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

IN

Original Application No. of 20

FARAD CONTINUATION SHEET NO.

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

O.A.600/2015

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

The OA has been opened just now by the learned Advocate for the Applicant. Upon perusal of the record, it seems that although under prayer clauses 'g' & 'h', the challenge apparently is to the conclusion report of 25.3.2013 which Mr. Pendse, the learned Advocate submits was received on 30.6.2015 and the show cause notice issued in that year. We enquired of him as to whether in the context of the other clauses in the relief clause, he would like to make an application for condonation of delay. Mr. Pendse upon instructions of his client who is present in the Court made a statement that it is his case that there is no bar of limitation and he would try to convene the Tribunal on the basis of the record such as it is that the application for condonation of delay is not required. In any case, by way of abundant caution, we had put it across to the learned Advocate for the Applicant and recording his categorical statement, we proceed further to hear the matter because he submits that the OA is within limitation, and therefore, no application for condonation of delay needs to be filed.

9.2.16 Rajiv Agarwal

(R.B. Malik)
Member (J)
08.02.2016

(Rajiv Agarwal)
Vice-Chairman
08.02.2016

(skw)

DATE: 8/2/16

CORAM:

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

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

APPEARANCE:

Shri/Smt. C. K. Pendse

Advocate for the Applicant

Shri/Smt. N. K. Rajpurohit

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

Adj to 16/2/16

Part heard.

PH

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

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

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

I N

Original Application No. of 20

FARAD CONTINUATION SHEET NO.

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

Date : 08.02.2016.

O.A.No. 645 of 2015 with O.A.No.943 of 2015 with O.A.No.944 of 2015 with O.A.No.945 of 2015 with O.A.No.946 of 2015 with O.A.No.947 of 2015 with O.A.No.948 of 2015

1. Heard Shri B.A. Bandiwadekar, the learned Advocate for the Applicant and Shri N.K. Rajpurohit, the learned Chief Presenting Officer for the Respondents.

2. Learned P.O. for the Respondents prays for time to produce original file of the office of the D.I.G., Prisons, Pune as well as Additional D.G., Prisons, Pune and of the Government.

3. Respondents are permitted to produce copies of files as annexures.

4. Affidavit be filed on or before one week before next date.

5. Steno copy and Hamdast is alllowed to learned P.O. to communicate this order to the Respondents.

6. S.O. to 02.03.2016.

(A.H. Joshi,J.)
Chairman

sba

DATE : 8/2/2016
CORAM :
Hon'ble Justice Shri A. H. Joshi (Chairman)
~~Hon'ble Shri M. Ramakrishnan (Member) A~~

APPEARANCE :
Shri/Smt. : B.A. Bandiwadekar
Advocate for the Applicant
Shri/Smt. : N.K. Rajpurohit
C.P.O / P.O. for the Respondent/s

Adj. To 2/3/16. Steno copy and Hamdast is allowed to learned P.O.

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

08.02.2016

O.A No 654/2015

Heard Shri A.V Bandiwadekar, learned advocate for the applicant and Mrs Neelima Gohad, learned Presenting Officer for the Respondents.

The arguments of Shri Bandiwadekar remains inconclusive. At this stage at least, we refrain from making any detailed observation or may be caustic observation for that has to be kept reserved, if need be. It so happens that the deceased Applicant Shri Devram J. Dhore died on 3.12.2015. Speaking only to explain this order for the present seem that on account of poor vision report considered appropriate by the Medical Board as well as Board of Referees certified that he was unfit for Government service. As of today, it seems that the Pension Payment Order has been issued, but a recovery of Rs. 5,57,005/- for the alleged excess payment of pay and allowances to the deceased has been shown on the basis which apparently does not appear to be quite sound unless the Respondents are able to make good their move. The Applicants are heirs and L.Rs of the said deceased, with the Applicant no. 1 being his widow. The event subsequent to the O.A is important and without insisting on technicality, we allow oral request of Mr Bandiwadekar to amend the application suitably including the prayer clause so as to make the remedy both efficacious and meaningful.

Amendment to be carried out within one week from today and consolidated O.A be filed and copy be furnished to the learned P.O and learned P.O is requested to make sure that the copy is furnished to the concerned department and additional affidavit, if any may be filed on the next date.

S.O to 29.2.2016. Hamdast.

8.2.16

(R.B. Malik)
Member (J)

Rajiv Agarwal
(Rajiv Agarwal)
Vice-Chairman

Akn

DATE: 8/2/16
CORAM:
Hon'ble Shri. RAJIV AGARWAL
(Vice - Chairman)
Hon'ble Shri R. B. MALIK (Member) J
APPEARANCE:
Shri/Smt. : A.V. Bandiwadekar
Advocate for the Applicant
Shri/Smt. : N.G. Gohad
C.P.O/P.O. for the Respondents

Adj. To S.O. to 29/2/16.
Hamdast.

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

ORIGINAL APPLICATION No. of 20

Miscellaneous Application No. of 20

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
DATE : 8/2/16 CORAM : ~~Hon'ble Justice Shri A. H. Joshi (Chairman)~~ Hon'ble Shri R.B. Malik (Member)(A) ~~(J)~~ APPEARANCE : Shri/Smt. M.D. Lonkar Advocate for the Applicant Shri/Smt. N.G. Gohad C.P.O./P.O. for the Respondent/s Heard Admit. Adj. To. Liberty to mention granted. skw	**O.A.692/2015** Heard Shri M.D. Lonkar, the learned Advocate for the Applicant and Ms. N.G. Gohad, the learned Presenting Officer for the Respondents. Mr. Lonkar, the learned Advocate states that the Applicant does not want to file Rejoinder. Admit. Liberty to mention granted. (R.B. Malik) Member (J) 08.02.2016 (skw)

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

ORIGINAL APPLICATION NO.83 OF 2016

DISTRICT : BHANDARA

Gracy Michael Marian.)**...Applicant**

Versus

1. The State of Maharashtra & 3 Ors.)**...Respondents**

Shri L.S. Deshmukh, Advocate for Applicant.

Ms. N.G. Gohad, Presenting Officer for Respondents.

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

DATE : 08.02.2016

O R D E R

1. This matter comes up for consideration of interim relief.

2. I have perused the record and proceedings and heard Shri L.S. Deshmukh, the learned Advocate for the

Applicant and Shri A.J. Chougule, the learned Presenting Officer for the Respondents.

3. The perusal of the earlier orders made by me in this matter would show that there was a hope howsoever faint that the matter would be worked out. However I am now required to deal with the issue of interim relief.

4. The Applicant is currently working as Staff Nurse at Bhandara and it is a common ground that she had successfully competed for the post of Matron, Class-II through MPSC. In that event, it is also clear that her application to the MPSC was forwarded through proper channel which includes routing it through the Respondent Nos. 2 and 4.

5. The Applicant had executed a bond mentioning therein as follows :

> "सत्य प्रतिज्ञेवर लिहुन देते की, माझे एम एस.सी. नर्सींग अभ्यासक्रमासाठी शासनाचे पत्रानुसार प्रशिक्षणासाठी हजर होत आहे. सदर प्रशिक्षण पुर्ण झाल्यानंतर मी कमीत कमी शासकीय सेवा ६ वर्षापावेतो करीन व मला महाराष्ट्रात कोणतेही गावी नियुक्ती दिल्यास त्या गावी मी नौकरीसाठी जाण्यास तयार आहे. अन्यथा मी शासनाच्या सदर प्रशिक्षणासाठी झालेला खर्च स्वत:भरून देईन. सदर प्रशिक्षणांच्या अटी मला मान्य आहे.
>
> मी सदर एम.एससी नर्सींग प्रशिक्षण अनुउत्तीर्ण झाल्यास माझ्या प्रशिक्षणासाठी शासनांचा झालेला खर्च हा व्याजासह भरुन देण्याची हमी देत आहे. सदरचे हमीपत्र मी माझे कामासाठी लिहुन देत आहे.
>
> वरील माहीती खरी आहे."

(emphasis supplied)

6. It is not in dispute that the Respondent No.2 has been refusing to relieve the Applicant to join the post of Matron and one of the main reasons therefor is that she has not completed six years service in the Department of Public Health as per her bond. It is, therefore, necessary to consider as to whether the words, "शासकीय सेवा ६ वर्षापावेतो करीन" in the above extract, restricts or regulates the operation thereof to mean that the said service would be under the Respondent No.2 only. There is no ambiguity and no circumstance emanating from the above quoted bond to indicate that there is any scope for interpretation. The words in Marathi are categorical and clear admitting to no second view of the matter unless one was committed to find something which did not exists there that the service has to be under the Government (शासकीय) and not necessarily under Respondent No.2. It could possibly also be said that the adamance of the 2nd Respondent evinces disapproval. But then, the fact remains that the requirement of the bond is six years Government service which cannot be restricted to mean that it is under the Respondent No.2 only.

7. Quite pertinently, the communication from the Government to the 2nd Respondent, a copy whereof is at Exh. 'I' (Page 39) would show that the Government itself

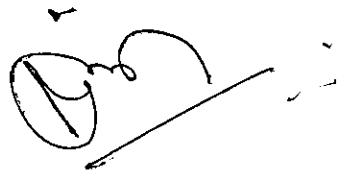
was of the view that there should be no hitch in relieving the Applicant so as to enable her to join as Matron, Class-II. As a matter of fact, for facility, the body of the said letter needs to be quoted verbatim in Marathi.

> "उपसंचालक, आरोग्य सेवा, नागपूर मंडळ यांनी संदर्भीय पत्रान्वये कळविले आहे की, श्रीमती ग्रेसी मायकल मरीयान, अधिपरिचारीका यांनी विहित पध्दतीचा अवलंब करून परीक्षेस बसण्यासाठी अर्ज केलेला असून त्यांना परिक्षेस बसण्यासाठी परवानगीही देण्यात आलेली आहे व तसे त्यांनी बंधपत्रही लिहून दिलेले आहे. सबब आता त्यांना कार्यमुक्त करण्यात काय अडचणी आहेत. तसेच श्रीमती ग्रेसी मरीयान यांची राज्य शासनाच्याच अन्य विभागात महाराष्ट्र लोकसेवा आयोगामार्फत निवड झाल्याने श्रीमती ग्रेसी मरीयान या त्यांची ५ वर्षापैकी उर्वरीत सेवा राज्य शासनाच्याच अन्य विभागात पूर्ण करू शकत नाहीत काय इत्यादी मुददे विचारात घेऊन श्रीमती ग्रेसी मरियान यांना कार्यमुक्त करण्यासंदर्भात आपला सविस्तर प्रस्ताव शासनास तात्काळ सादर करावा.
>
> सहपत्र : संदर्भीय पत्रे"

8. In view of the foregoing, I am at complete loss to understand as to how the Respondent No.2 can possibly justify his action of blocking the Applicant from seeing the promotional post which she has been appointed to. An issue of some significance was that the Applicant applied to the post of Matron through proper channel with full knowledge and all concerned of the Respondent No.2 and when this question was put across to the learned P.O, she on instructions of Dr. Neelam Bansode, Assistant Director of Respondent No.2 told me that may be that was done because the Respondents were not sure that the things would move that faster. As far as this submission is concerned, I do not think anything needs to be said at all,

save and except that it is absolutely unacceptable. I am deeply conscious of the fact that interim orders in such matter may not necessarily be a run of the mill kind of order to be routinely made. But this consideration and almost every other consideration has to be subordinated to the interest of justice and if it is found that an authority subordinate to the Government is flouting Government's own order, the Tribunal cannot be a mute spectator to such an attitude. May be when the OA is finally heard, the Tribunal may have to scrutinize the conduct of the Respondent No.2, but even at this interim stage, I do not think, the Applicant could be denied what is her legitimate due. Of course, this order will be subject to the ultimate outcome of the OA, but if the OA was to be kept pending, then in the presence of strong circumstances, the Applicant will have been denied the promotional post for which the justification touted by the Respondent is so hollow as has been detailed hereinabove.

9. In view of the foregoing, the Respondent No.2 is hereby directed to relieve the Applicant from the post of Staff Nurse within one week from today, so as to enable her to join the post of Matron, Class-II at the place, the Government would appoint her.



10. The OA be listed for hearing before the appropriate Bench on 8th March, 2016. Hamdast. All concerned to act on a Steno-copy.

08.02.16

(R.B. Malik)
Member-J
08.02.2016

Mumbai
Date : 08.02.2016
Dictation taken by :
S.K. Wamanse.
E:\SANJAY WAMANSE\JUDGMENTS\2016\2 February, 2016\O.A.83.16.w.2.2016.doc

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI

Original Application No. of 20

FARAD CONTINUATION SHEET NO.

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

O.A.131/2016

Heard Shri M.D. Lonkar, the learned Advocate for the Applicant and Shri N.K. Rajpurohit, the learned Chief Presenting Officer for the Respondents.

Issue notice returnable on 22.02.2016.

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

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

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

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

S.O. to 22nd February, 2016. The learned P.O. do waive service.

(R.B. Malik)
Member (J)
08.02.2016

(skw)

DATE: 8/2/16 DB

CORAM: Hon.shri R.B.Malik (MJ)
~~Hon'ble Justice Shri A. H. Joshi (Chairman)~~
~~Hon'ble Shri M. Ramesh kumar (Member) A~~

APPEARANCE:
Shri/Smt. M.D. Lonkar
Advocate for the Applicant
Shri /Smt. : N.K. Rajpurohit
C.P.O / P.O. for the Respondent/s

Adj. To 22/2/16.

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

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

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

I N

Original Application No. of 20

FARAD CONTINUATION SHEET NO.

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

O.A.132/2016

Heard Shri M.D. Lonkar, the learned Advocate for the Applicant and Shri N.K. Rajpurohit, the learned Chief Presenting Officer for the Respondents.

Issue notice returnable on 22.02.2016.

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

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

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

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

S.O. to 22nd February, 2016. The learned P.O. do waive service.

(R.B. Malik)
Member (J)
08.02.2016

(skw)

DATE: 8/2/16 DB

CORAM:

~~Hon'ble Justice Shri A. H. Joshi (Chairman)~~

Hon'ble Shri ~~M. Ramoshkumar (Member) A~~ R.B. Malik

APPEARANCE:

Shri/Smt.: M.D. Lonkar

Advocate for the Applicant

Shri/Smt.: N.K. Rajpurohit

C.P.O / P.O. for the Respondent/s

Adj. To 22/2/16.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders Date : 08.02.2016.

O.A.No. 143 of 2016

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

2. Heard.

3. Issue notice to the Respondents returnable on 24.02.2016.

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

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

6. 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.

7. The service may be done by Hand delivery, speed post, courier and acknolwedgement be obtained and produced alongwith Affidavit of compliance in the Registry within four weeks. Applicant is directed to file Affidavit of compliance and notice.

8. Applicant shall be free to join at the transferred post and the joining will not come in way of getting restoration of posting, if he succeeds.

9. Respondents are directed to produce service report and file affidavit on or before 23.02.2016.

10. Record be produce during the course of the day. Inspection and copies of record be given to Applicants before due date.

11. Steno copy and Hamdast is alllowed to learned P.O. to communicate this order to the Respondents.

12. S.O. to 24.02.2016.

(A.H. Joshi, J.)
Chairman

DATE : 8/2/2016
CORAM :
Hon'ble Justice Shri A. H. Joshi (Chairman)
~~Hon'ble Shri M. Ramakrishnan (Member) A~~
APPEARANCE
~~Shri/Smt.~~ J.N. Kamble
~~Advocate for the Applicant~~
~~Shri/Smt.~~ K.B. Bhise
C.P.O / P.O. for the Respondent/s

Adj. To 24/2/16. Steno copy and Hamdast is allowed to learned P.O.

sba

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

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

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

I N

Original Application No. of 20

FARAD CONTINUATION SHEET NO.

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

Date : 08.02.2016.

O.A.No. 146 of 2016

1. Heard Ms. S.P. Manchekar, the learned Advocate for the Applicant and Smt. K.S. Gaikwad, the learned Presenting Officer for the Respondents.

2. Issue notice to the Respondents returnable on 24.02.2016.

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

4. Applicant is authorised and directed to serve on Respondent intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of M.A. Respondent is 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 5f 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 acknolwedgement be obtained and produced alongwith Affidavit of compliance in the Registry within four weeks. Applicant is directed to file Affidavit of compliance and notice. acknowledgements of

7. S.O. to 24.02.2016.

(A.H. Joshi, J.)
Chairman

sba

DATE : 8/2/16
CORAM :
Hon'ble Justice Shri A.H. Joshi (Chairman)
~~Hon'ble Shri M. Ramesh kumar (Member) A~~
APPEARANCE :
~~Shri~~/Smt. : S.P. Manchekar
Advocate for the Applicant
~~Shri~~/Smt. : K.S. Gaikwad
C.P.O / P.O. for the Respondents

Adj. To 24/2/16.

(Spl.- MAT Rule 6

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

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

IN

Original Application No. of 20

FARAD CONTINUATION SHEET NO.

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

O.A.1132/2016

Heard Shri M.D. Lonkar, the learned Advocate for the Applicant and Shri N.K. Rajpurohit, the learned Chief Presenting Officer for the Respondents.

Issue notice returnable on 08.03.2016.

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

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

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

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

S.O. to 8th March, 2016. The learned P.O. do waive service.

8/2/16

(R.B. Malik)
Member (J)
08.02.2016

(skw)

DATE: 8/2/16 DLB

CORAM:

Hon'ble Justice Shri A. H. Joshi (Chairman)

Hon'ble Shri R.B. Malik (Member-A) J

M.D. Lonkar

N.K. Rajpurohit

8/3/16

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

DATE: 8/2/16

CORAM:

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

~~Hon'ble Shri. [illegible] (Member)~~

APPEARANCE:

Shri/Smt. K.S. Gaikwad

Advocate for the Applicant

Shri/Smt. A.V. Bandiwadekar

C.P.O. for the Respondents

M.A. is disposed of.

08.02.2016

M.A 34/2016 in O.A No 292/2014

Heard Mrs Kranti S. Gaikwad, learned advocate for the applicants (Original Respondents) and Shri A.V Bandiwadekar, learned Advocate for the Respondent (Ori Applicant).

On instructions from Shri S.V Patil, Section Officer, Revenue & Forest Department, Government of Maharashtra, Mantralaya, Mumbai, learned P.O stated that the Respondent has decided to implement the order of this Tribunal dated 8.10.2015 in O.A no 292/2014. Learned P.O seeks three months more time to complete the formality to consult G.A.D and Finance Department.

Though learned Advocate Shri Bandiwadekar opposed grant of such a long time, in view of the fact that the already four months have already lapsed, considering the complexity of the issue, the time of three months from today is granted to the Applicants (Ori Respondents). However, it is made clear that no further time will be granted.

Misc Application is disposed of with no order as to costs.

Rajiv Agarwal
(Rajiv Agarwal)
Vice-Chairman

Akn