

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**COMMON ORDER IN O.A. NOS. 108 & 109 BOTH OF 2020,  
377, 378, 379, 381, 382, 565, 630, 660, 661, 988 ALL OF  
2019 and O.A. No. 656/2022  
(Subject:-Termination)**

**1. ORIGINAL APPLICATION NO. 108 OF 2020**

**DISTRICT: - BEED**

1. **Bhausahab S/o Bhagwanrao Rakh,** )  
Age 46 years, Occu. Service, )  
R/o Therala, Tq. Patoda, )  
Dist. Beed. )
2. **Ganpat S/o Sarjerao Wanve,** )  
Age 46 years, Occu. Service, )  
R/o Kacharwadi, Tq. & Dist. Beed. )
3. **Sakharam s/o Raghuji Wanve,** )  
Age 53 years, Occu. Service, )  
R/o as above. )
4. **Suresh S/o Uddhav Bangar,** )  
Age 45 years, Occ. Service, )  
R/o Waghira, Tq. Paptoda, Dist. Beed. )
5. **Mohan S/o Pandurang Nagare,** )  
Age 47 years, Occu. Service, )  
R/o Therala, Tq. Patoda, )  
Dist. Beed. )

**...APPLICANTS**

**V E R S U S**

1. **The State of Maharashtra,** )  
Through its Secretary, )  
General Administration Department, )  
Mantralaya, Mumbai -32. )
2. **The District Malaria Officer,** )  
Beed. )

**).. RESPONDENTS**

**WITH****2. ORIGINAL APPLICATION NO. 109 OF 2020****DISTRICT: - AHMEDNAGAR**

1. **Lahu S/o Uttam Pandit,** )  
Age 42 years, Occu. Service, )  
R/o Mahasawangi, Tq. Patoda, )  
Dist. Beed. )
2. **Prabhakar S/o Ramrao Wanve,** )  
Age 48 years, Occu. Service, )  
R/o Rohatwadi, Tq. Patoda, )  
Dist. Beed. )
3. **Tukaram S/o Pandharinath Nanware,**)  
Age 41 years, Occu. Service, )  
R/o Dhargadwai, Post Doithan, )  
Tq. Ashti, Dist. Beed. )
4. **Ashok S/o Lahanu Rakh,** )  
Age 41 years, Occ. Service, )  
R/o Nagtala, Tq. Ashti, )  
Dist. Beed. )
5. **Kailas S/o Ashruba Sonawane,** )  
Age 46 years, Occu. Service, )  
R/o Nagtala, Tq. Ashti, )  
Dist. Beed. )
6. **Ashok S/o Tukaram Pawar,** )  
Age 43 years, Occ. Service, )  
R/o Sangvi (Paton), Tq. Ashti, )  
Dist. Beed. )
7. **Janardhan S/o Bhausahab Bhosale,** )  
Age 53 years, Occ. Service. )  
R/o Sangvi (Paton), Tq. Ashti, )  
Dist. Beed )
8. **Balasaheb S/o Shayamrao Jayabhaye)**  
Age 48 years, Occ. Service, )  
R/o Aanpatwadi, Tq. Patoda, Dist. Beed ) ... **APPLICANTS**

**V E R S U S**

1. **The State of Maharashtra,** )  
 Through its Secretary, )  
 General Administration Department, )  
 Mantralaya, Mumbai -32. )
2. **The District Malaria Officer,** )  
 Ahmednagar. ) ..**RESPONDENTS**

**WITH**

3. **ORIGINAL APPLICATION NO. 377 OF 2019**  
**DISTRICT: - BEED**
1. **Somnath S/o Asaram Nande,** )  
 Age: 44 years, Occu. Service, )  
 R/o Office of Deputy Chief Auditor, )  
 Beed, Dist. Beed. )
2. **Ramrao S/o Limbaji Bangar,** )  
 Age: 44 years, Occupation: Service, )  
 R/o office of Deputy Chief Auditor, )  
 Beed, Dist.- Beed. )... **APPLICANTS**

**V E R S U S**

1. **The State of Maharashtra,** )  
 Through its Principal Secretary, )  
 Finance Department, )  
 Mantralaya, Mumbai. )
2. **The State of Maharashtra,** )  
 Through its Directorate, Finance )  
 Department, Directorate of Local Fund )  
 Accounts Audit, Navi-Mumbai, )  
 Maharashtra -400614. )
3. **The District Collector, Beed,** )  
 Maharashtra. ).. **RESPONDENTS**

**WITH**

4. **ORIGINAL APPLICATION NO. 378 OF 2019**  
**DISTRICT: - BEED**

1. **Maharudra S/o Babasaheb Wanve,** )  
Age: 42 years, Occupation. Service. )  
R/o Kacharwadi, Tq. Patoda, )  
Dist. Beed. )
2. **Ashok S/o Nanabhau Arsul** )  
Age: 36 years, Occupation: Service. )  
R/o Bensure, Tq. Patoda, Dist.-Beed. )
3. **Sukhdev S/o Babasaheb Wanve** )  
Age :51 years, Occupation: Service, )  
R/o Mahakala, Bhagwan Nagar, )  
Tq. Ambad, Dist. Jalana. )
4. **Baban S/o Raghunath Wanve** )  
Age : 56 years, Occupation: Service, )  
R/o Kacharwadi, Tq. Patoda, )  
Dist.- Beed. )... **APPLICANTS**

**V E R S U S**

1. **The State of Maharashtra,** )  
Through its Secretary, )  
General Administration Department, )  
Mantralaya, Mumbai. )
2. **The District Collector Beed,** )  
Dist. Beed, Maharashtra. )
3. **The Civil Surgeon,** )  
Civil Hospital, Beed, )  
Dist. Beed, Maharashtra, ).. **RESPONDENTS**

**WITH**

5. **ORIGINAL APPLICATION NO. 656 OF 2022**

**DISTRICT: - BEED**

1. **Dattatraya S/o Shripati Sonawane,** )  
Age: 45 years, Occu. Nil (Health Assistant), )  
R/o. Therla, Tal. Patoda, )  
Dist. Beed. )  
Mob. No. 7517310063 )

2. **Jivan S/o Manikrao Chaure,** )  
 Age: 45 years, Occu: Nil, (Health Assitant,) )  
 R/o At Post Khandala, )  
 Tal. Beed, Dist.- Beed. )  
 Mob. No. 9921636844 )... **APPLICANTS**

**V E R S U S**

1. **The State of Maharashtra,** )  
 Through Secretary, )  
 General Administration Department, )  
 Mantralaya, Mumbai-32. )
2. **The District Maleria Officer,** )  
 Vardha, Tal. & Dist. Vardha. )
3. **The District Maleria Officer,** )  
 Kolhapur, Tal. & Dist. Kolhapur. )
4. **The Additional Collector,** )  
 Beed. Tal. & Dist. Beed. )
5. **The District Collector,** )  
 Beed. ).. **RESPONDENTS**

**WITH**

6. **ORIGINAL APPLICATION NO. 988 OF 2019**

**DISTRICT:-AHEMADNAGAR**

- Trupti W/o Vijaykumar Tandale,** )  
 Age: 47 years, Occupation: Service. )  
 R/o Heramb Talve Nagar, Behind Sai )  
 Angels English School, Aurangabad Highway )  
 Tq. & Dist.- Ahemadnagar. ) **...APPLICANT**

**V E R S U S**

1. **The State of Maharashtra,** )  
 Through its Secretary, )  
 General Administration Department )  
 Mantralaya, Mumbai. )

2. **The District Collector Beed,** )  
Dist. Beed, Maharashtra. )
3. **The Joint Director, Health Services,** )  
(Malaria, Hepatitis and Waterborne )  
Disease) Pune-6, Aarogya Bhavan, )  
Opp. Vishrantwadi Police Station, )  
Yerwada, Pune-411 006. )  
Maharashtra. ).. **RESPONDENTS**

**WITH****7. ORIGINAL APPLICATION NO. 660 OF 2019****DISTRICT: - BEED**

- Rajratan S/o Shrimantrao Jaybhaye,** )  
Age:- 39 years, Occu:- Service, )  
R/o. Khandala, Tq. & Dist. Beed. )... **APPLICANT**

**V E R S U S**

1. **The State of Maharashtra,** )  
Through the Secretary, )  
Health Department, )  
Mantralaya, Mumbai-32. )
2. **The Collector,** )  
Beed. )
3. **The Additional Collector,** )  
Beed. )
4. **The Director of Health Services,** )  
Health Department, Arogya Bhawan, )  
St. George's Hospital Compound, )  
P.D. Mellow Road, Mumbai. )
5. **The Dy. Director of Health Services,** )  
Latur, Division, Latur. )
6. **The Civil Surgeon,** Civil Hospital, )  
Beed. ).. **RESPONDENTS**

**WITH**

**8. ORIGINAL APPLICATION NO. 661 OF 2019****DISTRICT: - BEED**

**Satish S/o Narayan Bhandwalkar,** )  
 Age: 42 years, Occu:- Service, )  
 R/o. Swami Samarth Colony, )  
 Swaraj Nagar, Beed, Tq. & Dist. Beed. )... **APPLICANT**

**V E R S U S**

1. **The State of Maharashtra,** )  
 Through the Secretary, )  
 Health Department, )  
 Mantralaya, Mumbai-32. )
2. **The Collector,** )  
 Beed. )
3. **The Additional Collector,** )  
 Beed. )
4. **The Director of Health Services,** )  
 Health Department, Arogya Bhawan, )  
 St. George's Hospital Compound, )  
 P.D. Mellow Road, Mumbai. )
5. **The Dy. Director of Health Services,** )  
 Latur, Division, Latur. )
6. **The Civil Surgeon, Civil Hospital,** )  
 Beed. ).. **RESPONDENTS**

**WITH****9. ORIGINAL APPLICATION NO. 630 OF 2019****DISTRICT: - BEED**

**Bhaskar S/o Eknath Dhere,** )  
 Age: 46 years, Occu:- Nil, )  
 R/o Pachegaon, Tq. Patoda )  
 Dist. Beed. )... **APPLICANT**

**V E R S U S**

1. **The State of Maharashtra,** )  
Through its Principle Secretary, )  
General Administrative Department, )  
Mantralaya, Mumbai. )
2. **The District Collector,** )  
Beed Dist. Beed. )
3. **The Additional Collector,** )  
Beed Dist. Beed. )
4. **The Deputy Director,** )  
Health Service, Latur, )  
Circle Latur, Arogya Sankul, )  
Government Vasahat, )  
Barshi Road, Latur Dist. Latur. ).. **RESPONDENTS**

**WITH**

**10. ORIGINAL APPLICATION NO. 379 OF 2019**

**DISTRICT: - BEED**

1. **Parmeshwar S/o Bhanudas Jagtap** )  
Age: 42 years, Occupation:- Service, )  
R/o. Bhavanwadi, Tq. & Dist.- Beed. )
2. **Yuvraj S/o Raghunath Shinde** )  
Age :42 years, Occupation: Service, )  
R/o Sautada, Tq. Patoda, Dist. Beed )
3. **Smt. Dwaraka Subhash Nagargoje** )  
Age : 43 years, Occupation: Service, )  
R/o Rohatwadi, Tq. Patoda, Dist.- Beed)... **APPLICANTS**

**V E R S U S**

1. **The State of Maharashtra,** )  
Through its Secretary, )  
General Administration Department, )  
Mantralaya, Mumbai-32. )
2. **The District Collector Beed,** )  
Dist. Beed, Maharashtra. )

3. **The Civil Surgeon,** )  
 Civil Hospital, Beed. )  
 Dist. Beed, Maharashtra. ).. **RESPONDENTS**

**WITH****11. ORIGINAL APPLICATION NO. 381 OF 2019****DISTRICT: - BEED**

1. **Maharudra S/o Lala Kirdat** )  
 Age: 34 years, Occupation:- Service, )  
 R/o. Patoda (Bail), Tq. & Dist.- Beed. )
2. **Prakash S/o Raghunath Badge** )  
 Age : 54 years, Occupation: Service, )  
 R/o Patoda, Tq. & Dist.- Beed )
3. **Sangita Vitthal Mule** )  
 Age : 39 years, Occupation: Service, )  
 R/o Rohatwadi, Tq. Patoda, Dist.- Beed)... **APPLICANTS**

**V E R S U S**

1. **The State of Maharashtra,** )  
 Through its Secretary, )  
 General Administration Department, )  
 Mantralaya, Mumbai-32. )
2. **The District Collector Beed,** )  
 Dist. Beed, Maharashtra. )
3. **The Civil Surgeon,** )  
 Civil Hospital, Beed. )  
 Dist. Beed, Maharashtra. ).. **RESPONDENTS**

**WITH****12. ORIGINAL APPLICATION NO. 382 OF 2019****DISTRICT: - BEED**

1. **Pralhad S/o Bhimrao Garkal** )  
 Age: 37 years, Occupation:- Service, )  
 R/o. Ghogas Pargaon,, Tq. Shirur Kasar )  
 Dist. Beed. )
2. **Hanumant S/o Dnyanoba Tupe** )  
 Age :43 years, Occupation: Service, )  
 R/o Pimpalwadi, Tq. & Dist.-Beed )

- 3. Sundarrao S/o Dattatray Badage** )  
 Age : 54 years, Occupation: Service, )  
 R/o Belkhandi Patoda, Tq. & Dist.-Beed)... **APPLICANTS**

**V E R S U S**

- 1. The State of Maharashtra,** )  
 Through its Secretary, )  
 General Administration Department, )  
 Mantralaya, Mumbai-32. )
- 2. The District Collector Beed,** )  
 Dist. Beed, Maharashtra. )
- 3. The Civil Surgeon,** )  
 Civil Hospital, Beed. )  
 Dist. Beed, Maharashtra. ).. **RESPONDENTS**

**WITH**

**13. ORIGINAL APPLICATION NO. 565 OF 2019**

**DISTRICT: - BEED**

- Chandu Rangnath Jaybhaye** )  
 Age:- 41 years, Occu:- Service, )  
 R/o. Khandala, Beed )  
 Tq. & Dist. Beed. )  
 At present Nerul, Sector-2, )  
 Amrapali Apartment, New Mumbai. )... **APPLICANT**

**V E R S U S**

- 1. The State of Maharashtra,** )  
 Through the Secretary, )  
 Finance Department, )  
 Mantralaya, Mumbai-32. )
- 2. The Collector,** )  
 Beed. )
- 3. The Additional Collector,** )  
 Beed. )
- 4. The Chief Auditor,** )  
 Local Funds Audit, Maharashtra State )  
 Kokan Bhavan, 6<sup>th</sup> floor, New Mumbai. ).. **RESPONDENTS**

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**APPEARANCE** : Shri V.S. Panpatte with R.C.  
Bramhankar, Advocates for the Applicants in  
respective O.As..

: Shri M.P. Gude, P.O. for respondents in all  
these O.As..

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**CORAM** : **Shri V.D. Dongre, Member (J)**  
**and**  
**Shri Bijay Kumar, Member (A)**

**Reserved on** : **14.02.2023**

**Pronounced on** : **06.04.2023**

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**COMMON - ORDER**

**(Per : Shri Bijay Kumar, Member (A))**

1. A number of Original Applications have been filed by employees, who entered into Government services in various offices of District Beed, Osmanabad, Wardha and Kolhapur on the basis of nominations given by bogus Freedom Fighters, as per details tabulated below as TABLE- I at page No. 12 of this order. These Original Applications have been filed by respective applicants invoking provisions of Section 19 the Administrative Tribunals Act, 1985, being aggrieved by the orders terminating their services by competent authorities on the ground of their nomination letters had been issued by bogus Freedom Fighters and therefore, were null & void.

**TABLE- I**  
**Showing Particulars of Original Applications**

Sr. No.	O.A. No.	Date of filing	No. of co-applicants	Concerned Govt. Officer issuing termination order
1	108/2020	12.02.2020	5	District Malaria Office, Beed
2	109/2020	12.02.2020	8	District Malaria Office, Ahmednagar
3	377/2019	18.03.2019	2	Local Fund Audit, Mumbai
4	378/2019	02.04.2019	4	District Surgeon, Beed
5	379/2019	02.04.2019	3	District Surgeon, Beed
6	381/2019	02.04.2019	3	District Surgeon, Beed
7	382/2019	02.04.2019	3	District Surgeon, Beed
8	565/2019	29.06.2019	1	Local Fund Audit, Mumbai
9	630/2019	05.07.2019	1	Dy. Director, Health Services, Latur
10	660/2019	29.06.2019	1	Dy. Director, Health Services, Latur
11	661/2019	29.06.2019	1	Dy. Director, Health Services, Latur
12	988/2019	08.11.2019	1	Joint Director, Health Services, (Malaria and Faileria), Pune
13	656/2022	13.03.2021	2	District Malaria Officer, Wardha

2. **Brief common facts of the matter :-**

(a) The applicants, who applied as nominees of freedom fighters from Beed, Ahmednagar, Latur, Pune, Washim and Osmanabad districts, were appointed by respective appointing authorities under a scheme of the Government. They have filed 10 Original Applications.

(b) As the facts in all the 13 Original Applications before this Tribunal for adjudication are similar, cause of action

and relief sought by the applicants are similar, we have taken O.A. No. 109/2020 from Beed District as lead case as consulted by the contesting parties ensuing that no prejudice is caused to any party due to this. Accordingly a common order is being passed.

(c) A Public Interest Litigation No. 2619/2002 had been filed by one Bhaurao Dagdu & Ors. before Hon'ble High Court of Judicature at Bombay challenging grant of '*Samman-Patra*', *pensionary and other benefits to a large number of persons in Beed district, who were not even born or were toddlers when freedom fight was on or the country got independence. Hon'ble High Court appointed a three member committee under chairmanship of Shri M.R. Maney which submitted its report that the claims were bogus and tainted with fraud. Hon'ble High Court however dismissed the Writ Petition vide order dated 19.03.2004. Civil Appeal was filed before Hon'ble Apex Court against the aforesaid orders of Hon'ble High Court dated 19.03.2004 by the petitioners. Hon'ble Apex Court allowed the appeal and passed order in Civil Application No. 5162 to 5167 of 2005 in Special Leave Petition No. 11344 to 11349 of 2005 on 22.08.2005 directing respondent authorities to appoint an*

one member Commission under Chairmanship of a retired Judge of the Bombay High Court namely, Justice Palkar to scrutinize 354 cases of Freedom-Fighters to ascertain genuineness of their claims of being freedom fighters. Accordingly, Government in General Administration Department, issued a G.R. bearing No. P.O.S.-1205/Beed/62/File No.-12/Freedom Fighters Desk-2, dated 01.10.2005 constituting Justice Palkar Commission which had reported that out of 355 Freedom-Fighters in 354 cases, 'Samman-Patra' and pensionary benefits of 298 Freedom Fighters deserved to be canceled.

(d) Accordingly, GAD issued G.R. bearing number P.O.S.-1207/957/ Beed/ File No.-29/ 07/Freedom Fighters Desk-2, dated 21.03.2007 thereby, canceling pensionary and other benefits of 298 persons who were earlier taken to be genuine freedom-fighters. However, the petitioners felt that the orders passed by GAD vide aforesaid GR were not being implemented in all respects. Therefore, Shri Bhaurao Dagdu and Ors. submitted a representation dated 29.07.2007 before the Chief Secretary to the State Government complaining partial implementation of the Orders of the Hon'ble Apex Court. The complainant

thereafter filed another Writ Petition No. 2246/2008 before Hon'ble High Court, Bench at Aurangabad praying for issue of directions for taking action on their representation made before the Chief Secretary. Hon'ble High Court issued orders dated 29.09.2013 operating part of which is as follows :-

*“... Chief Secretary to the Government of Maharashtra to look into the representation dated 29.09.2007 and to take necessary decision within period of four months from today. Learned amicus shall forward copy of this order and copy of the representation to the Chief Secretary within a period of three weeks from today. The Chief Secretary shall thereafter communicate to learned amicus the date of hearing and accordingly will be made to see that the learned amicus can visit Mumbai and participate in hearing and point out all the facts to the Chief Secretary.”*

(e) After Chief Secretary gave hearing to the concerned on representation made, in presence of amicus curie Advocate Shri N. L. Jadhav on 06.01.2014 and upon getting inputs from Adv. Shri N.L. Jadhav, Government of Maharashtra in GAD issued G.R. No. PSO-1208/Court/41/file no. 166/2008/ Freedom Fighter Desk-

2, dated 11.02.2014 notifying it's decision in the matter, salient points of which are as follows :-

- (i) *To recover pension amount given to 298 bogus freedom fighter along with interest thereon.*
  - (ii) *To cancel all nominations given to wards of 209 bogus freedom-fighters*
  - (iii) *Those wards of 298 bogus freedom-fighters who have been given employment based on nominations shall be given hearing and thereafter, terminate their services based on findings of hearing.*
  - (iv) *To file criminal cases against 298 bogus freedom fighters identified by Palkar Commission.*
- (f) After the respondents issued G.R. dated 11.02.2014, total 10 Writ Petitions, including 2669/2014 and 2887/2018, were filed before the Hon'ble High Court of Judicature of Bombay, Bench at Aurangabad by affected nominees of freedom-fighters determined to be bogus, which included 6 out of 8 original applicants in O.A, No. 109/2020 praying for protection of their services under provisions of Article 311 of the Constitution which, according to them, cannot be taken without following provisions of Service Rules applicable to State Government Servants. Aurangabad Bench of Hon'ble Bombay High Court passed a common order in all the ten Writ Petitions

on 17.04.2014, operating part of which is being quoted below:-

*“21. In view of the reasons recorded above, we do not find the petitions presented by the petitioners deserve consideration.*

*22. Writ Petitions are, as such, dismissed.”*

(g) Thereafter, Office of Collector Beed issued Order bearing No. 2014/ G.B./Desk/2/Freedom Fighter 457/ Work sheet 492, dated 06.09.2017 cancelling nominations issued in favour of nominees of all 298 bogus freedom-fighters, requiring the respective appointing authorities to return to the office of Collector, Beed original nomination papers issued by 298 bogus freedom fighters.

(h) Being aggrieved by the said order of the office of Collector Beed issued by Additional Collector, Beed, one Shri S. M. Sakhare and others filed O.A. (St.) No. 1369/2017 before this Tribunal seeking quashing and setting aside the order passed by Additional Collector Beed. This was followed by filing of multiple applications including O.A. No. 659/2017 filed by applicant no. 1 and 2 to 8 and O.A. No. 683/2017 by applicant no. 2 before this Tribunal, which were dismissed with following conclusions

and orders recorded in para 17 to 19 of its order dated 25.04.2018:-

*“17. In the premises discussed in foregoing paras, we reach at following conclusions:-*

- a) Cancellation of certificates is a fall out of long process of litigation and merger and partial modification of report of Justice Palkar Commission in to the order of Hon’ble Supreme Court’s decision rendered in S.L.P. Civil Appeal Nos. 10624 to 10636/2013.*
- b) Hence, present Original Application has no merit in so far as challenge to impugned Govt. decision is concerned.*
- c) In so far as protection at service of applicants are concerned, present O.A.s are premature.*
- d) The Government/ appointing authority has to take decision regarding issuing of notices to the applicants, giving them reasonable time to reply, consider each individual’s reply and take decision thereafter.*
- e) The step of issuing notice of show cause and hearing be completed within three months to prevent the Treasury being defrauded through salaries of unauthorized entrants in Government service unless for any other legal grounds the nominees are found eligible for absorption/ retention in the employment of the Government.*
- f) Applicants’ prayer for protection of their service is concerned, is left open, being premature.*

*18. For the above reasons, present Original Applications devoid of merit. Hence, all the Original Applications are dismissed.*

*19. Parties shall bear their own costs.”*

(i) Following aforementioned developments, services of a number of nominees were terminated by respective appointing authorities. A number of such nominees filed Writ Petition No. 3550/2019 and 3416/2019 before Hon'ble High Court of Judicature at Bombay, Bench at Aurangabad in which Oral orders were passed by Division Bench [Coram: Hon'ble Justice S. V. Gangapurwala and Hon'ble Justice A. M. Dhavale] on 13.03.2019 and on 02.04.2019 respectively disposing of the petitions by giving direction that- *“respondents would not take any decision terminating the services of petitioners without issuing notices to the petitioners, without calling for their explanations and taking decisions considering explanation given as may be permissible under law. The petitioners will have every right to agitate each and every ground available to them.”*

(j) Accordingly, concerned appointing authorities had issued show cause notices to the respective nominees of bogus Freedom Fighters requiring them to submit

explanation within prescribed time limits as to why their services be not terminated in view of communication issued by Additional Collector, Beed dated, 09.10.2018 and 24.04.2019. After giving hearing, respective authorities passed orders terminating services of respective employees who had entered into Government services on the strength of nomination letters issued by Bogus Freedom Fighters.

**(k) Being aggrieved thereby, these Original Applications have been filed.**

**3. Joint Hearing of all 13 Original Applications and Taking up a lead Case for Discussion:-** As mentioned in the beginning, all the 13 Original Applications had similar facts, similar cause of actions, similar relief sought and legal issues involved being same, it is with consent of the learned Advocate for the Applicants and the respective Presenting Officers, all 13 Original Applications were taken up by this Tribunal on 12.09.2022 to be heard Jointly. However, for purpose of analysis, O.A. No. 109/2020 from Beed District has been taken as representative application.

**TABLE-II**

Sr. No.	O.A. No.	Date issue of SCN	Date of receipt of reply	Date of passing termination order	Whether Termination Order is Speaking One
1	108/2020	11.05.2018	14.05.2018	24/25.01.2020	Non Speaking Order
2	109/2020	02.05.2019	16/17.5.2019	23/24.01.2020	Non Speaking Order
3	377/2019	17.07.2018	21/24.07.2018	09.10.2018	Speaking Order
4	378/2019	30.01.2019	13.02.2019	28.02.2019	Speaking Order
5	379/2019	30.01.2019	13.02.2019	28.02.2019	Speaking order
6	381/2019	30.01.2019	13.02.2019	28.02.2019	Speaking Order
7	382/2019	30.01.2019	13.02.2019	28.02.2019	Speaking Order
8	565/2019	17.07.2018 27.07.2018	27.07.2018 28.08.2018	09.10.2018	Speaking Order
9	630/2019	24.05.2019	29.05.2019	18.06.2019	Non speaking order
10	660/2019	24.04.2014	19.05.2014	27.02.2019	Non speaking order
11	661/2019	14.02.2018	21.02.2019	27.02.2019	Non speaking order
12	988/2019	N.A.	N.A.	11.10.2019	None speaking order
13	656/2022	03.03.2021 24.12.2018	15.03.2021 10.01.2019	18.03.2021 23.01.2020	Speaking Speaking

4. **The Original Applicants had submitted their replies with following common main contentions :-**

(i) That the applicants are permanent employees of Government of Maharashtra and therefore, the show cause notice issued to them were not in accordance with rule 8 of Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 [in short, "MCS (D &A) Rules"] and hence, deserves to be cancelled.

(ii) That the applicants are duly registered nominees of

freedom-fighters as per Government Circular No. CNS-1065-4652/J, dated- 12 October 1965.

(iii) That the applicant has been duly appointed and their services have been continuous. Applicants have never been issued any memo for misconduct during their entire service period.

(iv) That, Hon'ble High Court in its Order dated 02.04.2019 in Writ Petition No. 3550/2019 directed authorities that respondents would not take any decision terminating the services of petitioners without issuing notices to the petitioners, without calling for their explanations and taking decisions considering explanation given as may be permissible under law. The petitioners will have every right to agitate each and every ground available to them. However, these directions have not been complied with before issuing termination orders.

(v) That the Principal Bench of the Maharashtra Administrative Tribunal had passed order as quoted below in O.A. No. 365/2014 on 22.04.2014 :-

*“The Government has issued has issued a G.R. on 12<sup>th</sup> October 1993 wherein it had been directed that, if a Government employee, who is alleged have obtained appointment on the basis of wrong information or action against him should be taken under Rule and of the Maharashtra Civil Services (Discipline & Appeal) Rules 1979. He argued that in the present such action can be taken only under Rule of the aforesaid Rules.*

*We agree with the contentions of the learned Advocate that a permanent Govt. employee cannot be*

*removed / dismissed from service without holding a Departmental enquiry against him under rule and of the MCS (D & A) Rules 1979. We, therefore, direct that the show cause notice dated 26.03.2014 and April 2014 may be treated as prelude to Departmental enquiry and if the applicants do not admit the contents of the show cause notice, further action to hold Departmental enquiry may be taken against them, if the Government so desires.”*

(vi) That, there is a precedence of O.A. No. 770 of 2007 in which one Shri Narendra Walmik Sonawane has secured appointment on the basis of nomination procured by declaring false relationship with freedom fighter in collusion with the freedom fighter. This Tribunal had quashed and set aside the order of his dismissal on the concerned employee directing the respondents to initiate departmental enquiry as per Rule 8 of the MSC (D&A) rules 1979.

(vii) That, in yet another case, 8 Talathis had secured Government job based on nominations from freedom fighter showing false relationship with the freedom fighter. Government had dismissed those Talathis from Government service. Later on, Government in Revenue & Forest Department vide Order No. APL 2000/3358/file No. 675/E-5, dated 11.08.2004 had cancelled the punishment and reinstated them in Government service.

(viii) That, Hon'ble Apex Court in Civil Appeal No. 10624-10636/2013 in SLP (C), vide order dated 25.11.2013, allowed restoration of pensionary benefits of 298 bogus freedom fighters and had not directed termination of

services of persons who entered into Government job on the basis of nomination by bogus freedom fighters.

(ix) Respondent No. 2 has, after considering replies filed by the concerned, passed impugned orders on different dates as shown in TABLE-II above.

**5. Relief Sought-** These O.As. have been filed with prayer for grant of relief in terms differently worded. Prayer made in O.A. No. 109/2020 is quoted below as a representative prayer as all other prayers are similar in terms of relief sought. **Relief Prayed for in terms** of para VI (A) to VI (C) and Interim Relief in terms of para VII (D) and VII (E) of O.A. No. 109/2020 are being reproduced verbatim for ready reference:-

**“VI. RELIEF CLAIMED:-**

**HENCE IT IS PRAYED THAT:**

**A.** *The Original application may kindly be allowed.*

**B.** *The impugned termination orders dated 23.01.2020 and 24.01.2020 issued by the respondent no. 2 may kindly be quashed and set aside thereby reinstating the services of the applicants with continuity and to grant all the benefits including the back wages and the respondent no. 2 may kindly be directed to allow to join the services to the applicants on their respective posts and for that purpose issue necessary orders.*

**C.** *By issuing appropriate orders, direct the respondents to grant protection to the services of the*

*applicants in pursuant to the order passed by the Hon'ble High Court and applications filed by the applicants and for that purpose issue necessary orders.*

**VII. INTERIM RELIEFS:-**

**D.** Pending the hearing and final disposal of this Original Application, the effect, execution and implementation of the impugned termination orders dated 23.01.2020 and 24.01.2020 issued by the respondent No. 2 may kindly be stayed thereby directing the respondent No. 2 to allow resume the duties to the applicant on their respective posts.

**E.** Any other suitable and adequate relief may kindly be granted in favour of the Applicant”

**6. Pleading, Final Hearing, re-hearings and Reserving for Orders :-**

(a) After hearing the contesting parties, interim relief prayed had been declined vide Oral Orders dated 28.02.2020 in O.A. No. 108/2020 and 109/2020. In other O.A.s too, no Interim relief is granted / is in force.

(b) On 09.12.2021 O.A. Nos. 377, 378, 379, 381, 382, 565, 630, 660, 661, 988 all of 2019 with O.A. No. 108 and 109 both of 2020 and O.A. No. 656/2022 were heard together with O.A. No. 109/2020 as representative case.

(c) Affidavit in reply had been filed on behalf of respondent Nos. 1 and 2 in representative O.A. No. 109/2020 on 09.12.2021, which was taken on record and copy thereof served on the other side. Learned Presenting Officer sought time to file affidavit in reply on behalf of other respondents. With consent of parties the matter was fixed for final hearing on 30.03.2022 which took place as scheduled. A Written Note on submissions made was submitted by learned Advocate for applicant on 30.03.2022 and the matter was reserved for orders. As orders could not be passed within reasonable time, the same was taken for re-hearing on 15.09.2022 and on conclusion of hearing the matter was again reserved for orders on 19.09.2022. In the meantime, constitution of Division Bench was modified therefore, the matter was re-heard on 09.12.2022, thereafter, and the matter was reserved for orders on 14.02.2023.

(d) During final hearing and along with Written Notes and Additional Written Notes, the learned Advocate for applicant submitted following judgments as citations :-

- (i) *1993 H CLR 389, Supreme Court Judgment in Special Leave Petition (C ) No. 16256 of 1992, S.C. Mudhol & Anr Vs. S.D. Halgkar & Ors,*

*delivered on 13.07.1993*

- (ii) *AIR 2016 SUPREME COURT 1389, Civil Appeal No. 857 of 2016 (Arising out of SLP (C ) No. 204 of 2010, with Transferred Case Nos. 27, 28 of 2010, D-3-2-2016, Mirza Ali Raza and Ors Vs State of Bihar and Ors and Jagbandhu Mahtho and Anr. v. State of Bihar and Ors and Birendra Prasad v. State of Bihar and Ors. dated 03.02.2016*
- (iii) *AIR 2016 SUPREME COURT 2237, Civil Appeal No. 4815 of 2016 (arising out of SLP (C ) No. 11928 of 2015, d- 5-5-2016, Md. Zamil Ahmed v. State of Bihar and Ors.*
- (iv) *2017 (5) Mh. L.J.] Ashish M. Sathye vs. Institute of Chemical Technology & Ors.*
- (v) *Sambhaji vs. State f Maharashtra [2015 96) Mh. L.J.*
- (vi) *(2018)8 Supreme Court Cases 238, Marendra Kumar Tiwari and Ors. Vs. State of Jharkhand & Ors, Civil Appeal Nos. 7423-29 of 2018, decided on 01.08.2018*
- (vii) *(2018) 13 Supreme Court Cases 432, Sheo Narain Nagar and Ors Vs. State of Uttar POradesh and Anr., Civil Appeal No. 18510 of 2017, decided on 13.11.2017*
- (viii) *(2018) Supreme Court Cases 308, Vikram Singh Vs Commissioner of Police, Civil Appeal No. 18800 of 2017, decided on 15.11.2017*
- (ix) *AIR 1986 SUPREME COURT 1626, Civil Appeal Nos. 230 and 231 of 1982 D/-7-5-1986, Jarnail Singh and Ors Vs. State of Punjab and Ors.*

## **7. Analysis of Facts and Inferences Drawn:-**

- (a) First of all, we have perused various judgments cited

by the learned Advocate for the applicant. In our considered opinion, the ratio between cited cases and the present matter are different and therefore, not applicable in the present matters. It is a significant fact that the present proceedings had been initiated after it has been determined by one-man commission of retired Justice Palkar appointed by Hon'ble Apex Court that 298 Freedom Fighters were bogus, which makes the present matter unique in nature.

(b) From the facts on record, we find that the orders passed by Hon'ble High Court of Judicature at Bombay, Bench at Aurangabad in Writ Petition No. 2246/2008 gets marked as beginning of significant developments in the present matter. Respondent No. 1 has issued G.R. No. PSO-1208/Court/41/file no. 166/2008/ Freedom Fighter Desk-2, dated 11.02.2014 in accordance with the mandate emanating from the said order of Hon'ble High Court. Therefore, Government G.Rs./orders issued prior to passing the said orders by Hon'ble High Court of Judicature at Bombay, Bench at Aurangabad in some specific cases cited in para 2 (j) (v) to 2 (j) (vii) by the applicant, in our considered opinion, have become inapplicable in these cases. Order passed by the Principal

Bench of this Tribunal in O.A. No. 364 of 2014 and 365 of 2015 had been examined by Hon'ble High Court Bench at Aurangabad in in Review Application No. 04/ 2016 in O.A. No. 306/2014 and Review Application No. 05/2016 in O.A. No. 345/2014 and Hon'ble High Court has, while dismissing the review petitions, observed in para 9 to 12 of the judgment delivered on 04.08.2017 as follows:-

*“9. In the present cases, the fact of falsehood of certificates of Freedom Fighters has attained finality, is an admitted position.*

*10. Applicants' appointments in the category of nominee presupposed valid and legal Freedom Fighters Certificates. When the Certificates as Freedom Fighters relied upon by applicants were found to be untrue, the condition precedent of appointment remained unfulfilled.*

*11. In the present O.A.s what is under challenge is a final order and not show cause notice, as was in the O.A. Nos. 364 and 365 of 2014 at Mumbai.*

*12. The judgment delivered at Mumbai in O.A.s supra does not serve as simile or Res-judicata and not at all as a precedent, and does not come to the help of the applicants.”*

(c) Applicants have contended that Hon'ble Apex Court in Civil Appeal No. 10624-10636/2013 vide its order dated 25.11.2013, allowed restoration of pensionary benefits of 298 bogus freedom fighters on sympathetic grounds. While

passing such orders, Hon'ble Apex Court has not directed to terminate the services of applicants secured by them as nominees of bogus freedom fighters. However, in our considered opinion, this contention of the applicants holds no water as the relief sought by bogus freedom fighters in the said SLP was primarily limited to protection of pensionary benefits in view of their old age and stay to recovery of amount paid as pension.

(d) Challenges to the validity of GR dated 11.02.2014 made by applicants and others by filing 10 writ petitions including W.P. No. 2669/2014 and 2867/2014 has been dismissed by Hon'ble High Court of Judicature at Bombay, Bench at Aurangabad. Therefore, in our considered opinion, only procedural requirement remains to be examined to determine legal validity of termination orders issued by the respondent No. 2.

(e) Contention of the applicants that Additional Collector, Beed had initially verified the nominations and therefore, the same authority cannot review his own decision. However, the basic fact in the present matters is different. The fact that has emerged is that it is the finding of Palkar

Committee that 298 bogus freedom-fighter has managed to get “Samman-Patra” by fraud and the applicants entered into Government jobs on the basis of nomination letters issued by bogus freedom-fighters, therefore, the basis on which the applicants had secured Government jobs has become non-exist as a result of which appointments of applicants in Government jobs becomes null & void.

(f) Another contention of the applicants is that they being permanent Government servants, their services are protected by article 311 of the Constitution of India. For ready reference, article 311 of the Constitution is quoted below:-

*“ 311. Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State- (1) No person who is a member of a civil service of the Union or an All India Service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed.*

*(2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges. (Emphasis supplied)*

*Provided that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of evidence*

*adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed.*

(g) Applicants have also contended that before passing orders of termination of their services by impugned orders dated 23.01.2020 and 24.0.2020, departmental inquiry under rule 8 of Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 had not been conducted and therefore, their termination orders are illegal and void. However, in our considered opinion, the services of the applicants have been terminated because the very basis on which they entered in to Government services had ceased to exist/ became non-exist. In other words, the termination orders were not issued on the ground of imputation of charges of misconduct as stipulated in Maharashtra Civil Services (Conduct) Rules, 1979 and therefore, Departmental Enquiry stipulated under rule 8 of the MCS (Discipline & Appeal) Rules, 1979 against the applicants are not required.

(h) Last, but not the least, it is evident from the summary of facts in the present matters, as stated in para 2 above, the applicants were issued show cause notices and they

were given opportunity to submit their written say. However, on one hand, five orders at Sr. Nos. 1, 2, 9, 10, 11 & 12 of TABLE-II (page No. 21 of this order) passed by respective respondent No. 2 are not speaking ones and on the other, in the present cases, the fact of falsehood of certificates of Freedom Fighters has attained finality, is an admitted position. The Applicants' appointments in the category of nominee presupposed valid and legal Freedom Fighters Certificates. When the Certificates as Freedom Fighters relied upon by applicants were found to be untrue, the condition precedent of appointment remained unfulfilled. Still, in such matters procedural compliance is equally of high importance during judicial review. After considering all facts on record and oral submissions made, we are of the considered opinion that there is no merit in O.A. No. 377, 378, 379, 381, 382, 565 all of 2019 & 656/2022 and rest of the O.A. Nos. 108, 109 both of 2020 and 630, 660, 661 & 988 all of 2019 suffer from noncompliance of the Hon'ble High Court order, which deserves serious view to be taken. Hence, the following order:-

**ORDER**

(A) O.A. Nos. 377, 378, 379, 381, 382, 565, all of 2019 and O.A. No. 656/2022 are dismissed for being devoid of merit.

(B) O.A. Nos. 108, 109 both of 2020 and 630, 660, 661 & 988 all of 2019 are allowed in following terms :-

Respective impugned orders passed in O.A. Nos. 108, 109 both of 2020 and 630, 660, 661 & 988 all of 2019 are quashed and set aside and those cases are remanded back to respective appointing authorities for passing speaking orders after duly considering the submissions made by the concerned nominees of bogus freedom fighters at the earliest and preferably within the period of three months from receipt of certified copies of this order.

(C) No order as to costs.

**MEMBER (A)**

**MEMBER (J)**

**Kpb/D.B. O.A. No. 108/2020 & Ors. Termination**