

ORIGINAL APPLICATION NO. 299 OF 2023
(Mayur M. Mahajan Vs. State of Maharashtra & Ors.)
(VACATION COURT) (S.B. MATTER)

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

DATE : 11.05.2023

ORAL ORDER :

Heard Shri S.P. Urgunde, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondent authorities.

2. Learned Presenting Officer filed affidavit in reply on behalf of respondent Nos. 1 to 3. Same is taken on record and copy thereof has been served on the other side.

3. The present Original Application is filed challenging the impugned communication / order dated 03.04.2023 (Annexure-C), whereby the respondent No. 1 the Government has directed the respondent No. 3 not to act upon the transfer order of the applicant dated 31.03.2023 (Annexure-B) at Sr. No. 14, whereby the applicant has been transferred on promotion from the post of Assistant Engineer, Grade-I, Jihe Kathapur Project, Sub-Division No. 4, Koregaon to Executive Engineer, Urdhva Painganga Project Division No. 8, Nanded. No reason is mentioned in the said impugned order / communication dated 03.04.2023.

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4. It is the contention of the applicant that there are in all 29 such Assistant Engineers including the applicant, who have been promoted under the order of transfer dated 31.03.2023 (Annexure-B). Except the applicant, all others are allowed to join on their respective promotional posts.

5. In the affidavit in reply filed on behalf of respondent Nos. 1 to 3 it is contended that due to administrative reasons the impugned order is issued. Issue before this Tribunal is as to whether the applicant can be deprived of promotional posting. Prima-facie, it seems that the applicant has been singled out thereby depriving him of benefit of promotional post without stating any cogent reasons in the impugned order.

6. Learned Presenting Officer has also placed on record a copy of communication dated 08.05.2023 received by the office of C.P.O. from the respondent No. 1, whereby it is stated that new posting order of the applicant is under consideration.

7. However, how long the said process would take is not clear. In such circumstances, at this stage,

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interim relief in terms of prayer clause 9(D) is granted till completion of pleadings, which is as follows :-

“D] Pending hearing and final disposal of this Original Application, the impugned communication / order dated 03rd April, 2023 issued by the respondent No. 2 bearing SLS1121/Adm.No. 268/Part4/2021/Aa(Class-1) be stayed and for that purpose necessary direction be issued.”

8. S.O. to 08.06.2023 for filing rejoinder affidavit, if any.

MEMBER (J)

**ORIGINAL APPLICATION NO. 337 OF 2023
(Santosh B. Ipper Vs. State of Maharashtra & Ors.)
(VACATION COURT) (S.B. MATTER)**

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

DATE : 11.05.2023

ORAL ORDER :

Heard Smt. Priya Bharaswadkar, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondent authorities.

2. Learned Advocate for the applicant submits that during the course of the day service affidavit on behalf of respondent Nos. 1 to 4 would be filed.

3. Learned Presenting Officer submits that during the course of the day affidavit in reply on behalf of respondent Nos. 1 to 4 would be filed.

4. The present Original Application is filed challenging the impugned transfer order of the applicant dated 11.04.2023 (Annexure A-3) issued by the respondent No. 3 i.e. the Sub-Divisional Officer, Gangakhed, Dist. Parbhani transferring the applicant, who is working as Talathi from Talathi Sajja Akoli, Gangakhed, Dist. Parbhani to Mardasgaon, Tq. Gangakhed on vacant post. The respondent No. 5 is transferred to the post held by the applicant vide order dated 11.04.2023 (part of Annexure A-4 collectively).

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5. Learned Advocate for the applicant submits that the applicant has not been relieved from his present post. Whereas, learned Presenting Officer submits that the applicant has been relieved from his present post and the applicant has joined on the transferred place. The applicant has also produced on record a copy of relieving order of respondent No. 5 dated 12.04.2023 (part of Annexure A-4 collectively) and joining report of respondent No. 5 dated 13.04.2023 (part of Annexure A-4 collectively).

6. Learned Advocate for the applicant further submitted that the transfer order of the applicant is issued on administrative ground under provisions of Transfer Act, 2005. According to her, the normal tenure of the applicant is six years in one Sajja, which is disputed by learned Presenting Officer.

7. In the facts and circumstances of the case, at this stage, transfer order of the applicant and respondent No. 5 would be subject to outcome of the present Original Application.

8. At the request of learned Advocate for the applicant, issue fresh notice to respondent No. 5, returnable on 06.06.2023.

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

10. 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.

11. 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.

12. 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.

13. S.O. to 06.06.2023.

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

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Later on :-

Applicant in person is present and placed on record a copy of application dated 11.05.2023 signed by him for withdrawal of the present Original Application. Same is taken on record.

S.O. to 06.06.2023

MEMBER (J)

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ORIGINAL APPLICATION NO. 360 OF 2023
(Vilas D. Ambhore Vs. State of Maharashtra & Ors.)
(VACATION COURT) (S.B. MATTER)

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

DATE : 11.05.2023

ORAL ORDER :

Heard Ms. Preeti Wankhade, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondent authorities.

2. Learned Presenting Officer submits that during the course of the day affidavit in reply would be filed.

3. Await service of notice upon the respondent No. 1.

4. At the request of learned Advocate for the applicant, S.O. to 12.05.2023.

MEMBER (J)

**M.A. No. 224/2023 in O.A. St. No. 881/2023
(Dinesh S. Londhe & Ors. Vs. State of Maharashtra & Ors.)
(VACATION COURT) (D.B. MATTER)**

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

DATE : 11.05.2023

ORAL ORDER :

Heard Shri V.U. Pawar, learned Advocate for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondent authorities.

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

3. For the reasons stated in the applications, 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. The accompanying O.A. be registered and numbered, after removal of office objections, if any. The present M.A. No. 224/2023 stands disposed of accordingly without any order as to costs.

MEMBER (J)

O.A. St. No. 881/2023
(Dinesh S. Londhe & Ors. Vs. State of Maharashtra & Ors.)
(VACATION COURT) (D.B. MATTER)

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

DATE : 11.05.2023

ORAL ORDER :

Heard Shri V.U. Pawar, learned Advocate for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondent authorities.

2. Issue notices to the respondents, returnable on 08.06.2023.

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. The recruitment/selection if any made, the same shall be subject to outcome of the present O.A.

8. S.O. to 08.06.2023.

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

MEMBER (J)

**MAST. 882/23 in CP St. 883/23 in OA 14,15 & 16 all of 23
(Rajesh N. Kadam & Ors. Vs. State of Maharashtra & Ors.)
(VACATION COURT) (D.B. MATTER)**

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

DATE : 11.05.2023

ORAL ORDER :

Heard Ms. Preeti Wankhade, learned Advocate for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondent authorities.

2. At the request of learned Advocate for the applicants, S.O. to 12.05.2023.

MEMBER (J)

**ORIGINAL APPLICATION ST. NO. 884 OF 2023
(Jayanti A. Choudhari Vs. State of Maharashtra & Ors.)
(VACATION COURT) (D.B. MATTER)**

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

DATE : 11.05.2023

ORAL ORDER :

Heard Smt. Kirti Deshpande, learned Advocate for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondent authorities.

2. The office has raised objection that prayer clause 9(b) is not maintainable, as the same is pertaining to seeking copies of answer sheets of the applicant claimed under RTI.

3. The present Original Application is filed for following reliefs :-

- "b. The non-response by respondent, MPSC to application of applicant under RTI Act be treated as rejection of RTI Request Registration no. MHPSC/R/2023/60706 dated 5.3.2023 and also RTI Appeal, Registration no. MHPSC/A/2023/60083 dated 24.4.2023, hence resulted in violation of the rights available to the applicant as per relevant legislation in the present case and situation, considering the relevant facts and circumstances.
- c. The direction may kindly be given to respondent, MPSC to produce answer-sheets of applicant before Hon. Tribunal in this

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proceeding of Paper-I as V15-11762 and Paper-II as W15- 21762 of examination held on 11.9.2022 as was attended by applicant and was conducted by respondent, MPSC as per Advertisement no. 1/2022 dated 7.1.2022 in Aurangabad Center.

- d. The direction may kindly be given to respondent, MPSC to give the certified/ authenticated copies of answer-sheets of applicant of Paper - I as VIS-11762 and Paper II as W15 - 21762 of examination held on 11.9.2022 as was attended by applicant and was conducted by respondent, MPSC as per Advertisement no. I/ 2022 dated 7.1.2022 in Aurangabad Center as per her on-line request to respondent, MPSC.”

4. Perusal of the O.A. does not specify any contravention or breach of Rules in conducting the examination held for the post of Assistant Public Prosecutor (APP). The applicant is not declared qualified. In view of the same, the applicant sought copies of answer sheets to verify marks obtained by her. In the entire O.A., there is no allegation against the respondents affecting the right of the applicant in getting employment as APP. If the copies of answer sheets are not provided, the applicant has appropriate efficacious remedy under RTI. The dispute raised by the applicant does not fall within the jurisdiction of this Tribunal under Section 15 of the Administrative Tribunals Act, 1985, which can

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be availed by making appropriate application under Section 19 of the Administrative Tribunals Act, 1985.

5. In the circumstances as above, the Original Application stands disposed of being not maintainable. There shall be no order as to costs.

MEMBER (J)

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