

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**MISC. APPLICATION NO.284 OF 2016  
IN  
ORIGINAL APPLICATION NO.655 OF 2015**

Shri Deelip L. Anuse.

)...Applicant

**Versus**

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

**Smt. Punam Mahajan, Advocate for Applicant.  
Shri K.B. Bhise, Presenting Officer for Respondents 1 to 4.  
Shri A.V. Bandiwadekar, Advocate for Respondents 5 & 6.**

**CORAM : RAJIV AGARWAL (VICE-CHAIRMAN)  
R.B. MALIK (MEMBER-JUDICIAL)**

**DATE : 04.08.2016**

**PER : R.B. MALIK (MEMBER-JUDICIAL)**

**ORDER**

1. This is an application for amendment of the Original Application.

2. We have perused the record and proceedings and heard Smt. Punam Mahajan, the learned Advocate for the

  
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Applicant. Shri K.B. Bhise, the learned Presenting Officer for the Respondents 1 to 4 and Shri A.V. Bandiwadekar, the learned Advocate for Respondents 5 & 6.

The OA such as it stands now is against six Respondents. The last two of them being what can be called private Respondents whose appointment to the post of Assistant Motor Vehicle Inspector has aggrieved the Applicant. In the OA such as it stands, the relief sought *inter-alia* is that the process of verification of eligibility of Ex-Serviceman be completed within one month by Respondents 2, 3 and 4 being the Additional Chief Secretary, Home, the Chairman, MPSC and the Commissioner of Transport respectively. The Applicant further prays for a direction to the Respondents 2, 3 & 4 to consider his appointments against the vacancy arising out of Ex-Serviceman category for the cause set out in Prayer Clause (b). By way of amendment, a declaration is sought that the appointments of Respondents 5 & 6 are illegal.

Now, by way of amendment, what is being sought to be achieved *inter-alia* is addition of one more party private Respondent Mr. Borse, who in case this application would be allowed will be Respondent No.7. Now, the challenge to the selection process in this OA was the subject matter hereof, but a challenge thereto was also posed in OA 289 and 620/2015. It is the case of the Applicant that vide this Bench's order dated 24.11.2015, the said list came to be quashed and set aside and

a fresh list was ordered to be prepared. The same has since been prepared and therein also there have been inclusions which have in the manner of speaking further aggrieved the Applicant. By way of various Paragraphs in the proposed amendment, that objection has been amplified. For the purposes of the decision hereof, we will be guided by the law of amendments, and therefore, the worth of the plea sought to be raised is something which we need not go into herein.

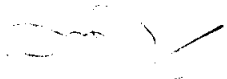
5. Shri Bhise, the learned P.O. right at the outset requested for further time to file Affidavit-in-reply. Since sufficient time was already granted and the Affidavit-in-reply of the private Respondents was already on record, we declined to prolong this MA any further. We have, however, heard Mr. Bhise's submissions also.

6. The main thrust of the resistance to this MA as set up by Mr. A.V. Bandiwadekar, the learned Advocate for the existing private party Respondents *inter-alia* is that the list based on which this OA was earlier brought having been struck down, the cause of action does no more survive because now the challenge is to the list such as it has come into existence post decision of the said OA by this Bench. Therefore, it is according to Mr. Bandiwadekar entirely a fresh cause of action for which the amendment application would not be a competent course of action to be adopted. He explained in

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details as to how the Applicant shall not even otherwise be prejudiced were he to bring a fresh OA.

Now, in our opinion, we must repeat that we have to decide this MA basically on the basis of law of amendments and not take into consideration the worth of the plea already raised or sought to be raised hereby. We are inclined to agree with Mrs. Mahajan, the learned Advocate for the Applicant that if the concept of cause of action is properly understood in the context, the governing factor will be the process of selection and naturally, in our opinion, even on a common sense view of the matter, if a fresh OA could be brought in the set of circumstances such as they are, then there is no reason why in the absence of prejudice to the Respondents, the same facts cannot be allowed to be impleaded by way of amendment. In our opinion, in any case no prejudice is going to be caused because the existing Respondents as well as newly added Respondents shall have all the rights in the world to resist the OA post amendment by filing the Affidavits-in-reply and then joining issues with the Applicant regularly at the time of arguments. In our view, the present is a matter where the prejudice aspect of the matter has its own role to play. In that context, we are unable to agree with the submissions on behalf of the Respondents that they are going to be taken by surprise or by way of this amendment, the whole thing will become too vexed to be handled with facility. In our opinion, this MA passes muster with the test of law of amendments and the



same has to be and is hereby allowed. The new party Respondent No.7 be impleaded and the rest of the amendment as herein proposed be also incorporated within one week from today. A consolidated copy of the OA after amendment be filed and such a copy be furnished to both the sets of existing Respondents and the newly added Respondent No.7 be served in accordance with Rules. The existing Respondents shall have a right to file the Affidavit-in-reply/Additional Affidavit-in-reply hereto. While naturally, the 7<sup>th</sup> Respondent will also have a similar right. The MA is allowed in these terms with no order as to costs and the OA stands adjourned to 1<sup>st</sup> September, 2016.

Sd/-

**(R.B. Malik)**  
**Member-J**  
**04.08.2016**

Sd/-

**(Rajiv Agarwal)**  
**Vice-Chairman**  
**04.08.2016**

Mumbai  
Date : 04.08.2016  
Dictation taken by :  
S.K. Wamanse.



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

Tribunal's orders

**O.A.1006/2003**

**Shri G.H. Gaikwad** ... Applicant  
**Vs.**  
**The State of Mah. & Ors.** ... Respondents

Heard Smt. Punam Mahajan, the learned Advocate for the Applicant and K.B. Bhise, the learned Presenting Officer for the Respondents.

Shri Bhise, the learned P.O. is being instructed by Shri Babasaheb Shinde, Section Officer, PWD. As Mrs. Mahajan resumes her submissions and in the process thereof, it appears that there is a reference to the Affidavit-in-reply in OA 1005/2003, but that Affidavit is not there on record. Further, we had taken a particular view of the matter in OA 1038/2013 decided on 15<sup>th</sup> September, 2014. The said judgment was unsuccessfully challenged in Writ Petition before Division Bench of the Hon'ble the Chief Justice of Bombay High Court in Writ Petition No.1750/2015, dated 7<sup>th</sup> March, 2016.

However, there is an earlier Judgment of a Division Bench of the Hon'ble Bombay High Court in CA No.1429/2007 (Shyam Jahagirdar Vs. State of Maharashtra and other Writ Petitions, dated 17.3.2010). This particular Judgment of the Hon'ble High Court was apparently not brought to our notice when we heard arguments before deciding Bhamre's OA.No.1038/2013. Mr. Bhise, the learned P.O. after some debate at the Bar requests that some further time be given to him to file an appropriate Affidavit in the light of whatever has been mentioned above. Now, this OA is of the year 2003 and it was languishing in *sine-die* for quite a length of time. However, ultimately, the interest of justice is the responsibility of the Bench regardless of quality of cooperation, and therefore, we accede to the request of the learned PO in order to make sure that sufficient time is there at their disposal today itself a longer date is given, but we make it clear that regardless of whether the Affidavit is filed or not on the next date, the arguments shall resume. In case the Respondents decide to file an Affidavit, a copy thereof be furnished to Mrs. Mahajan at least two days in advance, so that in case she was so disposed, she could file a reply Affidavit thereto. The Respondents shall also annex a copy of the Writ Petition No.1750/2015 above referred to, to their Affidavit.

Adiourned to 1<sup>st</sup> September. 2016.

Sd/-

Sd/-

(R.B. Malik) 8/16  
Member (J)  
04.08.2016

(Rajiv Agarwal)  
Vice-Chairman  
04.08.2016

(skw)

DATE: 4/8/16

CORAM:

Hon'ble Shri. RAJIV AGARWAL  
(Vice - Chairman)

Hon'ble Shri R. B. MALIK (Member)

APPEARANCE:

~~Shri/Smt.~~ Punam Mahajan

Advocate for the Applicant

Shri/Smt. K.B. Bhise

~~C.P.O./P.O.~~ for the Respondents

Adj. To 11/9/16.

PH/FOB  
@/cc

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

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

IN

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
<p><u>DATE:</u> 4/8/16</p> <p><u>CORAM:</u> Hon'ble Shri. RAJIV AGARWAL (Vice - Chairman) <del>Hon'ble Shri F. B. MALIK (Member)</del></p> <p><u>APPEARANCE:</u> Shri <u>P. S. Pathak.</u> Advocate for the Applicant Shri <u>Archana B.K.</u> <del>C. P.O. for the Respondents</del></p> <p>Adj. to 25/8/16.</p>	<p><b><u>04.08.2016</u></b></p> <p><b><u>O.A No 791/2016</u></b></p> <p>Smt Sunita Nitin Atre ... Applicant Vs. The State of Maharashtra &amp; Ors... Respondents</p> <ol style="list-style-type: none"> <li>1. Heard Shri P.S Pathak, learned advocate for the applicant and Ms Archana B.K, learned Presenting Officer for the Respondents.</li> <li>2. Issue notice before admission made returnable on 25.8.2016.</li> <li>3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need not be issued.</li> <li>4. Applicant is authorized and directed to serve on Respondent intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.</li> <li>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.</li> <li>6. The service may be done by Hand delivery, speed post, courier and acknowledgement to 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.</li> <li>7. S.O 25.8.2016</li> </ol> <p style="text-align: right;"><u>Rajiv</u> (Rajiv Agarwal) Vice-Chairman</p>



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

Tribunal's orders

**M.A.301/2016 in O.A.1055/2014**

**Shri A.D. Jadhav** ... Applicant  
**Vs.**  
**The State of Mah. & Ors.** ... Respondents

Heard Shri M.D. Lonkar, the learned Advocate for the Applicant and Shri K.B. Bhise, the learned Presenting Officer for the Respondents.

Issue notice returnable on 18.08.2016.

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

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. Respondents are put a notice that the case would be taken up for final disposal at the stage of admission hearing.

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.

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

S.O. to 18th August, 2016. Learned P.O. to waive service.

DATE: 4/8/16

CORAM:

Hon'ble Shri. RAJIV AGARWAL  
(Vice - Chairman)

Hon'ble Shri K. B. MALIK (Member)

APPEARANCE:

Shri/Smt. M.D. Lonkar

Advocate for the Applicant

Shri/Smt. K.B. Bhise

C.P.O./P.O. for the Respondents

Adj. To

S.O. to 18/8/16.

(R.B. Malik)  
Member (J)  
04.08.2016

(Rajiv Agarwal)  
Vice-Chairman  
04.08.2016

(skw)