(G.C.P.) J 2260 (A) (50,000—2-2015) [Spl.- MAT-F-2 E.

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

Original Application No. of 20 District

..... Applicant/s

(Advocate .....)

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda af Coram, Appearance, Tribunal's orders or directians and Registrar's orders	Tribunal's orders

Date : 04.04.2016

O.A.No.300 of 2016

Shri P. L. Nagare &5 Ors. ...Applicants
Vs.
The State of Maharashtra ...Respondent

1. Heard Shri C.T. Chandratre, the learned Advocate for the Applicant and Shri N.K. Rajpurohit, the learned Chief Presenting Officer for the Respondents.

2. Issue notice returnable on 20.04.2016.

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

4. Applicant is authorised 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. Applicant is directed to file Affidavit of compliance and notice.

7. S.O. to 20.04.2016.

Sd/-

(R.B. Malik)
Member(J)

[P.T.O.

DATE : 4/4/16
CORAM :
~~Hon'ble Justice Shri A. H. Joshi (Chairman)~~
Hon'ble Shri ~~M. Ramesh Kumar (Member) A~~ R.B. Malik J
APPEARANCE :
~~Shri/Smt.~~ : C. T. Chandratre
~~Advocate~~ for the Applicant
~~Shri/Smt.~~ : N.K. Rajpurohit
C.P.O / P.O. for the Respondent/s

Adj. To 20/4/16

(G.C.P.) J 2260 (A) (50,000—2-2015) [Spl.- MAT-F-2 E.

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

Original Application No. of 20 DISTRICT

..... Applicant/s

(Advocate .....)

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

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

Date : 04.04.2016

M.A.No.146 of 2016 in O.A.No.300 of 2016

Shri P. L. Nagare &5 Ors. ...Applicants
Vs.
The State of Maharashtra ...Respondent

1. Heard Shri C.T. Chandratre, the learned Advocate for the Applicant and Shri N.K. Rajpurohit, the learned Chief Presenting Officer for the Respondents.

2. Considering the facts. The application to sue jointly is granted subject to the payment of court fees if not already paid.

3. Misc. Application stands disposed off with no order as to costs.

Sd/-

(R.B. Malik) 4.4.16
Member(J)

sba

DATE : 4/4/16
CORAM :
Hon'ble Justice Shri A. H. Joshi (Chairman)
Hon'ble Shri R.B.Malik (Member) A
ADVOCATE :
Shri/Smt. C.T. Chandratre
Advocate for the Applicant
Shri/Smt. N.K. Rajpurohit
C.P.O / P.O. for the Respondent/s
Adj. To. MA stands disposed off with no order as to costs.

[P.T.O.

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

Original Application No. of 20 DISTRICT

..... Applicant/s

(Advocate .....)

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

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

Date : 04.04.2016.

O.A.No.877 of 2015 with O.A.No.930 of 2015

Smt. S.M. Padol (O.A.No.877/2015)

Smt. K.A. Gaikwad (O.A.No.930/2015)

....Applicants

Versus

The State of Maharashtra & Ors. Respondents

1. Heard Shri A.V. Bandiwadekar, learned Advocate for the Applicants and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

2 Learned Advocate for the Applicants files affidavit-in-rejoinder. O.A. is admitted. Respondents may file affidavit-in-sur-rejoinder, if need be. To come up for final hearing on 13.06.2016.

3. S.O. to 13.06.2016.

Sd/-

(Rajiv Agarwal.)
Vice-Chairman

prk

DATE : 4/4/16
CORAM :
Hon'ble Shri. RAJIV AGARWAL
(Vice - Chairman)
~~Hon'ble Shri P. R. MALIK (Member)~~
APPEARANCE :
~~Shri/Smt.~~ A.V. Bandiwadekar
Advocate for the Applicant
~~Shri/Smt.~~ K.S. Gaikwad
~~C.P.O.~~ P.O. for the Respondents
Rejoinder filed by Applicant.
~~Adj. To~~ S.O. to 13/6/16.
O.A. is admitted.

2

(G.C.P.) J 2260(B) (50,000—2-2015) [Spl.- MAT-F-2 E.

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

M.A./R.A./C.A. No. of 20

I N

Original Application No. of 20

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	M.A. No.143 of 2016 in R.A. No.8 of 2016 in O.A. No.289 of 2015 and O.A. No.620 of 2015

Heard Shri A.A. Desai, learned Advocate for the Applicants and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

By this MA, the Applicants are seeking leave to sue jointly. For the reasons stated in the MA, leave to sue jointly as prayed for is granted, subject to the Applicants paying requisite court-fees, if not already paid. MA disposed off accordingly.

Sd/- Sd/-

(R.B. Malik) (Rajiv Agarwal)
Member (J) Vice-Chairman
4.4.2016 4.4.2016

(sgj)

DATE : 4/4/16
CORAM :
Hon'ble Shri. RAJIV AGARWAL (Vice - Chairman)
Hon'ble Shri R. B. MALIK (Member)
APPEARANCE :
Shri/Smt. A.A. Desai
Advocate for the Applicant
Shri/Smt. K.S. Gaikwad
C.P.O. for the Respondents
M.A. disposed off.

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

M.A. No.144 of 2016 in
R.A. No.8 of 2016 in
O.A. No.289 of 2015and
O.A. No.620 of 2015

Heard Shri A.A. Desai, learned Advocate for the Applicants and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

2. Issue notice returnable on 20.4.2016.

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

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

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

6. The service may be done by hand delivery/ speed post/courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file affidavit of compliance and notice.

7. S.O. to 20.4.2016. Ld. PO waives service of notice.

Sd/- Sd/-

(R.B. Malik) (Rajiv Agarwal)
Member (J) Vice-Chairman
4.4.2016 4.4.2016

(sgj)

DATE : 4/4/16
CORAM :
Hon'ble Shri. RAJIV AGARWAL
(Vice - Chairman)
Hon'ble Shri R. B. MALIK (Member)
APPEARANCE :
Shri/Smt. : A.A. Desai
Advocate for the Applicant
Shri/Smt. : K.S. Gaikwad
C.P.O./P.O. for the Respondents
Adj. to : S.O. to 20/4/16.

(G.C.P.) J 2260 (A) (50,000—2-2015) [Spl.- MAT-F-2 E.

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

Original Application No. of 20 DISTRICT

..... Applicant/s

(Advocate .....)

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

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

Date : 04.04.2016.

O.A.No.1074 of 2015

Shri R.P. Mankar ....Applicant

Versus

The State of Maharashtra & Ors. Respondents

1. Heard Shri A.V. Bandiwadekar, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

2 Affidavit-in-reply is filed on behalf of Respondents. Learned Advocate states that he does not wish to file any rejoinder.

3. O.A. is admitted. To come up for final hearing on 13.06.2016.

Sd/-

(Rajiv Agarwal.)
Vice-Chairman

prk

DATE: 4/4/16
CORAM :
Hon'ble Shri. RAJIV AGARWAL
(Vice - Chairman)
~~Hon'ble Shri R. B. MALIK (Member)~~
APPEARANCE :
~~Shri~~/Smt. A.V. Bandiwadekar
Advocate for the Applicant
~~Shri~~/Smt. K.S. Gaikwad
~~C.P.O.~~/P.O. for the Respondents
O.A. is admitted.
~~Adj.~~
S.O. to 13/6/16.

[P.T.O.

(G.C.P.) J 2260 (A) (50,000—2-2015) (Spl.- MAT-F-2 E.

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

Original Application No. of 20 DISTRICT

..... Applicant/s

(Advocate .....)

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

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

Date : 04.04.2016.

O.A.No.1061 of 2015

Shri U.D. Mhaske ....Applicant

Versus

The State of Maharashtra & Ors. Respondents

1. Heard Shri J.N. Kamble, learned Advocate for the Applicant and Shri K.B. Bhise, learned Presenting Officer for the Respondents.

2 Affidavit-in-reply is filed on behalf of Respondents. Learned Advocate states that he does not wish to file any rejoinder.

3. O.A. is admitted. To come up for final hearing on 25.04.2016.

Sd/-

(Rajiv Agarwal.)
Vice-Chairman

prk

DATE: 4/4/16
CORAM:
Hon'ble Shri. RAJIV AGARWAL
(Vice - Chairman)
~~Hon'ble Shri R. B. MALIK (Member)~~
APPEARANCE:
~~Shri/Smt.~~ J. N. Kamble
Advocate for the Applicant
~~Shri/Smt.~~ K. B. Bhise
~~C.P.O./~~P.O. for the Respondents
Reply filed by A.No.223.
~~Adj. To~~
O.A. is admitted.
S.O. to 25/4/16.

[P.T.O.

(Advocate .....)

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

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

Date : 04.04.2016

M.A.No.147 of 2016 in O.A.No.301 of 2016

Shri J.A. Maheboob & 3 Ors. ...Applicants
Vs.
The State of Maharashtra & Ors. ...Respondents

1. Heard Shri G.A. Bandiwadekar, the learned Advocate for the Applicant and Shri K.B. Bhise, the learned Presenting Officer for the Respondents.

2. Considering the facts. The application to sue jointly is granted subject to the payment of court fees if not already paid.

3. Misc. Application stands disposed off with no order as to costs.

Sd/-

(R.B. Malik)
Member(J)

sba

DATE: 4/4/16
CORAM:
~~Hon'ble Justice ... (Chairman)~~
Hon'ble Shri R.B. Malik (Member) ~~A~~
APPEARANCE:
Shri/Smt. G.A. Bandiwadekar
Advocate for the Applicant
Shri/Smt. K.B. Bhise
C.P.O / P.O. for the Respondent/s
order passed separately
Adj. To.....M.A. ~~stands~~ disposed of with no order as to costs.

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

ORIGINAL APPLICATION NO. 304 OF 2016

DISTRICT :

Shri P.N. Dalal ...Applicant

Vs.

The State of Maharashtra & Ors. ...Respondents

Shri S.S. Dere, learned Advocate for the Applicant.

Shri K.B. Bhise, learned Presenting Officer for the Respondents.

CORAM : Shri R.B. Malik, Member (J)

DATE : 04.04. 2016

O R D E R

1. This O.A. is placed before me for urgent interim-relief which is that the order herein impugned dated 1.3.2016 whereby the Applicant came to be reverted from the post of Head Clerk to Senior Clerk be stayed.

2. The Applicant had filed O.A.No.54 of 2016. In that O.A., I had granted interim-relief. On 28.3.2016 the said O.A. was got withdrawn with liberty to file a fresh one in the light of subsequent developments. By this O.A. and more appropriately this interim order, the Applicant effectively seeks protection for his present position as Head Clerk which has obtained as a result of my order made in this O.A. should be protected and safe-guarded.

3. Learned P.O for the Respondents Shri K.B. Bhise opposed the grant of any interim relief. He Read extensively the order which is at

Exhibit 'A', page no.15 and subsequent page which is order herein impugned. He also invited reference to the G.R.s in the field and told me that the Applicant having sought appointment from the category of Scheduled Tribe ultimately was included in what is now as Special Backward Class category and therefore also the Respondents wanted to file a detailed affidavit in reply to controvert the case of the Applicant interim relief be granted.

4. Learned Advocate for the Applicant Shri S.S. Dere on the other hand took me through the record and proceedings including the order made earlier not only by me in O.A.No.54 of 2016 but also by Division Bench of this Tribunal in O.A.No.267 of 2010 dated 10.10.2013 and O.A.No.1524 of 2009 dated 17.11.2011. The sum and substance of the case is that in accordance with the G.R. in 1995, the Applicant is entitled not just for the interim relief but also ultimate success of the O.A.

5. Regard being had to the fact that for new O.A. is still in infancy, it may not be possible for me to make any final observation about the rights of this or that part and consequently the liabilities.

6. However, in the context of the present facts I do not think that the Applicant can be left entirely unprotected. The G.R. in the field in the light of number of binding superior judicial pronouncements will have to be carefully considered, once the Respondents tender affidavit-in-reply and therefore the interim-relief has to be granted. The further progress of the matter and therefore the legality or otherwise of the interim order would naturally depended upon the dispatch with which the affidavit-in-reply is filed. For the foregoing and till the date next to filing of the reply, the order herein impugned stands stayed.

7. Issue notice returnable on 25.04.2016.

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

9. Applicant is authorised 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.

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 within one week. Applicant is directed to file Affidavit of compliance and notice.

12. O.A. stands adjourned for affidavit-in-reply to 25.04.2016. Hamdast.

Sd/-

.04.16

(R.B. Malik)
Member (J)

sba

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

MISC. APPLICATION NO.8 OF 2016
IN
ORIGINAL APPLICATION NO.994 OF 2015

DISTRICT : PALGHAR

Smt. Ulka w/o. Ulhas Hatkar.)
Age : 60 years, Pensioner R/o. D-301,)
Vishnu Co-op. Housing Society,)
Agashi Road, Behind Kamanwala Societyi,)
Virar (W), District : Palghar.)**...Applicant**

Versus

1. The State of Maharashtra.)
Through the Secretary,)
Finance Department,)
Mantralaya, Mumbai - 400 032.)

2. The Secretary.)
Agricultural, Animal Husbandry,)
Dairy Development & Fisheries Dept,)
Mantralaya, Mumbai 400 032.)**...Respondents**

Shri S.D. Gaikwad, Advocate for Applicant.

Shri N.K. Rajpurohit, Presenting Officer for Respondents.

P.C. : R.B. MALIK (MEMBER-JUDICIAL)

DATE : 04.04.2016

JUDGMENT

1. This is an application for condonation of delay in moving the Original Application (OA) seeking the benefit of Time Bound Promotion from 1995 and 2nd benefit (ACP) after 12 years thereafter.

2. I have perused the record and proceedings and heard Mr. S.B. Gaikwad, the learned Advocate for the Applicant and Shri N.K. Rajpurohit, the learned Chief Presenting Officer for the Respondents.

3. The issue is as to whether sufficient cause is made out for condonation of delay and my finding thereon is in affirmative for the following reasons.

4. Even as the Affidavits and to a certain extent addresses at the Bar made free reference to the fact that fall within the domain of the OA, it must be clearly understood that in this MA, I am not at all concerned with the merit of the OA. Unless the facts that are relevant for this MA may have to be briefly adverted to, but that again

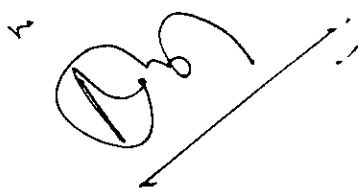
would not be for the purpose of deciding any fact at issue in the OA. The crux of the matter, therefore, is as to whether the Applicant has been able to make out a case for condonation of delay on the anvil of sufficiency of cause.

5. The Applicant has now retired w.e.f. 31.7.2014 after rendering service for about three decades. She came to be appointed as a Clerk Typist. There was some issue with regard to the date from which her regular appointment should be counted. Again the details thereof are not material herefor. It seems that, according to the Applicant, she should have been given the Time Bound Promotion from 1.8.1995 whereas the Respondents support their move of having granted it from 1.12.2006. The Applicant claims to have made representations and those representations are in fact there in the OA. She made representation on 28.1.2014 and reminders on 10.4.2014 and 30.6.2015. The State of Maharashtra vide its Memorandum of 13.5.2014 informed the Applicant that in as much as she was not a party to the OA which was mentioned therein, she would not been entitled to any relief. That was mentioned in her 1st representation viz. **O.A.581/2012 and others Vs. State of Maharashtra and others, dated 20.2.2013**. A Single Bench presided over of the Hon'ble Vice-Chairman granted relief to the Applicant.

A copy of the said order has been perused by me. The Applicant claims to be similarly placed as those Applicants and that is one aspect of the matter. I express no final opinion about it.

6. The record would show that after having made the representations in the year 2014, the Applicant made one more representation in 2015. It is very clear that she was trying to take the benefit of the doctrine of parity with the Applicants of the above referred OAs after they succeeded in their move before the Hon'ble Vice-Chairman. In this behalf, I express no opinion in so far as the matter falling within the realm of OA is concerned, but the issue is as to whether it can be said as a blanket observation that the conduct of the Applicant was contumacious or totally indolent or negligent.

7. Mr. N.K. Rajpurohit, the learned Chief Presenting Officer is right in stating the principle based on the judgment of the Hon'ble Supreme Court in **Jaydeo Gupta Vs. State of Himachal Pradesh (1997) 11 SCC Page 13** that repeated representations would not save the limitation. However, the word, "repeated" is highly significant and has got a contextual connotation peculiar to such matters. In the present set of facts, in my view,



the Applicant cannot be assailed of just keeping the pot boiling so to say.

8. Similarly, other factors remaining constant if the Applicant merely seeks to take advantage of the pendency and then decision of the batch of earlier OA will by itself be no passport for success as far as she was concerned. But this aspect of the matter has to be considered from the stand point of this MA. I may mention it that the attitude of the Respondents that just because the Applicant was not a party Applicant in the earlier OAs, she would not be entitled to the relief itself would have to be closely examined, if the OAs were to be heard.

9. In view of the above discussion, I do not think the Applicant can be accused of indolence or negligence or contumacious conduct. Therefore, remaining alive to the principles emanating from a number of binding judicial precedents which have it that unduly rigid attitude should not be adopted in such matters and the idea must be to do justice, this Misc. Application must be succeed.

10. For the foregoing, the delay is condoned. The Original Application shall be heard on merit. The Applicant and the Office are directed to process the matter

and in as much as the Affidavit-in-reply has already been filed, place it for further consideration before the appropriate Bench for which the Applicant may mention the same. The Misc. Application is allowed in these terms with no order as to costs.

Sd/-

7-4-16

(R.B. Malik)
Member-J
04.04.2016

Mumbai
Date : 04.04.2016
Dictation taken by :
S.K. Wamanse.
E:\SANJAY WAMANSE\JUDGMENTS\2016\4 April, 2016\M.A.8.16 in O.A.994.15.w.4.2016.doc

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

Date : 04.04.2016

M.A.No.549 of 2015 in O.A.No.663 of 2012 (N' pur)

Shri J.M. Mankar ...Applicant
Vs.
The State of Maharashtra & Ors. ...Respondents

Heard Shri I.S. Charlewar, the learned Advocate for the Applicant and Shri K.B. Bhise, the learned Presenting Officer for the Respondents.

2. The affidavit-in-reply on behalf of Respondent No.3 which is apparently sworn on 5.11.2014 was not placed on record. It has been placed on record today. It has been taken on subject to directions of the Hon'ble Chairman of this Tribunal. The order dated 30.09.2014 made by the Hon'ble Chairman during camp at Nagpur Bench is perused.

3. It appears that the strong observations were made regarding the conduct of the concerned Respondents. I direct that the matter be placed before the Hon'ble Chairman on 11th April, 2016.

4. The learned Advocate for the Applicant Shri Charlewar requests his personal attendance on the next date may be dispensed with, because he is from Nagpur. The Applicant has since retired and is at Gondia. In view of the fact that the further progress would depend upon the order made on the next date. I think his request can be accepted. It is further recorded that the Shri Charlewar further submits that the matter to the extent necessary may be even heard on the next date. His statement is recorded.

5. S.O. to 11.04.2016.

Sd/-
(R.B. Malik) 04-04-16
Member(J)

sba

DATE : 4/4/16
CORAM :
~~Hon'ble Justice Shri A. H. Joshi (Chairman)~~
Hon'ble Shri ~~Rameshwar~~ R.B. Malik (Member) A
APPEARANCE :
Shri/Smt. I.S. Charlewar
Advocate for the Applicant
Shri/Smt. K.B. Bhise
C.P.O / P.O. for the Respondent/s

Adj. To 11/4/16.

Before Hon. Chairman
11/4/16