

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO 1116 OF 2016**

DISTRICT : PUNE

Smt Ulka Sachin Salunke,)
Working as Computer Instructor,)
At Government Technical High School,)
Kavathe Mahankal, Dist-Sangli.)...**Applicant**

Versus

The State of Maharashtra & Ors)...**Respondents**

Shri Sachin P. Salunke, Power of attorney of Smt Ulka S. Salunke, applicant in person.

Ms Savita Suryavanshi, learned Presenting Officer for the Respondents.

CORAM : **Shri Justice A.H Joshi (Chairman)**

DATE : **03.11.2018**

ORDER

1. Heard Shri Sachin P. Salunke, Power of Attorney of Smt Ulka S. Salunke, applicant in person and Ms Savita Suryavanshi, learned Presenting Officer for the Respondents.

2. This Original Application was heard and reserved for orders.

3. It has transpired during perusal of papers that this Tribunal had in the judgment and order dated 1.7.2014 in O.A 98/2010, operative order which reads as follows:-

“19. Therefore, for the foregoing the charge against the applicant covering the period pre 16th April, 2007 is hereby quashed finally. It shall not be reopened. As for the rest, for the foregoing the matter is remitted to the appellate authority to decide the appeal relating to the period post 16th April, 2007 after affording an opportunity of being heard to the applicant. He shall act in accordance with the observations herein made and decide the appeal by 31st August, 2014 and report compliance to this Tribunal.”

(Quoted from page 41 of O.A)



4. The result and consequence of the order of this Tribunal quoted in foregoing paragraph is that the applicant was fully exonerated. This Tribunal had by employing eloquent language about quashing of charge sheet left the matter of decision on appeal of only about leave period of the applicant after 16.4.2007 and after effects, with a direction that the appeal be decided on or before 31.8.2014.

5. The authority Joint Secretary, Vocational Training and Appellate Authority, (Shri R.G Jadhav, as then was), passed order thereby reduced the punishment and reinstated the applicant in the same pay scale. The matter of leave of the applicant was referred to the higher authority and there upon a decision was taken by Joint Secretary, Vocational Education and Appellate Authority (Shri R.G Jadhav) holding that applicant shall not be entitled to any other benefits.

6. What prima facie emerges is that after the charge sheet was quashed, hardly any discretion was left to the Appellate Authority to go into the question of the matter of misconduct. There was no question of reducing the punishment and applicant was liable to be unconditional reinstated.

7. In so far as the period of forced unemployment is concerned, by virtue of Rule 70 of the Maharashtra Civil Services (Joining Time, Foreign Service and Payments during Suspension, Dismissal and Removal) Rules 1981, the applicant was entitled to be dealt with in accordance with the mandate of the said rules. It is seen that the Competent Authority, the then Director, Services and Accounts took a decision adverse to the applicant.

8. After applicant had filed present Original Application, Member (A) passed order on 24.7.2018 and directed the Competent Authority to take a decision.

9. Thereafter, this O.A was heard on 11.9.2018. This Tribunal passed order and interalia observed as follows:-

“11. Shri A.M Jadhav was called to state as to whether in the background of judicial pronouncement, it is open to the Respondents to urge to the contrary to what the judicial pronouncement is. At this stage, he prays for time to take corrective measures.”

(Quoted from order of this Tribunal dated 11.9.2018)

10. When the matter was taken for final hearing, learned P.O has tendered a compilation accompanied by letter dated 21.9.2018. This letter is signed by Shri A.M Jadhav, Director, Vocational Education, who has written to the learned P.O that the decision rendered by the Directorate earlier, i.e. probably order dated 6.9.2016 is thereby confirmed and no change in the matter is considered necessary.

11. It prima facie, appears that the Officer really did not understand the effect of the order which he has passed which is apparently contrary to the order of this Tribunal passed in O.A 98/2010.

12. In the result, it is considered necessary to call upon the Officer, who has written letter to the learned P.O on 21.9.2018, Shri A.M Jadhav, Director, Vocational Education & Training, Mumbai, to explain by filing affidavit as to under what authority of law he has taken a view of not reviewing the orders passed earlier. While filing affidavit, he is expected to take into account the order dated 1.7.2014 passed by this Tribunal in O.A no 98/2010 and orders passed thereby his office thereby sanctioning applicant's leave.

13. If corrective action is taken, this Tribunal may exempt Shri A.M. Jadhav from filing affidavit.

14. O.A be listed for compliance and further hearing on 28.11.2018.

15. Steno copy and Hamdast is granted. Learned P.O is directed to communicate this order to the Respondents.

Sd/-

(A.H. Joshi, J)
Chairman

Place : Mumbai
Date : 03.11.2018
Dictation taken by : A.K. Nair.

Office Notes, Office Memoranda of Coram,
Appearance, Tribunal's orders or
directions and Registrar's orders

Date : 03.11.2018 Tribunal's orders

O. A. No.986 of 2018

S. P. ShirsolkarApplicant

Versus

The State of Maharashtra & Ors.Respondents.

1. Heard Shri S. S. Redij, the learned Advocate for the Applicant and Ms S. Suryawnashi, the learned Presenting Officer for the Respondents.

2. Issue notice before admission returnable on 07.12.2018.

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

4. Applicants are authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A.. 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 acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicants are directed to file Affidavit of compliance and notice.

7. In case notice is not collected within three days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

8. S.O. to 07.12.2018.

Sd/-

(A. P. Kurhekar)
MEMBER (J)

DATE 3/11/18

CORAM

~~Honble S. P. DIXIT (Member) A~~
Shri A. P. Kurhekar,
Member (J)

APPEARANCE:

~~S. S. Redij~~ S. S. Redij.....

Advocate for the Applicant

~~Shri M. S. S. Suryawnashi~~
S.O. for the Respondents

Aj/S.O. to 7/12/18

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

Writ Application No. _____ of 20____

IN

Original Application No. _____ of 20____

FARAD CONTINUATION SHEET NO. _____

Office Notes, Office Memoranda of Coram,
Appearances, Tribunal's orders or
directions and Registrar's orders

Tribunal's orders

Date : 03.11.2018

O. A. No.983 of 2018

A. V. GaikwadApplicant

Versus

The State of Maharashtra & Ors.Respondents.

1. Heard Shri S. S. Dere, the learned Advocate for the Applicant and Smt. Kranti Gaikwad, the learned Presenting Officer for the Respondents.

2. In the present case, the challenge is to transfer order dated 29.10.2018 whereby the Applicant has been transferred from Roha District Raigad to Hingoli on the post of SDPO. According to the Applicant it is mid-term transfer and there are violations of Section 22 of Maharashtra Police Act.

3. Learned Advocate for the Applicant, therefore, prayed for stay to the execution of transfer order whereas learned P.O. for the Respondents has produced a file on record for inspection to the Tribunal which shows that the Transfer order has been approved by the Hon'ble Chief Minister in public interest and for administrative exigency.

4. According to learned Advocate for the Applicant, the administrative exigency needs to be spelt out.

5. At this stage, in absence of reply, it is not possible to hold that the transfer is in violation of Rule 22 of Maharashtra Police Act. In view of the above, I am not inclined to grant interim relief.

6. Original Application is adjourned to 20.11.2018 for reply and admission.

DATE 3/11/18

CORAM

BY SHRI P. DIXIT (Member) A
Shri. A. P. Kurhekar, Member

APPEARANCE:

S.S. Dere

Advocate for the Applicant

K.S. Gaikwad

Presenting Officer for the Respondent/s

20/11/18

(Signature)

Sd/-

(A. P. Kurhekar)
MEMBER (J)

<p>Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders</p>	<p>Date : 03.11.2018 Tribunal's orders O. A. No.926 of 2018</p>
<p>DATE <u>3/11/18</u> CORAM Hon. JUDGE P. N. DIXIT (Member) A Shri. A. P. Kurhekar, Member APPEARANCE: Shri. D. B. Khaire Advocate for the Applicant Shri. Smt. K. S. Gaikwad G.P.O. for the Respondents Adj./S.O. to <u>26/11/18</u></p>	<p>Dr. S. M. JadhavApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <ol style="list-style-type: none"> 1. Heard Shri D. B. Khaire, the learned Advocate for the Applicant and Smt. Kranti Gaikwad, the learned Presenting Officer for the Respondents. 2. In the present matter the suspension order dated 26.09.2018 is under challenge. This Tribunal in order dated 01.11.2018 has observed that the suspension is prima-facie not sustainable. The ground of suspension seems to be non-joining of new place of posting in view of the transfer order dated 31.05.2018. However, the Applicant seems to have been relieved on 24.09.2018, whereas suspension order has been passed on 26.09.2018. There was no sufficient time given for joining. It is in this context suspension on the ground of non-joining at new place of posting prima-facie seems illegal. 3. In the above background, the matter is kept today so that the department can take remedial measures to rectify the mistake. 4. Learned P.O. for the Respondents states that the department is considering to take remedial measures and, therefore, sought time. 5. There is another issue of the matter in view of the O.A.No.972/2018 filed to challenge the transfer. In case of transfer, the Applicant is already filed representation dated 03.10.2018 for reconsidering of his transfer and to give posting at Pune where his wife is serving in view of policy of Government to keep spouses together. 6. Learned Advocate for the Applicant submitted that the posts are vacant at Pune. His representation can be, therefore, considered by the department. 7. In view of the above, O.A. No.926/2018 is adjourned to 26.11.2018 for filing of reply and hearing. It is hoped in the meantime that the Respondents would take remedial measures by passing appropriate orders. <p style="text-align: right;">Sd/- (A. P. Kurhekar) MEMBER (J)</p> <p>VSM</p>

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Date : 03.11.2018 Tribunal's orders
<p>DATE <u>3/11/18</u></p> <p>COBAM Member <u>DR. N. DIXIT (Member) A</u> Shri. A.P. Kurhekar <u>Member</u></p> <p>APPEARANCE: Shri. D. B. Khaire.....</p> <p>Advocate for the Applicant Shri. K.S. Gaikwad <u>Shri. K.S. Gaikwad</u></p> <p>Shri. P.O. for the Respondent/s</p> <p>Aq/S.O. to <u>26/11/18</u>.....</p>	<p>O. A. No.972 of 2018</p> <p>Dr. S. M. JadhavApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <p>1. Heard Shri D. B. Khaire, the learned Advocate for the Applicant and Smt. Kranti Gaikwad, the learned Presenting Officer for the Respondents.</p> <p>2. In O.A. No.972/2018 what is under challenge is the transfer order dated 31.05.2018. However, another issue is relating to suspension of the Applicant which is under challenged in O.A. No.926/18. The suspension has been ordered for non-joining of new place of posting. Though the Applicant was transferred on 31.05.2018, he seems to have been relieved on 24.09.2018, therefore, the suspension order passed on 24.09.2018 is under challenge in O.A. No.926/2018 which is adjourned to 26.11.2018 for taking remedial measures. On the request of learned P.O., O.A. No.926/2018 is, therefore kept on 26.11.2018.</p> <p>3. In the meantime, the Respondents may consider the representation made by the Applicant on 03.10.2018 for reconsidering of his transfer in view of the Government Police that spouses should be posted at one place.</p> <p>4. Issue notice before admission returnable on 26.11.2018.</p> <p>5. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.</p> <p>6. Applicants are authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A.. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.</p> <p>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.</p> <p>8. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicants are directed to file Affidavit of compliance and notice.</p> <p>9. In case notice is not collected within three days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.</p> <p>10. S.O. to 26.11.2018.</p> <p style="text-align: right;">Sd/- (A.P. Kurhekar) MEMBER (J)</p>

Office Notes, Office Memoranda of Coram,
Appearance, Tribunal's orders or
directions and Registrar's orders

Tribunal's orders
Date : 02.11.2018

O.A.No.758 of 2018

V.M. Bhagat & Ors.Applicant
Versus
The State of Maharashtra & Ors.Respondents.

1. Heard Shri M.O. Lonkar, the learned Advocate for the Applicant and Shri A.J. Chougule, the learned Presenting Officer for the Respondents.

2. The matter pertains to the fixation of pay and recovery. The direction are sought from this Tribunal to quash and set aside the order of recovery and to grant consequential service benefits in terms of the order passed by this Tribunal and confirmed by the Hon'ble High Court in earlier similar matters.

3. The matter was already heard. The submission of the learned advocate for the Applicant Shri M.D. Lonkar has been heard on last time and matter was admitted and kept today for final hearing.

4. Today, learned P.O. for the Respondents submitted that the matter is before the Finance Department and Finance Department supposed to take decision in the matter.

5. In fact, the issue is settled in other matters in view of the order passed by the Hon'ble High Court. This being ^{so} decided and Respondents ought to have considered the issue so that the Applicants are not ^{DOM DELTD} competing to knock the door of the Tribunal.

6. Learned P.O. for the Respondents requested for time to take instructions from the Respondents.

7. The matter is adjourned after vocation so that the P.O. get the matter resolved from the Finance Department.

8. In view of the above, S.O. to 19.11.2018.

9. It is made clear that no adjournment will be granted and no excuse will be heard on the next date.

10. Steno copy and Hamdast is allowed.

Sd/-
(A.P. Kurhekar)
Member (J)

sba

DATE 2/11/18

MEMBER

~~Shri. M.R. DIXIT (Member) A~~

Shri. A.P. Kurhekar,

Member (J)

APPEARANCE:

~~Shri. M.D. Lonkar~~

Advocate for the Applicant

~~Shri. A.J. Chougule~~

~~P.O. for the Respondents~~

Adj./S.O. to 19/11/18



FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram,
Appearance, Tribunal's orders or
directions and Registrar's orders

Tribunal's orders

Date : 03.11.2018.

O.A.No.754 of 2018

D.R. Borde & Ors.

...Applicants.

Versus

The State of Maharashtra & Ors.

.....Respondents.

1. Heard Shri A.S. Gaikwad, the learned Advocate for the Applicants and Ms. S.P. Manchekar, the learned Chief Presenting Officer for the Respondents.

2. Learned Advocate for the Applicant orally prays for leave to amend the O.A..

3. Leave to add pleadings and grounds is granted.

4. O.A. shall come up on due date i.e. 19.11.2018.

Sd/-

(A.H. Joshi J.)
Chairman

prk

DATE: 3/11/2018

By

(Signature of Applicant)

(Signature of Respondent)

A.S. Gaikwad

S.P. Manchekar

Leave to add pleadings
and grounds is granted.

O.A. shall come up on due
date i.e. 19/11/2018.

prk