

M.A. No. 89/2019 in O.A. St. No. 43/2019
(Gunaji Dagdu Rathod Vs. State of Maharashtra & Ors.)

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

DATE : 06.05.2022

O R D E R

1. The present Misc. Application is made seeking condonation of delay of about 5 months and 23 days caused in filing the accompanying O.A. under Section 19 of the Administrative Tribunals Act, 1985 challenging the order of recovery dated 18.07.2017 (Annexure -1 in the O.A.) from the pensionary benefits.

2. The applicant retired on superannuation on 31.12.2016 from the post of Round Forest Officer. However, after his retirement for the first time the respondent authorities first time communicated to him about the deduction of excess pay fixation period commencing from 10.11.2011 to 31.12.2016. It is the contention of the applicant that the applicant has a good case on merits as per the settled principle of law about the recovery. The applicant was not responsible for wrong pay fixation. The applicant made representation. He was under impression that it would be considered and he will get relief. In the circumstances, there is delay of about 5 months and

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23 days caused in filing the accompanying O.A., which is sought to be condoned.

3. The affidavit in reply on behalf of respondent No. 3 is filed by one Sachin Uttam Shinde, working as Assistant Conservator of Forests, Kannad in the office of Deputy Conservator of Forests, Aurangabad, thereby he denied all the adverse contentions raised in the present Misc. Application. It is contended that no sufficient cause has been shown by the applicant for condonation of inordinate delay. Hence, the present Misc. Application is liable to be dismissed.

4. I have heard the arguments advanced by Shri K.B. Dantal, learned Advocate for the applicant on one hand and Smt. M.S. Patni, learned Presenting Officer for the respondents on the other hand.

5. The impugned order under challenge is dated 18.07.2017 (Annexure- 1 in O.A.). The alleged recovery of excess payment on account of wrong pay fixation is for the period commencing from 10.11.2011 to 30.12.2016. It seems that the applicant made representation dated 27.02.2018 (page No. 33 of the paper book in O.A.) to the Deputy Conservator of

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Forests, Aurangabad. The Original Application along with this application for condonation of delay is filed on or about 08.01.2019. In view of above, there seems to be delay of about 5 months and 23 days caused in filing the accompanying O.A. The facts on record would show that the representation dated 27.02.2018 was made within a period of one year from the date of impugned order of recovery dated 18.07.2017. In view of the same, contentions of the applicant that he was under bona-fide belief that his representation would be considered cannot be said to be unusual.

6. It is a settled principle of law that the expression “sufficient cause” is to be construed liberally. In the circumstances, the said delay seems to be marginal one. Refusing to condone the delay is likely to defeat the cause of justice at the threshold. In view of the same, in my considered opinion, this is a fit case to condone the delay by imposing the moderate costs of Rs. 500/- on the applicant. Hence, I proceed to pass following order :-

ORDER

The Misc. Application No. 89/2019 is allowed in following terms:-

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- (i) The delay of 6 months and 23 days caused for filing the accompanying O.A. under Section 19 of the Administrative Tribunals Act, 1985 is hereby condoned subject to payment of costs of Rs. 500/- by the applicant. The amount of costs shall be deposited in the Registry of this Tribunal by the applicant within a period of one month from the date of this order.
- (ii) Upon satisfaction of the costs as above, the accompanying O.A. be registered and numbered by taking in to account other office objection/s, if any.

MEMBER (J)

M.A. No. 204/2021 in O.A. St. No. 848/2021
(Yogesh Gopichand Salunkhe Vs. State of Maharashtra & Ors.)

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

DATE : 06.05.2022

O R D E R

1. The present Misc. Application is filed seeking condonation of delay of about 177 days caused in filing the accompanying O.A. under Section 19 of the Administrative Tribunals Act, 1985, challenging the impugned communication dated 23.04.2018 (Annexure A-9 in O.A.) issued by the respondent No. 2 rejecting the applicant's claim for compassionate appointment on the ground that substitution of name is not provided in the policy of compassionate appointment.

2. The applicant is the son of the deceased viz. Gopichand Ramchand Salunkhe, who was working in the Police Department with the respondent No. 2 i.e. the Superintendent of Police, Jalgaon. He died in harness on 21.07.2001. Thereafter, the mother of the applicant viz. Kalabai submitted application to the respondent No. 2 on 10.07.2002 seeking appointment on compassionate ground. Name of the applicant's mother was included in the waiting list. She was, however not given posting, as there was no vacancy. Her name was deleted as per the communication dated

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15.11.2010 (Annexure A-2), as she completed requisite age of 40 years. The applicant attained the age of majority in the year 2010. The applicant's mother made application dated 31.07.2013 for appointment to the applicant on compassionate ground, as he the then attained the age of majority. Subsequently, the applicant also made application dated 22.10.2013 (Annexure A-4 collectively in O.A.). He made various representations thereafter till July 2015 urging for compassionate appointment. The name of the applicant appeared in the waiting list in the year 2017 at Sr. No. 34. Thereafter by the impugned communication dated 23.04.2018 the claim of the applicant came to be rejected. The applicant ought to have filed the O.A. by 22.04.2019. Before, that the applicant made representation dated 19.03.2018 (Annexure A-7 in O.A.) as his name did not appear in the waiting list of the year 2018. According to the applicant the requisite period of six months expired in September, 2019 for filing the O.A. The O.A. is filed in or about July, 2021.

3. It is the further contention of the applicant that in early 2020 the Covid-19 pandemic started and

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therefore, the applicant could not file the O.A. in time. Hence, the present Misc. Application.

4. The affidavit in reply on behalf of respondent No. 2 is filed by one Shri Ambadas Shantaram More, working as Police Inspector, (Human Resources) in the office of Superintendent of Police, Jalgaon, Dist. Jalgaon thereby he denied all the adverse contentions raised in the present Misc. Application. It is contended that no sufficient cause has been shown by the applicant for condonation of inordinate delay and therefore, the present Misc. Application is liable to be dismissed.

5. I have heard the arguments advanced by Shri Saket Joshi, learned Advocate holding for Shri Avinash S. Deshmukh, learned Advocate for the applicant on one hand and Smt. M.S. Patni, learned Presenting Officer for the respondents on the other hand.

6. Considering the dates involved in the matter, it is evident that from the date of impugned order dated 23.04.2018 one year limitation expired on or about 22.04.2019. However, it appears that just before the issuance of the said impugned order, the applicant

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made representation dated 19.03.2018, as his name did not appear in the waiting list of the year 2018. The said representation ought to have been considered by the respondents within a period of six months. However, before that only by the impugned order dated 23.04.2018 representation of the applicant came to be rejected. In view of the same, the commencement of limitation period would start from 23.04.2018. As already observed, the said requisite period of one year of limitation expired on 22.04.2019. The Original Application along with the present Misc. Application is filed on or about 19.07.2021. In view of the same, the delay is about 2 years and three months caused in filing the accompanying O.A.

7. The present matter is regarding claim of the applicant for compassionate appointment. His name was also taken in the waiting list of the candidates to be appointed on compassionate ground. However, same is rejected for want of provisions of accommodation / substitution. The said aspect would be considered at the time of hearing of the O.A. From the facts on record, some negligence can be attributed to the applicant. However, the said negligence cannot

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be said to be deliberate and gross one. Thereby the applicant had nothing to gain.

8. It is a settled principle of law that the expression “sufficient cause” is to be construed liberally. Refusing to condone the delay is likely to defeat the cause of justice at the threshold. It cannot be said that the applicant is defeating anybody else’s right. The applicant is urging his right of getting compassionate appointment and his name was also included in the waiting list. In the circumstances, in my considered opinion, by taking liberal approach and by imposing moderate costs on the applicant, this is a fit case to condone the delay. I compute the costs of Rs. 1500/- on the applicant.

9. Learned Advocate for the applicant placed reliance on the decision of the Hon’ble Apex Court in Suo Motu Writ Petition (C) No. 3 of 2020 and subsequent M.A. Thereby the limitation period from 15.03.2020 to 28.02.2022 is exempted. In the present case, however, the cause of action arose in April, 2019 about one year before exemption of limitation due to Covid-19 pandemic was made applicable. In these circumstances, in my humble

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opinion, the said citation may not be much helpful/
applicable to the applicant in the instant case. Hence,
I proceed to pass following order :-

ORDER

The Misc. Application No. 204/2021 is allowed in
following terms:-

- (ii) The delay of 177 days caused for filing the accompanying O.A. under Section 19 of the Administrative Tribunals Act, 1985 is hereby condoned subject to payment of costs of Rs. 1500/- by the applicant. The amount of costs shall be deposited in the Registry of this Tribunal by the applicant within a period of one month from the date of this order.
- (ii) Upon satisfaction of the costs as above, the accompanying O.A. be registered and numbered by taking in to account other office objection/s, if any.

MEMBER (J)

**M.A. No. 297/2020 in O.A. St. No. 1203/2020
(Jayant S. Bhamare Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

O R D E R

1. The present Misc. Application is made seeking condonation of delay of about 4 years and 10 months caused in filing the accompanying O.A. under Section 19 of the Administrative Tribunals Act, 1985 seeking declaration that the applicant is entitled to get the benefits of higher post i.e. Muster Clerk in view of the G.R. dated 29.09.2003 with all consequential benefits with arrears from 29.09.2003 and also seeking direction to the respondent No. 1 to decide the representation and recommendation sent by the respondent No. 2 dated 13.06.2014.

2. It is the case of the applicant that he joined the Water Resources Department as on 01.10.1979 as Mukadam. He was confirmed as a CRTE on 01.10.1984 as Mukadam. From 1987 to 1997 he was a Muster Clerk and he was entrusted several types of work. It is stated that the applicant retired on or about 30.04.2017. The Government issued G.R. dated 29.09.2003 for "designation as per work and pay scale

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as per designation”. According to this G.R., the respondent No. 2 i.e. The Superintending Engineer, Small Scale Irrigation (Water Conservation) Circle, Nashik sent proposal dated 13.06.2014 (Annexure A-5 in the O.A.) for sanction of higher post’s pay scale to the applicant. In the background of representation along with certificate dated 03.10.2013 (Annexure A-4 collectively in O.A.) submitted by the applicant he is seeking benefits. The respondent No. 2 being satisfied by the documents produced by the applicant, submitted the abovesaid proposal dated 13.06.2014 with his recommendation to the respondent No. 1. The same is not yet decided by the respondent No. 1. Hence, the applicant filed the Original Application along with this Misc. Application for condonation of delay on 02.11.2020.

3. According to the applicant, there is delay of about 4 years and 10 months in seeking remedy. In fact, the applicant was waiting for positive response from the respondents and therefore, there is delay. It is not deliberate or intentional. The applicant has got a good case on merits. Hence, this Misc. Application.

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4. The affidavit in reply is filed on behalf of respondent Nos. 2 and 3 by one Sunil Ganjidhar Pawar, working as Sub Divisional Water Conservation Officer, Soil and Water Conservation Sub-Division, Dhule, thereby he denied all the adverse contentions raised in the present Misc. Application. It is contended that no sufficient cause has been shown by the applicant for condonation of inordinate delay. Hence, the present Misc. Application is liable to be dismissed.

5. I have heard the arguments advanced by Shri V.G. Pingle, learned Advocate for the applicant on one hand and Shri D.R. Patil, learned Presenting Officer for the respondents on the other hand.

6. From the dates involved in the matter, the O.A. ought to have been filed in December, 2016. However, the same is filed on 02.11.2020. In view of the same, there is delay of about 4 years and 10 months caused in filing the accompanying O.A.

7. The applicant is seeking relief on the basis of alleged recommendation made by the respondent No. 2 vide proposal dated 13.06.2014 (Annexure A-5 in O.A.). No doubt there is delay, which is attributable to

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the applicant. However, the same cannot be said to be intentional or gross one. Thereby the applicant had nothing to gain. It is a settled principle of law that the expression “sufficient cause” is to be construed liberally. Refusing to condone the delay is likely to defeat the cause of justice at the threshold. If the matter is decided on merits, thereby right of any other Government servant is likely to be affected. The applicant is pursuing benefits, but belatedly. In the facts and circumstances, in my considered opinion, this is a fit case to condone the delay by construing the expression ‘sufficient cause’ liberally and by imposing the moderate costs of Rs. 2000/- on the applicant. Hence, I proceed to pass following order :-

ORDER

The Misc. Application No. 297/2020 is allowed in following terms:-

- (iii) The delay of 4 years and 10 months caused for filing the accompanying O.A. under Section 19 of the Administrative Tribunals Act, 1985 is hereby condoned subject to payment of costs of Rs. 2000/- by the

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applicant. The amount of costs shall be deposited in the Registry of this Tribunal by the applicant within a period of one month from the date of this order.

- (ii) Upon satisfaction of the costs as above, the accompanying O.A. be registered and numbered by taking in to account other office objection/s, if any.

MEMBER (J)

**M.A. No. 325/2020 in O.A. St. No. 332/2020
(Vilas S. Jadhav Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

O R D E R

1. The present Misc. Application is made seeking condonation of delay of about 1426 days caused in filing the accompanying O.A. under Section 19 of the Administrative Tribunals Act, 1985 seeking direction against the respondents to release regular pension and amount of gratuity with interest to the applicant as early as possible and also directions to the respondent No. 2 for deciding the applications / representations of the applicant dated 08.10.2018 and 10.01.2019 (Annexure A-4 collectively in O.A.) in accordance with law.

2. The applicant joined the service of State Government as Accountant on 21.06.1983. He served in the Agricultural Department of the State Government. In the year 1987, he was transferred to the Finance Department i.e. the respondent No. 1 from 04.04.2012 to 18.06.2014. He served as Chief Accountant and Finance Officer with Zilla Parishad, Aurangabad. He retired on 31.03.2015 (wrongly mentioned as 31.05.2015) on attaining the age of

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superannuation. There was no any Departmental Enquiry pending against him at the time of retirement. However, the respondent authorities have not released his regular pension and amount of gratuity.

3. It is stated that after his retirement on superannuation, private complaint was made against him regarding alleged irregularities and illegalities committed while working in Zilla Parishad, Aurangabad. However, the said complaint is false one and afterthought. The applicant was granted only provisional pension for some period. The applicant is not getting regular pension and has also not received amount of gratuity. He made several representations to the respondents. His last representation is dated 08.10.2018. The respondent No. 1 by it's letter dated 28.02.2019 (Annexure A-5 in O.A.) directed the respondent No. 2 to decide the same. However, it is not decided by the respondent No. 2. The applicant, therefore, filed W.P. No. 450/2020 before the Hon'ble High Court. However, the Hon'ble High Court by the order dated 09.01.2020 disposed of the said W.P. observing that alternate remedy is available to the applicant. The applicant therefore, filed the Original

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Application along with the present Misc. Application for condonation of delay. In view of the same, the said delay is not deliberate or intentional. The applicant is waiting for the decision on his several representations and more particularly last representation dated 08.10.2018. Hence, this Misc. Application for condonation of delay.

4. The affidavit in reply is filed on behalf of respondent Nos. 1 to 3 by one Shri Ravikumar Balajirao Linganwad, working as Joint Director, Account and Treasuries, Aurangabad Division, Aurangabad, thereby he denied all the adverse contentions raised by the applicant in the present Misc. Application. However, it is not disputed that the applicant is not getting regular pension and has also not received amount of gratuity. It is further stated that no sufficient cause has been shown by the applicant for condonation of inordinate delay. The applicant would not be entitled for relief as sought for in the O.A. unless departmental enquiry / court case comes to an end. In view the same, the present Misc. Application is liable to be dismissed.

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5. I have heard the arguments advanced by Shri Prashant Deshmukh, learned Advocate for the applicant on one hand and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents on the other hand.

6. The applicant is seeking relief of regular pension and amount of gratuity with interest. He retired on 31.03.2015. According to the respondents, the applicant was paid provisional pension from 01.04.2015 till December, 2020.

7. There are rival contentions as regards pendency of criminal case against the applicant. Admittedly, however, the criminal case is lodged against the applicant after his retirement. It's relevancy has to be seen. Moreover, it appears that the applicant made representation dated 08.10.2018 (page No. 39 of the paper book in O.A.). The same is pending. Some time was consumed, as the applicant first approached before the Hon'ble High Court by filing W.P. No. 450/2020, which was disposed of on 09.01.2020. The Original Application along with the present Misc. Application is filed on or about 24.02.2020.

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8. In view of the dates involved in the matter, it seems that there is delay of about 1426 days caused for filing the accompanying O.A. However, the said delay cannot be said to be deliberate or intentional one. It appears that one representation was also made by the applicant in the year 2018, but that apart the applicant has not received pensionary benefits and amount of gratuity. Controversy raised in the O.A. about the regular pension and gratuity amount with interest is required to be decided on merits.

9. It is a settled principle of law that the expression “sufficient cause” is to be construed liberally. No doubt in the facts and circumstance, some negligence can be attributed to the applicant in not approaching this Tribunal in time. The said delay cannot be said to be intentional and gross one. Thereby the applicant had nothing to gain. Refusing to condone the delay is likely to defeat the cause of justice at the threshold. In view of the same, in my considered opinion, this is a fit case to condone the delay by imposing the moderate costs of Rs. 1000/- on the applicant. Hence, I proceed to pass following order :-

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ORDER

The Misc. Application No. 325/2020 is allowed in following terms:-

- (iv) The delay of 1426 days caused for filing the accompanying O.A. under Section 19 of the Administrative Tribunals Act, 1985 is hereby condoned subject to payment of costs of Rs. 1000/- by the applicant. The amount of costs shall be deposited in the Registry of this Tribunal by the applicant within a period of one month from the date of this order.

- (ii) Upon satisfaction of the costs as above, the accompanying O.A. be registered and numbered by taking in to account other office objection/s, if any.

MEMBER (J)

M.A. No. 07/2021 in O.A. St. No. 1416/2020
(Chandrasen Venkatrao Lahade Vs. State of Maharashtra & Ors.)

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

DATE : 06.05.2022

O R D E R

1. The present Misc. Application is made seeking condonation of delay of about 1 year and 3 months caused in filing the accompanying O.A. under Section 19 of the Administrative Tribunals Act, 1985, challenging the impugned order dated 28.09.2018 (Annexure A-7 in O.A.) issued by the respondent No. 3 i.e. the Joint Director, Technical Education, Aurangabad, ordering recovery of an amount of Rs. 8,00,000/- from the pensionary benefits of the applicant alleging that the same amount was defalcated by the applicant while working at Latur.

2. It is the case of the applicant that he was appointed as Lecturer in Government Polytechnic, Latur by the order dated 17.09.1982. By the order dated 3.07.1997, the applicant was promoted as Departmental Head in the Electrical Department. He worked at various places and retired on superannuation on 31.03.2018. It is contended that after retirement, the applicant shockingly received the impugned order dated 28.09.2018 issued by the

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respondent No. 3, thereby the respondent No. 3 without perusing the record totally relied upon the report submitted by the enquiry committee. The enquiry was conducted without any notice to the applicant and without seeking any explanation. In view of the same, the impugned order of recovery is not legal and proper. The applicant seeks to challenge the same. After issuance of the impugned order, the applicant made representation / appeal to the respondent No. 3 to review the order, but in vain.

3. The applicant is still waiting for the result on his representation / appeal. The applicant is suffering from various elements. In view of the same, there is delay in filing the accompanying O.A., which is not deliberate or intentional. Hence, this Misc. Application.

4. The affidavit in reply on behalf of respondent Nos. 1 to 5 is filed by one Mahesh Dattopant Shivankar, working as I/c Joint Director in the office of Joint Director Technical Education, Regional Office, Aurangabad, thereby he denied all the adverse contentions raised in the O.A. and submitted that the impugned order of recovery is legal and proper and the

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same is issued after seeking Enquiry Report. It is contended that no sufficient cause has been shown by the applicant for condonation of inordinate delay. The present Misc. Application therefore is liable to be dismissed.

5. I have heard the arguments advanced by Shri H.P. Jadhav, learned Advocate for the applicant on one hand and Shri M.P. Gude, learned Presenting Officer for the respondent Nos. 1 to 5 on the other hand. Shri S.L. Bhapkar, learned Advocate for respondent No. 6, **absent.**

6. Record shows that the present delay application along with the accompanying O.A. is filed on or about 16.12.2020. The impugned order sought to be challenged in the O.A. is dated 28.09.2018. In view of the same, there is delay of about 1 year and 3 months caused in the filing the accompanying O.A. From the facts and circumstances, it can be seen that some negligence can be attributed to the applicant in not approaching this Tribunal in time. However, the said delay cannot be said to be deliberate or intentional one. Thereby the applicant had nothing to gain.

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7. It is a settled principle of law that the expression “sufficient cause” is to be construed liberally. Considering the facts and circumstances of the case, refusing to condone the delay is likely to defeat the cause of justice at the threshold. The applicant seems to have case on merit. In view of the same, in my considered opinion, this is a fit case to condone the delay by construing the expression ‘sufficient cause’ liberally and by imposing the moderate costs of Rs. 1000/- upon the applicant. Hence, I proceed to pass following order :-

ORDER

The Misc. Application No. 07/2021 is allowed in following terms:-

- (i) The delay of 1 year and 3 months caused for filing the accompanying O.A. under Section 19 of the Administrative Tribunals Act, 1985 is hereby condoned subject to payment of costs of Rs. 1000/- by the applicant. The amount of costs shall be deposited in the Registry of this Tribunal by the applicant within a period of one month from the date of this order.

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- (ii) Upon satisfaction of the costs as above, the accompanying O.A. be registered and numbered by taking in to account other office objection/s, if any.

MEMBER (J)

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

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

DATE : 06.05.2022

O R D E R

1. The present Misc. Application is made seeking condonation of delay of about 10 months caused in filing the accompanying O.A. under Section 19 of the Administrative Tribunals Act, 1985, challenging the impugned communication / letter dated 02.04.2018 (Annexure A-9 in O.A.) issued by the respondent No. 3 rejecting the request of the applicant for cancellation of benefits of Karkoon post, which was granted to the applicant by the order dated 06.12.2008 and seeking consequential directions.

2. The applicant was initially appointed on 29.12.1988 with the respondents on daily wages. Thereafter he was appointed on CRTE on 29.12.1993 as Helper. He was granted first time bound promotional pay scale on 29.12.2006. While working on CRTE, the State Government issued G.R. dated 29.09.2003 thereby granted the pay scales and designations as per the works of the employees. As per the said G.R., the applicant was not granted designation and pay scale for the post of Clerk from

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the date of the said G.R. i.e. 29.09.2003. Office of the respondent No. 3 issued order dated 06.12.2008 thereby granting designation and pay scale of Karkoon post in the pay scale of Rs. 3050-75-3950-85-4590 to the applicant w.e.f. 18.03.2008.

3. It is submitted that the applicant was transferred from Kolhapur Division to Aurangabad Division in the month of September, 2010 and was posted at Sub-Division, Jalna. The respondent No. 5 issued letter dated 05.05.2017 to the respondent No. 4 and requested to cancel the pay scale and designation as Karkoon of the applicant. The respondent No. 5 had recommended the case of the applicant. But the said proposal was returned to the respondent No. 5 and the respondent No. 5 was directed to submit the proposal to the respondent No. 3 Kolhapur Division. Accordingly, the respondent No. 5 submitted proposal dated 28.07.2017 to the respondent No. 3 and requested to cancel the post of Karkoon and designation and pay scale which was given to him as per work. At that point of time, the applicant was not working in Kolhapur Division. The applicant thereafter made detailed representation to the respondent No. 3

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on 28.12.2017. The respondent No. 3 however, by the impugned letter / communication dated 02.04.2018 rejected the request of the applicant for cancellation of the order dated 06.12.2008. Being aggrieved by the said order, the applicant filed the accompanying O.A. along with the present Misc. Application for condonation of delay. The delay is not deliberate or intentional one. The applicant has good case on merits in view of the various cause laws including case law of the Hon'ble Apex Court. Hence, the present Misc. Application.

4. The affidavit in reply is jointly filed on behalf of respondent Nos. 4 to 6 by one Vaijanath Apparao Galande, working as Executive Engineer, Mechanical Division No. 2, Aurangabad and also joint affidavit in reply on behalf of respondent Nos. 1 to 3 is filed by him, thereby he denied all the adverse contentions raised by the applicant in the present Misc. Application and contended that no sufficient cause has been shown by the applicant for condonation of inordinate delay. The present Misc. Application therefore is liable to be dismissed.

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5. The applicant filed the rejoinder affidavit denying all the adverse contentions raised in the affidavits in reply.

6. I have heard the arguments advanced by Shri K.B. Jadhav, learned Advocate for the applicant on one hand and Smt. M.S. Patni, learned Presenting Officer for the respondents on the other hand.

7. The accompanying O.A. along with the present Misc. Application is filed on or about 07.02.2020. The impugned letter sought to be challenged in the O.A. is dated 02.04.2018. In view of the same, there is delay of about 10 months caused in filing the accompanying O.A. Considering the facts and circumstances, the said delay cannot be said to be deliberate or intentional. No doubt some negligence can be attributed to the applicant in not approaching this Tribunal in time. However, the same cannot be said to be gross one.

8. It is a settled principle of law that the expression “sufficient cause” is to be construed liberally. The applicant is seeking relief in respect of his own right without affecting rights of another Government servant. In these circumstances, refusing to condone

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the delay is likely to defeat the cause of justice at the threshold. In view of the same, in my considered opinion, this is a fit case to condone the delay by construing the expression 'sufficient cause' liberally and by imposing the moderate costs of Rs. 750/- upon the applicant. Hence, I proceed to pass following order:-

ORDER

The Misc. Application No. 96/2020 is allowed in following terms:-

- (i) The delay of 10 months caused for filing the accompanying O.A. under Section 19 of the Administrative Tribunals Act, 1985 is hereby condoned subject to payment of costs of Rs. 750/- by the applicant. The amount of costs shall be deposited in the Registry of this Tribunal by the applicant within a period of one month from the date of this order.
- (ii) Upon satisfaction of the costs as above, the accompanying O.A. be registered and numbered by taking in to account other office objection/s, if any.

MEMBER (J)

M.A. No. 551/2019 in O.A. St. No. 2227/2019
(Mohammad Siddiqu Mohammad Sarwar Vs. State of Maharashtra & Ors.)

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

DATE : 06.05.2022

O R D E R

1. The present Misc. Application is made seeking condonation of delay of about 3 years, 7 months and 5 days caused in filing the accompanying O.A. under Section 19 of the Administrative Tribunals Act, 1985, challenging the act of the respondent of recovery of an amount of Rs. 1,84,730/- being excess amount made to the applicant.

2. The applicant joined the services of respondent No. 1 as Field Worker on 24.04.1985. He worked on the same post till 15.11.2003. On 15.11.2003, he came to be promoted as Multipurpose Worker (MPW) or Health Worker/ Servant. The respondent No. 1 granted pay scale admissible to the post of the applicant since 2003 till his retirement. The applicant came to be retired from the services of the respondent No. 1 on 31.08.2014. Thereafter, recovery of an amount of Rs. 1,84,730/- was shown against the applicant, as excess payment being made to him during the period from 2003 to 2014 and the same was recovered from him on or about 08.04.2015. The applicant seeks refund of the

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M.A. 551/2019 in
O.A. St. 2227/2019

said amount by filing accompanying Original Application along with the present Misc. Application.

3. It is contended that the delay is not deliberate or intentional. After retirement, the applicant is suffering from illness and therefore, he could not file the O.A. in time. Hence, the present Misc. Application for condonation of delay.

4. The affidavit in reply on behalf of respondent No. 1 is filed by one Akash Ashokrao Deshmukh, working as District Malaria Officer, Nanded, Dist. Nanded, thereby he denied all the adverse contentions raised in the O.A. and contended that the recovery is rightly made from the applicant, as there was payment of excess amount to the applicant from 2003 till his retirement. It is contended that no sufficient cause has been shown by the applicant for condonation of inordinate delay. The present Misc. Application therefore is liable to be dismissed.

5. I have heard the arguments advanced by Shri G.N. Kulkarni, learned Advocate for the applicant on one hand and Shri D.R. Patil, learned Presenting Officer for the respondents on the other hand.

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M.A. 551/2019 in
O.A. St. 2227/2019

6. The present Misc. Application along with the accompanying O.A. is filed on or about 14.11.2019. The action of recovery sought to be challenged in the O.A. is dated 08.04.2015. In view of the same, there is delay of about 3 years, 7 months and 5 days caused in filing the accompanying O.A. as contended by the applicant.

7. In order to substantiate the ground of illness, the applicant placed on record various medical certificates dated 10.11.2015, 03.09.2019 and 06.11.2019. Perusal of the said medical certificates would show that the applicant is suffering from hypertension and diabetes. His right eye is also operated. That apart, the applicant is seeking his personal right of refund of recovered amount. By considering O.A. filed by the applicant, any other Government servant's right is not likely to be affected. No doubt, some negligence can be attributed to the applicant in not approaching this Tribunal in time. However, the same cannot be said to be gross one

8. It is a settled principle of law that the expression "sufficient cause" is to be construed liberally.

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M.A. 551/2019 in
O.A. St. 2227/2019

Considering the facts and circumstances of the case, refusing to condone the delay is likely to defeat the cause of justice at the threshold. The applicant seems to have case on merit. In view of the same, in my considered opinion, this is a fit case to condone the delay by construing the expression 'sufficient cause' liberally and by imposing the moderate costs of Rs. 1500/- upon the applicant. Hence, I proceed to pass following order :-

ORDER

The Misc. Application No. 551/2019 is allowed in following terms:-

- (i) The delay of 3 years, 7 months and 5 days caused for filing the accompanying O.A. under Section 19 of the Administrative Tribunals Act, 1985 is hereby condoned subject to payment of costs of Rs. 1500/- by the applicant. The amount of costs shall be deposited in the Registry of this Tribunal by the applicant within a period of one month from the date of this order.
- (ii) Upon satisfaction of the costs as above, the accompanying O.A. be registered and numbered by taking in to account other office objection/s, if any.

MEMBER (J)

ORIGINAL APPLICATION NO. 465 OF 2021
(Azad Khadarsaheb Patel Vs. State of Maharashtra & Ors.)

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

DATE : 06.05.2022

ORAL ORDER :

Heard Shri B.S. Deshmukh, learned Advocate for the applicant, Shri B.S. Deokar, learned Presenting Officer for the respondent Nos. 1 & 2 and Shri V.B. Wagh, learned Advocate for respondent Nos. 3 to 6.

2. The present Original Application is filed seeking mandatory order or direction against the respondent Nos. 1 and 2 to consider the claim proposal / application dated 16.03.2021 (Annexure A-13 collectively at page No. 118 of the paper book) of the present applicant for transfer at any specified place in Nashik, Kolhapur or Sangli district and more particularly one of the transferred places of respondent Nos. 3 to 8 herein who are transferred by the order dated 06.08.2021 (Annexure A-17), by setting aside the said order dated 06.08.2021 to that extent.

3. Previously the applicant filed O.A. No. 481/2019 seeking transfer as per his representation dated 28.02.2019 at the specified place in Pune and Nashik District. The said O.A. was disposed of by the order dated 26.06.2019 in following terms :-

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O.A. No. 465/2021

“(a) In case applicant makes fresh representation for posting at Nashik, and whenever in future an occasion to fill in any post of Clerk-Typist or an equal post arises, applicant’s candidature be considered on its own merit, as well as, on sympathetic grounds.

(b) Learned Chief Presenting Officer is directed to communicate this order to the concerned respondents.

(c) Parties shall bear own costs. ”

4. Pursuant to that order, the applicant did not make fresh application necessarily mentioning of the said order. But he made application / representation dated 21.01.2020 (Annexure A-10 at page No. 95 of the paper book) seeking transfer any of the post in Sangli, Kolhapur and Nashik district mentioned therein.

5. The applicant is working as Clerk-cum-Typist on his present post since 2014. Even if the applicant completed more than five years, he was not considered for transfer in the General Transfers of the year 2020, as well as, General Transfers of the year 2021. It is the

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O.A. No. 465/2021

grievance of the applicant that the respondent Nos. 3 to 8, who were appointed after him in the year 2016 or 2017, in general transfer order dated 06.08.2021 (Annexure A-17) they were accommodated by way of transferring them.

6. Be that as it may, the office of respondent No. 2 by letter dated 30.03.2022 (Annexure A-8 collectively at page No. 183 of the paper book), has called options for the General Transfers of the year 2022. Name of the applicant is at Sr. No. 12 at page No. 187 of the list of the officials due for transfer.

7. In these circumstances, at this stage, during the course of arguments, learned Advocate for the applicant submitted that the present O.A. may be disposed of by giving requisite directions to the respondent Nos. 1 & 2 for considering the representations of the applicant and options given by the applicant thereof and to accommodate him on the vacant post in the General Transfers of the year 2022.

8. Learned Advocate for the applicant further submitted that the applicant in addition to his earlier representation dated 21.01.2020 (Annexure A-10 at

page No. 95 of the paper book), representation dated 16.03.2021 (Annexure A-13 collectively at page No. 118 of the paper book) in prescribed format giving options and representation dated 23.07.2021 (Annexure A-14 at page No. 122 of the paper book) were also made. That apart, the applicant has recently made representation dated 05.04.2022 on similar footing and by giving options. Learned Advocate for the applicant produced the said representation today, which is in the pro-forma is taken on record and is being placed at page Nos. 197 to 202 of the paper book. The applicant has also given representation dated 08.10.2021 (Annexure AA-1 collectively at page No. 171 of the paper book) seeking transfer on medical grounds.

9. Learned Presenting Officer for respondent Nos. 1 and 2 submitted that the necessary order may be passed for considering such representations of the applicant.

10. Learned Advocate for respondent Nos. 3 to 8 also submitted that without affecting the rights of the respondent Nos. 3 to 8, necessary orders may be passed for consideration of representations of the applicant.

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O.A. No. 465/2021

11. In the facts and circumstances as above, it is evident from the record that the applicant has completed tenure for more than 8 years on his present posting in the office of Assistant Government Prosecutor, Pachora , Dist. Jalgaon. Since 2020 his name is taken in the waiting list of the Government officials, who were due for transfer. The applicant is giving options also for such transfer. It is also a matter of record that the O.A. No. 481/2019 was filed by the present applicant making grievance that his representations for transfer were not considered. The said O.A. was disposed of by this Tribunal by the order dated 26.06.2019. However, while making such representations, the applicant did not refer to this order dated 26.06.2019 passed in O.A. No. 481/2019. Moreover, it is also a matter of record that the respondent Nos. 3 to 8, who are appointed after 2015 were being accommodated and transferred.

12. In these circumstances, in my considered opinion, it would be just and proper to direct the respondent Nos. 1 and 2 to consider the various representations made by the applicant for posting

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O.A. No. 465/2021

preferably in the district Kolhapur and Sangli and more particularly, contending his personal health ground and health grounds of his parents at the earliest and more preferably in the General Transfers of the year 2022 on the vacant post. In view of above, I proceed to pass following order :-

ORDER

The Original Application No. 465/2021 is partly allowed in following terms :-

- (a) The respondent Nos. 1 and 2 are directed to consider the representations dated 21.01.2020 (Annexure A-10 at page No. 95 of the paper book), 16.03.2021 (Annexure A-13 collectively at page No. 118 of the paper book), 23.07.2021 (Annexure A-14 at page No. 122 of the paper book), 08.10.2021 (Annexure AA-1 collectively at page No. 171 of the paper book) and most preferably representation dated 05.04.2022 (page No. 197 of the paper book) made by the applicant thereby seeking transfer in Kolhapur or Sangli District whenever in the

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O.A. No. 465/2021

nearest future an occasion to fill in any post of Clerk-Typist or an equivalent post arises, to transfer the applicant on such post on it's own merit, as well as, on sympathetic grounds.

- (b) Learned Presenting Officer is directed to communicate this order to the concerned respondents.
- (c) Accordingly, O.A. stands disposed of with no order as to costs.

MEMBER (J)

**ORIGINAL APPLICATION NO. 424 OF 2022
(Raosaheb K. Jare Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

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

2. Issue notice to the respondents, returnable on 28.06.2022.
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 28.06.2022.
8. Steno copy and Hamdast is allowed to both parties.

MEMBER (J)

ORIGINAL APPLICATION NO. 425 OF 2022
(Ramdas H. Lohakare Vs. State of Maharashtra & Ors.)

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

DATE : 06.05.2022

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. Issue notice to the respondents, returnable on 28.06.2022.
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 28.06.2022.
8. Steno copy and Hamdast is allowed to both parties.

MEMBER (J)

M.A. St. 570/2022 in O.A. St. No. 571/2022
(Ashok G. Jondhale & Ors. Vs. State of Maharashtra & Ors.)

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

DATE : 06.05.2022

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate holding for Shri H.V. Patil, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicant, S.O. to 27.06.2022.

MEMBER (J)

KPB ORAL ORDERS 06.05.2022

**ORIGINAL APPLICATION ST. NO. 840 OF 2022
(Sachin R. Gupta Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

Heard Shri U.R. Awate, learned Advocate holding for Shri S.B. Talekar, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. Issue notice to the respondents, returnable on 17.06.2022.
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

//2// O.A. St. 840/2022

(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. The point of maintainability of the O.A. on the point of not filing departmental appeal against the order of suspension is kept open. Registry to register the O.A.

8. S.O. to 17.06.2022.

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

MEMBER (J)

**ORIGINAL APPLICATION NO. 591 OF 2021
(Vaishnavi S. Landage Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

Shri S.B. Chaudhari, learned Advocate for the applicant (**Absent**). Heard Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. As none present for the applicant, S.O. to 04.07.2022.

MEMBER (J)

**M.A. No. 620/2019 in O.A. St. No. 355/2019
(Sunedh D. Waghmare Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

Heard Shri A.D. Gawale, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant submits that the respondent No. 2 has issued order dated 08.07.2008 (Annexure-A to the O.A.) rejecting the claim of the applicant.

3. In view of the same, learned Advocate for the applicant submits that he would take necessary steps in the matter.

4. S.O. to 30.06.2022.

MEMBER (J)

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 : 06.05.2022

ORAL ORDER :

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

2. At the request of learned Advocate for the applicant, S.O. to 10.06.2022

MEMBER (J)

KPB ORAL ORDERS 06.05.2022

**M.A. St. 554/2022 in O.A. No. 44/2020
(State of Maharashtra & Ors. Vs. Asha S. Gaikwad)**

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

DATE : 06.05.2022

ORAL ORDER :

Heard Shri M.P. Gude, learned Presenting Officer for the applicants in the present M.A. / respondents in O.A. and Shri K.B. Jadhav, learned Advocate for respondent in the present M.A./ applicant in O.A.

2. By this Misc. Application, the applicants / respondents in O.A. are seeking extension of further four weeks' time from 27.11.2021 for compliance of the order passed in O.A. No. 44/2020, wherein the applicants / respondents in the said O.A. were directed to consider the claim of the applicant for appointment on compassionate ground from the requisite vacant posts or even by creating supernumerary posts by taking into consideration the seniority in the waiting list and to complete the entire exercise of appointing the applicant on compassionate ground in accordance with law within a period of four months from the date of said order.

3. At this stage, learned Presenting Officer submits that applicants / respondent in O.A. No. 44/2020 have already preferred Writ Petition before the Hon'ble High Court in this respect.

4. In view of the same, the M.A. stands disposed of with no order as to costs.

MEMBER (J)

ORIGINAL APPLICATION NO. 116 OF 2018
(Sanjay M. Deokate Vs. State of Maharashtra & Ors.)

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

DATE : 06.05.2022

ORAL ORDER :

Heard Smt. Kanchan Saraf, learned Advocate holding for Shri S.D. Joshi, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. The present matter has already been treated as part heard.
3. At the request of learned Advocate for the applicant, S.O. to 14.06.2022.

MEMBER (J)

**ORIGINAL APPLICATION NO. 335 OF 2020
(Arjun N. Pache Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

Heard Ms. Preeti Wankhade, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. The present matter has already been treated as part heard.
3. By consent of both the sides, S.O. to 10.06.2022.

MEMBER (J)

**ORIGINAL APPLICATION NO. 15 OF 2017
(Subhashh M. Sonwane Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

Shri Sanjay Kolhare, learned Advocate for the applicant (**Absent**). Heard Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. As none present for the applicant, S.O. to 17.06.2022 for final hearing.

MEMBER (J)

ORIGINAL APPLICATION NO. 487 OF 2018
(Ramchandra L. Kulkarni Vs. State of Maharashtra & Ors.)

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

DATE : 06.05.2022

ORAL ORDER :

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

2. As none present for the applicant, S.O. to 17.06.2022 for final hearing.

MEMBER (J)

ORIGINAL APPLICATION NO. 810 OF 2019
(Shamsunder M. Choudhari Vs. State of Maharashtra & Ors.)

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

DATE : 06.05.2022

ORAL ORDER :

Heard Shri Saket Joshi, 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. By consent of both the sides, S.O. to 06.07.2022 for final hearing.

MEMBER (J)

**ORIGINAL APPLICATION NO. 97 OF 2020
(Tukaram V. Sanap Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

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

2. By consent of both the sides, S.O. to 04.07.2022 for final hearing.

MEMBER (J)

KPB ORAL ORDERS 06.05.2022

**ORIGINAL APPLICATION NO. 525 OF 2020
(Anita R. Pagare Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

Heard Smt. Kanchan Saraf, learned Advocate holding for Shri S.D. Joshi, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicant, S.O. to 06.07.2022 for final hearing.

MEMBER (J)

**ORIGINAL APPLICATION NO. 498 OF 2021
(Navnath R. Sanap Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

Heard Shri O.D. Mane, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant submits that the order dated 08.10.2021 passed by this Tribunal is not complied with by the respondents.

3. Learned Presenting Officer submits that in this regard, the respondents have filed sur-rejoinder and have raised appropriate pleadings in para No. 6 as to why they are not able to implement that order.

4. In view of the same, S.O. to 16.06.2022 for final hearing.

MEMBER (J)

**ORIGINAL APPLICATION NO. 522 OF 2021
(Ravindra D. Raut Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

Heard Shri O.D. Mane, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. By consent of both the sides, S.O. to 16.06.2022 for final hearing.

MEMBER (J)

**ORIGINAL APPLICATION NO. 712 OF 2021
(Dr. Subhash G. Kabade Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

Heard Shri Shamsunder B. Patil, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. The present matter is to be treated as part heard.
3. By consent of both the sides, S.O. to 07.06.2022 for final hearing.

MEMBER (J)

**ORIGINAL APPLICATION NO. 737 OF 2021
(Arun S. Kapadane Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

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

2. By consent of both the sides, S.O. to 09.06.2022 for final hearing.

MEMBER (J)

M.A.NO.84 OF 2019 IN O.A.NO.921 OF 2018
(Shriram B. Jadhav Vs. State of Maharashtra & Ors.)

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

DATE : 06.05.2022

ORDER

This application is made seeking condonation of delay of about 8 years and 4 months caused in filing the Original Application under Section 19 of Administrative Tribunals Act, 1985 seeking directions against the respondents to refund the recovered amount of Rs.52,232/- deducted from the monthly salary of the applicant while in service as per various recovery orders dated 19.06.2009, 11.06.2009 and 06.11.2009 (Exh. 'A-2' collectively in O.A.) for the alleged excess amount paid on account of grant of time bound pay scale of selection grade.

2. The applicant was initially appointed to the post of Industrial Inspector – Class 'III' post on 30.05.1983 till 21.11.2014. Thereafter, he was promoted to the post of Industrial Officer (Technical) and retired on 28.02.2015. Thereafter the applicant along with other 49 employees filed Original Application No.363/2016 before this Tribunal seeking directions against the respondents to take decision for amalgamating the post of Industrial Inspector- Class 'III' and Industrial Inspector (Selection Grade) in the Industries Energy

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M.A.84/2019 In
O.A.No.921/2018

and Labour Department as well as seeking refund of the amount of un-authorisedly ducted from the salary of the applicant.

3. During pendency of the said Original Application, first prayer of amalgamation was satisfied. The second prayer for refund was still there. However, the Hon'ble Tribunal disposed of the said Original Application by order dated 13.11.2017 (Exh. 'A-1' in M.A.) granting liberty to the applicants to approach the Tribunal, whenever fresh cause of action arises.

4. Meanwhile, the applicant got knowledge of the judgment and order of Hon'ble Supreme Court dated 18.12.2014 in the case of **State of Punjab & Ors. Vs. Rafiq Masih (White Washer's case) report in 2014 SCW 501** in respect of recovery and refund. The applicant, therefore, along with three other employees filed O.A.St.No.529/2018 praying refund of recovered amount. By order dated 02.08.2018 (Exh. 'A-2' in M.A.), liberty was granted to the applicants therein to file separate O.As. Accordingly, in the month of November, 2018 the applicant filed the present Original Application along with delay condonation

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M.A.84/2019 In
O.A.No.921/2018

application. There is a continuous cause of action as claimed by way of monetary benefit to the pensioners as per settled law. The delay is not deliberate. Hence this application.

5. Affidavit-in-reply is filed on behalf of the respondent Nos.1 to 4 by one Balwant Suryakantrao Joshi working as the Joint Director of Industries, Aurangabad. Thereby he denied all the adverse contentions raised in the application. However, the previous litigation as pleaded by the applicant is not disputed. According to these respondents, the impugned orders of recovery are of June, 2009. The applicant had challenged recovery by previous O.A. in 2016 but the same is withdrawn. Huge delay of more than 6 years is not at all explained by the applicant. The applicant has slept over his alleged right for many years. Hence, the application is liable to be dismissed.

6. I have heard the arguments advanced by Shri P.B. Salunke, learned Advocate holding for Shri V.G. Salgare, learned Advocate for the applicant on one hand and Shri S.K. Shrise, learned Presenting Officer for the respondent on other hand.

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M.A.84/2019 In
O.A.No.921/2018

7. Learned Advocate for the applicant strenuously urged before me that the applicant is seeking monetary relief. The law as regards the recovery of excess amount on account of wrong pay fixation is settled in the year, 2014 in the case of **State of Punjab & Ors. etc. Vs. Rafiq Masih (White Washer's)** report in 2014 and accordingly, the relief was sought by the applicant by filing the Original Application in the year 2016 as well as in the year, 2018.

8. That apart, he further submitted that the applicant is a pensioner and as the applicant is being Class III employee, the amount was not recoverable. It is continuous cause of action and therefore, liberal approach should be adopted. To support the said submission, he placed reliance on the decision of the Hon'ble High Court of Judicature at Bombay Bench at Aurangabad in the case of **Shiba Rani Maity and Ors. Vs. The State of West Bengal passed in W.P.No.29979 and 27562 (W) of 2016** decided on 18.01.2017. After adverting with the various case laws of Hon'ble Supreme Court in **State of Punjab & Ors. etc. Vs. Rafiq Masih (White Washer's)** and **Jagdev**

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M.A.84/2019 In
O.A.No.921/2018

Singh (supra) case it is observed in para No.15 and 16 as follows:-

“15. The only other question is that whether the writ petition should be entertained in spite of delay of about 17 years in approaching this Court. In a judgment and order dated 6 September, 2010 delivered in MAT 1933 of 2010 passed by a Division Bench of this Court and held that although the petitioner had approached the Court after a lapse of nine years, no third party right had accrued because of the delay and it was only the petitioner who suffered due to non-payment of the withheld amount on account of alleged over-drawal. Accordingly the Division Bench set aside the order of the Learned Single Judge by which the writ petition had been dismissed only on the ground of delay.

16. Following the Division Bench judgment of this Court adverted to above, I hold that it is only the petitioner who suffered by reason of the wrongful withholding of the aforesaid sum from his retiral benefits. Although there has been a delay of about 17 years in approaching this Court, the same has not given rise to any third party right and allowing this writ application is not going to affect the right of any third part. It may also be noted that the Hon’ble Apex court observed in its decision in the case of Union of India Vs. Tarsem Singh, MANU/SC/7976/2008 : (2008) 3 SCC 648 that relief may be granted to a writ petitioner in spite of the delay if it does not affect the right of third parties.”

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M.A.84/2019 In
O.A.No.921/2018

9. Learned Presenting Officer appearing on behalf of the respondents opposed the submission made on behalf of the applicant and submitted that there is huge delay of more than 8 years and no plausible explanation is forthcoming. Even if the petition filed by the applicant in the year 2016 is taken into consideration, there is the delay of about 6 years. Hence, this is not a fit case to condone the delay.

10. Considering the facts of the present case, it can be seen that the orders of recovery are passed on account of excess payment being made to the applicant on account of wrong pay fixation. Prima-facie, any misrepresentation or fraud being played by the applicant on the respondents for seeking excess payment is not shown. It is a fact that in the year 2016, the applicant and others had filed Original Application with one of the prayers of refund within about 1 year from the date of retirement.

11. Thereafter, this applicant and three others filed Original Application for the same relief in the year, 2018 itself which was disposed of by order dated 02.08.2018 granting liberty to the applicants therein

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M.A.84/2019 In
O.A.No.921/2018

to file Original Application separately. Thereafter, in the month of November, 2018 this Original Application along with delay condonation application has filed by the applicant.

12. In the circumstances as above, some negligence can be attributed to the applicant in not approaching the Tribunal in time. However, considering the monetary claim of the applicant it cannot be said that this is going to affect the right of any other Government employees. In such circumstances, the case law relied upon by the applicant in the matter of **Shiba Rani Maity and Ors.** (cited supra) would be applicable to hold that this is a fit case to condone the delay.

13. It is a settled principle of law that the expression “sufficient cause” is to be construed liberally. I have already observed that some negligence can be attributed to the applicant in not approaching the Tribunal in time. However, the same cannot be said to be gross or deliberate one. In the year 2016 itself, the Original Application for this relief and some other reliefs was already entertained. In this situation, in my

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M.A.84/2019 In
O.A.No.921/2018

considered opinion, this is a fit case to condone the delay of 8 years 4 months caused in filing the Original Application by imposing moderate costs upon the applicant. I compute the costs of Rs.2000/-(Rs. Two Thousand only) on the applicant and proceed to pass the following order: -

ORDER

The Misc. Application No. 84/2019 in O.A.No.921/2018 is allowed in following terms:-

- (A) The delay of 8 years and 4 months caused in filing the accompanying O.A. under Section 19 of the Administrative Tribunals Act, 1985 is hereby condoned subject to payment of costs of Rs. 2000/- (Rs. Two Thousand only) by the applicant. The amount of costs shall be deposited in the Registry of this Tribunal within a period of one month from the date of this order.
- (B) Upon satisfaction of the costs as above, the accompanying O.A. be registered and numbered by taking in to account other office objection/s, if any.

MEMBER (J)

M.A.NO.85 OF 2019 IN O.A.NO.922 OF 2018
(Hanshraj Masu Pawar Vs. State of Maharashtra & Ors.)

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

DATE : 06.05.2022

ORDER

This application is made seeking condonation of delay of about 5 years and 4 months caused in filing the Original Application under Section 19 of Administrative Tribunals Act, 1985 seeking directions against the respondents to refund the recovered amount of Rs.44,272/- deducted from the monthly salary of the applicant while in service as per recovery order dated 25.06.2012 (Exh. 'A-2' in O.A.) for the alleged excess amount paid on account of grant of time bound pay scale of selection grade.

2. The applicant was initially appointed to the post of Statistical Assistant and subsequently promoted to the post of Industrial Inspector- Class 'III' on 29.05.1987 and posted as a Extension Officer (Industries). He retired from the said post on 03.11.2017. The applicant along with other 49 employees filed Original Application No.363/2016 before this Tribunal seeking directions against the respondents to take decision for amalgamating the post of Industrial Inspector- Class 'III' and Industrial Inspector (Selection Grade) in the Industries Energy

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M.A.85/2019 In
O.A.No.922/2018

and Labour Department as well as seeking refund of the amount of un-authorisedly ducted from the salary of the applicant.

3. During pendency of the said Original Application, first prayer of amalgamation was satisfied. The second prayer for refund was still there. However, the Hon'ble Tribunal disposed of the said Original Application by order dated 13.11.2017 (Exh. 'A-1' in M.A.) granting liberty to the applicants to approach the Tribunal, whenever fresh cause of action arises.

4. Meanwhile, the applicant got knowledge of the judgment and order of Hon'ble Supreme Court dated 18.12.2014 in the case of **State of Punjab & Ors. Vs. Rafiq Masih (White Washer's case) report in 2014 SCW 501** in respect of recovery and refund. The applicant, therefore, along with three other employees filed O.A.St.No.529/2018, praying refund of recovered amount. By order dated 02.08.2018 (Exh. 'A-2' in M.A.), liberty was granted to the applicants therein to file separate O.As. Accordingly, in the month of November, 2018 the applicant filed the present Original Application along with delay condonation

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M.A.85/2019 In
O.A.No.922/2018

application. There is a continuous cause of action as claimed by way of monetary benefit to the pensioners as per settled law. The delay is not deliberate. Hence this application.

5. Affidavit-in-reply is filed on behalf of the respondent Nos.1 to 4 by one Balwant Suryakantrao Joshi working as the Joint Director of Industries, Aurangabad. Thereby he denied all the adverse contentions raised in the application. However, the previous litigation as pleaded by the applicant is not disputed. According to these respondents, the impugned order of recovery is of June, 2012. The applicant had challenged recovery by previous O.A. in 2016 but the same is withdrawn. Huge delay of more than 4 years is not at all explained by the applicant. The applicant has slept over his alleged right for many years. Hence, the application is liable to be dismissed.

6. I have heard the arguments advanced by Shri P.B. Salunke, learned Advocate holding for Shri V.G. Salgare, learned Advocate for the applicant on one hand and Shri S.K. Shrise, learned Presenting Officer for the respondent on other hand.

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M.A.85/2019 In
O.A.No.922/2018

7. Learned Advocate for the applicant strenuously urged before me that the applicant is seeking monetary relief. The law as regards the recovery of excess amount on account of wrong pay fixation is settled in the year, 2014 in the case of **State of Punjab & Ors. etc. Vs. Rafiq Masih (White Washer's)** report in 2014 and accordingly, the relief was sought by the applicant by filing the Original Application in the year 2016 as well as in the year, 2018.

8. That apart, he further submitted that the applicant is a pensioner and as the applicant is being Class III employee, the amount was not recoverable. It is continuous cause of action and therefore, liberal approach should be adopted. To support the said submission, he placed reliance on the decision of the Hon'ble High Court of Judicature at Bombay Bench at Aurangabad in the case of **Shiba Rani Maity and Ors. Vs. The State of West Bengal passed in W.P.No.29979 and 27562 (W) of 2016** decided on 18.01.2017. After adverting with the various case laws of Hon'ble Supreme Court in **State of Punjab & Ors. etc. Vs. Rafiq Masih (White Washer's)** and **Jagdev**

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M.A.85/2019 In
O.A.No.922/2018

Singh (supra) case it is observed in para No.15 and 16 as follows:-

“15. The only other question is that whether the writ petition should be entertained in spite of delay of about 17 years in approaching this Court. In a judgment and order dated 6 September, 2010 delivered in MAT 1933 of 2010 passed by a Division Bench of this Court and held that although the petitioner had approached the Court after a lapse of nine years, no third party right had accrued because of the delay and it was only the petitioner who suffered due to non-payment of the withheld amount on account of alleged over-drawal. Accordingly the Division Bench set aside the order of the Learned Single Judge by which the writ petition had been dismissed only on the ground of delay.

16. Following the Division Bench judgment of this Court adverted to above, I hold that it is only the petitioner who suffered by reason of the wrongful withholding of the aforesaid sum from his retiral benefits. Although there has been a delay of about 17 years in approaching this Court, the same has not given rise to any third party right and allowing this writ application is not going to affect the right of any third part. It may also be noted that the Hon’ble Apex court observed in its decision in the case of Union of India Vs. Tarsem Singh, MANU/SC/7976/2008 : (2008) 3 SCC 648 that relief may be granted to a writ petitioner in spite of the delay if it does not affect the right of third parties.”

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M.A.85/2019 In
O.A.No.922/2018

9. Learned Presenting Officer appearing on behalf of the respondents opposed the submission made on behalf of the applicant and submitted that there is huge delay of more than 5 years and no plausible explanation is forthcoming. Even if the petition filed by the applicant in the year 2016 is taken into consideration, there is the delay of about 4 years. Hence, this is not a fit case to condone the delay.

10. Considering the facts of the present case, it can be seen that the orders of recovery are passed on account of excess payment being made to the applicant on account of wrong pay fixation. Prima-facie, any misrepresentation or fraud being played by the applicant on the respondents for seeking excess payment is not shown. It is a fact that in the year 2016, the applicant and others had filed Original Application with one of the prayers of refund before the date of his retirement.

11. Thereafter, this applicant and three others filed Original Application for the same relief in the year, 2018 itself which was disposed of by order dated 02.08.2018 granting liberty to the applicants therein

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M.A.85/2019 In
O.A.No.922/2018

to file Original Application separately. Thereafter, in the month of November, 2018 this Original Application along with delay condonation application has filed by the applicant.

12. In the circumstances as above, some negligence can be attributed to the applicant in not approaching the Tribunal in time. However, considering the monetary claim of the applicant it cannot be said that this is going to affect the right of any other Government employees. In such circumstances, the case law relied upon by the applicant in the matter of **Shiba Rani Maity and Ors.** (cited supra) would be applicable to hold that this is a fit case to condone the delay.

13. It is a settled principle of law that the expression “sufficient cause” is to be construed liberally. I have already observed that some negligence can be attributed to the applicant in not approaching the Tribunal in time. However, the same cannot be said to be gross or deliberate one. In the year 2016 itself, the Original Application for this relief and some other reliefs was already entertained. In this situation, in my

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M.A.85/2019 In
O.A.No.922/2018

considered opinion, this is a fit case to condone the delay of 5 years 4 months caused in filing the Original Application by imposing moderate costs upon the applicant. I compute the costs of Rs.2000/-(Rs. Two Thousand only) on the applicant and proceed to pass the following order: -

ORDER

The Misc. Application No. 85/2019 in O.A.No.922/2018 is allowed in following terms:-

- (A) The delay of 5 years and 4 months caused in filing the accompanying O.A. under Section 19 of the Administrative Tribunals Act, 1985 is hereby condoned subject to payment of costs of Rs. 2000/- (Rs. Two Thousand only) by the applicant. The amount of costs shall be deposited in the Registry of this Tribunal within a period of one month from the date of this order.
- (B) Upon satisfaction of the costs as above, the accompanying O.A. be registered and numbered by taking in to account other office objection/s, if any.

MEMBER (J)

**M.A.NO.86 OF 2019 IN O.A.NO.923 OF 2018
(Shivaji M. Shelke Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORDER

This application is made seeking condonation of delay of about 5 years and 7 months caused in filing the Original Application under Section 19 of Administrative Tribunals Act, 1985 seeking directions against the respondents to refund the recovered amount of Rs.43,507/- deducted from the monthly salary of the applicant while in service as per recovery order dated 04.04.2012 (Exh. 'A-2' collectively in O.A.) for the alleged excess amount paid on account of grant of time bound pay scale of selection grade.

2. The applicant was initially appointed to the post of Junior Clerk on 06.01.1983 under Joint Director of Industries, Aurangabad. Thereafter, he was promoted to the post of Industrial Inspector and posted as a Extension Officer (Industries) and retired on 30.08.2015. Thereafter, the applicant along with other 49 employees filed Original Application No.363/2016 before this Tribunal seeking directions against the respondents to take decision for amalgamating the post of Industrial Inspector- Class 'III' and Industrial Inspector (Selection Grade) in the Industries Energy

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M.A.86/2019 In
O.A.No.923/2018

and Labour Department as well as seeking refund of the amount of un-authorisedly ducted from the salary of the applicant.

3. During pendency of the said Original Application, first prayer of amalgamation was satisfied. The second prayer for refund was still there. However, the Hon'ble Tribunal disposed of the said Original Application by order dated 13.11.2017 (Exh. 'A-1' in M.A.) granting liberty to the applicants to approach the Tribunal, whenever fresh cause of action arises.

4. Meanwhile, the applicant got knowledge of the judgment and order of Hon'ble Supreme Court dated 18.12.2014 in the case of **State of Punjab & Ors. Vs. Rafiq Masih (White Washer's case) report in 2014 SCW 501** in respect of recovery and refund. The applicant, therefore, along with three other employees filed O.A.St.No.529/2018 praying refund of recovered amount. By order dated 02.08.2018 (Exh. 'A-2' in M.A.), liberty was granted to the applicants therein to file separate O.As. Accordingly, in the month of November, 2018 the applicant filed the present Original Application along with delay condonation

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M.A.86/2019 In
O.A.No.923/2018

application. There is a continuous cause of action as claimed by way of monetary benefit to the pensioners as per settled law. The delay is not deliberate. Hence this application.

5. Affidavit-in-reply is filed on behalf of the respondent Nos.1 to 4 by one Balwant Suryakantrao Joshi working as the Joint Director of Industries, Aurangabad. Thereby he denied all the adverse contentions raised in the application. However, the previous litigation as pleaded by the applicant is not disputed. According to these respondents, the impugned order of recovery is of April, 2012. The applicant had challenged recovery by previous O.A. in 2016 but the same is withdrawn. Huge delay of more than 4 years is not at all explained by the applicant. The applicant has slept over his alleged right for many years. Hence, the application is liable to be dismissed.

6. I have heard the arguments advanced by Shri P.B. Salunke, learned Advocate holding for Shri V.G. Salgare, learned Advocate for the applicant on one hand and Shri S.K. Shrise, learned Presenting Officer for the respondent on other hand.

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M.A.86/2019 In
O.A.No.923/2018

7. Learned Advocate for the applicant strenuously urged before me that the applicant is seeking monetary relief. The law as regards the recovery of excess amount on account of wrong pay fixation is settled in the year, 2014 in the case of **State of Punjab & Ors. etc. Vs. Rafiq Masih (White Washer's)** report in 2014 and accordingly, the relief was sought by the applicant by filing the Original Application in the year 2016 as well as in the year, 2018.

8. That apart, he further submitted that the applicant is a pensioner and as the applicant is being Class III employee, the amount was not recoverable. It is continuous cause of action and therefore, liberal approach should be adopted. To support the said submission, he placed reliance on the decision of the Hon'ble High Court of Judicature at Bombay Bench at Aurangabad in the case of **Shiba Rani Maity and Ors. Vs. The State of West Bengal passed in W.P.No.29979 and 27562 (W) of 2016** decided on 18.01.2017. After advertent with the various case laws of Hon'ble Supreme Court in **State of Punjab & Ors. etc. Vs. Rafiq Masih (White Washer's)** and **Jagdev**

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M.A.86/2019 In
O.A.No.923/2018

Singh (supra) case it is observed in para No.15 and 16 as follows:-

“15. The only other question is that whether the writ petition should be entertained in spite of delay of about 17 years in approaching this Court. In a judgment and order dated 6 September, 2010 delivered in MAT 1933 of 2010 passed by a Division Bench of this Court and held that although the petitioner had approached the Court after a lapse of nine years, no third party right had accrued because of the delay and it was only the petitioner who suffered due to non-payment of the withheld amount on account of alleged over-drawal. Accordingly the Division Bench set aside the order of the Learned Single Judge by which the writ petition had been dismissed only on the ground of delay.

16. Following the Division Bench judgment of this Court adverted to above, I hold that it is only the petitioner who suffered by reason of the wrongful withholding of the aforesaid sum from his retiral benefits. Although there has been a delay of about 17 years in approaching this Court, the same has not given rise to any third party right and allowing this writ application is not going to affect the right of any third part. It may also be noted that the Hon’ble Apex court observed in its decision in the case of Union of India Vs. Tarsem Singh, MANU/SC/7976/2008 : (2008) 3 SCC 648 that relief may be granted to a writ petitioner in spite of the delay if it does not affect the right of third parties.”

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M.A.86/2019 In
O.A.No.923/2018

9. Learned Presenting Officer appearing on behalf of the respondents opposed the submission made on behalf of the applicant and submitted that there is huge delay of more than 5 years and no plausible explanation is forthcoming. Even if the petition filed by the applicant in the year 2016 is taken into consideration, there is the delay of about 4 years. Hence, this is not a fit case to condone the delay.

10. Considering the facts of the present case, it can be seen that the orders of recovery are passed on account of excess payment being made to the applicant on account of wrong pay fixation. Prima-facie, any misrepresentation or fraud being played by the applicant on the respondents for seeking excess payment is not shown. It is a fact that in the year 2016, the applicant and others had filed Original Application with one of the prayers of refund within about 1 year from the date of retirement.

11. Thereafter, this applicant and three others filed Original Application for the same relief in the year, 2018 itself which was disposed of by order dated 02.08.2018 granting liberty to the applicants therein

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M.A.86/2019 In
O.A.No.923/2018

to file Original Application separately. Thereafter, in the month of November, 2018 this Original Application along with delay condonation application has filed by the applicant.

12. In the circumstances as above, some negligence can be attributed to the applicant in not approaching the Tribunal in time. However, considering the monetary claim of the applicant it cannot be said that this is going to affect the right of any other Government employees. In such circumstances, the case law relied upon by the applicant in the matter of **Shiba Rani Maity and Ors.** (cited supra) would be applicable to hold that this is a fit case to condone the delay.

13. It is a settled principle of law that the expression “sufficient cause” is to be construed liberally. I have already observed that some negligence can be attributed to the applicant in not approaching the Tribunal in time. However, the same cannot be said to be gross or deliberate one. In the year 2016 itself, the Original Application for this relief and some other reliefs was already entertained. In this situation, in my

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M.A.86/2019 In
O.A.No.923/2018

considered opinion, this is a fit case to condone the delay of 5 years 7 months caused in filing the Original Application by imposing moderate costs upon the applicant. I compute the costs of Rs.2000/-(Rs. Two Thousand only) on the applicant and proceed to pass the following order: -

ORDER

The Misc. Application No. 86/2019 in O.A.No.923/2018 is allowed in following terms:-

- (A) The delay of 5 years and 7 months caused in filing the accompanying O.A. under Section 19 of the Administrative Tribunals Act, 1985 is hereby condoned subject to payment of costs of Rs. 2000/- (Rs. Two Thousand only) by the applicant. The amount of costs shall be deposited in the Registry of this Tribunal within a period of one month from the date of this order.
- (B) Upon satisfaction of the costs as above, the accompanying O.A. be registered and numbered by taking in to account other office objection/s, if any.

MEMBER (J)

M.A.NO.87 OF 2019 IN O.A.NO.924 OF 2018
(Dhananjay Pandharinath Patil Vs. State of Maharashtra & Ors.)

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

DATE : 06.05.2022

ORDER

This application is made seeking condonation of delay of about 8 years and 4 months caused in filing the Original Application under Section 19 of Administrative Tribunals Act, 1985 seeking directions against the respondents to refund the recovered amount of Rs.47,830/- deducted from the monthly salary of the applicant while in service as per recovery order dated 15.06.2009 (Exh. 'A-2' in O.A.) for the alleged excess amount paid on account of grant of time bound pay scale of selection grade.

2. The applicant was initially appointed to the post of Industrial Inspector (Class 'III') post on 04.05.1983. Thereafter, he was promoted to the post of Industrial Officer (Technical) and retired on 31.03.2016. Thereafter the applicant along with other 49 employees filed Original Application No.363/2016 before this Tribunal seeking directions against the respondents to take decision for amalgamating the post of Industrial Inspector- Class 'III' and Industrial Inspector (Selection Grade) in the Industries Energy

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M.A.87/2019 In
O.A.No.924/2018

and Labour Department as well as seeking refund of the amount of un-authorisedly ducted from the salary of the applicant.

3. During pendency of the said Original Application, first prayer of amalgamation was satisfied. The second prayer for refund was still there. However, the Hon'ble Tribunal disposed of the said Original Application by order dated 13.11.2017 (Exh. 'A-1' in M.A.) granting liberty to the applicants to approach the Tribunal, whenever fresh cause of action arises.

4. Meanwhile, the applicant got knowledge of the judgment and order of Hon'ble Supreme Court dated 18.12.2014 in the case of **State of Punjab & Ors. Vs. Rafiq Masih (White Washer's case) report in 2014 SCW 501** in respect of recovery and refund. The applicant, therefore, along with three other employees filed O.A.St.No.529/2018 praying refund of recovered amount. By order dated 02.08.2018 (Exh. 'A-2' in M.A.), liberty was granted to the applicants therein to file separate O.As. Accordingly, in the month of November, 2018 the applicant filed the present Original Application along with delay condonation

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M.A.87/2019 In
O.A.No.924/2018

application. There is a continuous cause of action as claimed by way of monetary benefit to the pensioners as per settled law. The delay is not deliberate. Hence this application.

5. Affidavit-in-reply is filed on behalf of the respondent Nos.1 to 4 by one Balwant Suryakantrao Joshi working as the Joint Director of Industries, Aurangabad. Thereby he denied all the adverse contentions raised in the application. However, the previous litigation as pleaded by the applicant is not disputed. According to these respondents, the impugned orders of recovery are of June, 2009. The applicant had challenged recovery by previous O.A. in 2016 but the same is withdrawn. Huge delay of more than 6 years is not at all explained by the applicant. The applicant has slept over his alleged right for many years. Hence, the application is liable to be dismissed.

6. I have heard the arguments advanced by Shri P.B. Salunke, learned Advocate holding for Shri V.G. Salgare, learned Advocate for the applicant on one hand and Shri S.K. Shrise, learned Presenting Officer for the respondent on other hand.

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M.A.87/2019 In
O.A.No.924/2018

7. Learned Advocate for the applicant strenuously urged before me that the applicant is seeking monetary relief. The law as regards the recovery of excess amount on account of wrong pay fixation is settled in the year, 2014 in the case of **State of Punjab & Ors. etc. Vs. Rafiq Masih (White Washer's)** report in 2014 and accordingly, the relief was sought by the applicant by filing the Original Application in the year 2016 as well as in the year, 2018.

8. That apart, he further submitted that the applicant is a pensioner and as the applicant is being Class III employee, the amount was not recoverable. It is continuous cause of action and therefore, liberal approach should be adopted. To support the said submission, he placed reliance on the decision of the Hon'ble High Court of Judicature at Bombay Bench at Aurangabad in the case of **Shiba Rani Maity and Ors. Vs. The State of West Bengal passed in W.P.No.29979 and 27562 (W) of 2016** decided on 18.01.2017. After adverting with the various case laws of Hon'ble Supreme Court in **State of Punjab & Ors. etc. Vs. Rafiq Masih (White Washer's)** and **Jagdev**

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M.A.87/2019 In
O.A.No.924/2018

Singh (supra) case it is observed in para No.15 and 16 as follows:-

“15. The only other question is that whether the writ petition should be entertained in spite of delay of about 17 years in approaching this Court. In a judgment and order dated 6 September, 2010 delivered in MAT 1933 of 2010 passed by a Division Bench of this Court and held that although the petitioner had approached the Court after a lapse of nine years, no third party right had accrued because of the delay and it was only the petitioner who suffered due to non-payment of the withheld amount on account of alleged over-drawal. Accordingly the Division Bench set aside the order of the Learned Single Judge by which the writ petition had been dismissed only on the ground of delay.

16. Following the Division Bench judgment of this Court adverted to above, I hold that it is only the petitioner who suffered by reason of the wrongful withholding of the aforesaid sum from his retiral benefits. Although there has been a delay of about 17 years in approaching this Court, the same has not given rise to any third party right and allowing this writ application is not going to affect the right of any third part. It may also be noted that the Hon’ble Apex court observed in its decision in the case of Union of India Vs. Tarsem Singh, MANU/SC/7976/2008 : (2008) 3 SCC 648 that relief may be granted to a writ petitioner in spite of the delay if it does not affect the right of third parties.”

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M.A.87/2019 In
O.A.No.924/2018

9. Learned Presenting Officer appearing on behalf of the respondents opposed the submission made on behalf of the applicant and submitted that there is huge delay of more than 8 years and no plausible explanation is forthcoming. Even if the petition filed by the applicant in the year 2016 is taken into consideration, there is the delay of about 6 years. Hence, this is not a fit case to condone the delay.

10. Considering the facts of the present case, it can be seen that the orders of recovery are passed on account of excess payment being made to the applicant on account of wrong pay fixation. Prima-facie, any misrepresentation or fraud being played by the applicant on the respondents for seeking excess payment is not shown. It is a fact that in the year 2016, the applicant and others had filed Original Application with one of the prayers of refund within about 1 year from the date of retirement.

11. Thereafter, this applicant and three others filed Original Application for the same relief in the year, 2018 itself which was disposed of by order dated 02.08.2018 granting liberty to the applicants therein

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M.A.87/2019 In
O.A.No.924/2018

to file Original Application separately. Thereafter, in the month of November, 2018 this Original Application along with delay condonation application has filed by the applicant.

12. In the circumstances as above, some negligence can be attributed to the applicant in not approaching the Tribunal in time. However, considering the monetary claim of the applicant it cannot be said that this is going to affect the right of any other Government employees. In such circumstances, the case law relied upon by the applicant in the matter of **Shiba Rani Maity and Ors.** (cited supra) would be applicable to hold that this is a fit case to condone the delay.

13. It is a settled principle of law that the expression “sufficient cause” is to be construed liberally. I have already observed that some negligence can be attributed to the applicant in not approaching the Tribunal in time. However, the same cannot be said to be gross or deliberate one. In the year 2016 itself, the Original Application for this relief and some other reliefs was already entertained. In this situation, in my

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M.A.87/2019 In
O.A.No.924/2018

considered opinion, this is a fit case to condone the delay of 8 years 4 months caused in filing the Original Application by imposing moderate costs upon the applicant. I compute the costs of Rs.2000/-(Rs. Two Thousand only) on the applicant and proceed to pass the following order: -

ORDER

The Misc. Application No. 87/2019 in O.A.No.924/2018 is allowed in following terms:-

- (A) The delay of 8 years and 4 months caused in filing the accompanying O.A. under Section 19 of the Administrative Tribunals Act, 1985 is hereby condoned subject to payment of costs of Rs. 2000/- (Rs. Two Thousand only) by the applicant. The amount of costs shall be deposited in the Registry of this Tribunal within a period of one month from the date of this order.
- (B) Upon satisfaction of the costs as above, the accompanying O.A. be registered and numbered by taking in to account other office objection/s, if any.

MEMBER (J)

ORIGINAL APPLICATION NO.1026 OF 2019
(Keshav M. Soudarmal Vs. State of Maharashtra & Ors.)

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

DATE : 06.05.2022

ORAL ORDER :

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

2. At the request of the learned P.O., time is granted as a last chance for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 29.06.2022.

MEMBER (J)

SAS ORAL ORDERS 06.05.2022

ORIGINAL APPLICATION NO.341 OF 2020
(Mangala M. Pande Vs. State of Maharashtra & Ors.)

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

DATE : 06.05.2022

ORAL ORDER :

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

2. At the request of the learned P.O., time is granted as a last chance for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 24.06.2022.

MEMBER (J)

SAS ORAL ORDERS 06.05.2022

ORIGINAL APPLICATION NO.342 OF 2020
(Savita N. Murmunde Vs. State of Maharashtra & Ors.)

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

DATE : 06.05.2022

ORAL ORDER :

Heard Shri S.B. Patil, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. At the request of the learned P.O., time is granted as a last chance for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 24.06.2022.

MEMBER (J)

SAS ORAL ORDERS 06.05.2022

**ORIGINAL APPLICATION NO.343 OF 2020
(Bhimrao S. Rathod Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

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

2. At the request of the learned P.O., time is granted as a last chance for filing affidavit-in-reply on behalf of the respondents.
3. S.O. to 24.06.2022.

MEMBER (J)

SAS ORAL ORDERS 06.05.2022

ORIGINAL APPLICATION NO.497 OF 2020
(Bhujang V. Godbole Vs. State of Maharashtra & Ors.)

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

DATE : 06.05.2022

ORAL ORDER :

Heard Smt. Amruta Pansare, learned Advocate holding for Shri V.B. Wagh, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. Await service of notice on the respondents.
3. At the request of the learned Advocate for the applicant, time is granted for taking necessary steps.
4. S.O. to 01.07.2022.

MEMBER (J)

SAS ORAL ORDERS 06.05.2022

**ORIGINAL APPLICATION NO.584 OF 2020
(Gopalrao R. Kulkarni (Died) Through His LRs. Sumanbi G.
Kulkarni Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

Shri M.L. Dharashive, learned Advocate for the applicant, is **absent**. Heard Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. At the request of the learned P.O., time is granted for filing affidavit-in-reply on behalf of the respondent Nos.1 & 3 to 5.

3. S.O. to 01.07.2022.

MEMBER (J)

**ORIGINAL APPLICATION NO.49 OF 2021
(Vandana P. Sarode Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

Shri D.K. Dagadkhair, learned Advocate for the applicant, is **absent**. Heard Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. At the request of the learned P.O., time is granted as a last chance for filing affidavit-in-reply on behalf of the respondent Nos.1 and 2.
3. S.O. to 01.07.2022.

MEMBER (J)

SAS ORAL ORDERS 06.05.2022

**ORIGINAL APPLICATION NO.110 OF 2021
(Dr. Namdeo R. Pawar Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

Heard Smt. Amruta Pansare, learned Advocate holding for Shri V.B. Wagh, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. At the request of the learned P.O., time is granted for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 01.07.2022.

MEMBER (J)

SAS ORAL ORDERS 06.05.2022

ORIGINAL APPLICATION NO.129 OF 2021
(Dr. Sheshrao P. Lohgave Vs. State of Maharashtra & Ors.)

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

DATE : 06.05.2022

ORAL ORDER :

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

2. At the request of the learned P.O., time is granted as a last chance for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 01.07.2022.

MEMBER (J)

SAS ORAL ORDERS 06.05.2022

**ORIGINAL APPLICATION NO.229 OF 2021
(Balbir Singh J. Prasad Tyagi Vs. State of Maharashtra &
Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

Heard Shri K.G. Salunke, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. Affidavit-in-rejoinder filed on behalf of the applicant is taken on record and copy thereof has been served on the other side.

3. S.O. to 09.06.2022 for admission.

MEMBER (J)

SAS ORAL ORDERS 06.05.2022

**ORIGINAL APPLICATION NO.466 OF 2021
(Dr. Yashwant M. Patil Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

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

2. Learned Advocate for the applicant submits that the service is complete and he would file service affidavit in the office in respect of service of notice upon the respondent No.1.
3. Affidavit-in-reply filed on behalf of the respondent Nos.1 to 5 is taken on record and copy thereof has been served on the other side.
4. S.O. to 04.07.2022 for filing affidavit-in-rejoinder, if any.

MEMBER (J)

ORIGINAL APPLICATION NO.470 OF 2021
(Nanda K. Kshirsagar Vs. State of Maharashtra & Ors.)

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

DATE : 06.05.2022

ORAL ORDER :

Shri M.B. Kolpe, learned Advocate for the applicant, is **absent**. Heard Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. In view of absence of learned Advocate for the applicant, S.O. to 04.07.2022 for filing affidavit-in-rejoinder, if any

MEMBER (J)

SAS ORAL ORDERS 06.05.2022

**ORIGINAL APPLICATION NO.504 OF 2021
(Dilip B. Rathod Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

Shri M.D. Godhamgaonkar, learned Advocate for the applicant, is **absent**. Heard Shri D.R. Patil, learned Presenting Officer for the respondents.

2. In view of absence of learned Advocate for the applicant, S.O. to 04.07.2022 for filing affidavit-in-rejoinder, if any.

MEMBER (J)

SAS ORAL ORDERS 06.05.2022

**ORIGINAL APPLICATION NO.505 OF 2021
(Bhaskar V. Suryawanshi Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

Shri G.N. Kulkarni, learned Advocate for the applicant, Shri I.D. Maniyar, learned Advocate for the respondent No.3 and Shri S.S. Ware, learned Advocate for the respondent No.4, are **absent**. Heard Smt. Deepali S. Deshpande, learned Presenting Officer for the respondent Nos.1 and 2.

2. In view of absence of learned Advocate for the applicant, S.O. to 04.07.2022 for filing affidavit-in-rejoinder, if any.

MEMBER (J)

SAS ORAL ORDERS 06.05.2022

**ORIGINAL APPLICATION NO.601 OF 2021
(Ramesh M. Darekar Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

Heard Shri Ganesh Jadhav, learned Advocate holding for Shri A.S. Shelke, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. At the request of the learned P.O., time is granted for filing affidavit-in-reply on behalf of all the respondents to amended O.A.

3. S.O. to 04.07.2022.

MEMBER (J)

SAS ORAL ORDERS 06.05.2022

**ORIGINAL APPLICATION NO.650 OF 2021
(Prakash T. Vaichal Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

Shri A.D. Kawre, learned Advocate for the applicant, is **absent**. Heard Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents.

2. In view of absence of learned Advocate for the applicant, S.O. to 04.07.2022 for filing affidavit-in-rejoinder, if any.

MEMBER (J)

SAS ORAL ORDERS 06.05.2022

**ORIGINAL APPLICATION NO.651 OF 2021
(Dr. Shivaji D. Birare Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

Heard Smt. Kanchan Saraf, learned Advocate holding for Shri S.D. Joshi, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. At the request of the learned Advocate for the applicant, time is granted for taking necessary steps.

3. S.O. to 05.07.2022.

MEMBER (J)

SAS ORAL ORDERS 06.05.2022

**ORIGINAL APPLICATION NO.703 OF 2021
(Hema S. Dangat Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

Shri Vikram S. Undre, learned Advocate for the applicant, is **absent**. Heard Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondent Nos.1 to 5 & 7 and Shri R.A. Joshi, learned Advocate for the respondent No.6.

2. Await service of notice on the respondents.

3. In view of absence of learned Advocate for the applicant, S.O. to 05.07.2022 for taking necessary steps.

MEMBER (J)

SAS ORAL ORDERS 06.05.2022

**O.A.NOS.60, 61, 116 TO 136 AND 158 ALL OF 2022
(Abhaykumar S. Salve & Ors. Vs. State of Maharashtra &
Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

Heard Shri S.A. Deshmukh, learned Advocate for the applicants in all these O.As. and Shri D.R. Patil, learned Presenting Officer for the respondents in all these O.As.

2. At the request of the learned P.O., time is granted as a last chance for filing affidavit-in-reply on behalf of the respondents in all these matters.

3. S.O. to 09.06.2022.

MEMBER (J)

SAS ORAL ORDERS 06.05.2022

ORIGINAL APPLICATION NO.89 OF 2022
(Bhaskar V. Shinde Vs. State of Maharashtra & Ors.)

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

DATE : 06.05.2022

ORAL ORDER :

Heard Shri M.S. Taur, learned Advocate holding for Shri A.M. Hajare, learned Advocate for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents.

2. At the request of the learned P.O., time is granted for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 04.07.2022.

MEMBER (J)

SAS ORAL ORDERS 06.05.2022

**ORIGINAL APPLICATION NO.287 OF 2022
(Pratibha M. Lohar Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

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

2. Affidavit-in-reply filed on behalf of the respondent Nos.1 to 3 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 affidavit-in-rejoinder.
4. S.O. to 06.06.2022 for admission.

MEMBER (J)

ORIGINAL APPLICATION NO.340 OF 2022
(Nandkishor S. Chitlange Vs. State of Maharashtra & Ors.)

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

DATE : 06.05.2022

ORAL ORDER :

Heard Shri M.R. Kulkarni, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. At the request of the learned P.O., time is granted for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 05.07.2022.

MEMBER (J)

SAS ORAL ORDERS 06.05.2022

**ORIGINAL APPLICATION NO.453 OF 2020
(Bhatu R. Mahale Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

Heard Shri Rahul P. Savale, learned Advocate holding for Shri Vinod P. Patil, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. At the request of the learned Advocate for the applicant, S.O. to 06.07.2022.

MEMBER (J)

SAS ORAL ORDERS 06.05.2022

**M.A.NO.417 OF 2018 IN O.A.ST.NO.1785 OF 2018
(Dangal S. Pawar Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

Heard Shri V.G. Pingle, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. 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 Original Application is pertaining to Time Bound Promotion.

3. In view of the same, the present matter be placed before the Division Bench for further hearing.

4. S.O. to 01.07.2022.

MEMBER (J)

**ORIGINAL APPLICATION NO.89 OF 2020
(Madhukar G. Bhalerao Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

Heard Shri V.G. Pingle, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. At the request of the learned P.O., one more last chance is granted for filing affidavit-in-sur-rejoinder on behalf of the respondents.
3. S.O. to 06.07.2022.

MEMBER (J)

SAS ORAL ORDERS 06.05.2022

ORIGINAL APPLICATION NO.54 OF 2019
(Varsha S. Pawara Vs. State of Maharashtra & Ors.)

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

DATE : 06.05.2022

ORAL ORDER :

Heard Shri P.H. Patil, learned Advocate holding for Shri Prakash B. Patil, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondent Nos.1 & 2. Shri V.C. Patil (Ashtekar), learned Advocate for the respondent No.3, is **absent**.

2. At the request of the learned Advocate for the applicant, S.O. to 05.07.2022 for final hearing.

MEMBER (J)

SAS ORAL ORDERS 06.05.2022

ORIGINAL APPLICATION NO.122 OF 2019
(Shaikh Ahamed Abdul Sattar Vs. State of Maharashtra & Ors.)

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

DATE : 06.05.2022

ORAL ORDER :

Heard Shri P.H. Patil, learned Advocate holding for Shri Prakashsing B. Patil, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. At the request of the learned Advocate for the applicant, S.O. to 05.07.2022 for final hearing.

MEMBER (J)

SAS ORAL ORDERS 06.05.2022

ORIGINAL APPLICATION NO.781 OF 2018
(Suryakant M. Garude & Ors. Vs. State of Maharashtra & Ors.)

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

DATE : 06.05.2022

ORAL ORDER :

Heard Shri Dilip Mutalik, learned Advocate holding for Shri J.B. Choudhary, learned Advocate for the applicants and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents.

2. At the request of the learned Advocate for the applicants, S.O. to 05.07.2022 for final hearing.

MEMBER (J)

SAS ORAL ORDERS 06.05.2022

**M.A.NO.34 OF 2021 IN O.A.ST.NO.122 OF 2021
(Vijay R. Shringare Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

Heard Shri Dilip Mutalik, learned Advocate holding for Shri J.B. Choudhary, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. Record shows that the affidavit-in-rejoinder is already filed on behalf of the applicant.

3. At the request of the learned Advocate for the applicant, S.O. to 05.07.2022 for hearing.

MEMBER (J)

SAS ORAL ORDERS 06.05.2022

**M.A.NO.25 OF 2022 IN O.A.NO.699 OF 2021
(Narayan N. More Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

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

2. At the request of the learned Advocate for the applicant, time is granted for filing affidavit-in-rejoinder.

3. S.O. to 05.07.2022.

MEMBER (J)

SAS ORAL ORDERS 06.05.2022

**M.A.NO.419 OF 2021 IN O.A.ST.NO.1799 OF 2021
(Nilabai P. Mamulwar & Ors. Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

Heard Shri H.P. Jadhav, learned Advocate for the applicants and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. At the request of the learned P.O., one more last chance is granted for filing affidavit-in-reply on behalf of respondents in M.A.

3. S.O. to 05.07.2022.

MEMBER (J)

SAS ORAL ORDERS 06.05.2022

**M.A.NO.427 OF 2021 IN O.A.ST.NO.1816 OF 2021
(Gajanan B. Dandge & Ors. Vs. State of Maharashtra & Ors.)**

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

DATE : 06.05.2022

ORAL ORDER :

Heard Smt. Vidya Taksal, learned Advocate for the applicants and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicants submits that she has not received the copy of affidavit-in-reply filed on behalf of the respondent Nos.1 to 3.

3. Learned P.O. for the respondents submits that she will furnish the copy of reply to learned Advocate for the applicants.

4. Learned Advocate for the applicants submits that the applicants do not wish to file affidavit-in-rejoinder.

5. S.O. to 06.06.2022 for hearing.

MEMBER (J)

Date :06.05.2022

ORIGINAL APPLICATION NO.433 OF 2022

(Prakash Bhimrao Kamble V/s The State of Maharashtra & Ors.)

Per :- Standing directions of Hon'ble Chairperson, M.A.T., Mumbai

1. Shri V.G. Pingle, learned Advocate for the applicant and Shri D.R. Patil, ld. P.O. for the respondents, are present
2. Circulation is granted. Issue notices to the respondents, returnable on 15.06.2022. The case be listed for admission hearing on **15.06.2022**.
3. Tribunal may take the case for final disposal at this stage and a separate notice for final disposal shall not be issued.
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 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 acknowledgement be obtained and produced along with Affidavit of compliance in the Registry as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

REGISTRAR

Date :06.05.2022

ORIGINAL APPLICATION NO.438 OF 2022

(Smt. Sunita wd/o Sharad Gaikwad & Ors. V/s The State of Maharashtra & Ors.)

Per :- Standing directions of Hon'ble Chairperson, M.A.T., Mumbai

1. Shri V.G. Pingle, learned Advocate for the applicants and Shri S.K. Shirse, ld. P.O. for the respondents, are present
2. Circulation is granted. Issue notices to the respondents, returnable on 16.06.2022. The case be listed for admission hearing on **16.06.2022**.
3. Tribunal may take the case for final disposal at this stage and a separate notice for final disposal shall not be issued.
4. Applicants are authorized and directed to serve on Respondent intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of 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 acknowledgement be obtained and produced along with Affidavit of compliance in the Registry as far as possible before the returnable date fixed as above. Applicants are directed to file Affidavit of compliance and notice.

REGISTRAR

Date :06.05.2022

ORIGINAL APPLICATION NO.441 OF 2022

(Gajanan A. Taralkar V/s The State of Maharashtra & Ors.)

Per :- Standing directions of Hon'ble Chairperson, M.A.T., Mumbai

1. Shri P.S. Anerao, learned Advocate for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, ld. P.O. for the respondents, are present
2. Circulation is granted. Issue notices to the respondents, returnable on 16.06.2022. The case be listed for admission hearing on **16.06.2022**.
3. Tribunal may take the case for final disposal at this stage and a separate notice for final disposal shall not be issued.
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 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 acknowledgement be obtained and produced along with Affidavit of compliance in the Registry as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

REGISTRAR

Date :06.05.2022

**M.A.NO.205/2022 IN O.A.ST.NO.794/2022
(Dr. Deepak K. Shejwal V/s The State of
Maharashtra & Ors.)**

**Per :- Standing directions of Hon'ble Chairperson,
M.A.T., Mumbai**

1. Ms. Preeti R. Wankhade, learned Advocate for the applicant and Shri N.U. Yadav, Id. P.O. for the respondents, are present
2. Circulation is granted. Issue notices to the respondents in M.A.No.205/2022, returnable on 15.06.2022. The case be listed for admission hearing on **15.06.2022**.
3. Tribunal may take the case for final disposal at this stage and a separate notice for final disposal shall not be issued.
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 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 acknowledgement be obtained and produced along with Affidavit of compliance in the Registry as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

REGISTRAR

Date :06.05.2022

**M.A.NO.206/2022 IN O.A.ST.NO.796/2022
(Dr. Amol P. Khairnar V/s The State of
Maharashtra & Ors.)**

**Per :- Standing directions of Hon'ble Chairperson,
M.A.T., Mumbai**

1. Ms. Preeti R. Wankhade, learned Advocate for the applicant and Shri S.K. Shirse, Id. P.O. for the respondents, are present
2. Circulation is granted. Issue notices to the respondents in M.A.No.206/2022, returnable on 15.06.2022. The case be listed for admission hearing on **15.06.2022**.
3. Tribunal may take the case for final disposal at this stage and a separate notice for final disposal shall not be issued.
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 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 acknowledgement be obtained and produced along with Affidavit of compliance in the Registry as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

REGISTRAR

Date :06.05.2022

M.A.NO.207/2022 IN O.A.ST.NO.798/2022

(Dr. Manjusha d/o Punjaji Tambse V/s The State of Maharashtra & Ors.)

Per :- Standing directions of Hon'ble Chairperson, M.A.T., Mumbai

1. Ms. Preeti R. Wankhade, learned Advocate for the applicant and Shri M.P. Gude, ld. P.O. for the respondents, are present
2. Circulation is granted. Issue notices to the respondents in M.A.No.207/2022, returnable on 15.06.2022. The case be listed for admission hearing on **15.06.2022**.
3. Tribunal may take the case for final disposal at this stage and a separate notice for final disposal shall not be issued.
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 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 acknowledgement be obtained and produced along with Affidavit of compliance in the Registry as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

REGISTRAR

Date :06.05.2022

M.A.NO.202/2022 IN O.A.ST.NO.781/2022

(Dr. Yogesh s/o Motilal Borse V/s The State of Maharashtra & Ors.)

Per :- Standing directions of Hon'ble Chairperson, M.A.T., Mumbai

1. Ms. Preeti R. Wankhade, learned Advocate for the applicant and Smt. Deepali S. Deshpande, ld. P.O. for the respondents, are present
2. Circulation is granted. Issue notices to the respondents in M.A.No.202/2022, returnable on 15.06.2022. The case be listed for admission hearing on **15.06.2022**.
3. Tribunal may take the case for final disposal at this stage and a separate notice for final disposal shall not be issued.
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 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 acknowledgement be obtained and produced along with Affidavit of compliance in the Registry as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

REGISTRAR

Date :06.05.2022

**M.A.NO.203/2022 IN O.A.ST.NO.783/2022
(Dr. Smita Ashokkumar Bora V/s The State of
Maharashtra & Ors.)**

**Per :- Standing directions of Hon'ble Chairperson,
M.A.T., Mumbai**

1. Ms. Preeti R. Wankhade, learned Advocate for the applicant and Shri V.R. Bhumkar, ld. P.O. for the respondents, are present
2. Circulation is granted. Issue notices to the respondents in M.A.No.203/2022, returnable on 15.06.2022. The case be listed for admission hearing on **15.06.2022**.
3. Tribunal may take the case for final disposal at this stage and a separate notice for final disposal shall not be issued.
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 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 acknowledgement be obtained and produced along with Affidavit of compliance in the Registry as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

REGISTRAR

Date :06.05.2022

**M.A.NO.204/2022 IN O.A.ST.NO.792/2022
(Dr. Bharati Machhindra Patil V/s The State of
Maharashtra & Ors.)**

**Per :- Standing directions of Hon'ble Chairperson,
M.A.T., Mumbai**

1. Ms. Preeti R. Wankhade, learned Advocate for the applicant and Shri D.R. Patil, ld. P.O. for the respondents, are present
2. Circulation is granted. Issue notices to the respondents in M.A.No.204/2022, returnable on 15.06.2022. The case be listed for admission hearing on **15.06.2022**.
3. Tribunal may take the case for final disposal at this stage and a separate notice for final disposal shall not be issued.
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 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 acknowledgement be obtained and produced along with Affidavit of compliance in the Registry as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

REGISTRAR