

ORIGINAL APPLICATION NO. 446/2022
(Shri Giriraj K. Joshi Vs. State of Maharashtra & Ors.)

CORAM : **Hon'ble Justice Shri P.R. Bora,**
Vice Chairman
(VACATION COURT)

DATE : **10.5.2022**

ORAL ORDER :

Heard Shri A.D. Gadekar, learned counsel holding for Shri Vijay P. Latange, learned counsel for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondent authorities.

2. The learned counsel submits that though the applicant has retired in the year 2020, till today his case for provisional pension has also not yet been processed and he is facing great hardship. The learned counsel submitted that on some trifling objections the provisional pension has not yet been started in the case of the applicant. In the circumstances, the applicant has filed the present application. Applicant has also prayed for an interim relief thereby seeking direction against the respondents to make the fixation in the revised pay scale as per the recommendations of 7th Pay Commission and accordingly fix his pension.

3. The learned Presenting Officer has opposed for granting any such interim relief.

4. After having considered the submissions of the learned counsel for the parties, it appears to me that the issue raised by the applicant though requires consideration, no case is made out for grant of interim relief. In the circumstances, at this stage I am not inclined to grant any interim relief, instead I deem it appropriate to issue notices to the respondents, returnable on 23.6.2022.

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

6. 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.

7. 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.

8. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the

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Registry before due date. Applicant is directed to file affidavit of compliance and notice.

9. S.O. to 23.6.2022.

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

VICE CHAIRMAN

ARJ ORAL ORDERS 10.5.2022

M.A. 210/2022 IN O.A. 12/2022
(Dr. Ganesh G. Kalyankar & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora,
Vice Chairman
(VACATION COURT)

DATE : 10.5.2022

ORAL ORDER :

Heard Shri M.R. Kulkarni, learned counsel for the applicants and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondent authorities.

2. In the present Original Application notice has been issued on 6.1.2022. At the time of filing of the application interim relief was insisted by the learned counsel for the applicants, however, the said prayer was not considered by this Tribunal stating that affidavit in reply of the respondents was necessary and after filing of such an affidavit in reply, the interim relief application can be effectively heard. The respondents have not yet filed affidavit in reply, though have availed 03 opportunities. The present Misc. Application has been filed by the applicants reviving their prayer for interim relief.

3. The learned counsel for the applicants submitted that on 26.4.2022 the Departmental Promotion Committee meeting has been held and it is most likely that the

promotions to the post of District Health Officer will be effected. The learned counsel in the circumstances has prayed for staying the promotions till decision of the present Original Application. It is the contention of the learned counsel for the applicants that the applicants hold the necessary qualifications for their promotion to the post of D.H.O.

4. The request so made is opposed by the learned Presenting Officer appearing for the respondent authorities. The learned Presenting Officer submitted that there are 02 ways of promotions, one by way of direct recruitment and other by way of promotion. The learned Presenting Officer submitted that the qualification held by the present applicants is not the due qualification for their promotion to the post of D.H.O.

5. After having considered the submissions made by the learned counsel for the parties, it appears to me that the qualification held by the applicants whether is due qualification for promotion to the post of D.H.O. is the issue, which cannot be decided unless the full-fledge hearing in the Original Application is taken. I am therefore not inclined to stall the process of promotion. However, having regard to the contentions raised in the application, it is clarified that, in the meanwhile promotions, if effected,

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would be subject to final outcome of the Original Application.

6. List the matter on 23.6.2022, which is scheduled date in the application.

VICE CHAIRMAN

ARJ ORAL ORDERS 10.5.2022

**ORIGINAL APPLICATION NO. 442 OF 2022
(Shankar Mangu Rathod Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora,
Vice Chairman**

[VACATION COURT]

DATE : 10.5.2022

ORAL ORDER :

Heard Shri Kakasaheb B. Jadhav, learned counsel for the applicant and Mrs. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. Learned counsel for the applicant submits that the applicant was initially appointed on 1.1.1996 on the post of Peon by respondent No. 3. The appointment of the applicant was made from Project Affected Persons Category (PAP). On 31.12.1999 the applicant was promoted to the post of Clerk Typist by respondent No. 3. The period of six months was given to him to produce the typing certificate. On 19.9.2013, respondent No. 2 promoted the applicant to the post of Shop Inspector, Grade-II from VJ-A reserved category. On 17.12.2021 notice came to be issued to the applicant requiring his explanation why his promotion shall not be cancelled for non-passing typing examination, as well as, for non-submitting the computer certificate. On 21.12.2021 the applicant has submitted his explanation.

However, since his explanation was not satisfactory respondent No. 2 has passed an order on 4.5.2022, thereby

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reverting him to the post of Peon. Learned counsel for the applicant submitted that after having worked on the promotional post for more than 22 years it would be unjust to revert the applicant to the post of Peon. Learned counsel, in the circumstances, has prayed for interim relief.

3. The request so made by the learned counsel for the applicant is opposed by the learned Presenting Officer. She pointed out that the applicant had not passed the typing examination before he was promoted to the post of clerk-cum-typist and the said appointment was subject to production of said certificate. She further submitted that till this date the applicant has not submitted such certificate.

4. Learned counsel for the applicant submits that in the year 2021 the applicant has completed the course of typing but examination has yet not been held.

5. After having heard learned counsel appearing for the applicant and the learned Presenting Officer, the fact which is apparently revealing is that the applicant has not passed the typing examination, which was mandatory

requirement. In the circumstances it does not appear to me that any case is made out for granting interim relief in favour of the applicant. Hence, the following order: -

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ORDER

- 1) The request made on behalf of the applicant for interim relief is rejected.
- 2) Issue notices to the respondents, returnable on 21.6.2022.
- 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 21.6.2022.

- 8) Steno copy and Humdast is allowed to both parties.

VICE CHAIRMAN

ORAL ORDERS 10.5.2022-HDD

ORIGINAL APPLICATION NO. 911 OF 2017
(Dadabhau S/o. Nana Salunke Vs. State of Maha. & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora,
Vice Chairman

[VACATION COURT]

DATE : 10.5.2022

ORAL ORDER :

Heard Shri V.G. Pingle, learned counsel for the applicant and Mrs. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. Learned counsel appearing for the applicant has tendered across the bar withdrawal puris dated 6.5.2022 under the signature of the applicant. Learned counsel has also put his signature on the said pursis. In view of the said pursis the following order is passed: -

ORDER

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

VICE CHAIRMAN