

M.A.NO.135/2024 IN O.A.NO.307/2024
(Deepak W. Chandure & Ors. Vs. State of Maharashtra & Ors.)
WITH
M.A.NO.136/2024 IN O.A.NO.307/2024
(Pravin D. Chaware & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

C O M M O N O R D E R :

Heard Shri S.D.Joshi, learned Counsel for the applicants in O.A.307/24, Shri A.S. Deshmukh, learned Counsel for applicants in M.A.135/24, Shri V.B.Wagh, learned Counsel for applicants in M.A.136/24 and Shri M.B. Bharaswadkar, learned Chief Presenting Officer for the respondent authorities.

2. M.A.Nos.135/24 & 136/24 are filed seeking vacation of ad-interim relief granted by this Tribunal in favour of the applicants in O.A.No.307/2024 by order dated 13-03-2024.

3. Applicants in O.A.No.307/2024 are the Executive Engineers who entered into the Government services as Assistant Executive Engineers. All the applicants are the appointees of the year 2013 on the post of Assistant Executive

=2= M.A.135/24 & 136/24 IN O.A.307/24

Engineer. After having completed 4 years period of service on the said post all of them were promoted to the post of Executive Engineer vide order dated 06-04-2018. The applicants have filed the O.A. raising objection as about the seniority list published on 31-07-2023 of the officers in the cadre of Executive Engineers under Water Resources Department for the period 01-01-2001 to 01-01-2020. Said seniority list is sought to be quashed to the extent of respondent nos.4 to 17. It is the contention of the applicants in O.A. that, respondent nos.4 to 17 can only be regularized in the cadre of Executive Engineers against the actual vacancies in the quota prescribed for Assistant Engineers Grade-I. The applicants also had sought the interim relief thereby restraining the respondents to act upon the seniority list dated 31-07-2023 to the extent of respondent nos.4 to 17 and not to consider the said respondents for promotion to the post of Superintending Engineer till decision of the O.A.

4. After having heard the learned Counsel appearing for the original applicants and after having gone through the documents filed on record, Tribunal has passed the interim order on

=3= M.A.135/24 & 136/24 IN O.A.307/24

13-03-2024 while issuing notice to the respondents. By way of ad-interim relief the respondents are restrained from taking any final decision as about the promotions to be granted to respondent nos.4 to 17. Respondents were called upon to show cause as to why the said ad-interim relief granted in favour of the applicants shall not be made absolute.

5. After having served with the notices in the O.As. respondents have caused their appearance and preferred the M.As. As noted hereinabove applicants in both these M.As. have prayed for vacation of ad-interim relief.

6. Arguing on behalf of the applicants in both these M.As. (M.A.Nos.135/24 & 136/24) Shri A.S.Deshmukh, learned Counsel appearing for the applicants in M.A.No.135/2024 submitted that the O.A. itself is not maintainable since in the said O.A. the challenge is raised against the provisional seniority list. Learned Counsel submitted that against the provisional seniority list, the objections are called by the respondents and such objections are already submitted by all concerned and by

=4= M.A.135/24 & 136/24 IN O.A.307/24

considering the said objections final seniority list is yet to be published. In the circumstances, according to the learned Counsel, O.A. filed by the applicants is premature.

7. Second objection which has been raised on behalf of these applicants is that the applicants in O.A. do not have any locus to pray for the relief that the respondent no.4 to 17 shall not be considered for their promotion to the post Superintending Engineer till decision of the O.A., for the reason that, the applicants themselves have not yet become eligible for to be promoted to the post of Superintending Engineer. Learned Counsel pointed out that the recruitment rules for Superintending Engineer provide that the candidates to be promoted to the post of Superintending Engineer must have worked on the post of Executive Engineer for the period of 7 years. Learned Counsel submitted that all these applicants have become Executive Engineers on 06-04-2018. They have not yet completed the period of 7 years on the said post and as such they are not now even in the zone of consideration for promotion to the post of

=5= M.A.135/24 & 136/24 IN O.A.307/24

Superintending Engineer. As such, according to the applicants in the M.As., applicants in O.A. do not have any locus to seek relief as sought by them in so far as respondent nos.4 to 17 are concerned.

8. Third objection which has been raised on behalf of the applicants in the M.As. is that the applicants did not disclose the complete facts in the O.A. though they were aware of the same. Learned Counsel Shri Deshmukh submitted that in the Writ Petition No.2265/2023 pending before the Hon'ble Bombay High Court Bench at Aurangabad, C.A.No.13319/2023 was filed and the Division Bench has passed the order in the said C.A. Learned Counsel submitted that one of the applicants in the O.A., namely, Krushna Ghuge has filed affidavit in reply opposing the prayer made in the C.A. filed in the said Writ Petition. Learned Counsel pointed out that on 07-02-2024, the Hon'ble High Court has passed the order thereby permitting the State to follow the recruitment rules for granting promotions in the cadre of Superintending Engineer on the available vacant posts on temporary basis which would be subject to

=6= M.A.135/24 & 136/24 IN O.A.307/24

the result of the pending Writ Petition and any pending litigation in connection to such temporary promotions. Learned Counsel pointed out that in the Writ Petition, Hon'ble High Court has passed an interim order thereby directing the respondents to maintain status quo in regard to the promotions to the post of Superintending Engineer from the cadre of Executive Engineer (Civil).

9. Learned Counsel further submitted that the State Government filed the Civil Application in the Writ Petition thereby praying for modification of the interim relief as granted by the Hon'ble High Court. The request for modification of the interim relief granted by the Hon'ble High Court was made on the ground that there are several vacancies in the cadre of Superintending Engineer which need to be filled up and as such the permission was asked for filling up the said vacant posts by way of promotion by filing the Civil Application in the said Writ Petition. It was pointed out before the Hon'ble High Court that, though there are 29 vacant posts of Superintending Engineer, no promotion could be effected even temporarily, due to the interim order

=7= M.A.135/24 & 136/24 IN O.A.307/24

which was initially passed by the Tribunal and which has been continued thereafter by the Hon'ble High Court. Learned Counsel submitted that had the applicants disclosed the aforesaid fact and brought it to the notice of the Tribunal the order passed by the Hon'ble High Court on 09-02-2024, perhaps, the Tribunal would not have passed such an interim order. Learned Counsel submitted that, intentionally, the said facts have not been disclosed by the applicants in the O.A. Learned Counsel submitted that in fact the O.A. itself deserved to be dismissed on the aforesaid ground of suppression of material facts.

10. Learned Counsel further submitted that the issue about the fortuitous promotions is *sub judice* before the Hon'ble High Court and as such unless any final verdict comes from the Hon'ble High Court in the Writ Petition which is pending in that regard, the said issue cannot be adjudicated by this Tribunal. On all aforesaid grounds, ad-interim order is sought to be vacated.

11. Shri V.B.Wagh, learned Counsel appearing for the applicants in M.A.No.136/2024 adopted the

=8= M.A.135/24 & 136/24 IN O.A.307/24

arguments of learned Counsel Shri Deshmukh who is appearing on behalf of the applicants in M.A.No.135/2024.

12. Shri S.D.Joshi, learned Counsel appearing for the applicants in O.A. resisted the contentions raised on behalf of the applicants in M.As. and submitted that nothing has been suppressed in the O.A. and there is no such intention of the applicants. Learned Counsel pointed out that the issue raised in the present O.A. is distinguishable and in the circumstances applicants did not deem it appropriate to mention the aforesaid fact in the O.A. Learned Counsel further submitted that the Original Applicants do have locus to claim the relief as has been claimed in the O.A. Learned Counsel submitted that the requirement of 7 years' experience on the post Executive Engineer can be relaxed.

13. Learned Counsel further submitted that proviso under Sub Rule 2(b) of Superintending Engineer (Civil) in the Maharashtra Services of Engineering Group-A, Irrigation Department, Recruitment Rules notified on 01-03-1996

=9= M.A.135/24 & 136/24 IN O.A.307/24

(hereinafter referred to as “the Rules of 1996”) provide that where sufficient number of persons having held the post of Executive Engineer (Civil) for a period of not less than 7 years as aforesaid is not available to fill up the vacancies then the requirement of such service of 7 years may be relaxed, however, such relaxation shall not be for more than two years.

14. Learned Counsel further argued that the applicants have provided the complete data showing that the persons working on the post of Assistant Engineer Grade-I have been promoted to the post of Executive Engineer in excess of their quota. Learned Counsel pointed out that it is well settled that unless the person promoted to the post of Executive Engineer is given posting against the sanctioned vacant post, his period of service is treated as fortuitous service and cannot be counted for the purpose of seniority. In the circumstances, according to the learned Counsel the applicants have made out a strong *prima facie* case and the Tribunal has therefore rightly granted interim relief in their favour. Learned Counsel submitted that no such case is made out by the

=10= M.A.135/24 & 136/24 IN O.A.307/24

applicants in M.As. for modification in the ad-interim order passed by this Tribunal on 13-03-2024.

15. We have carefully considered the submissions made on behalf of the applicants in the M.As. as well as the applicants in O.A. and the State authorities. We have also perused the ad-interim order passed by us on 13-03-2024. The aforesaid order was passed by us on the consideration that, in the cadre of Executive Engineers the respondent no.4 to 17 are junior to the original applicants. No doubt, it is the case of the original applicants that though the said respondents (respondent nos.4 to 17) had been promoted to the post of Executive Engineer earlier to the original applicants, their appointments are fortuitous appointments and may not be considered for the purpose of seniority.

16. Unless the entire material comes on record and the matter is exhaustively heard finally, it may be improper to record any conclusion at this stage whether the averments made in the O.A. to the effect that the applicants are senior to them in the cadre of Executive Engineer since respondent no.4 to 17

=11= M.A.135/24 & 136/24 IN O.A.307/24

have yet to be adjusted against the quota meant for them in the promotion and till then their appointments would be treated as fortuitous appointments, are sustainable.

17. However, the facts which are apparently revealed from the documents on record demonstrate that the respondent no.4 to 17 all have been promoted to the post of Executive Engineer in the year 2010 or prior to that. Respondent no.17 i.e. Vijay Pandurang Patil was promoted to the post of Executive Engineer on 18-09-2010 and for the purposes of counting his seniority, the date given against his name is 01-04-2017. Learned CPO has clarified that though the said respondent may be working on the post of Executive Engineer from 18-09-2010, he came to be confirmed on the said post against the sanctioned post on 01-04-2017. The contention so raised is disputed by the learned Counsel appearing for the applicants in O.A.

18. Whether there is any substance in the objection so raised can only be decided at the time of final adjudication. What *prima facie* appears to us is the fact that when respondent no.4 to 17 got

=12= M.A.135/24 & 136/24 IN O.A.307/24

promoted to the post of Executive Engineer, applicants had not even entered into the Government services. Applicants joined the Government service sometime in the year 2013 on the post of Assistant Executive Engineer. It is thus evident that respondent no.4 to 17 had been working on the post of Executive Engineer before the original applicants entered into the Government service on the post of Assistant Executive Engineer. This aspect cannot be simply ignored. Though it was sought to be contended on behalf of the original applicants that experience of 7 years working on the post of Executive Engineer for to be promoted to the post of Superintending Engineer is relaxable by two years and as such all the applicants are eligible for to be promoted to the post of Superintending Engineer and hence have locus to seek the reliefs as are sought in the O.A., it is difficult to accept the said contention. The circumstance on the basis of which such submissions are made by the learned Counsel appearing for the original applicants does not seem to be existing in the instant matter.

19. In the above circumstances, applicants in the M.As. have certainly made out a case for vacation of

=13= M.A.135/24 & 136/24 IN O.A.307/24

the ad-interim relief as granted by this Tribunal vide its order dated 13-03-2024.

20. It is to be further stated that Writ Petition No.2265/2023 which is pending before the Division Bench of Hon'ble Bombay High Court Bench at Aurangabad certainly have nexus with the subject matter of the present O.A. The facts in regard to pendency of the said Writ Petition as well as the order passed by the Hon'ble High Court in C.A.No.13319/2023 filed therein must have been disclosed by the original applicants. In the order passed on 07-02-2024, Hon'ble Bombay High Court has permitted the State Government to make promotions to the post of Superintending Engineer by following the recruitment rules in that regard on the available vacant posts, of course, on temporary basis. Hon'ble High Court has provided the further rider that the promotions which would be so made would be subject to the result of the said Writ Petition.

21. In view of the order as aforesaid passed by the Division Bench of the Hon'ble High Court, order passed by this Tribunal certainly needs to be

=14= M.A.135/24 & 136/24 IN O.A.307/24
modified. Hence, the order passed by us on 13-03-
2024 to the effect that respondents shall not take
final decision as about the promotions to be granted
to respondent nos.4 to 17 is modified as under:

[i] Promotions, if any, granted to respondent
nos.4 to 17 during the pendency of the present
O.A. would be subject to outcome of the present
O.A.

[ii] Both M.A.Nos.135/24 & 136/24 stand
allowed and disposed of in the aforesaid terms
without any order as to costs.

MEMBER (A)

VICE CHAIRMAN

ORIGINAL APPLICATION NO.426/2024
(Abhijeet A. Mhaske & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Heard Shri Ajay Deshpande, learned Counsel for the applicants and Shri M.B.Bharaswadkar, learned Chief Presenting Officer for the respondent authorities.

2. Learned Counsel seeks leave to add General Administration Department of the State as party respondent no.2. Leave as prayed for is granted. Necessary amendment be carried out forthwith.

3. Issue notice to the added respondent no.2, returnable on 15.04.2024. Applicants are permitted to serve the added respondent by E-mail and through office of CPO. Matter will be **first on board** on the said date.

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

5. Applicants are 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.

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 acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicants are directed to file affidavit of compliance and notice.

8. S.O. to 15.04.2024.

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

MEMBER (A)

YUK ORAL ORDER 10.04.2024

VICE CHAIRMAN

ORIGINAL APPLICATION NO.504/2022
(Kiran S. Pawar Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Heard Shri Ajay Deshpande, learned Counsel for the applicant and Shri M.B.Bharaswadkar, learned Chief Presenting Officer for the respondent authorities.

2. Learned Counsel submits that rejoinder is not to be filed. Matter be listed for hearing.
3. S.O. to 02-05-2024. Interim relief granted earlier to continue till then.

MEMBER (A)
YUK ORAL ORDER 10.04.2024

VICE CHAIRMAN

ORIGINAL APPLICATION NO. 1049 OF 2023
(Shivaji Rajaram Kachare and Ors. Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Shri Amol Chalak, learned counsel holding for Shri S.S. Dambe, learned counsel for the applicants and Shri Mahesh B. Bharaswadkar, learned Chief Presenting Officer for respondent authorities, are present.

2. Leave is sought to submit affidavit in reply on behalf of respondent No. 5. Leave granted. Affidavit in reply of the said respondent is taken on record and copy thereof has been served on the other side.

3. Time is sought for filing affidavit in reply on behalf of respondent No. 1. Request is rejected. List the matter for hearing on 02.05.2024.

MEMBER (A)

VICE CHAIRMAN

ORIGINAL APPLICATION NO. 280 OF 2022
(Sharad Uttam Malshikare Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Heard Shri Kakasaheb B. Jadhav, learned counsel for the applicant and Shri V.R.Bhumkar, learned Presenting Officer for respondent authorities.

2. Arguments of both the sides are heard at length.
Reserved for orders.

MEMBER (A)

VICE CHAIRMAN

ORAL ORDER 10.04.2024-HDD

**O.A.NOS. 273, 275, 278, 279, 280, & 282 ALL OF 2020
(Kunal Dilip Vadnere & Ors. Vs. State of Maharashtra & Ors.)**

**CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)**

DATE : 10.04.2024

ORAL ORDER :

Heard Smt. Sanjivani Deshmukh-Ghate, learned counsel for the applicants and Shri V.R. Bhumkar, learned Presenting Officer for respondent authorities in all these matters.

2. At the request of learned counsel for the applicants, S.O. to 23.04.2024.

MEMBER (A)

VICE CHAIRMAN

ORAL ORDER 10.04.2024-HDD

ORIGINAL APPLICATION NO. 290/2024
(Asha B. Garud Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman

DATE : 10.04.2024

ORAL ORDER :

Shri A.V. Thombre, learned counsel holding for Shri S.S. Thombre, learned counsel for the applicant and Shri M.B. Bharaswadkar, learned Chief Presenting Officer for the respondent authorities.

2. Await service of notice upon the respondents.
3. S.O. to 12.04.2024. The Interim relief granted earlier to continue till then.

VICE CHAIRMAN

sas ORAL ORDER 10.04.2024

ORIGINAL APPLICATION NO. 997/2023
(Dipak V. More Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Heard Shri S.B. Shirsat, learned counsel for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondent authorities.

2. Learned Presenting Officer has tendered affidavit in reply on behalf of respondent no. 3. Same is taken on record and copy thereof has been supplied to other side. Learned P.O. has sought time for filing reply on behalf of remaining respondents. Time granted.

3. S.O. to 26.6.2024.

MEMBER (A)

VICE CHAIRMAN

ARJ ORAL ORDER 10.04.2024

ORIGINAL APPLICATION NO. 844/2022
(Padma K. Shinde Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Heard Smt. Archana Therokar, learned counsel holding for Shri V.B. Wagh, learned counsel for the applicant and Shri M.B. Bharaswadkar, learned Chief Presenting Officer for the respondent authorities.

2. Learned counsel on instructions seeks leave to withdraw the Original Application stating that the respondents have issued appointment orders to the selected candidates. Hence, the following order:-

ORDER

The Original Application stands disposed of since withdrawn. There shall be no order as to costs.

MEMBER (A)

VICE CHAIRMAN

ORIGINAL APPLICATION NO. 363/2023
(Bhaarat W. Ware Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Heard Shri S.R. Andhale, learned counsel for the applicant and Shri V.G. Pingle, learned Presenting Officer for the respondent authorities.

2. In the present matter except respondent no. 2 other respondents have filed affidavit in reply. Learned Presenting Officer seeks time to file affidavit in reply on behalf of the said respondent.

3. List the matter for hearing on 8.5.2024. In the meantime, if instructions are received to file separate affidavit in reply on behalf of respondent no. 2, that may be accepted.

MEMBER (A)

VICE CHAIRMAN

ORIGINAL APPLICATION NO. 243/2024
(Shobha K. Kokani Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Heard Shri S.R. Patil, learned counsel for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondent authorities.

2. Shri P.M. Gangurde, learned counsel submits that he has instructions to appear on behalf of respondent no. 3 in this matter. He further submits that he will file V.P. in the office. He seeks time to file affidavit in reply on behalf of said respondents. Time granted.

3. S.O. to 26.6.2024.

MEMBER (A)

VICE CHAIRMAN

ORIGINAL APPLICATION NO. 272/2024
(Jyotsana Gangurde Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Heard Shri A.D. Sugdare, learned counsel for the applicant and Shri Resha Deshmukh, learned Presenting Officer for the respondent authorities.

2. Learned counsel for the applicant seeks leave to correct the address of respondent no. 1 and thereafter for issuance of notice to the said respondent on the corrected address. Leave granted as prayed for. Correction be carried out forthwith.

3. Issue notice to the respondent no. 1 on the corrected address, returnable on 25.6.2024.

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

5. 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.

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 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.

8. S.O. to 25.6.2024.

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

MEMBER (A)

VICE CHAIRMAN

C.P. NO. 47/2019 IN O.A. NO. 364/2016
(Rudrapa L. Lungare & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Heard Shri E.S. Murge, learned counsel holding for Shri R.P. Bhumkar, learned counsel for the applicant and Shri V.G. Pingle, learned Presenting Officer for the respondent authorities.

2. Learned counsel for the applicant seeks leave to substitute the name of respondent no. 1. Leave granted as prayed for. Necessary amendment be carried out forthwith.

3. If the amendment is carried out, issue notice to substituted respondent, returnable on 21.6.2024.

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

5. 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.

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 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.

8. S.O. to 21.6.2024.

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

MEMBER (A)

VICE CHAIRMAN

ARJ ORAL ORDER 10.04.2024

ORIGINAL APPLICATION NO. 1115/2023
(Subhash S. Khade Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Heard Shri Amol Lipne, learned counsel for the applicant and Shri M.B. Bharaswadkar, learned Chief Presenting Officer for the respondent authorities.

2. Learned Chief Presenting Officer seeks time to file affidavit in reply. Time granted by way of last chance.
3. S.O. to 9.5.2024.

MEMBER (A)

VICE CHAIRMAN

ARJ ORAL ORDER 10.04.2024

ORIGINAL APPLICATION NO. 370/2024

(Quazi Istiyaq Ahmed Qazi Ashfaq Ahmed Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman

AND

Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Heard Smt. Rutuja Kulkarni, learned counsel holding for Shri S.R. Dheple, learned counsel for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondent authorities.

2. The learned counsel for the applicant on instructions seeks leave to withdraw the present application. Written pursis signed by the applicant and counter signed by the learned counsel is also tendered. Hence, we pass the following order:-

ORDER

The Original Application stands disposed of since withdrawn with no order as to costs.

MEMBER (A)

VICE CHAIRMAN

ORIGINAL APPLICATION NO. 347/2023
(Baban Zagade Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Heard Smt. Rutuja Kulkarni, learned counsel holding for Shri K.B. Jadhav, learned counsel for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondent authorities.

2. List the matter for hearing since reply has not been filed.
3. S.O. to 24.6.2024.

MEMBER (A)

VICE CHAIRMAN

M.A. NO. 557/2022 IN O.A. NO. 244/2016
(Vijaykumar Narwade Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Heard Shri M.R. Kulkarni, learned counsel for the applicant and Shri M.B. Bharaswadkar, learned Chief Presenting Officer for the respondent authorities.

2. Present application is filed seeking amendment in the O.A. so as to bring on record the subsequent events, which have been occurred during pendency of the O.A. Learned counsel for the applicant submitted that during pendency of O.A. 3rd D.E. has been initiated against the applicant and applicant intends to bring on record said fact by way of amendment.

3. Learned C.P.O. submits for passing appropriate order.

4. Since the subsequent events have brought on record, which have nexus with the O.A., we are

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M.A. NO. 557/2022 IN
O.A. NO. 244/2016

inclined to allow the Misc. Application. Hence, we pass the following order:-

ORDER

(i) Misc. Application Allowed. No order as to costs.

(ii) Necessary amendment be carried out in O.A. within a week and corrected copy be placed on record.

(iii) List the O.A. for hearing.

MEMBER (A)

VICE CHAIRMAN

ARJ ORAL ORDER 10.04.2024

ORIGINAL APPLICATION NO. 210/2024
(Prem B. Totre Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Heard Smt. Rutuja Kulkarni, learned counsel holding for Shri K.B. Jadhav, learned counsel for the applicant and Shri M.B. Bharaswadkar, learned Chief Presenting Officer for the respondent authorities.

2. S.O. to 24.4.2024. The interim relief granted earlier to continue till then.

MEMBER (A)

VICE CHAIRMAN

ARJ ORAL ORDER 10.04.2024

**O.A. NOS. 997, 998, 999, 1000, 1001, 1002, 1003, 1004,
1006, 1097 & 1098 ALL OF 2019**
(Dr. Ahmed Munibuddin & Ors. Vs. State of Maharashtra & Ors.)

**CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)**

DATE : 10.04.2024

ORAL ORDER :

Heard Shri M.R. Kulkarni, learned counsel for the applicants and Shri V.R. Bhumkar, learned Presenting Officer for the respondent authorities.

2. List the matter on 23.4.2024. O.A. No. 947/2019 be tagged along with this group. The interim relief granted earlier to continue till then.

MEMBER (A)

VICE CHAIRMAN

ARJ ORAL ORDER 10.04.2024

M.A. NO. 221/2023 IN O.A. ST. NO. 812/23
(Reshma Bansode Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Shri E.S. Murge, learned counsel for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for respondent authorities, are present.

2. Removed from the Board.

MEMBER (A)

VICE CHAIRMAN

ARJ ORAL ORDER 10.04.2024

ORIGINAL APPLICATION NO. 416/2024
(Kiran Pawar Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Heard Shri S.B. Kakade, learned counsel for the applicant and Shri M.B. Bharaswadkar, learned Chief Presenting Officer for respondent authorities.

2. Issue notice to the respondents, returnable on 25.6.2024.

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 25.6.2024.

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

MEMBER (A)

VICE CHAIRMAN

ORIGINAL APPLICATION ST. NO. 105/2024
(Dr. Archana Bhosale Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Heard Shri M.S. Mahajan, learned counsel for the applicant and Shri M.B. Bharaswadkar, learned Chief Presenting Officer for respondent authorities.

2. Learned counsel for the applicant submits that he will take instructions whether to prosecute the matter further or not.

3. Removed from the Board.

MEMBER (A)

VICE CHAIRMAN

ARJ ORAL ORDER 10.04.2024

O.A. NOS. 377, 378 AND 379 ALL OF 2024
(Vasudev Mahajan & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Heard S/shri Vinod Patil & Amol Chalak, learned counsel for the applicants in respective matters and Shri V.G. Pingle, learned Presenting Officer for respondent authorities in all these matters.

2. Learned counsel for the applicants placed on record the copy of the order passed by the principal seat of this Tribunal at Mumbai in O.A. No. 426/2024 with connected matters on 8.4.2024. Same is taken on record. In view of the said order the present matters be kept on 24.4.2024.

MEMBER (A)

VICE CHAIRMAN

ARJ ORAL ORDER 10.04.2024

M.A. NO. 64/2024 IN O.A. ST. NO. 2039/2023
(Ankush Hiwale & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Heard Shri J.M. Murkute, learned counsel for the applicants and Shri M.B. Bharaswadkar, learned Chief Presenting Officer for respondent authorities

2. This is an application preferred by the applicants seeking leave to sue jointly.

3. For the reasons stated in the application, and since the cause and the prayers are identical and since the applicants have prayed for same relief, and to avoid the multiplicity, leave to sue jointly granted, subject to payment of court fee stamps, if not paid.

4. Accompanying O.A. be registered and numbered, after removal of office objections, if any. The present M.A. stands disposed of accordingly without any order as to costs.

MEMBER (A)

VICE CHAIRMAN

M.A. NO. 64/2024 IN O.A. ST. NO. 2039/2023
(Ankush Hiwale & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Heard Shri J.M. Murkute, learned counsel for the applicants and Shri M.B. Bharaswadkar, learned Chief Presenting Officer for respondent authorities

2. Issue notice to the respondents, returnable on 25.6.2024.

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 25.6.2024.

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

MEMBER (A)

VICE CHAIRMAN

C.P. 32/2024 IN O.A. NO. 633/2022
(Dr. Sanjay Dhage Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Heard Shri Shamsunder B. Patil, learned counsel for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for respondent authorities.

2. Issue notice to respondent no. 2, returnable on 21.6.2024.

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 21.6.2024.

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

MEMBER (A)

VICE CHAIRMAN

ORIGINAL APPLICATION ST. NO. 663/2024
(Dr. Atule Chandramore Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Not on Board. Taken on Board.

2. Shri R.D. Biradar, learned counsel appearing for the applicant seeks leave to withdraw the present O.A. Written pursis signed by the applicant and counter signed by the learned counsel is also tendered. Hence, we pass the following order:-

ORDER

The Original Application stands disposed of since withdrawn without any order as to costs.

MEMBER (A)

VICE CHAIRMAN

ORIGINAL APPLICATION NO. 145/2024
(Rameshwar Hadbe & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Not on Board. Taken on Board.

2. Shri Ajay S. Deshpande, learned counsel appearing for the applicants tendered the written note of arguments along with copy of judgment annexed therewith. Same is taken on record and copies thereof are given to all concerned.

3. The matter is already reserved for orders.

MEMBER (A)

VICE CHAIRMAN

ARJ ORAL ORDER 10.04.2024

ORIGINAL APPLICATION NO. 1120/2023
(Satule Chetan Virabhadra & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Not on Board. Taken on Board.

2. Shri R.A. Shinde, learned counsel holding for S/shri S.A. Gaidya/B.N. Magar, learned counsel appearing for the applicants tendered the written note of arguments. Same is taken on record and copies thereof are given to all concerned.

3. The matter is already reserved for orders.

MEMBER (A)

VICE CHAIRMAN

ARJ ORAL ORDER 10.04.2024

M.A. NO. 266/2023 O.A. ST. NO. 941/2023
(Sarpa K. Vasave Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Heard Shri G.R. Jadhav, learned counsel holding for Shri A.S. Shelke, learned counsel for the applicants and Shri M.B. Bharaswadkar, learned Chief Presenting Officer for respondent authorities.

2. Learned counsel for the applicants submits that service affidavit will be filed in the office during the course of the day. Learned C.P.O. seeks tie to file affidavit in reply. Time granted.

3. S.O. to 14.6.2024.

MEMBER (A)

VICE CHAIRMAN

ARJ ORAL ORDER 10.04.2024

ORIGINAL APPLICATION NO. 1007/2019
(Mustafa Khonde Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Heard Shri R.A. Shinde, learned counsel holding for Shri K.R. Doke, learned counsel for the applicant and Shri M.B. Bharaswadkar, learned Chief Presenting Officer for respondent authorities.

2. In the present matter affidavit in reply has been filed only on behalf of respondent nos. 5 & 6. The remaining respondents though availed time to file reply, have not filed it till today. Learned C.P.O. seeks time to file reply on behalf of said respondents. Request rejected.

3. List the matter for hearing on 24.6.2024.

MEMBER (A)

VICE CHAIRMAN

ORIGINAL APPLICATION NO. 217/2024
(Ashok Giri Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

None appears for the applicant. Shri M.B. Bharaswadkar, learned Chief Presenting Officer for respondent authorities, is present.

2. S.O. to 18.6.2024.

MEMBER (A)

VICE CHAIRMAN

ARJ ORAL ORDER 10.04.2024

C.P. NO. 01/2024 IN O.A. 359/2023

(Hajrabee @ Nurbee Shaikh Nijam Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman

AND

Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

None appears for the applicant. Shri V.R. Bhumkar, learned Presenting Officer for respondent authorities, is present.

2. S.O. to 18.6.2024.

MEMBER (A)

VICE CHAIRMAN

ARJ ORAL ORDER 10.04.2024

O.A. NOS. 464, 465 AND 466 ALL OF 2022
(Sanjay Birhade & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Shri S.A. Deshmukh, learned counsel for the applicants in all these matters and Shri N.P. Basarkar, learned Presenting Officer for the respondents in all these matters.

2. Learned P.O. has tendered separate affidavit in reply on behalf of respondent nos. 2 & 3. Same are taken on record and copies thereof are supplied to other side.

3. S.O. to 27.6.2024.

MEMBER (A)

VICE CHAIRMAN

ARJ ORAL ORDER 10.04.2024

O.A. NOS. 300/2023 WITH O.A. NO. 215/2023
(Ratanaraj Jawalgekar Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Shri A.S. Deshmukh, learned counsel for the applicant in both the O.As. and Shri Ajay Deshpande, learned special counsel along with Shri M.B. Bharaswadkar, learned Chief Presenting Officer for respondent authorities.

Shri A.B. Kharosekar, learned counsel for respondent no. 4 in O.A. No. 215/2023 is **absent**.

2. Arguments are concluded. Reserved for orders.

MEMBER (A)

VICE CHAIRMAN

ARJ ORAL ORDER 10.04.2024

ORIGINAL APPLICATION ST. NO. 842/2024
(Mahadev B. Kapse Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Heard Smt. Priyanka Deshpande, learned counsel for the applicant and Shri V.G. Pingle, learned Presenting Officer for the respondent authorities.

2. The applicant applied for the post of Talathi claiming reservation meant for Divyang category candidates. For Divyang candidates total 3 posts were reserved, one each for 'A', 'B' and 'C' category. The applicant claims to be falling in 'C' category. It is the contention of the applicant that in that category though he was highest meritorious candidate having secured 172 marks, the respondents have selected respondent no. 4 from the said category, who is having 149 marks. In the circumstances, the applicant has preferred the present O.A. seeking quashment of the appointment of respondent no. 4 and prayed for issuance of appointment order in his favour. Learned counsel for the applicant submitted that the appointment orders have not yet been issued. In the Circumstances, interim relief is sought for by the applicant restraining the

respondents from issuing the order of appointment in favour of respondent no. 4.

3. Learned Presenting Officer seeks time to file affidavit in reply on behalf of the respondents. Learned P.O., however, opposed for grant of any interim relief stating that the respondents have rightly appointed respondent no. 4 from Divyang category, since the applicant could not have been adjusted in the general category having considered the marks scored by him in the examination.

4. We have considered the submissions made on behalf of the applicant, as well as, the respondents. For filling in the seats reserved for Divyang candidates are concerned, firstly the list has to be prepared of the Divyang candidates in order of merit according to the marks scored by the said candidates and according to the said list, the candidates are to be selected in order of their merit and such seats are to be adjusted against the seats reserved for the caste, creed or tribe to which the selected Divyang candidates belong. At the first instance, therefore, what is important is to prepare the merit list of Divyang candidates in order of their merit. As such, there appears prima-facie substance in the submissions made on behalf of the applicant that the

applicant was having better claim over the seat reserved for Divyang 'C' category candidate. We are, therefore, inclined to pass the following order:-

ORDER

(i) Issue notice to respondents, returnable on 8.5.2024. **Till then the respondents shall not issue the order of appointment in favour of respondent no. 4, if it is not yet issued.**

(ii) Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

(iii) 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.

(iv) 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.

(v) 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.

(vi) S.O. to 8.5.2024.

(vii) Steno copy and Hamdast is allowed to both parties.

MEMBER (A)

VICE CHAIRMAN

M.A. ST. 266/2024 IN O.A. NO. 805/2023
(Shaikh Refeek Gabru & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 10.04.2024

ORAL ORDER :

Shri Pratik Suryawanshi, learned counsel holding for Shri S.B. Talekar, learned counsel for the applicants and Smt. Resha Deshmukh, learned Presenting Officer for respondent authorities, is present.

2. S.O. to 30.4.2024. The interim relief granted earlier to continue till then.

MEMBER (A)

VICE CHAIRMAN

ARJ ORAL ORDER 10.04.2024