

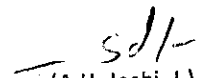
**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

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

IN

Original Application No. _____ of 20____

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p>DATE: <u>13/6/16</u></p> <p>CORAM: Hon'ble Justice Shri A. H. Joshi (Chairman) Hon'ble Justice Mr. Rameshkumar (Member) A</p> <p>APPEARANCES: Shri <u>R.M. Kolge</u> Advocate for the Applicant Shri <u>A.S. Wable</u> C.F.O./P.O. for the Respondent/s</p> <p>Adj. To: <u>26/9/16</u></p> <p align="right"><i>BT</i></p>	<p>Date : 13.06.2016.</p> <p align="center">M.A.No.128 of 2015 in C.A.No.33 of 2015 In O.A.No.910 of 2004</p> <p>Shri V.P. BhanushaliApplicant</p> <p align="center">Vs.</p> <p>Shri Mannukumar Shrivastav & Ors.Respondents</p> <p>1. Heard Shri R.M. Kolge, the learned Advocate for the Applicant and Shri A.S. Wable, the learned Presenting Officer for the Respondents.</p> <p>2. Learned P.O. for the Respondents Shri A.S. Wable states after taking instructions from Shri R.P. Thakur, Deputy Collector & Competent Authority (Encroachment/Removal), Kurla that about 2½ months time from today is required for completing of Applicant's service Book.</p> <p>3. Learned P.O. further states that efforts would be made to carry out compliance in all respects and Applicant's pension ^{case} would be processed.</p> <p>4. Considering the request of P.O. for Respondents, S.O. to 26. 9. 2016.</p> <p align="right">  (A.H. Joshi, J.) Chairman </p> <p align="left">sba</p>

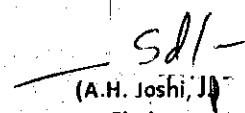
**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

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

IN

Original Application No. _____ of 20 _____

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p>DATE: <u>13/6/16</u></p> <p>CORAM: Hon'ble Justice Shri A. H. Joshi (Chairman), Hon'ble Shri M. Ramakrishna (Member) A.</p> <p>APPEARANCE: Shri <u>A.V. Bandiwadker</u> Advocate for the Applicant Shri/Smt. <u>A.J. Chougale</u> C.P.O./P.O. for the Respondents</p> <p>Adj. To: <u>24/6/16. Hardast. f</u> <u>steno copy allowed.</u></p> <p align="right"><i>AK</i></p>	<p>Date : 13.06.2016.</p> <p align="center">O.A.No.512 of 2016</p> <p>Shri D.A. Gavade ...Applicant Vs. The State of Maharashtra & Ors. ...Respondents</p> <ol style="list-style-type: none"> 1. Heard Shri A.V. Bandiwadkar, the learned Advocate for the Applicant and Shri A.J. Chougale, the learned Presenting Officer for the Respondents. 2. Learned P.O. for the Respondents prays time on the ground that para-wise remarks which are received are not satisfactory. 3. Learned P.O. for the Respondents states that further time is required for compliance of the order, because G.A.D. has raised certain queries and those need be answered. 4. In the present case, option before the Government is to obey or to challenge the order passed in O.A. No. 324 of 2013. Whiling away the time is on the very face of it contemptuous. 5. The Respondents ought to study in the case papers/files, note the date scheduled to and find out the reasons of delay caused in taking action. 6. If justifiable reasons are seen, then only Respondents can pray for time for compliance. 7. Steno copy and Hamdast is allowed to learned P.O. to communicate this order to the Respondents. 8. For reporting the date schedule, S.O. to 24.06.2016. <p align="right">  (A.H. Joshi, J) Chairman </p>

(Advocate

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

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

Tribunal's orders

Date : 13.06.2016.

O.A.No.546 of 2016

A.L. Jadhav

.... Applicant.

Versus

The State of Maharashtra & Ors.

.... Respondents.

1. Heard Shri R.G. Panchal, the learned Advocate for the Applicant and Smt. K.S. Gaikwad, the learned Presenting Officer for the Respondents.

2. In the midst of hearing, learned Advocate Shri R.G. Panchal for the Applicant prays for leave to amend by substituting entire paper book.

3. Leave as prayed for is granted.

4. Liberty to circulate after substitution.

DATE: 13/6/16

GRAM:

Hon. the Justice Shri A. H. Joshi (Chairman)

Hon. the Shri M. Ranaoekumar (Member) A

APPEARANCE:

Shri/Smt.: R.G. Panchal

Advocate for the Applicant

Shri/Smt.: K.S. Gaikwad

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

Adj. To: Liberty to circulate

after substitution.

MTE

sd/-
(A.H. Joshi, J.)
Chairman

prk

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

Original Application No. _____ of 20 _____ District _____
..... Applicant/s

(Advocate

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
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O.A.45/2016

Shri S.F. Padvi ... Applicant
V/s.
The State of Mah. ... Respondent

Heard Shri A.V. Bandiwadekar, the learned Advocate for the Applicant and Shri N.K. Rajpurohit, the learned Chief Presenting Officer for the Respondent.

Admit. Liberty to mention granted.

Sd/-

(R.B. Malik)
Member (J)
13.06.2016

DATE: 13/6/16

R.B. Malik (Chairman)
(Member)

A.V. Bandiwadekar

N.K. Rajpurohit

Admit.
Adj. To Liberty to mention granted.

(Handwritten signature)

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

Tribunal's orders

M.A.428/2016 in O.A.216/2016

Shri R.Y. Kamble ... Applicant
Vs.
The State of Mah. & ors. ... Respondents

Heard Ms. S.P. Manchekar, the learned Advocate for the Applicant and Shri N.K. Rajpurohit, the learned Presenting Officer for the Respondents.

Issue notice returnable on 11th July, 2016.

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

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

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

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

S.O. to 11th July, 2016. The learned C.P.O. do waive service. Hamdast.

DATE: 13/6/16

SPRINT:

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

Hon'ble Shri R.B. Malik (Member) ✓

APPEARANCE:

Advocate for the Applicant: S.P. Manchekar

Advocate for the Respondent/s:

Shri/Smt.: N.K. Rajpurohit

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

Adj. To: 11/7/16

Sd/-

(R.B. Malik)

Member (J)

13.06.2016

(skw)

R.Y.

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

Original Application No. _____ of 20 _____ DISTRICT _____
..... Applicant/s

(Advocate

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Council, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p>DATE: <u>13/6/16</u></p> <p>Presented by: <u>Shri A. H. Joshi (Chairman)</u> <u>R.B. Malik (Member)</u></p> <p>APPEARANCE: <u>G.A. Bandiwadekar holding</u> <u>for Adv. Mane</u> Advocate for the Applicant <u>Shri Ms. J. G. Gohad</u> Sd/-/Shri. for the Respondent/s C.P.O./P.O. for the Respondent/s <u>It is formally admitted.</u> Adj. To.....</p>	<p align="center"><u>O.A.344/2016</u></p> <p>Shri V.M. Honde ... Applicant Vs. The State of Mah. & ors. ... Respondents</p> <p>Heard Shri G.A. Bandiwadekar holding for Mr. Mane, the learned Advocate for the Applicant and Shri Ms. Gohad holding for Smt. K.S. Gaikwad, the learned Presenting Officer for the Respondents.</p> <p>The learned P.O. Ms. Gohad seeks time for filing Affidavit-in-reply. I have perused the earlier orders. The issue of interim relief was not taken up in the hope that the Affidavit-in-reply would be filed. However, now that the Affidavit has not been filed and I am convinced that sufficient opportunity has been given, OA proceeds without Affidavit-in-reply. It is formally admitted. Liberty to mention granted but it is made clear that on the next date, if the Affidavit is filed, it will be taken on record, and not thereafter.</p> <p align="right">Sd/- (R.B. Malik) Member (J) 13.06.2016</p> <p>(skw)</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

Original Application No. _____ of 20 _____ District
..... Applicant/s

(Advocate)

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
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O.A.404/2016

Shri S.S. Bhosale ... Applicant
Vs.
The State of Mah. & ors. ... Respondents

Heard Shri Shyamsundar Solunke holding for Mr. P.V. Patil, the learned Advocate for the Applicant and Ms. Gohad holding for Shri A.J. Chougule, the learned Presenting Officer for the Respondents.

Shri Solunke, the learned Advocate seeks permission to withdraw the OA. The learned P.O. has no objection. OA is allowed to be withdrawn and as such dismissed for want of prosecution with no order as to costs.

Sd/-

(R.B. Malik)
Member (J)
13.06.2016

13.06.16

(skw)

DATE: 13/6/16

BY:

Shri. H. Joshi (Chairman)

Shri M. N. Nandakumar (Member) A

APPEARANCE:

Shyamsundar Solunke
holding for Mr. P.V. Patil
Advocate for the Applicant

Shri A.J. Chougule

Presenting Officer for the Respondent/s

Adj. to OA is allowed to be
withdrawn and as such
dismissed for want of prosecution
with no order as to costs

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IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

Original Application No. _____ of 20 _____ DISTRICT _____
..... Applicant/s

(Advocate

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p>DATE: <u>13/6/16</u></p> <p>COMMISSIONER</p> <p>Respected Justice Dr. A. H. Joshi (Chairman)</p> <p>Respected Shri <u>R.B. MALIK</u> (Member) A J</p> <p>APPEARANCES:</p> <p>Advocate for the Applicant: <u>F.A. Bandiwadkar</u></p> <p>Shri Smt. <u>K.S. Gaikwad</u> holding for C.O.C./P.O. for the Respondent/s</p> <p>Shri <u>N.K. Rajpurohit</u> C.P.O. for Respondent/s</p> <p>Adj. To: <u>29/6/16</u></p> <p><i>(Signature)</i></p>	<p align="center"><u>O.A.202/2016</u></p> <p>Shri S.S. Ketkar ... Applicant</p> <p>Vs.</p> <p>The State of Mah. & ors. ... Respondents</p> <p>Heard Shri G.A. Bandiwadkar, the learned Advocate for the Applicant and Shri N.K. Rajpurohit holding for Smt. K.S. Gaikwad, the learned Presenting Officer for the Respondents.</p> <p>Shri Bandiwadkar, the learned Advocate makes a statement that the Applicant does not want to file Rejoinder. Admit.</p> <p>Shri Chandratre informs that he has found it difficult to serve the Respondent No.3 and the representative of the MPSC was not quite helpful. In the context of the fact, the Respondent No.2-MPSC is in the know of the address of the 3rd Respondent and the 2nd Respondent-MPSC is, therefore, directed to furnish to the Applicant the address of the 3rd Respondent within one week from today. The OA stands adjourned to 29th June, 2016.</p> <p align="right"><i>(Signature)</i></p> <p align="right">Sd/- (R.B. Malik) Member (J) 13.06.2016</p> <p>(skw)</p>

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

Tribunal's orders

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

S.O. to 27th June, 2016. The learned P.O. do waive service. Hamdast.

Sd/-

(R.B. Malik)
Member (J)
13.06.2016

(skw)

DATE: 13/6/16

CORAM:

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

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

APPEARANCE:

Shri/Smt. A.V. Bandiwadkar

Address: For the Applicant

Shri/Smt. A.S. Wable

CRO / P.O. for the Respondent/s

Adj. To 27/6/16. Hamdast

B.K.

THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI**ORIGINAL APPLICATION NO.254 OF 2016****DISTRICT: PUNE****N.S. Deshmukh****.... Applicant****Versus****The State of Maharashtra & Ors****....Respondents.**

Shri A.V. Bandiwadekar, the learned Advocate for the Applicant.

Smt. K.S. Gaikwad, the learned Presenting Officer for the Respondents.

CORAM : JUSTICE SHRI A.H. JOSHI, CHAIRMAN

DATE : 13.06.2016.

ORDER

1. Heard Shri A.V. Bandiwadekar, the learned Advocate for the Applicant and Smt. K.S. Gaikwad, the learned Presenting Officer for the Respondents.
2. Learned P.O. Smt. K.S. Gaikwad for the Respondents has tendered the copy of order dated 19.05.2006.
3. It is seen that period of suspension of the Applicant between 16.11.1999 to 20.01.2006 is treated as period spent on duty. However, payment of arrears of difference between allowance paid and actual pay is not made so far.
4. It is shocking that the Respondent No.1 has taken 10 years for passing order for treating the period of suspension as period spent on duty. Even the order is passed only after service of copy of O.A. and notice by this Tribunal.
5. In view of the foregoing, the Superintendent of Police (Rural), Pune is called to show cause as to why exemplary costs of Rs.50,000/- should not be saddled for failing to decide the suspension period for which the office of Respondent took 10 years to decide and decision as come in the background of service of copy of O.A..

6. Statement should also be made on the next date as to :-
- (a) Whether the arrears of pay and allowances due and payable consequent upon passing of order of treating suspension period as period spent on duty, has been made over.
 - (b) What steps would be taken to ensure that cases of the nature of the case of applicant, do not remain pending as if waiting for notice of court or Tribunal.
7. It is expected that details with reference to each month and year of the time which was lost before taking decision be furnished.
8. It is made clear that affidavit of any officer lower in rank than Superintendent of Police himself should not be accepted.
9. Affidavit answering the show cause be filed on 14.07.2016.
10. Apart from the affidavit on above points, Respondent No.1 is also directed to file her / his own affidavit answering the averments and points agitated in the O.A..
11. Learned P.O. is directed to communicate this order to the Respondents, for which Steno copy and Hamdast is allowed to learned P.O..
12. S.O. to 14.07.2016.


(A.H. Joshi, J)
Chairman

prk

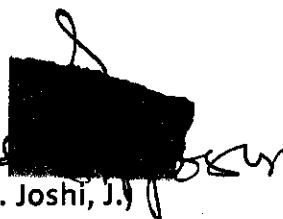
5. Learned P.O. for the Respondents states that he has communicated the order dated 21.4.2016 and dated 7.6.2016. It cannot be understood as to how and why the communications/notices remain unattended.

6. Additional Chief Secretary, Home Shri K.P. Bakshi is called to file an affidavit within one week on following points:-

- (a) The date when order passed by this Tribunal in present O.A. on 21.4.2016 reached his office.
- (b) The date on which said order was brought to his notice.
- (c) What are the circumstances which have precluded him carrying out compliance against the order passed on 21.4.2016?
- (d) Reasons and circumstances due to which P.O's. communication regarding order dated 21.4.2016 and 7.6.2016 are not duly attended to.
- (e) Who are the officers/employees responsible for failing to bring the communication and order of Tribunal to him?
- (f) Explain the reasons as to why he should not be personally saddled with costs or furnish name of the officer who is responsible in this matter and why such officer should not be saddled with exemplary costs.

7. Steno copy and Hamdast is allowed to learned P.O. to communicate this order to the Respondents.

8. S.O. to 23.06.2016.


(A.H. Joshi, J.)
Chairman

sba

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI

ORIGINAL APPLICATION NO. 397 OF 2016

DISTRICT :Solapur

Shri S.N. Pawar ...Applicant

Vs.

The State of Maharashtra & Ors. ...Respondents

Ms. S.P. Manchekar, the learned Advocate for the Applicant.

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

CORAM : Shri J. A.H. Joshi, Chairman.

DATE : 13.06.2016

ORDER

1. Heard Ms. S.P. Manchekar, the learned Advocate for the Applicant and Shri A.J. Chougule, the learned Counsel for the Respondents.

2. Learned P.O. for the Respondents states as follows:-

Orders are issued on 10.06.2016 directing that Applicant be given the appointment.

3. It is seen that the Respondents are totally reckless towards adverting to order passed by this Tribunal on 5.5.2016.

4. On 5.5.2016 order was dictated in court hall. Some officers were present to assist the learned P.O. for the Respondents. Today, learned P.O. for the Respondents was called to furnish the name of the officer who was present on 5.5.2016.

5. Learned P.O. for the Respondents states that Shri Sanjay Khedekar, Deputy Secretary, Home Department was present on 5.5.2016. Learned P.O. for the Respondents was called to explain as to whether the contents/ text of the order dated 5.5.2016 was communicated.
6. Learned P.O. for the Resopondents has answered stating that oral communication was done through the officer who was present.
7. In the aforesaid premises, it is gravely and utterly dis-appointing that 1 month and one week is taken for passing order.
8. Therefore, Additional Chief Secretary, Home is directed as follows:-
 - (a) Show cause as to why exemplary cost of Rs. 1 lakh, as recorded in order dated 5.5.2016 should not be saddled against the state or specific officer who has failed to apply his mind to the Applicant's case and denied him the opportunity of employment in total disregard of provision contained in Juvenile Justice (Care and Protection of Children) Act 2000.
 - (b) To explain as to why efforts were not made to secure the copy of order dated 5.5.2016 which could probably be the reason of causing delay and neglect in urgently taking corrective measures and passing orders.
9. Today, Smt. Shaila Mithbavkar, Desk Officer, Home Department is present and undertakes to come tomorrow and collect the copy of today's order.
10. Steno-copy and Hamdast is allowed to learned P.O. to communicate this order to the Respondents.
11. For filing affidavit-in-reply, S.O. to 24.06.2016.


(A.H. Joshi, J)
Chairman

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

**ORIGINAL APPLICATION NO.918 OF 2015
WITH
ORIGINAL APPLICATION NO.1094 OF 2015**

DISTRICT : MUMBAI

ORIGINAL APPLICATION NO.918 OF 2015

1. Shri Suresh B. Shingte & 7 Ors.).....Applicants

Versus

1. The Govt. of Maharashtra & 3 Ors.)...Respondents

WITH

ORIGINAL APPLICATION NO.1094 OF 2015


1. Shri Ramakant M. Kothalikar)
& 11 Ors.)...Applicants

Versus

1. The State of Maharashtra & 10 Ors.)...Respondents

Shri D.B. Khaire, Advocate for Applicants in OA 918/15.

**Shri C.T. Chandratre, Advocate for Applicants in OA
1094/15.**



Smt. K.S. Gaikwad, Presenting Officer for Respondents.

Shri M.D. Lonkar, Advocate for Respondents 4 to 6.

Shri K.R. Jagdale, Advocate for Respondents 6A to 6E.

CORAM : RAJIV AGARWAL (VICE-CHAIRMAN)

R.B. MALIK (MEMBER-JUDICIAL)

DATE : 13.06.2016

PER : R.B. MALIK (MEMBER-JUDICIAL)

ORDER


1. By this common determination of preliminary issue in these two OAs, this Bench is called upon to consider the effect of non-impleadment of all the affected parties. The Respondent No.4 to OA 918/2015 represented by Shri M.D. Lonkar, the learned Advocate would have these OAs dismissed on that very ground.

2. We have perused the record and proceedings and heard S/S D.B. Khaire and C.T. Chandratre, the learned Advocates for the Applicants, Smt. K.S. Gaikwad, the learned Presenting Officer for the Respondents 1 to 3, Mr. M.D. Lonkar, the learned Advocate for Respondent Nos. 4 to 6 and Mr. K.R. Jagdale, the learned Advocate for Respondents 6A to 6E.



3. In both these OAs, an order dated 31.8.2015 which is Exh. 'A' (Page 41 of the paper book in the 1st OA) is assailed. For the purposes hereof, a very detailed delve into the factual matrices such as it is pertaining to the main controversy is not germane. The only issue of moment is as to whether it is necessary in the context of these facts to implead all the affected parties whose number obviously is a whopping more than 300 (346) and if yes, whether their non-impleadment should lead to the instasnt dismissal of these OAs.

4. By the order above referred to, the Police Sub Inspectors (PSIs) came to be granted seniority w.e.f. 2nd March, 2000. One part of the dispute relates to the date which again, it is not necessary to closely examine in this determination. The Applicants have inter-alia mentioned that they have made peace with the seniority of 131 PSIs other than the 346 mentioned above because these 131 are admittedly senior to the Applicants. There are 8 Applicants in the first OA and 12 in the second one. The Respondents are the State of Maharashtra through Secretary, Home, Director General of Police, MPSC and a few private Respondents. Admittedly, all the Police Personnel against whom the grievance is made in these OAs are not the parties before this Bench in these OAs.


A horizontal line with a small mark at the end, likely a signature line.

5. In so far as the recruitment to the cadre of PSIs, there are 3 sources with well defined quota as it were. 50% of them are recruited by nomination through MPSC (direct recruitment). 25% of them is by limited departmental examination conducted by MPSC and the third and the last one are 25% who are selected through an examination conducted by the DGP, Maharashtra State. It is this last category that the Applicants herein belong to. They came to be initially appointed as Constables and made their way through to reach up to the level of PSI. To aspire for higher positions and posts and betterment of life is not contingent upon anybody's permission and apparently so is the case of the Applicants. However, it appears that the Officers drawn from other sources apprehend that these Applicants might trample on their toes while marching ahead. Such disputes are not uncommon and they are certainly not uncommon in the Police Force. There is a long history in so far as earlier litigation is concerned which in fact was carried right upto the Hon'ble Apex Court. The details thereof are quite obviously not quite germane for this common determination.

6. Now, the case of the Respondents represented by Mr. Lonkar, the learned Advocate is that not just 2 or 3 of

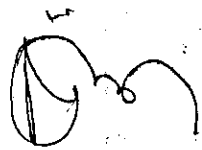


them, but all those that were likely to be affected or will even be interested in the outcome of these OAs are the necessary parties and if they were not impleaded to these OAs, these OAs must be thrown out of the window.

7. The provisions of the Code of Civil Procedure are in terms not applicable to the proceedings before this Tribunal or for that matter, in proceedings before any Administrative Tribunal created under the Administrative Tribunals Act, 1985. However, Section 22(1) of the said Act is best reproduced for a better grasp of the matter.

“22(1): A Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908) but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made by the Central Government, the Tribunal shall have power to regulate its own procedure including the fixing of places and times of its inquiry and deciding whether to sit in public or in private.”

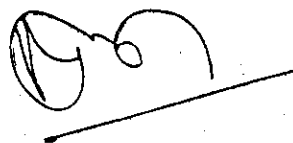
8. In fact, in exercise of powers conferred by Section 35(1), (2) (d)(e) and (f) of the Administrative Tribunals Act,



the Rules have been framed for Maharashtra Administrative Tribunal which are called, "Maharashtra Administrative Tribunals (Procedure) Rules, 1988. Rule 11 thereof, is quite significant and we shall turn our attention thereto after a short while.

9. However, even as the express provisions of the Code of Civil Procedure (CPC) hereinafter are inapplicable to these proceedings, what is quite pertinent to note is that a procedure consistent with the general principles of fair-play and natural justice has got to be applied. No forum worth its judicial salt can afford to ignore these elementary principles. If that be so, then in our view, the basic principles that underly the relevant provisions of the CPC can still be borne in mind provided they were not contrary to or inconsistent with the express text or that which can be implied smoothly from the provisions which in terms apply to the present proceedings. We would repeat that we would turn to Rule 11 presently, but then at this stage itself, we may note with facility that there is nothing either in the Administrative Tribunals Act or the MAT Rules which is contrary to or inconsistent with the general principles underlying Order 1 Rule 8, 8A, Order 1 Rule 10(2), Order 1 Rule 12 and Order 1 Rule 13 as well as the provisions governing the service of summonses, etc. inter-

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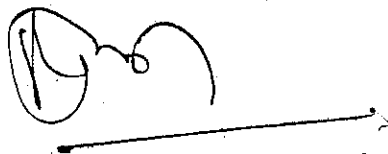


alia enshrined in Order 5 Rule 9 as amended by the CPC Amendment Act, 1999 and 2002.

10. Order 1 Rule 13 of the CPC lays down the law that the objection as to the non-joinder or mis-joinder of parties, "shall be taken at the earliest". On this count, Mr. Lonkar's client cannot be blamed at all.

11. Order 1 Rule 8 inter-alia lays down that one person may sue or defend on behalf of, "all in the same interest". Whenever the word, "suit" occurs, we think we can naturally understand it in terms of the OAs. Order 1 Rule 8 permits in accordance therewith that one person may sue or defend on behalf of all similarly placed persons. Order 1 Rule 8(A) empowers the Court to permit a person or body of persons to present opinion or to take part in the proceedings. That would depend upon the satisfaction of the Court that a person or body of persons was interested in any question of law which was directly and substantially an issue in the suit and was necessary in the public interest to allow that person or body to present the same before the Court.

12. Before proceeding further, it needs to be mentioned and which observation will generally apply to



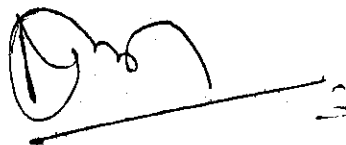
every facet hereof that despite the sources being different, in the ultimate analysis, the issue at heart of the matter is the placement in the seniority list in the context of further entitlement to promotion. Generally and by and large, the promotees have a grievance that the nominees get undue advantage over them. This is the most moderate way of phrasing the nature of the rival cases. Therefore, the sooner the controversy is settled one way or the other the better it is and a Police Force working with great motivation and efficiency with a promise of availability of promotional avenues will quite surely be in the public interest. Now, in actual practice, in dealing with controversies like the one herein involved whether this objective has been achieved or not will not detract from the soundness of the principle itself. Therefore, on that touch stone, the Tribunal will be well nigh justified in trying to make sure that all the parties who are affected or likely to be affected are before it so that the controversy can be resolved once and for all.

13. Another aspect of the matter closely connected with what we have mentioned in the preceding Paragraph is that the need to settle such matters at the earliest would not be fulfilled, if for example, every unsatisfied Officer who could have been, but had not been impleaded at the



earliest, opportunity was to turn around with a fresh OA and in fact, the numbers might multiply with the passage of time. Nobody would stand to gain and the whole purpose would be lost. Therefore, even if all these Officers drawn from various sources may not be necessary parties stricto-sensu but are nevertheless at least proper parties.

14. Returning to the provisions of the CPC, Order 1 Rule 10(2) empowers the Court to implead the third parties at any stage of the proceeding upon or without application by either parties. Pertinently, in Ramesh Vs. Municipal Corporation of Greater Bombay (1992) 2 SCC 524, the Hon'ble Supreme Court was pleased to hold in effect that though the initiator of the action viz. the Plaintiff in a Civil Suit or Applicant, Petitioner, etc. as a "dominus litis" is entitled to choose the parties, he would like to meet with and cannot generally be expected to meet with third parties he is not inclined to meet, but still it was held that the Court in its discretion can direct the initiator of the action to implead a person as a necessary party defendant. In our view, the same principle can be made applicable to the proceedings before this Tribunal, more particularly, if the facts are such as they obtained herein.

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15. One of the arguments advanced by Shri Khaire, the learned Advocate for the Applicants in the first OA was that the party Respondents represented by Mr. Lonkar, the learned Advocate are those about whose seniority, the Applicants have no issue with, and therefore, a direction such as the one herein sought and the consequences of non-compliance as envisaged cannot be given. As to this contention of the learned Counsel, we find that the issue of seniority will no doubt be involved when these matters are examined from a particular perspective. But still the frame of the OA after-all is something that cannot be glossed over. In the OA, challenge is to an order already detailed above and that order may have ramifications including that of seniority, but seniority by no means can be the only governing criteria.

16. There could be resistance on the ground that impleadment of those that the Applicants have not impleaded would be pregnant with practical complications including the delay. In our opinion, however, this difficulty is not insurmountable. Order 1 Rule 12 of the CPC *inter-alia* provides that one of the several Plaintiffs or Defendants could be authorized by the others to espouse their case before the Court. By the recent amendments to the CPC, the service of summons is one aspect which is

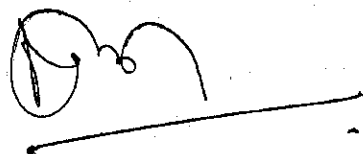


considerably modernized with the result, the delay and difficulty could be considerably reduced. Various provisions of Order 5 of the CPC with particular reference to Rule 9 would be apt for being adverted to. The service could be made by the various modes including publication, the service by RPAD or in the context of the present facts, service through the Department of Home or through the various Police Personnel subordinate to the Director General of Police.

17. Now turning to Rule 11 of the MAT Rules to which a reference has already been made hereinabove. The entire Rule in fact needs to be reproduced.

“11. Service of notices and process issued by the Tribunal.- (1) Any notice or process to be issued by the Tribunal may be served by any of the following modes directed by the Tribunal :

- (i) service by the party himself;
- (ii) by hand delivery (Dasti) through a process server;
- (iii) by registered post with acknowledgment due; or



- (iv) through the head of the department concerned by any one of the above modes.
- (2) Where notice issued by the Tribunal is served by the party himself by hand delivery (Dasti), he shall file with the registry the acknowledgment, together with an affidavit of service.
- (3) Notwithstanding anything contained in sub-rule (1) the Tribunal may, taking into account the number of respondents and their places of residence or work and other circumstances, direct that notice of the application shall be served upon the respondents in any other manner, including any manner of substituted service, it appears to the Tribunal just and convenient.
- (4) Notwithstanding anything done under sub-rule (1), the Tribunal may, in its discretion, having regard to the nature and urgency of the case, direct the service of the notice on the Standing counsel appointed as such by the State Government or any Department of the State Government.



(5) Every notice issued by the Tribunal shall, unless otherwise ordered, be accompanied by a copy of the application along with the paper book.

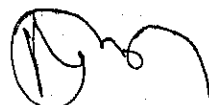
(6) Every applicant shall pay a fee for the service or execution of processes, in respect of an application where the number of respondents exceeds five, as under :-

(i) a sum of rupees five for each respondent in excess of five respondents; or

(ii) where the service is in such a manner as the Tribunal may direct under sub-rule (3) such a sum, not exceeding the actual charges incurred in effecting the service, as may be determined by the Tribunal.

(7) The fee for the service or execution or processes under sub-rule (3) shall be remitted in the manner prescribed in Rule 7 within one week of the date of the order determining the fee or within such extended time as the Registrar may permit.

(8) Notwithstanding anything contained in sub-rules (1) to (4), if the Tribunal is satisfied that it is not reasonably practicable to serve notice of application upon all the respondents, it may, for reasons to be



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recorded in writing, direct that the application shall be heard notwithstanding that some of the respondents have not been served with notice of the application :

Provided that no application shall be heard unless.-

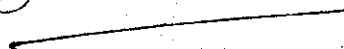
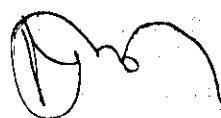
- (i) notice of the application has been served on the Central Government or the State Government, if such Government is a respondent;
- (ii) notice of the application has been served on the authority which passed the order against which the application has been filed' and;
- (iii) the Tribunal is satisfied that the interests of the respondents on whom notice of the application has not been served are adequately and sufficiently represented by the respondents on whom notice of the application has been served."

The above provision is self-speaking requiring no elaboration. Rule 11(8), 3rd proviso needs to be particularly emphasized. The same may be referred to.



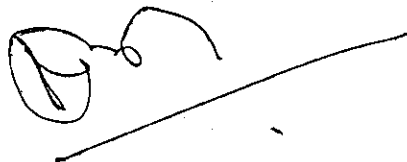
18. Mr. Lonkar, the learned Advocate for the contesting Respondents referred us to **Ramesh** (Supra) and **State of Bihar and others Vs. Kameshwar P. Singh, 2000 SCC (L & S) 845**. In Para 26 thereof, the Hon'ble Supreme Court was pleased to observe *inter-alia* that if in a matter, the persons likely to be affected if the reliefs were to be granted were not impleaded and as such were not before the Court, then in fact such a proceeding should be dismissed. The proceeding in that matter was a Writ Petition.

19. Now, in the first place, it becomes very clear that Their Lordships were pleased to emphasize the fact that the affected party must be there before the Court, if not as Applicants at least as Respondents. Pertinently, in that matter, as many as 168 Inspectors and 407 Dy. S.Ps who were likely to be affected, apparently were not the parties. However, it must be mentioned here that much as Mr. Lonkar would like us to straightaway dismiss these OAs on the basis of the observations of the Hon'ble Supreme Court in Para 26 of **Kameshwar** (supra), in our opinion, those directions will have to be construed and understood in the contextual connotation peculiar thereto. That was the final stage of the matter before the Apex Court, and therefore, it was not possible for the situation to be redeemed. Here,



the matter is still before us in this Tribunal, and therefore, if by appropriate directions, it is still possible to save these OAs for the purposes of being heard on merit and Applicants want to save their actions, then there is nothing in **Kameshwar** (supra) laying down that such a course of action should not be adopted. Dismissal of the matter is by itself not the mandate of the **Kameshwar's** case. If, however, despite the directions that are likely to be given in this matter, the Applicants were to turn a deaf ear, then of course that is a different matter.

20. Mr. Lonkar then referred us to **Government of Andhra Pradesh Vs. M.A. Karim, 1991 SCC (L & S) 1206 (Para 9)** which also reiterated the principle that in the matters related to the promotion and seniority, if those that were likely to be affected by a judicial determination were not impleaded, then the consequences could be adverse to the initiator of the action. Mr. Lonkar lastly referred us to **A.N. Pathak Vs. Secretary to Government, AIR 1987 SC 716**. Reading Paras 8 and 9 thereof in a proper perspective would show that though the lacuna was supplied in the facts of that matter, but the above discussed principle was reiterated.



21. Mr. Khaire, the learned Advocate for the Applicants in the 1st OA in trying to buttress his contention, relied upon **A. Janardhan Vs. Union of India (1983) 3 SCC 601**. The perusal of Para 36 of **Janardhan's** case would make it clear that there when the matter was before the Hon'ble High Court, the Respondents who were initially impleaded came to be deleted because notices could not be served on them. Further, some of those likely to be affected in that matter, in fact came to be represented actually by a Counsel and still further before the Hon'ble Supreme Court, some of them actually came to be impleaded and in that context, it was held that the relief was essentially directed against the authorities and not against private parties. But pertinently, nothing was observed therein which could be held to have diluted the authority of the judgments cited by Mr. Lonkar.

22. Now, in view of the foregoing, it is quite clear that regardless of the number of the personnel that are likely to be affected, they will have to be impleaded. Post impleadment by improvising the procedure, it would be possible to take maximum care of the interest of all concerned including to make sure that no party took undue advantage by dragging his feet along and the amended provisions of the law to which a reference has



been made above could be had recourse to for making sure that the steps were taken expeditiously. As we discussed above, although Mr. Lonkar would have the OAs dismissed here and now, we are of the view that an opportunity will have to be given to the Applicants to implead those that are likely to be affected, but it will have to be made clear that were the Applicants to fail to comply, then an order "*in terrorem*" will have to be made.

23. The Applicants are hereby directed to implead as party Respondents all those who are likely to be affected by the outcome of these OAs within a period of four weeks from today and then serve through the authorities concerned, the newly added Respondents within four weeks thereafter. It is made clear that in the event of non-compliance herewith after the expiry of the above period, the OA shall be placed for dismissal before this Bench on the next date. OAs thus stand adjourned to 10th August, 2016.

Sd/-

(R.B. Malik)
Member-J
13.06.2016

Sd/-

(Rajiv Agarwal)
Vice-Chairman
13.06.2016

Mumbai

Date : 13.06.2016

Dictation taken by :

S.K. Wamanse.

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

Tribunal's orders

M.A.225/2016 in O.A.1094/2015

Shri R.M. Kothalikar & Ors. ... Applicants
V/s.
The State of Mah. & ors. ... Respondents

Heard Shri C.T. Chandratre, the learned Advocate for the Applicants and Smt. K.S. Gaikwad, the learned Presenting Officer for the Respondents.

Issue notice returnable on 15.06.2016.

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

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

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

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

S.O. to 15th June, 2016.

DATE: 13/6/16

CORAM:

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

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

APPEARANCE:

Shri/Smt. C.T. Chandratre
Advocate for the Applicant

Shri/Smt. K.S. Gaikwad
P.O. for the Respondents

Sd/-

(R.B. Malik)
Member (J)
13.06.2016

(skw)

Sd/-

(Rajiv Agarwal)
Vice-Chairman
13.06.2016

S.O. to 15/6/16.

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

Original Application No. of 20 DISTRICT Applicant/s

(Advocate

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda at Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p>DATE: 13/6/16</p> <p>CORAM: Hon'ble Shri. RAJIV AGARWAL (Vice - Chairman) Hon'ble Shri R. B. MALIK (Member) ✓</p> <p>APPEARANCE: Shri/Smt. <u>B.A. Bandiwadekar</u> Advocate for the Applicant Shri/Smt. <u>K.S. Gaikwad</u> C.P.O./P.O. for the Respondents Reply filed by A. No. 3. S.O. to 15/6/16. Hamdest. <i>FH</i></p>	<p><u>O.A.654/2015</u></p> <p>Shri D.J. Dhore ... Applicant V/s. The State of Mah. & ors. ... Respondents</p> <p>Heard Shri B.A. Bandiwadekar, the learned Advocate for the Applicant and Smt. K.S. Gaikwad, the learned Presenting Officer for the Respondents.</p> <p>We have perused our order dated 8th March, 2016. The deponent of the Affidavit-in-reply Shri Mangesh G. Pote, Assistant Commissioner of Police, Azad Maidan Division, Mumbai is not present. We cannot be clearer than our own observation in the above referred order. There is a little hitch on whether he has been personally served with that order in absence whereof though we were so inclined as to issue coercive process even of the warrant to secure his presence as of today we refrain. Now, we make it clear that whenever the said Officer is posted, it must be made sure that he remains present before us on 15th June, 2016 in time. Any further violation of this order would surely be pregnant with serious consequences. The learned P.O. is requested to make sure that this order is communicated to him during the course of the day today.</p> <p>S.O. to 15th June, 2016. Hamdest.</p> <p>Sd/- Sd/- (R.B. Malik) (Rajiv Agarwal) Member (J) Vice-Chairman 13.06.2016 13.06.2016 (skw)</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

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

I N

Original Application No. _____ of 20

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p>DATE: <u>13/6/16</u></p> <p>CORAM:</p> <p>Hon'ble Mr. A.H. Joshi (Chairman)</p> <p>Hon'ble Mr. _____ (Member)A</p> <p>APPEARANCE:</p> <p>App. present in person.</p> <p>Adv. <u>A.J. Chougule</u></p> <p>Adj. To <u>15/6/16</u></p> <p style="text-align: right;"><i>BT</i></p>	<p>Date : 13.06.2016.</p> <p>C.A.No.101 of 2014 in O.A.No.476 of 2012 (D.B.)</p> <p>Shri V.V. Rane ...Applicant</p> <p>Vs.</p> <p>Shri Sanjay Kumar, Principal Secretary ...Respondent</p> <p>1. Heard Dr. V.V. Rane, the Applicant in person and Shri A.J. Chougule, the learned Presenting Officer for the Respondents.</p> <p>2. Learned P.O. for the Respondents states as follows:-</p> <p>The affidavit-in-reply to file in response to paragraph no.7 of the order passed on 27.04.2016 is ready and would be filed during the course of the day.</p> <p>3. S.O. to 15.06.2016.</p> <p style="text-align: right;">Sd/- (A.H. Joshi, <i>A.S.</i>) Chairman</p> <p style="text-align: left;">sba</p>

THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI**O.A.No.359 of 2016 with M.A.No.195 of 2016****DISTRICT: THANE****P.D. Yasatwar****.... Applicant****Versus****The State of Maharashtra & Ors****....Respondents.**

Ms. S.P. Manchekar, the learned Advocate for the Applicant.

Shri A.S. Wable, the learned Presenting Officer for the Respondents.

CORAM : JUSTICE SHRI A.H. JOSHI, CHAIRMAN

DATE : 13.06.2016.

ORDER

1. Heard Ms. S.P. Manchekar, the learned Advocate for the Applicant and Shri A.S. Wable, the learned Presenting Officer for the Respondents.
2. Learned P.O. Shri A.S. Wable for the Respondents prays for time on the ground that instructions are still awaited.
3. Learned Advocate Ms. S.P. Manchekar for the Applicant has tendered affidavit of service showing that Respondents were served on 24.04.2016 and 30.04.2016 respectively.
4. Learned P.O. A.S. Wable was called to furnish the names of the incumbents holding the post of :-
 - (a) The Secretary, Medical Education and Drugs Department (Respondent No.1)
 - (b) The Commissioner, Food and Drugs Administration (Respondent No.2).
5. Learned P.O. Shri A.S. Wable has furnished the following names :-
 - (a) Smt. Medha Gadgil, Additional Chief Secretary, office of Medical Education and Drugs Department and
 - (b) Dr. Harshdeep Kamble, the Commissioner, Food and Drugs Administration.

6. Smt. Medha Gadgil, Additional Chief Secretary, office of Medical Education and Drugs Department and Dr. Harshdeep Kamble, the Commissioner, Food and Drugs Administration are directed to file their own affidavit on the following points :-

- (a) Whether her / his office has received notice / intimation of date of hearing from this Tribunal or the learned Advocate for the Applicant or from the office of Chief Presenting Officer or from this Tribunal ?
- (b) The date on which her / his office has brought to her / his notice the fact and pendency of present Original Application, and the order passed by this Tribunal?
- (c) What steps she / he has taken for defending that O.A. after she / he came to know about the pendency of the O.A., and date of hearing ?
- (d) Reasons as to why none from the office of Respondents No.1 and 2 has attended to this O.A. and learned P.O. is not duly instructed ?
- (e) What steps and measures she / he would take to ensure that the intimation about the O.A. received from the learned Advocate / learned P.O. and / or this Tribunal do not remain unattended and arrangements to attend to the case is done only after full application of mind ?
- (f) Show cause as to why exemplary costs should not be personally saddled against her / him or the officers, if any identified as responsible for failing to attend and failing to file reply in spite of grant of adequate time.

7. Own affidavit of officers named hereinbefore answering the questions / points mentioned hereinbefore be filed on or before 12.07.2016.

8. Apart from the affidavit on above points, Respondents No.1 and 2 are also directed to file her / his own affidavit answering the averments and points agitated in the O.A..

9. Hamdast and steno copy is allowed to learned P.O. to communicate this order to the Respondents.

10. S.O. to 12.07.2016.

Sd/-
(A.H. Joshi, J.)
Chairman

prk

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

Original Application No. _____ of 20 _____ DISTRICT _____
..... Applicant/s

(Advocate.....)

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p>DATE: <u>13/6/16</u></p> <p>CCRAM:</p> <p>Hon. Mr. Justice J. J. (Chairman)</p> <p>H. _____ (Member)A</p> <p>Adv. <u>A.V. Bandiwadkar</u></p> <p>Adv. <u>K.S. Gaikwad</u></p> <p>Adv. <u>L.S. Puntambekar for R. 3.</u></p> <p>Adv. <u>P. Mahajan for R. 2.</u></p> <p>Adj. To: <u>16/6/16.</u></p> <p><i>MF</i></p>	<p>Date : 13.06.2016.</p> <p>O.A.No.478 of 2016</p> <p>N.S. Mane Applicant.</p> <p>Versus</p> <p>The State of Maharashtra & Ors Respondents.</p> <p>1. Heard Shri A.V. Bandiwadkar, the learned Advocate for the Applicant, Smt. K.S. Gaikwad, the learned Presenting Officer for the Respondents.</p> <p>2. Learned Advocate Shri L.S. Puntambekar for Respondent No.3 and learned Advocate Smt. Punam Mahajan for Respondent No.2 are absent and has filed leave note.</p> <p>3. Learned Advocate Shri A.V. Bandiwadkar for the Applicant prays for leave to amend and bring on record subsequent developments.</p> <p>4. Leave to amend and leave to add annexures is granted.</p> <p>5. S.O. to 16.06.2016.</p> <p>Sd/- (A.H. Joshi, J.) Chairman</p> <p>prk</p> <p>[PTO.]</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

Original Application No: _____ of 20 _____ DISTRICT _____
..... Applicant/s

(Advocate

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p>DATE: <u>13/6/16</u></p> <p>Chairman</p> <p>Hon. <u>_____</u> (Chairman)</p> <p>Hon. <u>_____</u> (Member) A</p> <p>APPEARANCE:</p> <p>Shri <u>S.P. Dighe</u></p> <p>Shri <u>A.S. Wable</u></p> <p>Adj. To <u>11/7/16</u></p> <p><i>[Signature]</i></p>	<p>Date : 13.06.2016:</p> <p>O.A.No.101 of 2016</p> <p>Dr. A.S. Kulkarni Applicant.</p> <p>Versus</p> <p>The State of Maharashtra & OrsRespondents.</p> <p>1. Heard Shri S.P. Dighe, the learned Advocate for the Applicant and Shri A.S. Wable, the learned Presenting Officer for the Respondents.</p> <p>2. Learned P.O. Shri A.S. Wable for the Respondents has tendered affidavit. It is taken on record.</p> <p>3. Learned Advocate Shri S.P. Dighe for the Applicant prays for leave to amend for adding affected persons against whom malafides may have to be averred as Respondents and incorporate suitable averments as regards malafides.</p> <p>4. Learned Advocate Shri S.P. Dighe undertakes to carry out the amendment within two weeks.</p> <p>5. For further hearing, S.O. to 11.07.2016.</p> <p>Sd/- (A.H. Joshi, J.) Chairman</p> <p>prk</p> <p>[P.T.O.]</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

Original Application No. _____ of 20 _____ District
..... Applicant/s

(Advocate

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p>DATE: <u>13/6/16</u></p> <p><u>CORAM:</u> Respected Mr. A.H. Joshi (Chairman) Respected Mr. A.P. Deshpande (Member) A</p> <p><u>APPEARANCE:</u> Shri. <u>S.P. Dighe</u> Advocate for the Applicant Shri. <u>A.S. Wable</u> C.P.O. for the Respondent's <u>R.P. Bhumkar for R.4.</u> Adj. To. <u>11/7/16.</u></p> <p style="text-align: right;"><i>[Signature]</i></p>	<p>Date : 13.06.2016.</p> <p style="text-align: center;">O.A.No.215 of 2016</p> <p>Dr. Y.O. Shirshetty Applicant.</p> <p>Versus</p> <p>The State of Maharashtra & Ors Respondents.</p> <p>1. Heard Shri S.P. Dighe, the learned Advocate for the Applicant, Shri A.S. Wable, the learned Presenting Officer for the Respondents and Shri R.P. Bhumkar, the learned Advocate for Respondent No.4.</p> <p>2. Learned Advocate Shri S.P. Dighe for the Applicant prays for leave to amend for adding affected persons against whom malafides may have to be averred as Respondents and incorporate suitable averments as regards malafides.</p> <p>3. Learned Advocate Shri S.P. Dighe undertakes to carry out the amendment within two weeks.</p> <p>4. For further hearing, S.O. to 11.07.2016.</p> <p style="text-align: right;">Sd/- (A.H. Joshi, J) Chairman</p> <p>prk</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI.**

Original Application No. _____ of 20 _____ DISTRICT _____ Applicant/s

(Advocate)

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

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

Tribunal's orders

Date : 13.06.2016.

O.A.No.5 of 2016

K.V. Dwivedi Applicant.

Versus

The State of Maharashtra & Ors Respondents.

1. Heard Shri A.V. Bandiwadekar, the learned Advocate for the Applicant and Shri A.J. Chougule, the learned Presenting Officer for the Respondents.

2. Learned Advocate Shri A.V. Bandiwadekar for the Applicant prays for enlargement of time by one week for carrying out the amendment.

3. Enlargement of time as prayed for is granted.

4. The matter shall come up on due date.

Sd/-

(A.H. Joshi, f.)
Chairman

prk

DATE: 13/6/16

COPIES

Respected Justice Shri A. H. Joshi (Chairman)

Respected Justice Shri M. S. Patil (Member) A

APPLICANT

By: A.V. Bandiwadekar

RESPONDENTS

By: A.J. Chougule

Presenting Officer of the Respondent/s

Adj. To: The matter shall
come up on due course.

ME

THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI**ORIGINAL APPLICATION NO.461 OF 2016****DISTRICT: THANE****A.M. Naik****.... Applicant.****Versus****The State of Maharashtra & Ors.****.... Respondents.**

Shri K.R. Jagdale, the learned Advocate for the Applicant.

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

CORAM : JUSTICE SHRI A.H. JOSHI, CHAIRMAN

DATE : 13.06.2016.

ORDER

1. Heard Shri K.R. Jagdale, the learned Advocate for the Applicant and Ms. N.G. Gohad, the learned Presenting Officer for the Respondents.
2. Learned Advocate Shri K.R. Jagdale for the Applicant has argued the case for admission and for interim relief.
3. Learned Advocate Shri K.R. Jagdale argued and pursued for grant of interim relief. He has put forward following specifications in support :-
 - (a) Interim relief is granted in O.A.No.456 of 2016 in which facts and defence are same, and no efforts are made so far by the Respondents to get the interim order modified or vacated.
 - (b) No reliever is posted in place of the applicant.
 - (c) Ground made out by Applicant are similar to those in the O.A.456 of 2016, are similar and case for Applicant for grant of interim relief, is strong.
4. Learned Advocate Shri K.R. Jagdale has relied upon the order passed by this Tribunal [Hon'ble Member (J), Shri R.B. Malik], on 01.06.2016 in O.A.No.456 of 2016.



5. Learned P.O. Ms. N.G. Gohad for the Respondents has fervently opposed for grant of interim relief. In support of her submissions, learned P.O. has argued that applicant's transfer is caused because of the adverse report submitted to D.G.P. by the Commissioner of Police, Navi Mumbai, Respondent No.3 through his letter dated 23.05.2016. ~~In addition~~ learned P.O. has relied upon the affidavit filed by Assistant Commissioner of Police, Shri S.D. Mane, and annexures thereto which are at page 40 onwards.

6. It is seen that while passing the order in O.A.No.456 of 2016, this Tribunal did not give much weightage to the adverse comments of Commissioner of Police, Navi Mumbai.

7. Perusal of order passed in O.A.No.456 of 2016 reveals that the letter of Commissioner of Police, Navi Mumbai dated 23.05.2016 was relied upon by the State, as the grounds of defence. The text of Commissioner's letter dated 23.05.2016 is quoted by this Tribunal adverbatis in the body of order passed in said O.A.No.456 of 2016.

8. Learned P.O. Ms. N.G. Gohad was given opportunity to match the allegations contained in the letter dated 23.05.2010 with the imputations revealing from the annexure to the affidavit of Shri D.S. Mane.

9. Prima facie allegations contained in the aforesaid letter dated 23.05.2016 and the documents annexed to the affidavit at page 40 onwards, are lacking concurrence so also it is hard to search even slightest congruence as regards contents therein.

10. At this stage, learned P.O. was called to state as to whether, Commissioner of Police, Navi Mumbai possesses, any specific information, which he has failed to bring it before the D.G.P. and Tribunal, however now he would like to place it before this Tribunal.

11. Respondents are put to notice that in case any information is to be added, let it be done by filing additional affidavit of the Commissioner of Police.



12. Learned P.O. Ms. N.G. Gohad prays for time to ascertain whether any such affidavit is to be filed. Let the affidavit be filed if Respondents choose, within two weeks.

13. The Applicant has made out the case for grant of ad-interim relief, in the background that :-

- (a) Speaking order passed in O.A.No.456 of 2016;
- (b) Narration in said order has served the cause of adequate notice of caution to the Respondents;
- (c) No new material is brought forward so far;
- (d) In the premises that transfer is mid tenure transfer;
- (e) The reasons which are forwarded in support of transfer are flooded with adjectives than objective material.

14. Therefore ad-interim relief is granted in terms of prayer clause 11(a).

15. Steno copy and Hamdast is allowed to both the parties.

16. S.O. to 23.06.2016.

Sd/-

(A.H. Joshi, J.) *DKM*
Chairman

prk

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI

ORIGINAL APPLICATION NO.538 OF 2016

DISTRICT : THANE

Dr. V.D. Kamthewad)... Applicant
Versus)..Respondent
The State of Maharashtra.

Shri A.V. Bandiwadekar – Advocate for Applicant.

Ms. N.G. Gohad - Presenting Officer for the Respondent.

P.C. : R.B. Malik, Member (J)

DATE : 13TH June, 2016.

ORDER

1. Heard Shri A.V. Bandiwadekar, the learned Advocate for the Applicant and Ms. N.G. Gohad, the learned Presenting Officer for the Respondents.

2. The learned P.O. is being instructed by Shri Jayant Sagade, Section Officer, Finance Department. The Applicant is currently functioning as Deputy Commissioner, Sales Tax Department. He along with 13 others face departmental enquiry on certain alleged misconduct. I am informed at the Bar that the Enquiry Officer has submitted his report on 29th



February, 2012, but the Governments disciplinary authorities have kept the matter pending. In this OA, the relief is sought for promotion and an interim relief is sought to direct the Respondents to take a decision on his representation made by the Applicant on 18.2.2016. It appears that one of the co-delinquents of the Applicant Shri D.A. Patil having brought in two OAs has being granted two promotions. Mr. Bandiwadekar informs that S/S P.V. Gavande and R.D. Bhagat were also the co-delinquents came to be promoted by the Government even without any order from this Tribunal and in fact, even not been filed any OA.

3. The learned P.O. furnishes for my perusal the file pertaining to the Applicant. From Page 48, it would appear that the Establishment Board has found the Applicant and one other Officer fit for promotion. However, it appears that a decision at the highest level has been taken in effect that the Applicant's promotion should be withheld till such time as the DE remains pending.

4. I have carefully perused the file, noted the relevant gist herein and returned the file to the learned P.O. The learned P.O. informs that on 18th May, 2016 another Enquiry Report has been received against the Applicant.

5. The above discussion would make it quite clear that there a good deal of explanation is offered as far as the Respondents are concerned. Even as I am not granting any



interim relief as of today, but I make it clear that the Applicant's right to renew the request is kept in-tact. The Respondents will have to make clear quite categorically as to on what justification could they possibly offer for different standards between the Applicant on one side and S/S. Gawande, Patil and Bhagat on the other. They may also have to set out the justification for having kept the DE pending for such a long time. The Affidavit-in-reply must be filed on 22nd June, 2016.

6. Issue notice returnable on 22ND June, 2016.
7. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
8. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
9. 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.
10. The service may be done by hand delivery / speed post / courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within four



weeks. Applicant is directed to file Affidavit of compliance and notice.

11. S.O. to 22nd June, 2016. The learned P.O. do waive service. Hamdast.

Sd/-
(R.B. Malik)
Member-J
13.06.2016

13.06.16

Mumbai
Date : 13.06.2016
Dictation taken by :
S.K. Wamanse.