(Arvind A. Joshi Vs. State of Maha. & Ors.)**

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

DATE : 16.11.2021

ORAL ORDER :

Heard Shri V.P. Bakal, learned Advocate holding for Shri Shri V.S. Kadam, learned Advocate for the applicant, Smt. Deepali S. Deshpande, learned Presenting Officer for the respondent Nos.1 & 2 and Shri G.N. Patil, learned Advocate for the respondent No.3.

2. At the request made on behalf of the respondents, time is granted as one more last chance for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 20.12.2021.

MEMBER (J)

**M.A.NO.611 OF 2019 IN O.A.ST.NO.2374 OF 2019
(Rambhau A. Nikam Vs. State of Maha. & Ors.)**

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

DATE : 16.11.2021

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. At the request of learned P.O., time is granted as a last chance for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 14.12.2021.

MEMBER (J)

**M.A.NO.318 OF 2020 IN O.A.ST.NO.1373 OF 2020
(Anil G. Lokhande Vs. State of Maha. & Ors.)**

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

DATE : 16.11.2021

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate holding for Shri A.B. Rajkar, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. At the request of learned P.O., time is granted for filing affidavit-in-reply on behalf of respondent Nos.1 to 4.

3. S.O. to 16.12.2021.

MEMBER (J)

**M.A.NO.75 OF 2021 IN O.A.ST.NO.305 OF 2021
(Rahul G. Malsamindar Vs. State of Maha. & Ors.)**

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

DATE : 16.11.2021

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. Affidavit-in-reply filed on behalf of respondents is taken on record and copy thereof has been served on the other side.

3. This Misc. Application is made seeking condonation of delay of 4 months and 17 days for filing the Original Application under Section 21 of the Administrative Tribunals Act, 1985 challenging the impugned order dated 15.10.2019 rejecting the claim of the applicant for appointment on compassionate ground.

4. The Original Application is presented on or about 05.03.2021 and the requisite period of limitation of one year is ended on 15.10.2020.

//2//

M.A.75/2021 In O.A.St.305/2021

5. Initially, notices are issued to the respondents and affidavit-in-reply is already filed by the sole respondents. It seems that, thereafter, objection of limitation is raised.

6. It is contended that the limitation period has been expired during the pandemic situation.

7. In view of same, this is fit case to condone the delay by considering the difficulties faced by the applicant during the period of pandemic. Otherwise also the applicant presented the Original Application during continuation of pandemic situation in the month of March, 2021. Hence, I proceed to pass following order:-

ORDER

- (A) The Misc. Application No.75/2021 in O.A.St.No.305/2021 is allowed.
- (B) The delay of 4 months and 17 days caused in filing the accompanying Original Application is hereby condoned.
- (c) Accordingly, the Misc. Application stands disposed of. The accompanying Original Application be registered and numbered by taking into account other office objection/s if any,

//2//

M.A.75/2021 In
O.A.st.305/2021

(D) No order as to costs.

MEMBER (J)

ORAL ORDERS 16.11.2021 - SAS

**ORIGINAL APPLICATION ST.NO.305 OF 2021
(Rahul G. Malsamindar Vs. State of Maha. & Ors.)**

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

DATE : 16.11.2021

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. By consent of both the sides, S.O. to 15.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.628 OF 2021
(Swati G. Swami Vs. State of Maha. & Ors.)

WITH

ORIGINAL APPLICATION NO.390 OF 2020
(Govind D. Mane Vs. State of Maha. & Ors.)

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

DATE : 16.11.2021

ORAL ORDER :

O. A. NO.628 OF 2021

Shri Suhas P. Urgunde, learned Advocate for the applicant is **absent**. Heard Shri M.P. Gude, learned Presenting Officer for the respondents.

O. A. NO.390 OF 2021

Heard Shri A.V. Thombre, learned Advocate holding for Shri S.S. Thombre, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondent Nos.1 & 2. Shri Suhas P. Urgunde, learned Advocate for the respondent No.3 is **absent**.

2. Farad sheet dated 27.10.2021 shows that the O.A.No.628/2021 be placed before the Division Bench along with O.A.No.390/2021 which is pending before the Division Bench.

//2//

O.A.628/2021 with
O.A.390/2021

3. In view of above, the registry is directed to place these matters before the Division Bench.

MEMBER (J)

ORIGINAL APPLICATION NO.699 OF 2021
(Narayan N. More Vs. State of Maha. & Ors.)

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

DATE : 16.11.2021

ORAL ORDER :

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

2. Issue notice to the respondents, returnable on 20.12.2021.

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

4. Applicant is authorized and directed to serve on respondent/s 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.

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.

//2//

O.A.699/21

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 20.12.2021.

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

9. The present matter is placed on separate board.

MEMBER (J)

ORIGINAL APPLICATION NO.256 OF 2021
(Priya A. Salve Vs. State of Maha. & Ors.)

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

DATE : 16.11.2021

ORAL ORDER :

Heard Shri Avinash S. Deshmukh, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. Heard arguments advanced by learned Advocate for the applicant and learned P.O. for the respondents at length.

3. The present matter is closed for order.

MEMBER (J)

ORIGINAL APPLICATION NO.451 OF 2019
(Suryakant R. Biradar Vs. State of Maha. & Ors.)

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

DATE : 16.11.2021

ORAL ORDER :

Heard Shri Shamsundar B. Patil, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. The present matter be treated as part heard.
3. S.O. to 10.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.46 OF 2020
(Balaji M. Nagdarwad & Ors. Vs. State of Maha. & Ors.)

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

DATE : 16.11.2021

ORAL ORDER :

Heard Shri P.V. Suryawanshi, learned Advocate for the applicants and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. Record shows that pleadings are complete. The matter is pertaining to arrears of wage. It is admitted and fixed for final hearing on 13.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.372 OF 2020
(Ramsingh B. Chavan & Ors. Vs. State of Maha. & Ors.)

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

DATE : 16.11.2021

ORAL ORDER :

Heard Shri S.G. Kulkarni, learned Advocate holding for Shri Ajay S. Deshpande, learned Advocate for the applicants and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. Learned P.O. for the respondents submits that as the quarry is raised by the bench as incorporated in farad sheet dated 20.10.2021, he would file necessary affidavit during the course of day.

3. S.O. to 10.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.543 OF 2020
(Gaurav C. Randive Vs. State of Maha. & Ors.)

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

DATE : 16.11.2021

ORAL ORDER :

Heard Shri Jayant B. Choudhary, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondent Nos.1 to 4. None present on behalf of the respondent No.5.

2. Learned Advocate for the applicant at this stage placed on record the copy of death certificate of the respondent No.5. It is taken on record and marked as document 'X' for the purpose of identification. It shows that the said respondent No.5 i.e. Shri Sunil Mangilal Rathod has expired on 18.05.2021.

3. The matter is regarding absorption. The proceeding abated about deceased respondent no.5 i.e. Shri Sunil Mangilal Rathod as 30 days period has been expired. The applicant to note it and take necessary steps, if necessary.

4. The affidavit-in-rejoinder filed by the applicant is taken on record and copy thereof has been served on the other side.

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O.A.543/2021

5. At the request of learned P.O., time is granted for filing affidavit-in-sur-rejoinder, if any.
6. S.O. to 10.12.2021.

ORAL ORDERS 16.11.2021 - SAS

MEMBER (J)

ORIGINAL APPLICATION NO. 701 OF 2021
(Kishor B. Marathe Vs. State of Maharashtra & Ors.)

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

DATE : 16.11.2021

ORDER

Heard Shri Dinesh Kakde, learned Advocate for the applicant and Mrs. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. The present Original Application is filed challenging transfer order dated 11.11.2021 (Annexure 'A-1') issued by the respondent No. 1, thereby transferring the applicant from the office of Public Works Sub-Division, Sillod, Dist. Aurangabad to the office of Zilla Parishad (Construction), Sub-Division, Paithan, District Aurangabad.

3. It is the contention of the applicant that he is due for retirement on superannuation on 30.4.2022. The applicant is working on the present post pursuant to the earlier transfer order dated 12.9.2019. He has not completed usual / normal period of 3 years on the present posting. The impugned transfer order is midterm and mid-tenure.

4. Learned Advocate for the applicant sought interim relief of stay to the said impugned transfer order contending that though the applicant had made representation dated 17.8.2021 (page-13 of paper book), thereby the applicant had sought transfer at Aurangabad

as he was suffering with Diabetes. Instead the applicant has been transferred at inconvenient place i.e. at Paithan, District Aurangabad.

5. Learned Presenting Officer opposed the aforesaid submissions made on behalf of the applicant and submitted that she would seek necessary instructions from the department and more particularly about the report of Civil Services Board.

6. During hearing of the present case, it transpires that the applicant has not been relieved from his present post. It is yet to be verified as to whether proper provisions of Section 4 (4) & 4 (5) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (for sort hereinafter called as “the Transfer Act of 2005”) is followed in this case or not. The report of Civil Services Board is not produced for verification of the same. The applicant is to be retired within a period of six months. In these circumstances, interim stay to the execution and implementation of the impugned transfer order dated 11.11.2021 (Annexure ‘A-1’) is granted till next date.

7. Issue notices to the respondents, returnable on 10.12.2021.

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

9. Applicant is authorized and directed to serve on respondent/s 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 10.12.2021.

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

14. The present case be placed on separate board.

MEMBER (J)

M.A.NO. 276/2020 IN O.A.ST. 833/2020
(Jayant R. Ambhore Vs. State of Maharashtra & Ors.)

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

DATE : 16.11.2021

ORDER

Shri K.A. Ingle, learned Advocate for the applicant (**absent**). Shri V.R. Bhumkar, learned Presenting Officer for the respondent Nos. 1 & 2, present.

2. Shri Dinesh Dagaidkhair, learned Advocate appeared today and he has filed VAKALATNAMA on behalf of respondent No. 3 and the same is taken on record.

3. S.O. to 10.12.2021.

MEMBER (J)

ORAL ORDERS 16.11.2021-HDD

M.A.441/19 IN O.A.ST.1769/19
(Shankar P. Dhupe & Anr. Vs. State of Maharashtra & Ors.)

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

DATE : 16.11.2021

ORDER

Heard Shri P.V. Suryawanshi, learned Advocate for the applicants and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. The present case is heard at length and closed for orders.

MEMBER (J)

ORAL ORDERS 16.11.2021-HDD

M.A.NO. 442/19 IN O.A.ST.1770/19
(Sunil S. Pradhan Vs. State of Maharashtra & Ors.)

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

DATE : 16.11.2021

ORDER

Heard Shri P.V. Suryawanshi, learned Advocate for the applicants and Smt. Sanjivani Deshmukh-Ghate, learned Presenting Officer for the respondents.

2. The present case is heard at length and closed for orders.

MEMBER (J)

ORAL ORDERS 16.11.2021-HDD

M.A.NO. 494/19 IN O.A.ST.1772/19
(Vishwanath P. Male & Ors. Vs. State of Maharashtra & Ors.)

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

DATE : 16.11.2021

ORDER

Heard Shri P.V. Suryawanshi, learned Advocate for the applicants and Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. The present case is heard at length and closed for orders.

MEMBER (J)

ORAL ORDERS 16.11.2021-HDD

M.A.NO. 495/19 IN O.A.ST.1774/19

(Pandurang K. Sarode & Ors. Vs. State of Maharashtra & Ors.)

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

DATE : 16.11.2021

ORDER

Heard Shri P.V. Suryawanshi, learned Advocate for the applicants and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. The present case is heard at length and closed for orders.

MEMBER (J)

ORAL ORDERS 16.11.2021-HDD

M.A.NO. 485/19 IN O.A.ST.2261/19
(Jayashri S. Bhokare & Ors. Vs. State of Maharashtra & Ors.)

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

DATE : 16.11.2021

ORDER

Heard Shri P.V. Suryawanshi, learned Advocate for the applicants and Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. The present case is heard at length and closed for orders.

MEMBER (J)

ORAL ORDERS 16.11.2021-HDD

M.A.NO. 515/19 IN O.A.ST. 834/19
(Ravikant R. Hadoltikar Vs. State of Maharashtra & Ors.)

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

DATE : 16.11.2021

ORDER

Heard Shri Vivek G. Pingle, learned Advocate for the applicant, Shri I.S. Thorat, learned Presenting Officer for the respondent No. 1 and Shri G.N. Patil, learned Advocate for respondent No. 2.

2. S.O. to 10.12.2021.

MEMBER (J)

ORAL ORDERS 16.11.2021-HDD

M.A.NO. 82/20 IN O.A.ST. 172/20
(Arshad Khan Gulab Khan Vs. State of Maharashtra & Ors.)

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

DATE : 16.11.2021

ORDER

Heard Shri Vivek G. Pingle, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. S.O. to 10.12.2021.

MEMBER (J)

ORAL ORDERS 16.11.2021-HDD

**ORIGINAL APPLICATION NO. 748 OF 2017
(Parasram N. Sonawane Vs. State of Maharashtra & Ors.)**

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

DATE : 16.11.2021

ORDER

Heard Ms. Angha Pandit, learned Advocate holding for Shri S.B. Talekar, learned Advocate for the applicant and Smt. Sanjivani Deshmukh-Ghate, learned Presenting Officer for the respondent Nos. 1 & 2. Shri S.S. Bhuse, learned Advocate for respondent No. 3.

2. Record shows that the present Original Application is amended in March, 2020. Affidavits in reply are filed by the respondents in the Original Application. Affidavit in reply to amended O.A. is filed by respondent No. 3 only.

3. Learned Presenting Officer appearing on behalf of respondent Nos. 1 & 2 seeks further time for filing affidavit in reply to the amended O.A. Learned Advocate for the applicant opposed to grant further time for filing affidavit in reply stating that since long this matter is pending for filing affidavit in reply to the amended O.A. In the interest of justice time is granted as a last chance.

4. S.O. to 8.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO. 263 OF 2020
(Ravindra M. Kamble Vs. State of Maharashtra & Ors.)

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

DATE : 16.11.2021

ORDER

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

2. S.O. to 6.12.2021.

MEMBER (J)

ORAL ORDERS 16.11.2021-HDD

**ORIGINAL APPLICATION NO. 152 OF 2021
(Vishnu S. Misal Vs. State of Maharashtra & Ors.)**

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

DATE : 16.11.2021

ORDER

Heard Shri Ashish Rajkar, learned Advocate holding for Shri K.B. Jadhav, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. S.O. to 7.12.2021. Interim relief granted earlier to continue till then.

MEMBER (J)

ORAL ORDERS 16.11.2021-HDD

ORIGINAL APPLICATION NO. 443 OF 2021
(Suresh L. Gaikwad & Ors. Vs. State of Maharashtra & Ors.)

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

DATE : 16.11.2021

ORDER

Heard Shri P.V. Suryawanshi, learned Advocate for the applicants and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. S.O. to 13.12.2021.

MEMBER (J)

ORAL ORDERS 16.11.2021-HDD

**O.A.NO 581/2021 WITH M.A. NO. 326/2021
(Dr. Sarika B. Bade Vs. State of Maharashtra & Ors.)**

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

DATE : 16.11.2021

ORDER

Heard Shri J.M. Murkute, learned Advocate for the applicant, Shri N.U. Yadav, learned Presenting Officer for the respondent Nos. 1 to 4 and Shri Avinash S. Deshmukh, learned Advocate for the respondent No. 6. None appears for respondent No. 5.

2. Learned Presenting Officer has filed a copy of communication dated 12.11.2021 addressed by respondent No. 2, Dy. Director of Health Services, Aurangabad to the respondent No. 3, the District Civil Surgeon, Aurangabad, thereby the applicant, Sarika B. Bade, has been posted in Rural Hospital, Jintur, District Parbhani as per her request letter dated 11.11.2021. She has been posted on that post temporarily. The copy of the said communication is taken on record and marked as document 'X' for the purpose of identification. Meanwhile, the respondent No. 2, Dy. Director of Health Services, Aurangabad, has submitted proposal to respondent No. 1 by communication dated 12.11.2021 to the respondent No. 1, the Secretary, Public Health Department, Mantralaya, Mumbai, for deputation of the applicant at Aurangabad and the same is pending with respondent No. 1. The copy of said communication is taken

**:: - 2 - :: O.A.NO 581/2021 WITH
M.A. NO. 326/2021**

on record and marked as document 'X-1' for the purpose of identification.

3. In the circumstances as above, S.O. to 30.11.2021.

MEMBER (J)

ORAL ORDERS 16.11.2021-HDD

M.A. NO. 69/2019 IN O.A. ST. NO. 323/2019
(Smt. Sarika B. Patole Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 16.11.2021

PER : Hon'ble Shri V.D. Dongre, Member (J)

O R D E R

This application is made seeking condonation of delay of about 11 years and 5 months caused in filing accompanying O.A. No. St. 323/2019 challenging the selection process conducted by the respondents vide advertisement dated 23.5.2007 for the post of Pharmacist.

2. The applicant is holding the Diploma in Pharmacy. She completed said Diploma in the year 2001. Pursuant to the advertisement dated 23.5.2007 for filling up the posts of Pharmacist in the office of the respondent no. 3 i.e. the Deputy Director, Health Services, Nasik Division, Nasik, the applicant being qualified for the said post, applied. She received call letter dated 22.6.2007 for the oral interview, which was scheduled on 9.7.2007. However, the applicant received another letter dated 27.6.2007, thereby it was stated that the said interview was postponed. Since

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M.A. NO. 69/2019 IN
O.A. ST. NO. 323/2019

then the applicant did not receive anything from the respondent no. 3 about further progress of the said selection process.

3. Thereafter the applicant came to be appointed on the post of Pharmacist on contractual basis on fixed payment of Rs. 6,000/- per month vide order dated 18.7.2008. She is working on contractual basis and each time she received the order for 11 months.

4. While the applicant was working on contractual basis, she came across the advertisement dated 7.1.2016 for the post of Pharmacist and she applied for it. At that time the applicant enquired with her colleagues about selection process which was undertaken in the year 2007. She came to know that the said recruitment process was completed. The applicant, therefore, made application to the respondent no. 3 seeking information about the said selection process of the year 2007, under Right to Information Act & obtained the documents. Those documents reveal that some of the candidates, who were eligible for oral interview were called by sending them intimation in writing and some of the eligible

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M.A. NO. 69/2019 IN
O.A. ST. NO. 323/2019

candidates were sent intimation only by mentioning their Serial Numbers in the merit list. The name of the applicant was at Sr. no. 59 in the said merit list. The applicant had never received call letter for oral interview. In view of the same, great injustice has been caused to the applicant. The applicant made representation dated 25.1.2017 to the respondent nos. 2 & 3. However, the said respondents have never taken any action on her said representation.

5. The applicant, therefore, filed writ petition No. 3848/2018 in the Hon'ble High Court of Judicature at Bombay, Bench at Aurangabad and sought judicial enquiry in respect of the recruitment process of the year 2007. The Hon'ble High Court vide order dated 17.4.2018 expressed the opinion in the said writ petition that the matter pertains to Maharashtra Administrative Tribunal. In view of the same the applicant filed the present O.A. challenging the recruitment process of the year 2007 for the post of Pharmacist. However, there is delay of about 11 months and 5 months for filing the said Original Application.

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M.A. NO. 69/2019 IN
O.A. ST. NO. 323/2019

6. It is the contention of the applicant that the delay caused in filing O.A. is not deliberate or intentional. The applicant came to know about completion of recruitment process of the year 2007 only after she applied for information under R.T.I. It is her further contention that some time was also consumed in seeking bona-fide remedy before the Hon'le High Court. Hence, the applicant filed present Misc. Application for condonation of delay of about 11 months and 5 months caused in filing accompanying O.A. No. St. 323/2019 challenging the selection process conducted by the respondents vide advertisement dated 23.5.2007 for the post of Pharmacist.

7. Affidavit in reply on behalf of respondent nos. 1 to 3 has been filed by Shri Rohidas s/o Vedu Padvi, Chief Administrative Officer in the office of the Deputy Director of Health Services, Nashik Circle, Nashik. He denied the adverse contentions raised by the applicant in the application and contended that the recruitment process for the post of Pharmacists was completed in accordance with the law in the year 2007 itself. The appointment letters were issued to the selected

candidates. There is no merit in the contentions raised by the applicant in the Misc. Application for condonation of delay caused in filing accompanying O.A. There is huge delay in filing O.A. The delay is not satisfactorily explained. Hence, the Misc. Application is liable to be dismissed.

8. The applicant filed rejoinder affidavit and resisted the contentions of the respondents raised in the affidavit in reply. She also filed additional affidavit in compliance of the order dated 9.8.2021 and contented that the documents annexed with the O.A. are obtained by her under R.T.I. and accordingly she produced on record the requisite forwarding letters and also the merit list.

9. We have heard the arguments advanced by Shri V.M. Maney, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents, at length. We have also gone through the documents placed on record by both the sides.

10. Learned Advocate for the applicant strenuously urged before us that great injustice has been caused to the applicant in not sending proper oral interview

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M.A. NO. 69/2019 IN
O.A. ST. NO. 323/2019

letter by the respondents. According to him, the said documents would show that the respondents adopted pick and choose policy and oral interview letters were sent only to those candidates in their names who are in their favour and other candidates were sent letters by merely mentioning their serial numbers in the merit list. Nothing is produced on record by the respondents to show that call letters were sent to all candidates mentioning their names and also that the same were properly served upon them.

11. Learned Presenting Officer for the respondents on the other hand submitted that the documents produced by the applicant received from the respondents under R.T.I. would show that the call letters for oral interview were sent by post and call letters deemed to have been served upon the candidates. According to her, it is unbelievable that the applicant, though working in the office of the respondent no. 3 since 2008, did not come to know about completion of selection process of the year 2007 during these years.

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M.A. NO. 69/2019 IN
O.A. ST. NO. 323/2019

12. We have closely considered the documents annexed with the O.A. as well as the documents annexed by the applicant with the present M.A. Perusal of those documents would show that the applicant's name is there at sr. no. 59 in the merit list. It is true that the applicant has demonstrated that some candidates were sent notice about oral interview by name and some were sent these call letters of oral interview by mentioning their serial numbers in the merit list. However, the documents produced by the applicant herself as Exhibit – I & J in M.A. would show that there is endorsement as 'Under Certificate of Posting' on the list of candidates to whom the oral interview call letters were sent. In the said list also the name of the applicant is at sr. no. 59. In view of the same, it cannot be said that no proper steps were taken by the respondents for sending the call letters for oral interview. The record shows that the endorsement of the postal department is dated 26.7.2007 for the oral interview scheduled on 10.8.2007, 11.8.2007 and 12.8.2007. The record shows that the interview of the applicant was fixed on 11.8.2007. In view thereof the call letter deemed to have been served upon the applicant well in advance.

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M.A. NO. 69/2019 IN
O.A. ST. NO. 323/2019

It is not the case of the applicant that the address of the applicant mentioned in the said list is incorrect.

13. That apart, it is the fact that the applicant is working on contract basis on the post of Pharmacist in the office of the respondent no. 3 since 2008. It is her contention that till the year 2016 she did not come to know that some of the candidates were selected as per the recruitment process of the year 2007. She claims that she came to know about the same in the year 2016 when new advertisement was issued by the respondents for filling in the posts of Pharmacists. We are of the considered opinion that mere statement of the applicant that during all these years she did not come to know about completion of recruitment process of the year 2007 does not inspire confidence. The said recruitment for the post of Pharmacist which was undertaken in the year 2007 was not for one or two posts. In fact the merit list is of 168 candidates.

14. In the circumstances as above we find that the delay sought to be condoned by the applicant is of 11 years and 5 months, which is huge one. Even if we consider the contention of the applicant liberally, this

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M.A. NO. 69/2019 IN
O.A. ST. NO. 323/2019

is not a fit case to condone the delay of 11 years and 5 months caused in filing accompanying O.A., for the reasons stated hereinabove. There is presumption of deemed service of call letters upon the candidates as the same are sent by the respondents 'Under Certificate of posting'. Therefore, we find that the applicant has no case on merit, prima-facie. In the circumstances, we hold that this is not a fit case to condone delay of 11 years and 5 months caused in filing O.A. Hence, We proceed to pass the following order :-

ORDER

Misc. Application 69/2019 stands dismissed. Accordingly, registration of O.A. St. no. 323/2019 stands rejected.

MEMBER (A)

MEMBER (J)

ARJ M.A. NO. 69-2019 IN O.A. ST. 323-2019 (D.B.)

ARJ ORAL ORDER 16-11-2021

**M.A. 246/2021 IN O.A. 654/2013
(Dr. Amol S. Pawar Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 16.11.2021

ORAL ORDER :

Heard Shri R. R. Bangar, learned Advocate holding for Smt. Surekha Mahajan, learned Advocate for the applicant and Smt. Sanjivani Deshmukh Ghate, learned Presenting Officer for the respondents.

2. Learned Presenting Officer sought time for filing affidavit in reply of the respondents in the M.A., which is filed by the applicant seeking certain amendment in O.A. It appears that the oral submissions also can be accepted, if the oppose is based on legal aspects. Therefore, both the sides are allowed to argue the M.A.

3. Learned Advocate for the applicant submits that by way of proposed amendment, the applicant intends to bring on record subsequent events occurred after filing of O.A. He submits that when the O.A. was filed, the applicant was facing the charge and during the pendency of the O.A. the applicant is acquitted. Therefore, by way of proposed amendment the applicant wants to bring on record certain events

occurred after filing of the O.A. The applicant, therefore, prayed to allow the present M.A. and he be permitted to amend the O.A. as per the draft amendment.

4. The learned Presenting Officer submits that by way of proposed amendment, the applicant does not want to bring on record only the subsequent event as about his acquittal, but he wants to bring on record certain other things. She, therefore, opposed the M.A. for amendment.

5. On going through the record, it appears that, by way of proposed amendment the applicant does not want to bring on record any new fact. Subsequent events are always allowed to be brought on record.

6. In the circumstances, the M.A. for amendment is allowed. The applicant is permitted to carry out amendment in the O.A. as per the draft amendment within a period of one week.

7. Since, there is no prayer clause (C) in the O.A., the proposed prayer clause (C-1) as intended to be made in the O.A., be treated as prayer clause (C).

**ORIGINAL APPLICATION NO. 654/2013
(Dr. Amol S. Pawar Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 16.11.2021

ORAL ORDER :

Heard Shri R. R. Bangar, learned Advocate holding for Smt. Surekha Mahajan, learned Advocate for the applicant and Smt. Sanjivani Deshmukh Ghate, learned Presenting Officer for the respondents.

2. With the consent of both the sides, S.O. to 4.12.2021.

MEMBER (A)

MEMBER (J)

**M.A. 274/2021 IN O.A. 25/2021
(Shankar P. Dange Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 16.11.2021

ORAL ORDER :

Heard Shri R.J. Nirmal, learned Advocate for the applicant, Shri M.P. Gude, learned Presenting Officer for the respondent nos. 1 to 3 and Shri S.B. Jadhav, learned Advocate for respondent no. 4.

2. The present M.A. is filed by the applicant seeking leave to implead one prayer i.e. to set aside the order of appointment of respondent no. 4 i.e. newly added respondent. When the respondent no. 4 was added in the O.A., appointment order was not issued in his favour and it is issued subsequently.

3. Learned P.O. opposed the M.A. on the ground that there is no reason to allow the applicant to amend the O.A. as per prayer clause (B) of the M.A.

4. On going through the record, it appears that, the applicant wants to bring on record the subsequent event i.e. issuance of appointment order in favour of respondent no. 4, happened after adding the

::-2-:: M.A. 274/2021 IN O.A. 25/2021

respondent no. 4 in the O.A. Therefore, we are inclined to allow the M.A.

5. Accordingly, the present M.A. is allowed and the applicant is permitted to add prayer clause (B) of M.A. in the O.A. The said amendment be carried out within a period of one week and amended copy be supplied to other side. There shall be no order as to costs.

MEMBER (A)

MEMBER (J)

O.A. 25/2021
(Shankar P. Dange Vs. State of Maha. & Ors.)

CORAM : **Hon'ble Justice Shri P.R. Bora, Member (J)**
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : **16.11.2021**

ORAL ORDER :

Heard Shri R.J. Nirmal, learned Advocate for the applicant, Shri M.P. Gude, learned Presenting Officer for the respondent nos. 1 to 3 and Shri S.B. Jadhav, learned Advocate for respondent no. 4.

2. With consent of both the sides, S.O. to 24.12.2021.

MEMBER (A)

MEMBER (J)

M.A. 333/2020 IN O.A. 797/2016
(Gaurav A. Chavan Vs. State of Maha. & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 16.11.2021

ORAL ORDER :

Heard Smt. Pramila Giri, learned Advocate holding for Shri C.V. Thombre, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. Learned Presenting Officer has filed affidavit in reply on behalf of respondent nos. 2 & 5. It is taken on record and copy thereof has been supplied to other side.

3. S.O. to 5.1.2022 for filing rejoinder affidavit, if any, and also for hearing the present M.A. for delay condonation caused in filing O.A.

MEMBER (A)

MEMBER (J)

**M.A. 232/2021 IN O.A. ST. 932/2021
(Mahendra K. Wadgaonkar Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 16.11.2021

ORAL ORDER :

Heard Shri Mahendra K. Wadgaonkar – party in person and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. Learned C.P.O. seeks time for filing affidavit in reply of the respondents in the present M.A. Time granted as a last chance.

3. S.O. to 3.12.2021.

MEMBER (A)

MEMBER (J)

**M.A. 217/2020 IN O.A. ST. 519/2020
(Dipak D. Joshi & Ors. Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 16.11.2021

ORAL ORDER :

Heard Smt. A.N. Ansari, learned Advocate for the applicants and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. The present M.A. is filed by the applicant for condonation of delay caused in filing O.A.

3. Learned P.O. filed affidavit in reply on behalf of respondent nos. 1 & 3. It is taken on record and copy thereof has been supplied to other side.

4. It appears that the delay caused in filing O.A. is of the period of lockdown imposed by the Government to prevent the spreading of COVID-19. The delay, therefore, deserves to be condoned.

5. In the above circumstances, the present M.A. is allowed and the delay caused in filing O.A. is condoned. There shall be no order as to costs.

6. Office to register the O.A. on its due scrutiny.

MEMBER (A)

MEMBER (J)

O.A. ST. 519/2020
(Dipak D. Joshi & Ors. Vs. State of Maha. & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 16.11.2021

ORAL ORDER :

Heard Smt. A.N. Ansari, learned Advocate for the applicants and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. Issue notices to the respondents, returnable on 5.1.2022.

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

4. Applicants are authorized and directed to serve on respondent/s 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.

5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal

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O.A. ST. NO. 519/2020

(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. Applicants are directed to file affidavit of compliance and notice.

7. S.O. to 5.1.2022.

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

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 141/2021
(Shubham A. Pagare Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 16.11.2021

ORAL ORDER :

Heard Shri S.D. Dhongde, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. With the consent of both the sides, S.O. to 23.12.2021.

MEMBER (A)

MEMBER (J)

**C.P. 4/2020 IN O.A. 333/2017
(Shital A. Soni Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 16.11.2021

ORAL ORDER :

Heard Shri J.S. Deshmukh, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondent nos. 1 to 4.

2. Smt. M.S. Jagtap-Ware, learned Advocate has filed V.P. for respondent no. 5. It is taken on record. She also seeks time to file affidavit in reply in the present M.A.

3. The learned Advocate for the applicant seeks leave of this Tribunal to correct the names of respondents in the present C.P. Leave as prayed for is granted. The said correction be carried out within a period of one week.

4. Learned Advocate for the applicant also submits that though the efforts are made to serve the notice upon the respondents, the service reports are not received. Therefore, he prayed for issuance of fresh notice to the respondents. Request accepted.

5. In the circumstances, after correction in the names of respondents as above, issue fresh notice to the respondents, returnable on 10.1.2022.

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C.P. 4/2020 IN O.A. 333/2017

6. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

7. Applicant is authorized and directed to serve on respondent/s 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.

8. 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.

9. 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.

10. S.O. to 10.1.2022.

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

MEMBER (A)

MEMBER (J)

**C.P. 5/2020 IN O.A. 336/2017
(Dr. Yogesh V. Solanke Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 16.11.2021

ORAL ORDER :

Heard Shri J.S. Deshmukh, learned Advocate for the applicant, Smt. Sanjivani Deshmukh Ghate, learned Presenting Officer for the respondent nos. 1 to 4 and M.S. Taur, learned Advocate for respondent no. 5.

2. The learned Advocate for the applicant seeks leave of this Tribunal to correct the names of respondents in the present C.P. Leave as prayed for is granted. The said correction be carried out within a period of one week.

3. Learned Advocate for the applicant also submits that though the efforts are made to serve the notice upon the respondents, the service reports are not received. Therefore, he prayed for issuance of fresh notice to the respondents. Request accepted.

4. In the circumstances, after correction in the names of respondents as above, issue fresh notice to the respondents, returnable on 10.1.2022.

5. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

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C.P. 5/2020 IN O.A. 336/2017

6. Applicant is authorized and directed to serve on respondent/s 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.

7. 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.

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 10.1.2022.

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

MEMBER (A)

MEMBER (J)

**C.P. 6/2020 IN O.A. 332/2017
(Dr. Anil S. Biradar Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 16.11.2021

ORAL ORDER :

Heard Shri J.S. Deshmukh, learned Advocate for the applicant, Smt. Sanjivani Deshmukh Ghate, learned Presenting Officer for the respondent nos. 1 to 4 and Shri V.P. Narwade, learned Advocate for respondent no. 5.

2. The learned Advocate for the applicant seeks leave of this Tribunal to correct the names of respondents in the present C.P. Leave as prayed for is granted. The said correction be carried out within a period of one week.

3. Learned Advocate for the applicant also submits that though the efforts are made to serve the notice upon the respondents, the service reports are not received. Therefore, he prayed for issuance of fresh notice to the respondents. Request accepted.

4. In the circumstances, after correction in the names of respondents as above, issue fresh notice to the respondents, returnable on 10.1.2022.

5. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

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C.P. 6/2020 IN O.A. 332/2017

6. Applicant is authorized and directed to serve on respondent/s 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.

7. 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.

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 10.1.2022.

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

MEMBER (A)

MEMBER (J)

**C.P. 17/2021 IN O.A. 127/2017
(Trimbak D. Tompe Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 16.11.2021

ORAL ORDER :

Shri V.P. Golewar, learned Advocate for the applicant (**absent**). Shri D.R. Patil, learned Presenting Officer for the respondents, is present.

2. It appears from the record that, notices are not yet served upon the respondents.

3. In the circumstances, S.O. to 5.1.2022. Await service of notice on the respondents.

MEMBER (A)

MEMBER (J)

**C.P. 26/2020 IN O.A. 772/2018
(Anil S. Barkul Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 16.11.2021

ORAL ORDER :

Shri Kishor D. Khade, learned Advocate for the applicant (**absent**). Shri N.U. Yadav, learned Presenting Officer for the respondents, is present.

2. Learned P.O. seeks time for filing affidavit in reply of the respondents. Time granted.
3. S.O. to 3.1.2022.

MEMBER (A)

MEMBER (J)

**O.A. NOS. 825, 864, 865, 866 AND 867 ALL OF 2016
(Prakesh A. Gaikwad & Ors. Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 16.11.2021

ORAL ORDER :

Shri Vijay B. Jogdand Patil, learned Advocate for the applicants in all these cases (**absent**). Shri V.R. Bhumkar, learned Presenting Officer for the respondent authorities in all these cases, Shri H.A. Joshi, learned Advocate for respondent nos. 7 to 9 in O.A. no. 825/2016 and Shri P.P. Kothari, learned Advocate for respondent no. 5 in O.A. nos. 865, 866 & 867 all of 2016, are present. Shri Pradeep Patil, learned Advocate for respondent no. 5 in O.A. 864/2016 (**absent**).

2. In view of absence of learned Advocate for the applicants and concerned learned Advocate for respondents, S.O. to 4.1.2022.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 250/2021
(Riyajkhan A. Faruki Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 16.11.2021

ORAL ORDER :

Heard Shri Taher Ali Quadri, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. Learned Presenting Officer seeks time for filing affidavit in reply of the respondents.

3. It appears from the record that though on earlier 4 occasions time was granted to the respondents for filing affidavit in reply, till today it is not filed by them. In the circumstances, time as a last chance is granted to the respondents to file affidavit in reply.

4. S.O. to 4.1.2022.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 329/2021
(Somnath A. Gaikwad Vs. State of Maha. & Ors.)**

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 16.11.2021

ORAL ORDER :

Heard Shri A.B. Rajkar, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant has filed rejoinder affidavit. It is taken on record and copy thereof has been supplied to other side.

4. S.O. to 4.1.2022 for final disposal.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 335/2021
(Dyaneshwar B. Bulbule & Ors. Vs. State of Maha. &
Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 16.11.2021

ORAL ORDER :

Shri K.B. Bhise, learned Advocate for the applicants
(**absent**). Shri D.R. Patil, learned Presenting Officer for the
respondents, is present.

2. In view of absence of learned Advocate for the
applicants, S.O. to 5.1.2022.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 378/2021
(Raju H. Sayyed Vs. State of Maha. & Ors.)**

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 16.11.2021

ORAL ORDER :

Shri Gaurav L. Deshpande, learned Advocate for the applicant (**absent**). Shri S.K. Shirse, learned Presenting Officer for the respondents, is present.

2. Learned Presenting Officer seeks time for filing affidavit in reply of the respondents. Time granted as a last chance.

3. S.O. to 3.1.2022.

MEMBER (A)

MEMBER (J)