

**ORIGINAL APPLICATION ST. NO.1138/2020  
(Vishnu S. Sanap Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Shri Ameya Sabnis, learned Advocate for the applicant is **absent**.

Shri M.S.Mahajan, learned Chief Presenting Officer for the respondents is present.

2. Today, when the present matter is taken up for consideration no one has caused appearance for the applicant. Record shows continuous absence of the applicant and his Counsel on previous dates. There is reason to believe that the applicant has lost interest in prosecuting the present matter. However, in the interest of justice, we deem it appropriate to give one last chance for the applicant to make submissions on the point of office objections raised. If on the given date, the matter is not proceeded further the same shall be dismissed for want of prosecution.

4. S.O. to 18-01-2022.

**MEMBER (A)**

**MEMBER (J)**

**ORIGINAL APPLICATION NO.639/2021**  
**(Dr. Sanjay Kadam & 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 : 03.01.2022**

**ORAL ORDER :**

Heard Shri A.S.Deshmukh learned Advocate holding for Shri Sanjay B. Bhosale, learned Advocate for the applicants and Shri M.S.Mahajan, learned Chief Presenting Officer for the respondents.

2. Matter be placed **First On Board** tomorrow i.e. on 04-01-2022.

**MEMBER (A)**

**MEMBER (J)**

**ORIGINAL APPLICATION NO.813/2018  
(Robinson Masih Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Heard Shri N.B.Narwade, learned Advocate for the applicant and Shri D.R.Patil, learned Presenting Officer for the respondents.

2. Arguments of both sides are heard for some time. Accordingly, learned P.O. has made mention of the communication received from Superintendent of Police, Ahmednagar dated 13-10-2021 which had been taken on record during hearing on 25-11-2021, relevant part of which reads as follows:

“iksyhl mi vk;qDr] xqUgs] iq.ks 'kgj ;kauh  
R;kaps dMhy i= dz-  
iksmvk@xqUgs@rkafifo@963@2021] fnukad  
30@9@2021 vUo;s dGfoys dh] Inj ckcrph  
ekx.kh dsysyh xksifu; ekfgrh lu 2015 o”kkZph  
vkgs- Hkkjrh; VsyhxzkQ dk;nk lu 1885 (DOT)  
;kauh funsZ’k dsysY;k fu;ekuqlkj ek- iksyhl  
vk;qDr lkks] iq.ks 'kgj ;kaph ijokuxh ?ksmu  
fnukad 23@08@2015 jksth u”V dj.;kar vkysyh  
vkgs- rjh ekx.kh dsysyh ekghrh rkaf=d fo’ys”k.k

foHkkx] xqUgs 'kk[kk] iq.ks 'kgj dk;kZy;kus u"V  
dsyh vIY;kus nsrk ;soq 'kdr ukgh- lkscr Inj  
i=kP;k Nk;kafdr izr lknj dsyh vkgs-

=2=

O.A.NO.813/2018

3. In view of above, the learned Presenting Officer has been advised to submit a true copy of rules framed under Indian Telegraph Act, 1885 which prescribes protocol for preservation and destruction of records relating to grant of permission to tap telephonic conversation and also to submit copy of process followed according to the same, by way of evidence that the copy of permission for phone tapping has been destroyed on expiry of its preservation period.

4. Learned Advocate for the applicant is also required to produce any evidence such as reporting to superiors or maintaining confidential record of the intelligence gathered by the applicant etc. as maintained by the applicant. These may help in evaluating the claims of the applicant that telephonic conversation in respect of which the transcript had been presented by the respondents actually related to his task of intelligence gathering relating to crime of chain snatching etc. The matter be treated as part heard.

5. S.O. to 11-01-2022.

**MEMBER (A)**

YUK ORAL ORDERS 03.01.2022

**MEMBER (J)**

**ORIGINAL APPLICATION NO.316/2019**  
**(Shamlal Bhagure Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Heard Shri M.K.Bhosale, learned Advocate for the applicant and Shri I.S.Thorat, learned Presenting Officer for the respondents.

2. When today the arguments were heard in the present matter, it is revealed that Departmental Enquiry initiated against the present applicant alongwith some others in the year 2016 has not been proceeded further. Chargesheet was issued in the year 2016. We have gone through the charges leveled against the applicant. Apparently, the charges are serious. There are guidelines in respect of conducting and completing departmental enquiries. Though there is no outer limit for completing the enquiries, it is expected that the departmental enquiries are completed within reasonable period. In the present matter, the enquiry has not yet reached to the stage of examining witnesses.

3. We have gone through the Say submitted in the matter by the respondent no.2. Deputy Inspector General of Police, Prisons and Correctional Services, Aurangabad has sworn the said affidavit. The contents of the affidavit in reply do not specify the justifiable reasons for the delay which is being made in conducting the Departmental

Enquiry. It may not be advisable to make any further comment on the seriousness of the charges leveled against the applicant but we regret to state that no steps are taken for proceeding further with the enquiry.

4. In the circumstances, we are constrained to direct the Additional Chief Secretary (Home), Maharashtra State, Mantralaya, Mumbai to look into the matter and to find out why the enquiry has not been proceeded further after about 5 years of issuance of the chargesheet and submit its report to this Tribunal within 4 weeks.

5. Learned P.O. to communicate this order to the Additional Chief Secretary (Home), State of Maharashtra, Mantralaya, Mumbai.

6. Steno copy is allowed for the use of learned P.O.

7. S.O. to 14-02-2022.

**MEMBER (A)**

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 210 OF 2021**  
**(Lala M. Jadhavar Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Heard Shri S.T. Chalikwar, learned Advocate for the applicant, Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondent Nos. 1 & 6 and Shri A.D. Gadekar, learned Advocate for respondent Nos. 2 to 5.

2. Record shows that the affidavit in reply is already filed on behalf of respondent Nos. 2 to 5
3. Learned Presenting Officer filed affidavit in reply on behalf of respondent No. 6. Same is taken on record and copy thereof has been served on the other side.
4. As per the Circular No. MAT/MUM/ESTT/732/ 2021, dated 25/28.05.2021 issued by the Hon'ble Chairperson of the Maharashtra Administrative Tribunal, Mumbai, the matters regarding time bound promotion and ACPS are to be dealt with by the Division Bench. The present matter is pertaining to benefit of time bound promotion/Recovery.
5. In view of the same, the present matter be placed before the Division Bench for further hearing.
6. S.O. to 14.02.2022.

**MEMBER (J)**



**ORIGINAL APPLICATION NO. 289 OF 2021**  
**(Madhukar L. Pradhan Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Heard Smt. Vidya Taksal, learned Advocate holding for Shri Avinash S. Deshmukh, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. Record shows that the affidavit in reply on behalf of respondent No. 4 is already filed on record.
3. Learned Presenting Officer filed affidavit in reply on behalf of respondent Nos. 1 to 3. Same is taken on record and copy thereof has been served on the other side.
4. S.O. to 03.02.2022 for filing rejoinder affidavit, if any.

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 346 OF 2021**  
**(Dilip P. Patil Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

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

2. Learned Advocate for the applicant filed affidavit in rejoinder. Same is taken on record and copy thereof has been served on the other side.
3. S.O. to 07.02.2022.

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 444 OF 2021**  
**(Shivkumar A. Pohal Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

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

2. At the request of learned Chief Presenting Officer, time is granted for filing affidavit in reply on behalf of respondents.
3. S.O. to 09.02.2022.

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 503 OF 2021**  
**(Vilas V. Bari Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

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

2. Learned Presenting Officer filed affidavit in reply on behalf of respondents. Same is taken on record and copy thereof has been served on the other side.
3. S.O. to 18.01.2022.

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 540 OF 2021**  
**(Bhujang V. Godbole Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

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

2. Learned Advocate for the applicant filed affidavit in rejoinder. Same is taken on record and copy thereof has been served on the other side.
3. S.O. to 19.01.2022.

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 690 OF 2021**  
**(Dr. Arvindkumar N. Waghmare Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Heard Shri J.S. Deshmukh, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicant, issue fresh notices to the respondents, returnable on 27.01.2022.

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

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O.A. No. 690/2021

(Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

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

7. S.O. to 27.01.2022.

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

**MEMBER (J)**

**M.A. No. 373/2018 in O.A. St. No. 1652/2018  
(Keshav G. Lohar Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Heard Shri A.D. Gadekar, learned Advocate for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents.

2. Record shows that affidavit in reply on behalf of respondent Nos. 2 and 3 in M.A. is already filed on record.
3. At the request of learned Presenting Officer, time granted as a last chance for filing affidavit in reply on behalf of respondent Nos. 1 and 4 in M.A.
4. S.O. to 28.01.2022.

**MEMBER (J)**



**M.A. No. 96/2020 in O.A. St. No. 239/2020  
(Kailas R. Walekar Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

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

2. Record shows that affidavit in reply is already filed on behalf of respondent Nos. 4 to 6 in M.A.
3. At the request of learned Presenting Officer, one more last chance is granted for filing affidavit in reply on behalf of respondent Nos. 1 to 3 in M.A.
4. S.O. to 27.01.2022.

**MEMBER (J)**

**ORIGINAL APPLICATION ST. NO. 707 OF 2021  
(Abhay Devidas Maske Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Shri S.S. Kulkarni / V.S. Kadam, learned Advocate for the applicant (**Absent**). Heard Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. On last so many dates i.e. on 14.10.2021, 28.10.2021 & 26.11.2021 none present on behalf of the applicant. It seems that the applicant is not interested in prosecuting the present O.A. Hence, the Original Application stands dismissed in default with no order as to costs.

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 832 OF 2021**  
**(Suraj B. Solunke Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

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

2. Issue notices to the respondents, returnable on 07.02.2022.

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.

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O.A. No. 832/2021

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 07.02.2022.
8. Steno copy and Hamdast is allowed to both parties.

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 834 OF 2021**  
**(Syed Khaled Syed Khalil Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

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

2. Issue notices to the respondents, returnable on 08.02.2022.

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.

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O.A. No. 834/2021

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 08.02.2022.
8. Steno copy and Hamdast is allowed to both parties.

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 16 OF 2020**  
**(Sahebrao S. Kale Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

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

2. Pleadings are complete. The present matter is pertaining to regularization of suspension period/pensionary benefits. Hence, the O.A. is admitted and it be kept for final hearing on 27.01.2022.

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 17 OF 2020**  
**(Bapurao R. Patil Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Heard Shri J.S. Deshmukh, learned Advocate for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents.

2. Pleadings are complete. The present matter is pertaining to regularization of suspension period/pensionary benefits. Hence, the O.A. is admitted and it be kept for final hearing on 27.01.2022.

**MEMBER (J)**



**ORIGINAL APPLICATION NO. 18 OF 2020**  
**(Shivnath U. Vyavhare Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Heard Shri J.S. Deshmukh, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. Pleadings are complete. The present matter is pertaining to regularization of suspension period/pensionary benefits. Hence, the O.A. is admitted and it be kept for final hearing on 27.01.2022.

**MEMBER (J)**

KPB ORAL ORDERS 03.01.2022

**ORIGINAL APPLICATION NO. 19 OF 2020**  
**(Pralhad L. Rathod Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

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

2. Learned Advocate for the applicant submits that he will carry out necessary requisite amendment in the O.A. during the course of the day.
3. At the request of learned Presenting Officer, time is granted for filing affidavit in reply on behalf of respondents.
4. S.O. to 27.01.2022.

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 316 OF 2021**

**(Manikarni N. Rankhamb @ Monikarni S. Kanke Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Heard Shri H.P. Jadhav, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. At the request of learned Presenting Officer for the respondents, time is granted for making compliance of the direction given by this Tribunal on 03.12.2021.

3. S.O. to 27.01.2022.

**MEMBER (J)**

KPB ORAL ORDERS 03.01.2022

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

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

**DATE : 03.01.2022**

**ORAL ORDER :**

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

2. Learned Presenting Officer filed affidavit in reply on behalf of respondent Nos. 1 and 2. Same is taken on record and copy thereof has been served on the other side.

3. Learned Advocate for the applicant submits that the applicant does not wish to file rejoinder affidavit.

4. Pleadings are complete. The present matter is pertaining to seeking directions. Hence, the O.A. is admitted and it be kept for final hearing on 13.01.2022.

**MEMBER (J)**

**M.A. 138/2020 in M.A. 89/2019 in O.A. St. 43/2019  
(Gunjaji D. Rathod Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Shri K.B. Dantal, learned Advocate for the applicant (**Absent**). Heard Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. As none present for the applicant, S.O. to 14.02.2022 for passing necessary order.

**MEMBER (J)**

KPB ORAL ORDERS 03.01.2022

**ORIGINAL APPLICATION NO. 982 OF 2019**  
**(Govind Y. Bharasakhale Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

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

2. At the request of learned Presenting Officer for the respondents, S.O. to 09.02.2022.

**MEMBER (J)**

KPB ORAL ORDERS 03.01.2022

**M.A. No. 18/2020 in O.A. No. 81/2018**  
**(Sayyed Wali Abdul Khadar Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Heard Shri D.A. Bide, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. Learned Presenting Officer submits that by the order dated 30.11.2021, one more last chance was granted for filing affidavit in reply to the respondent subject to payment of costs of Rs. 1,000/-. He further submits that the affidavit in reply on behalf of respondent Nos. 1 to 3 in the present matter was already prepared and affirmed on 26.11.2021. However, on 30.11.2021, the same could not be placed on record, as it was misplaced. Today he has filed affidavit in reply on behalf of respondent Nos. 1 to 3.

3. In the circumstances, in my opinion, it would be just and proper to recall the order of costs dated 30.11.2021. Hence, the order dated 30.11.2021 is recalled and the said affidavit in reply of respondent Nos. 1 to 3 in M.A. is taken on record and copy thereof has been served on the other side.

4. S.O. to 25.01.2022 for filing rejoinder affidavit, if any.

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 527 OF 2021**  
**(Devidas S. Gadekar Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Heard Shri Dilip Mutalik, learned Advocate holding for Shri J.B. Choudhary, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. Learned Advocate for the applicant placed on record written instruction dated 14.12.2021 received from the applicant and seeks permission to withdraw the present Original Application. Same is taken on record and marked as document 'X' for the purpose of identification.

3. I have no reason to refuse permission to withdraw the present Original Application. Permission is granted. Hence, the O.A. stands disposed of as withdrawn. There shall be no order as to costs.

**MEMBER (J)**



**ORIGINAL APPLICATION NO. 528 OF 2021**  
**(Asaram B. Bilpe Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Heard Shri Dilip Mutalik, learned Advocate holding for Shri J.B. Choudhary, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant placed on record written instruction dated 14.12.2021 received from the applicant and seeks permission to withdraw the present Original Application. Same is taken on record and marked as document 'X' for the purpose of identification.

3. I have no reason to refuse permission to withdraw the present Original Application. Permission is granted. Hence, the O.A. stands disposed of as withdrawn. There shall be no order as to costs.

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 532 OF 2021  
(Kaviraj J. Kucche Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Heard Shri K.G. Salunke, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. Record shows that no rejoinder affidavit is filed by the applicant to the affidavit in reply filed by the respondents.
3. During the course of arguments, learned Advocate for the applicant submits that the contentions raised in the affidavit in reply are not proper and he submits that the said contentions can be dealt with by some documents, some of which are already on record and some of which can be produced by the applicant.
4. In these circumstances, the applicant can meet the contentions raised in the affidavit in reply by filing short affidavit / rejoinder affidavit with documents. Time granted.
5. S.O. to 05.01.2022.

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 872 OF 2018  
(Arun M. Gir Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Shri A.G. Ambetkar, learned counsel for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents, are present.

2. On 30<sup>th</sup> August, 2021 an issue was raised as about the territorial jurisdiction and the applicant was directed to satisfy the Tribunal on the said point.

3. Heard the arguments advanced by learned counsel appearing for the applicant and the learned Presenting Officer appearing for the respondents. Perused the documents placed on record. In view of the fact that the departmental enquiry was initiated against the applicant when he was posted at Ahmednagar, we are convinced that the jurisdiction will lie with this Tribunal. We hold accordingly.

2. Issue notice to respondents, returnable on 10.02.2022.

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.

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 10.02.2022.

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

**MEMBER (A)**

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 603 OF 2021  
(Sumit G. Dongre & 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 : 03.01.2022**

**ORAL ORDER :**

Shri S.B. Solanke, learned counsel holding for Shri A.V. Thombre, learned counsel for the applicants and Smt. M.S. Patni, learned Presenting Officer for the respondents, are present.

2. Learned Presenting Officer sought time for filing affidavit in reply. Granted by way of last chance.

3. S.O. to 4.2.2022.

**MEMBER (A)**

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 614 OF 2021  
(Varsha V. Malaskar Vs. State of Maha. & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Shri S.B. Solanke, learned counsel holding for Shri Pramod C. Mayure, learned counsel for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents, are present.

2. Learned Presenting Officer sought time for filing affidavit in reply. Granted by way of last chance.

3. S.O. to 17.1.2022.

**MEMBER (A)**

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 395 OF 2021  
(Bhau N. Chaudhari Vs. State of Maha. & Ors.)**

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

**DATE :** 03.01.2022

**ORAL ORDER :**

Shri S.D. Joshi, learned counsel holding for Shri Ajit M. Gholap, learned counsel for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents, are present.

2. Learned Presenting Officer submits that during the course of the day affidavit in reply on behalf of respondent No. 3 will be filed. She undertakes to supply the copy of the same to the learned counsel for the applicant.

3. S.O. to 3.2.2022 for further consideration.

**MEMBER (A)**

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 378 OF 2021  
(Raju Husen Sayyed Vs. State of Maharashtra & Ors.)**

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

**DATE :** 03.01.2022

**ORAL ORDER :**

Shri Gaurav L. Deshpande, learned counsel for the applicant (**absent**). Shri I.S. Thorat, learned Presenting Officer for the respondents, present.

2. Affidavit in reply is not filed. S.O. to 3.2.2022.

**MEMBER (A)**

**MEMBER (J)**



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

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Shri K.B. Jadhav, learned counsel holding for Shri Ashish B. Rajkar, learned counsel for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents, are present.

2. Learned Presenting Officer sought time for filing affidavit in reply. Granted.

3. S.O. to 10.2.2022.

**MEMBER (A)**

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 277 OF 2021  
(Shivaji N. 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 : 03.01.2022**

**ORAL ORDER :**

Shri Kakasaheb B. Jadhav, learned counsel for the applicant and Smt. Sanjivani Deshmukh-Ghate, learned Presenting Officer for the respondents, are present.

2. Learned Presenting Officer sought time for filing sur-rejoinder. Granted.

3. S.O. to 10.2.2022. Interim relief granted earlier to continue till then.

**MEMBER (A)**

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 264 OF 2021  
(Sapna Dilip Nikam Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Shri S.B. Solanke, learned counsel for the applicant and Mrs. Deepali S. Deshpande, learned Presenting Officer for the respondents, are present.

2. Learned counsel for the applicant has filed affidavit in rejoinder and the same is taken on record and the copy thereof has been served on the other side.

3. S.O. to 3.2.2022 for further consideration.

**MEMBER (A)**

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 282 OF 2021  
(Seema S. Jaybhaye Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Shri S.B. Solanke, learned counsel for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents. are present.

2. Learned counsel for the applicant has filed affidavit in rejoinder and the same is taken on record and the copy thereof has been served on the learned Presenting Officer.

3. S.O. to 1.2.2022 for further consideration.

**MEMBER (A)**

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 156 OF 2021  
(Jayshree A. Sonwane Vs. State of Maharashtra & Ors.)**

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

**DATE :** 03.01.2022

**ORAL ORDER :**

Shri S.D. Dhongde, learned counsel for the applicant and Mrs. Deepali S. Deshpande, learned Presenting Officer for the respondents, are present.

2. Learned Presenting Officer sought time for filing affidavit in reply. Granted.

3. S.O. to 9.2.2022.

**MEMBER (A)**

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 670 OF 2018  
(Kishan A. Falke & 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 : 03.01.2022**

**ORAL ORDER :**

Shri Ramesh I. Wakade, learned counsel for the applicants and Mrs. Deepali S. Deshpande, learned Presenting Officer for the respondents, are present.

2. Learned counsel for the applicant has filed affidavit in rejoinder and the same is taken on record and the copy thereof has been served on the other side.

3. S.O. to 9.2.2022 for further consideration.

**MEMBER (A)**

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 102 OF 2020  
(Swati G. Jagdhane Vs. State of Maharashtra & Ors.)**

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

**DATE :** 03.01.2022

**ORAL ORDER :**

Shri R.M. Deshmukh, learned counsel for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents, are present.

2. Learned Chief Presenting Officer seeks short accommodation for filing sur-rejoinder. Granted.

3. S.O. to 1.2.2022.

**MEMBER (A)**

**MEMBER (J)**

**C.P.NO. 11/2021 IN O.A.NO. 558/2020  
(Vithal T. Jadhav Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Shri A.D. Sugdare, learned counsel for the applicant has filed leave note. Shri D.R. Patil, learned Presenting Officer for the respondents, present.

2. Learned Presenting Officer has filed separate affidavits in reply on behalf of respondent Nos. 2 & 3 and the same are taken on record. He undertakes to supply the copies of the same to the learned counsel for the applicant.

3. S.O. to 8.2.2022.

**MEMBER (A)**

**MEMBER (J)**

ORAL ORDERS 03.01.2022 – HDD



**C.P.NO. 26/2020 IN O.A.NO. 772/2018  
(Anil S. Barkul Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Shri Kishor D. Khade, learned counsel for the applicant (**absent**). Shri B.S. Deokar, learned Presenting Officer for the respondents, present.

2. Learned Presenting Officer sought time for filing affidavit in reply. Granted.

3. S.O. to 8.2.2022.

**MEMBER (A)**

**MEMBER (J)**

ORAL ORDERS 03.01.2022 – HDD

**C.P.NO. 19/2020 IN O.A.NO. 704/2017  
(Asman D. Garje & Ors. Vs. State of Maharashtra & Ors.)**

**WITH**

**C.P.NO. 27/2020 IN O.A.NO. 749/2017  
(Mohd. Abdul Hai Mohd. Abdul Gani & 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 : 03.01.2022**

**ORAL ORDER :**

Shri Dilip Mutalik, leaned counsel holding for Shri J.B. Choudhary, learned counsel for the applicants in both these cases and S/Shri V.R. Bhumkar & D.R. Patil, learned Presenting Officers for the respective respondents in respective cases, are present.

2. Shri V.R. Bhumkar, learned Presenting Officer submits that the order dated 18.12.2019 passed by this Tribunal in O.A. Nos. 704 & 749 both of 2019 is challenged by filing W.P. No. 1683/2021 before the Hon'ble High Court of Judicature at Bombay Bench at Aurangabad and the same is pending. In view of the same, S.O. to 7.2.2022.

**MEMBER (A)**

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 248 OF 2021  
(Sunil S. Pawar Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Shri V.G. Salgare, learned counsel for the applicant and Smt. Sanjivani Deshmukh-Ghate, learned Presenting Officer for the respondent Nos. 1, 5 & 6, are present. Shri Sham Patil, learned counsel for respondent Nos. 2 to 4 (**absent**).

2. Learned Presenting Officer has tendered across the bar the affidavit in reply on behalf of respondent No. 4 and the same is taken on record and copy thereof has been served on the learned counsel for the applicant. She sought time for filing affidavit in reply on behalf of other respondents.

3. S.O. to 10.2.2022.

**MEMBER (A)**

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 261 OF 2021  
(Ratan A. Suradkar Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

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

2. When the present Original Application is taken up for consideration, the learned Presenting Officer has tendered across the bar the letter dated 31.12.2021 received to him. Along with the said letter, the order dated 21.12.2021 is annexed. We have gone through the said order from which it appears that the prayers which are made by the applicant in the present application have been accepted by the respondents. Learned counsel for the applicant is not disputing the fact that such order is passed.

3. In view of the fact that the prayers made by the applicant in the present application are fully satisfied, the O.A. is disposed of without any order as to costs.

**MEMBER (A)**

**MEMBER (J)**

**C.P.NO.02/2020 IN O.A.NO.10/2019**  
**(Shridevi Mahanwar Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Shri H.P. Jadhav, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents, are present.

2. S.O. to 4.2.2022.

**MEMBER (A)**

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 362/2018**  
**(Ganesh S. Rathod Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Shri S.D. Joshi, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents, are present.

2. The present petition is filed in the year 2018. It is the contention of the applicant that he has passed the written test and accordingly was invited for practical test. It is his further contention that subsequently he was communicated vide communication dated 14.9.2017 that his name has been wrongly included in the list of candidates, who have passed the written test, and as such, he shall not appear for the practical test. The applicant has filed this O.A. contending that despite the efforts made by him to know the reasons for which the list was revised and some another candidate than him was selected from the category of Project Affected Persons, the respondents did not provide any such information to him.

3. In the written statement filed by the respondents when it is their stand that some complaints were received about the marks given in the written test and in view of the

said complaints a Committee was appointed and the said Committee after scrutinizing the objections submitted its report and on that basis the revised list was prepared, it was incumbent on their part to place on record all said documents. Without these documents produced on record, no specific conclusion can be arrived at whether there are any mala-fides on the part of the respondents in revising the merit list. In the order passed by us on 6.12.2021, it is specifically stated that this information requires to be placed on record by the respondents. No such documents are filed on record by the respondents.

4. In the above circumstances, we direct the respondents concerned to place on record all the relevant documents referred to above on the next date.

5. S.O. to 12.1.2022.

**MEMBER (A)**

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 959/2018**  
**(Madhvi P. Sigedar Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Shri V.G. Pingle, learned Advocate for the applicant, Smt. Deepali Deshpande, learned Presenting Officer for the respondent nos. 1 to 3 and Shri Nitin S. Ingle learned Advocate for respondent no. 4, are present.

2. Arguments of learned counsel for the parties are heard at length. Learned Counsel appearing for the respondent no. 4 has also advanced his arguments. The learned Counsel for respondent no. 4 has sought time to place on record certain judgments on the issue involved in the present matter.

3. The matter stands adjourned for citing the judgments by the learned Counsel for respondent no. 4.

4. S.O. to 5.1.2022. High on Board. The matter be treated as part heard.

**MEMBER (A)**

**MEMBER (J)**



**ORIGINAL APPLICATION NO. 1057/2019**  
**(Jivan B. Thosar Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Shri Swapnil A. Deshmukh, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents, are present.

2. At the request of learned Counsel for the applicant, S.O. to 20.1.2022.

**MEMBER (A)**

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 790/2018  
(Vaishali M. 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 : 03.01.2022**

**ORAL ORDER :**

Shri Dhananjay B. Thoke, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents, are present.

2. At the request of learned Counsel for the applicant, S.O. to 17.1.2022.

**MEMBER (A)**

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 117/2019**  
**(Sainath K. Matkar Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Shri Prasad D. Jarare, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents, are present.

2. The learned P.O. submits that the meeting of the Departmental Promotion Committee is already held, however, the minutes are yet to be prepared. The learned P.O., therefore, has sought time for 2 weeks. Time granted as prayed for.

3. S.O. to 20.1.2022.

**MEMBER (A)**

**MEMBER (J)**

**O.A.NOS. 279/1998, 280/1998, 281/1998 & 282/1998  
(Suresh Sathe & 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 : 03.01.2022**

**ORAL ORDER :**

Shri A.G. Ambedkat, learned Counsel holding for Shri P.B. Shirsat, learned Counsel for the applicants in all the matters and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents in all the matters, are present.

2. This is a group of 4 matters. The learned C.P.O. brought to our notice that the present O.A. is based on the award passed by the learned Labour Court, Ahmednagar in reference I.D.A. No. 5/1990. It is further brought to our notice that the award passed by the learned Labour Court is under challenge in the writ petition filed before the Hon'ble High Court and same is yet pending. From the orders passed in the past by the Tribunal it is revealed that the matter has not been heard till date on the ground that the concerned award on the basis of which the present O.As. are filed, is under challenged before the Hon'ble High Court. The award is passed by the Labour Court on 3.8.1994. The writ petition challenging the said order is filed in the year 1995 and the same is still pending. The present O.As. are filed in the year 1998.

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**O.A.NOS. 279/1998, 280/1998,  
281/1998 & 282/1998**

3. At the request of learned Counsel for the applicants,  
S.O. to 4.1.2022.

**MEMBER (A)**

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 153/2017**  
**(Dr. Ramnath B. Hemke Vs. State of Maharashtra & Ors.)**

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

**DATE :** **03.01.2022**

**ORAL ORDER :**

Shri J.S. Deshmukh, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondent nos. 1 to 3, are present. Shri A.D. Aghav, learned Counsel for respondent nos. 4 & 5 (**absent**).

2. In this matter the applicant has contended that under the provisions of G.R. of Public Health Department bearing No. संआसे-२०१४/प्र.क्र.१६९/सेवा-१, dated 17.10.2014 (page 68 of paper book) the applicant's services have been placed under the administrative control of the State sector and therefore the Chief Executive Officer, Zilla Parishad has no power to place the applicant under suspension, initiate D.E. or inflict the minor punishment.

3. On the other hand, the learned P.O. has contended that in the present case placing the applicant under suspension and initiation of Departmental Enquiry has occurred prior to issuance of G.R. dated 17.10.2014 and to that extent there is no lacuna in the same. He also stated that the Chief Executive Officer, Z.P. has power to

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**O.A. NO. 153/2017**

inflict minor penalty on applicant. Accordingly the learned P.O. assured to submit the copy of Government order, which empowers the C.E.O., Z.P. to inflict minor punishment upon the Medical Officer of the rank of applicant working on the establishment of the Zilla Parishad.

4. The learned Counsel for the applicant has also assured to submit on record the copy of Notification as an evidence to show that by the said notification the Government has granted status of Gazetted Officer to the applicant under administrative control of State Sector of Public Health Department.

5. S.O. to 14.1.2022.

**MEMBER (A)**

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 288 OF 2020  
(Sandip Shivaji Markad Vs. State of Maharashtra & Ors.)**

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

**DATE : 03.01.2022**

**ORAL ORDER :**

Heard Shri Arvind G. Ambetkar, learned counsel for the applicant, Smt. M.S. Patni, learned Presenting Officer for the respondent Nos. 1 to 3, Shri V.C. Suradekar, learned counsel for respondent No. 4 and Shri R.A. Tambe, learned counsel for respondent No. 5.

2. In the present O.A., it is the contention of the applicant that reservation prescribed for physically handicapped candidates is independent of the reservation provided for particular class i.e. Open, S.C., S.T. etc. and the vacancies of the handicapped candidates are to be determined against the total number of vacancies. Learned counsel for the applicant submits that total 66 posts of Talathis were to be filled in. All these posts were for the candidates belonging to backward class. Accordingly, in the advertisement the number of posts reserved for each of such class was also prescribed. As per the said advertisement 21 posts were reserved for the candidates belonging to other backward class (OBC). The applicant belongs to the said class.



3. In the selection process the 2 candidates, who were found eligible to be selected from the category of physically handicapped persons are coming from the OBC class. In the circumstances, the said 2 appointments are counted against the posts reserved for OBC. It is the contention of the applicant that since the vacancies of the physically handicapped candidates cannot be counted against the posts reserved for particular class and are against the total number of vacancies in general, two posts should not have been reduced of OBC's on the ground that both the physically handicapped candidates are belonging to OBC category.

4. It is the case of the applicant that because of such interpretation made by the authorities his chance of employment has been lost though he has secured more marks than the physically handicapped candidates selected from the said category. Learned counsel for the applicant placed reliance on the provisions of The Rights of Persons with Disabilities Act, 2016 and has also placed reliance on the following judgment:-

**(i) UNION OF INDIA AND ANOTHER VS. NATIONAL FEDERATION OF THE BLIND AND OTHERS reported in 2013 DGLS(SC) 836**

3. Relying on the provisions of the Disabilities Act and the law laid down in the aforesaid judgment, it was prayed

that selection of two physically handicapped candidates shall not be held to be against the seats reserved for the OBC class and the applicant, who has secured more marks than the said candidates, shall be given appointment being OBC candidate falling within the number of seats reserved i.e. 21.

5. Learned Presenting Officer opposed the submissions made on behalf of the applicant. She invited our attention to the Government Resolution dated 29<sup>th</sup> May, 2019, wherein a detailed procedure is prescribed as about filling the post of physically handicapped persons. Paragraph 9 of the said Government Resolution particularly deals with the aspect which we reproduce herein below as it is : -

“९. दिव्यांग व्यक्तीचा समावेश :- दिव्यांग व्यक्तींसाठी ठेवण्यात आलेले आरक्षण हे समांतर आरक्षण आहे. समांतर आरक्षण हे सामाजिक व खुला या दोन्ही भागात विभक्त होणारे आरक्षण आहे. परंतु दिव्यांग व्यक्तींसाठी आरक्षित पदे खुला किंवा सामाजिक आरक्षण प्रवर्गात दर्शविण्यात येत नाहीत. दिव्यांगासाठी राखीव पदे वेगळी दर्शविण्यात येतात. दिव्यांगासाठी आरक्षित पदावर गुणवत्तेनुसार निवड झालेल्या उमेदवारांचा समावेश तो ज्या प्रवर्गाचा आहे त्या प्रवर्गातून करण्यात येतो. जसे अनुसूचित जाती किंवा जमातीचा असल्यास त्यासाठी विहित केलेल्या बिंदूवर समाविष्ट करावे तसेच अनुसूचित जमातीचा उमेदवार असल्यास त्यासाठी विहित केलेल्या बिंदूवर त्याच्यासाठी निश्चित करण्यात आलेल्या बिंदूवर व उमेदवार खुला असल्यास खुल्याच्या बिंदूवर दर्शविण्यात यावा. परंतु जेव्हा सामाजिक आरक्षण प्रवर्गातील अथवा खुला प्रवर्गातील एखादया उमेदवाराची निवड झाल्यास व त्या प्रवर्गाचा बिंदू रिक्त नसल्यास भविष्यात त्याच्या प्रवर्गाच्या रिक्त होणा-या बिंदूवर त्याचा समावेश करण्यात यावा. अन्य बिंदूवर त्याचा समावेश करण्यात येतू नये.”

6. In view of the aforesaid Government Resolution, we do not find that any error has been committed by the respondents. It is not disputed that both the physically handicapped candidates are coming from the OBC. In the circumstances, their selection is counted against the posts reserved for OBC and though the applicant has secured more marks than these candidates his chance of getting appointment has been unfortunately lost. In the circumstances, it does not appear to us that any case is made out by the applicant to accept prayer made in the application. In the result the following order is passed: -

**ORDER**

The present Original Application is dismissed without any order as to costs.

**MEMBER (A)**

**MEMBER (J)**