

C.A.107/2017 in O.A. 329/2017 (SB)

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 23.04.2018

Heard Shri S.N. Gaikwad, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for the respondents.

Closed for orders along with other similar matters.

Vice Chairman (J)

dnk.

O.A. 944/2017 (SB)

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 23.04.2018

Heard Shri S.N. Gaikwad, Id. counsel for the applicant and Shri S.A. Sainis, Id. P.O. for the respondents.

Closed for orders along with other similar matters.

Vice Chairman (J)

dnk.

O.A. 61/2017 (SB)

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 23.04.2018

Heard Shri S.U. Nemade, Id. counsel for the applicant and Shri S.A. Sainis, Id. P.O. for the respondents.

Closed for orders along with other similar matters.

Vice Chairman (J)

dnk.

O.A. 887/2017 (SB)

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 23.04.2018

Heard Shri S.M. Khan, Id. counsel for the applicant and Shri S.A. Sainis, Id. P.O. for the respondents.

The learned P.O. files reply-affidavit on behalf of R-3. It is taken on record. Copy is served on the applicant.

Closed for orders along with other similar matters.

Vice Chairman (J)

dnk.

O.A. 526/2017 (SB)

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 23.04.2018

Heard Shri S.N. Gaikwad, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for the respondents.

Closed for orders along with other similar matters.

Vice Chairman (J)

dnk.

O.A. 177/2018 (SB)

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 23.04.2018

Heard Shri G.G. Bade, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for the respondents.

2. The applicant in this O.A. has requested for direction to respondent nos. 2&3 to allow him to join in view of joining letter dated 21/02/2018 at the place where he was transferred.

3. The learned counsel for the applicant submits that during the pendency of the O.A. the applicant has already joined at the place and therefore the application has become infructuous. In view thereof, the O.A. stands disposed of as infructuous.

Vice Chairman (J)

dnk.

O.A. 489/2016 (SB)

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 23.04.2018

C.A. 63/2018 in Rev. St. 421/2018

Heard Shri G.G. Bade, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for the respondents.

2. In this application the applicant has prayed that there is a delay of 1 year and 65 days in filing review application of the order passed in O.A.No.489/2016 and therefore the said delay may be condoned. The order in O.A.489/2016 has been passed on 01/12/2016 wherein the applicant challenged the order of transfer of the post of Junior Clerk from Gadchiroli to Pune. The said O.A. was dismissed on merits.

3. The reason for filing the application as belated stage is given in para nos. 2 and 5 of the application and the same reads as under :-

“(2) That the order dated 01/12/2016 was not communicated to the present applicant and the said order was

received by the applicant in the month of February,2017 and accordingly the applicant contracted the local counsel at Gadchiroli on 25th February,2017. The local counsel suggested the applicant to file a review of order dated 01/12/2016. Subsequently the applicant after making necessary arrangements contacted the local counsel on 3rd March,2017 and thereby review application was drafted and was signed by the present applicant and the local counsel assured the applicant that he will notorise the review application along with the application of condonation of delay and will file before this Hon'ble Tribunal.

(5) It is pertinent to note here that the O.A.777/2017 came to be disposed of vide order dated 19/12/2017, thereby directed respondent no.2 to decide the representations dated 16/11/2017 & 06/12/2017. That inspite of the order dated 19/12/2017 the said representations were not decided and therefore the applicant in pursuance of the order dated 07/07/2016 approached the Deputy Director of Education, Pune Divison, Pune on 21/02/2018 for the purpose of joining.

In spite of the said joining letter the applicant was not allowed to join, therefore the applicant contacted the present counsel in respect of his matter on 05/03/2018 and accordingly the present counsel came to know that the review application which was entrusted to the local counsel has not been filed.”

4. The learned CPO has pointed out the fact that the applicant has also filed O.A.No. 777/2017 challenging relieving order and said application was disposed of with direction to respondent authorities to consider his representation. It seems that the said representation has been considered and the applicant has now joined at Pune and now this application for review is filed. The grounds alleged to be made out in the O.A. are not sufficient to condone the delay. Though the applicant seems to have approached the so called legal counsel, the affidavit to that effect from the local counsel is not placed on record and it is not known as to why the review application is filed by the

same counsel who appeared in the O.A. I am satisfied that there is no sufficient reason for condonation of delay and hence the civil application for condonation of delay is dismissed. In view thereof, the review application (St.) is also stands dismissed.

Vice Chairman (J)

dnk.

O.A. 120/2018 (SB)

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 23.04.2018

Shri G.G. Bade, Id. counsel for the applicant and Shri V.A. Kulkarni, Id. P.O. for the respondents.

At the request of Id. P.O., **S.O. one week** for filing reply.

Vice Chairman (J)

dnk.

O.A. 944/2017 (SB)

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 23.04.2018

Heard Shri S.N. Gaikwad, Id. counsel for the applicant and Shri S.A. Sainis, Id. P.O. for the respondents.

Closed for orders along with other similar matters.

Vice Chairman (J)

dnk.

O.A. 307/2017 (SB)

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 23.04.2018

Heard Shri P.C. Marpakwar, Id.
counsel for the applicant and Shri P.N.
Warjurkar, Id. P.O. for the respondents.

Closed for orders.

Vice Chairman (J)

dnk.

O.A. Nos.260 & 261 of 2018 (SB)

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 23.04.2018

Shri Rahul Khade, Id. counsel for the applicants and Shri M.I. Khan, Id. P.O. for the State.

2. The learned counsel for the applicants submits that he wants to file application for amendment of the O.A. and also wants to file copy of the impugned order of transfer on record. He is permitted to do so. At his request, **S.O.**
24/04/2018.

Vice Chairman (J)

dnk.

O.A. 26/2018 (SB)

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 23.04.2018

Shri S.K. Tambde, Id. counsel for the applicant, Shri P.N. Warjurkar, Id. P.O. for R-1&2 and Shri A.P. Kalmegh, Id. counsel for R-3. None for R-4.

2. The learned counsel for the applicant seeks permission to carry out the amendment. He is allowed to do so with immediate effect. The learned P.O. files return to the rejoinder on behalf of R-1&2. It is taken on record. Copy is served on the applicant. The learned counsel for R-3 is allowed to file rejoinder, if necessary.

S.O. 25/04/2018.

Vice Chairman (J)

dnk.

O.A. No. 205/2017 (D.B.)

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J) and
Shree Bhagwan,
Member(A)**

Dated : 23rd April 2018.

None for the applicant. Shri V.A. Kulkarni, the learned P.O. for the respondent No.1.

Applicant to file service affidavit in respect of R. 2 to 4.

S.O. after summer vacation.

Member(A)
Chairman(J)

Vice-

O.A. No. 879/2017 (D.B.)

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J) and
Shree Bhagwan,
Member(A)**

Dated : 23rd April 2018.

Heard Shri R.V. Shiralkar, Adv. holding for Shri S.P. Palshikar, the Ld. counsel for the applicant and Shri A.M. Ghogre, the learned P.O. for the respondents.

The Ld. P.O. has filed affidavit in reply on behalf of R.2, it is taken on record and a copy thereof is supplied to the Ld. counsel for the applicant. He wants to go through the same.

The Ld. P.O. submits that affidavit in reply of R.1 is not necessary.

S.O. after summer vacation for filing rejoinder, if any.

Member(A)
Chairman(J)

Vice-

pdg.

O.A. No. 367/2008 (D.B.)

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J) and
Shree Bhagwan, Member(A)**

Dated : 23rd April 2018.

None for the applicant. Heard Shri P.N. Warjekar, the learned P.O. for the respondents.

A detailed order was passed on 9.4.2018. It was decided to hear the matter on merits in respect of the fact whether anybody appears for the applicant or not. In spite of such order,

nobody appeared for the applicant.
Nobody appeared for the applicant even
on 2.4.2018.

In the interest of justice, matter is
admitted and kept for final hearing after
vacation.

Shri P.N. Warjekar, the learned
P.O. waives notice for the respondents.

S.O. after summer vacation.

Member(A)
Chairman(J)

Vice-

pdg.

O.A. No. 110/2017 (D.B.)

Coram: Shri J.D. Kulkarni,

Vice-Chairman (J) and

Shree Bhagwan,

Member(A)

Dated : 23rd April 2018.

Heard Shri A.B. Dhulaj, the
applicant in person and Shri H.K.
Pande, the learned P.O. for the
respondents.

2. In this O.A., the applicant has claimed the following main reliefs:-

(i) Call for the record of proceedings pertaining to the representations dated 4.11.2015 (A-1) and 15.2.2016 (A-2) filed by the applicant before the respondent No. 1 and also from the office of respondent Nos.2 & 3 to peruse the same.

(ii) Direct the competent authority to decide the representations dated 4.11.2015 (A-1) and 15.2.2016 (A-2) within two months or before the meetings of the D.P.C. or Selection Committee is held, whichever is earlier and communicate the decision to the applicant and the applicant be promoted with retrospective effect in selection grade as Additional Collector, in the interest of justice.

(iii) Taking into consideration the biased, prejudiced act of the respondent Nos. 4 and 5, the ACRs written by them be quashed and an independent officer be appointed to assess the performance of the applicant.”

3. During the pendency of the O.A., the Govt. has passed an order on 27.3.2017 (A-25) at page Nos. 89 and 90 of the O.A., from which it seems that the respondent have accepted the fact that the C.R. needs to be upgraded and the request of the applicant whereby his ACRs for the years 2012-2013 and 2013-2014 have been upgraded from B to B+. So even though, under the garb of revision of the C.Rs by upgrading it, in fact, no relief has been granted to the applicant, since even by B+ C.R., the applicant will not be entitled to be considered for IAS cadre by U.P.S.C. Since the U.P.S.C. guidelines do not show the category of C.R. B+ at all. In their category, it is B then A or A+. In case B+ C.R. is given, it is treated as B and, therefore, in that case, it will be nothing but denial of justice to the applicant, since his C.R. is as

good as not upgraded. Had it been the fact that the Government wants to upgrade the C.Rs of the applicant, it should have been upgraded from 'B' to at least 'A'.

4. The applicant has invited our attention to the Review Application filed against the order of this C.R. and upgradation to B+ category. Such representation is filed on 6.4.2017 and the same is still pending.

5. The learned P.O. has placed on record the communication dated 21.4.2018 whereby it has been stated that the decision will be taken on the Review Application filed on 6.4.2017 by the applicant within 15 days. The applicant apprehends that in case such decision is not taken as early as possible and if in the meantime, the Selection Committee Meeting (S.C.M.) is held for considering the candidates for IAS cadre, the

applicant will not be considered and in that case, the applicant will be put to an irreparable loss.

6. In view of the statement made by the respondents that the applicant's representation against upgradation of the C.Rs dated 6.4.2017 will be decided within 15 days. We direct respondent No.1 to take a decision on its own merits on the representation filed by the applicant on 6.4.2018 within two weeks or on or before UPSC, S.C.M. meeting from the date of this order whichever is earlier. If in the meantime, the Selection Committee Meeting for considering the IAS officers is taken place, decision of the said Selection Committee Meeting will be subject to the outcome of this O.A.

7. The Govt. shall given an opportunity to the applicant while considering his representation for review of the decision regarding

upgradation of his C.Rs dated 27.3.2017.

8. S.O. **four weeks.**

Member(A)
Chairman(J)

Vice-

Pdg

O.A. No. 917/2017 (D.B.)

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J) and
Shree Bhagwan,
Member(A)**

Dated : 23rd April 2018.

None for the applicant. Shri V.A. Kulkarni, the learned P.O. for the respondents 1 and 2. None for R.3.

S.O. **one week.**

Member(A)
Chairman(J)

Vice-

pdg.

O.A. No. 918/2017 (D.B.)

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J) and
Shree Bhagwan,
Member(A)**

Dated : 23rd April 2018.

None for the applicant. Shri
V.A. Kulkarni, the learned P.O. for

the respondents 1 and 2. None for
R.3.

S.O. one week.

Member(A)
Chairman(J)

Vice-

pdg.

O.A. No. 75/2016 & 42/2016.
(D.B.)

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J) and

actual monetary benefits flowing from the declaration in respect of the age of retirement, is hereby quashed and set aside. It is held that the respondent would be entitled to receive the monetary benefits in view the re-fixation of his salary from the date of the impugned judgment.”

3. The Ld. P.O. submits that the Govt. has sent judgment of the Hon'ble High Court for getting opinion from the Law and Judiciary Department, Govt. of Maharashtra, Mantralaya, Mumbai as to whether S.L.P. shall be preferred or not and for that purpose, the Govt. requires six weeks' time. The order of the High Court dated 5.3.2018 is to be complied with by the respondents and for such compliance, six weeks' time is granted.

S.O. after summer vacation.

Member(A)
Chairman(J)

Vice-

pdg.

O.A. No. 673/2013 (D.B.)

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J) and
Shree Bhagwan,
Member(A)**

Dated : 23rd April 2018.

C.P. 17/2017.

None for the applicant. Shri S.A. Sainis, the learned P.O. for the respondents.

S.O. **two weeks** for filing reply.

Member(A)
Chairman(J)

Vice-

pdg.

O.A. No. 606/2015 (D.B.)

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J) and
Shree Bhagwan,
Member(A)**

Dated : 23rd April 2018.

Heard Shri S.M. Khan, the Ld. counsel for the applicant and Shri A.M. Khadatkar, the learned P.O. for the respondents.

Closed for orders.

Member(A)
Chairman(J)

Vice-

pdg.

O.A. No. 689/2015 (D.B.)

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J) and
Shree Bhagwan,
Member(A)**

Dated : 23rd April 2018.

Shri R.V Shiralkar, Adv.
holding for Shri R. Joshi, the Ld.
counsel for the applicant and Shri
A.M. Ghogre, the learned P.O. for
the respondents.

S.O. 3.5.2018.

Member(A)
Chairman(J)

Vice-

pdg.

O.A. No. 835/2016 (D.B.)

Coram: Shri J.D. Kulkarni,

Vice-Chairman (J) and

Shree Bhagwan,

Member(A)

Dated : 23rd April 2018.

Heard Shri R.V. Shiralkar, the
Ld. counsel for the applicant and
Shri A.M. Ghogre, the learned P.O.
for the respondents.

S.O. **3.5.2018.**

Member(A)
Chairman(J)

Vice-

pdg.

O.A. No. 600/2016 (D.B.)

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J) and**

**Shree Bhagwan,
Member(A)**

Dated : 23rd April 2018.

Heard Shri A.M. Haque, the
Ld. counsel for the applicant and
Shri A.M. Khadatkhar, the learned
P.O. for the respondents.

S.O. after summer vacation.

Member(A)
Chairman(J)

Vice-

pdg.

O.A. No. 263/2018 (D.B.)

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J) and
Shree Bhagwan,
Member(A)**

Dated : 23rd April 2018.

Heard Shri S.M. Khan, the Ld. counsel for the applicant and Shri S.A. Deo, the learned C.P.O. for the respondent No.1.

2. The applicant is claiming directions to the respondents to relax the age limit of 40 years in case of the applicant for appearing in the Maharashtra Finance and Accounts Service, Class-III Examination (MFAC) and to allow her to appear for the said examination which is being held from 24th April 2018 to 27th April 2018. As per rules, a person to be held eligible for such examination, must have experience of five years and must have passed the qualifying examination i.e. the

MFAC Examination. Admittedly, the applicant has cleared that examination on 2.7.2016 and no examination was held in the years 2016-2017 and in the meantime, the applicant has crossed the age of 40 years. In short, the applicant did not get a chance to appear for the said examination, though she acquired requisite qualification and was below the age of 40 years, since no examination was held by the as per the Recruitment Rules. In view thereof, the respondents are directed to allow the applicant to appear for the examination to be held in between 24th April 2018 to 27th April 2018. It is, however, further made clear that the result of the said examination so far as the applicant is concerned, will be subject to the outcome of this O.A.

3. Issue notices to respondent Nos. 2 and 3 returnable within **four weeks**.

4. Shri S.A. Deo, Ld. CPO waives notice for respondent No.1. Hamdast granted.

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

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

7. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunals (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 or courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within

three weeks. Applicant is directed to file Affidavit of compliance and notice.

9. S.O. **four weeks**

Member(A)

Vice-Chairman(J)

pdg.