

(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

**M.A.398/2016 in O.A.328/2016**

**Shri P.T. Sonkamble ... Applicant**  
**Vs.**  
**The State of Mah. & ors. ... Respondents**

Heard Shri J.N. Kamble, the learned Advocate for the Applicants and Shri A.J. Chougule, the learned Presenting Officer for the Respondents.

The request of the learned P.O. for grant of further time to file Affidavit-in-reply is turned down.

This is an application for amendment seeking incorporating the facts subsequent to the filing of this OA. It is the principle of law which is well recognized that a cautious cognizance of subsequent event can always be taken. Here, in this matter, the appeal preferred by the Applicant which was pending when the OA was brought has been decided and the facts pertaining thereto are being sought to be impleaded. The present application; therefore, survives the test of law of amendment. It is allowed. The amendment be carried within two weeks from today. A consolidated copy of the OA after amendment be filed and a copy thereof be furnished to the learned PO. No order as to costs.

DATE: 13/10/16

CORAM: Shri R.B. Malik (M/J)

Hon'ble Justice S.K. Mishra (Chairman)

Hon'ble Justice M. Ramesh Kumar (Member)

APPLICANT

Shri/ Smt. J.N. Kamble

Advocate for the Applicant

Shri/Smt. A.J. Chougule

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

Adj. To: M.A. is allowed

Sd/- Malik  
13.10.16

(R.B. Malik)  
Member (J)  
13.10.2016

(skw)

13.10.2016O.A No 940/2016Shri D.S Patil ... Applicant  
Vs.

The State of Maharashtra &amp; Ors... Respondents

1. Heard Shri J.J Gandhi, learned advocate for the applicant and Ms Savita Suryavanshi, learned Presenting Officer for the Respondents.
2. Learned Advocate Shri Gandhi, sought interim relief of staying the impugned order dated 20.6.2016. However, it is made clear that if any appointment is made during the pendency of this O.A, it will be subject to the outcome of this O.A
3. Issue notice before admission made returnable on 17.11.2016.
4. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need not be issued.
5. Applicant is authorized and directed to serve on Respondent intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.
6. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.
7. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file affidavit of compliance and notice.
8. S.O 17.11.2016. Hamdast.

DATE: 13/10/16

CORAM:

Hon'ble Shri. RAJIV AGARWAL  
(Vice - Chairman)~~Hon'ble Shri R. B. MALIK (Member)~~

APPEARANCE:

Shri/Smt. J. J. Gandhi

Advocate for the Applicant

Shri/Smt. Ms. S. Suryavanshi

~~C.P.O/T.P.O. for the Respondents~~

Adj. To: S.O. to 17/11/16.

Hamdast



Sd/-

(Rajiv Agarwal)  
Vice-Chairman

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**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH  
ORIGINAL APPLICATIONS NO 992 & 994 OF 2016**

**DISTRICT : THANE**

**1. ORIGINAL APPLICATION NO. 992 OF 2016**

Shri Avinash B. Kulkarni )...**Applicant**

**Versus**

The State of Maharashtra , )  
Through Secretary, Water Resources )  
Department, Mantralaya, Mumbai. )...**Respondents**

Shri C.T Chandratre, learned advocate for the Applicant.

Smt Kranti S. Gaikwad, holding for Shri A.J Chougule, learned Presenting Officer for the Respondents.

**2. ORIGINAL APPLICATION NO. 994 OF 2016**

Shri Rajendra A. Shimpi )...**Applicant**

**Versus**

The State of Maharashtra , )  
Through Secretary, Water Resources )  
Department, Mantralaya, Mumbai. )...**Respondents**

Shri C.T Chandratre, learned advocate for the Applicant.

Smt Archana B.K. learned Presenting Officer for the Respondents.

**CORAM : Shri Rajiv Agarwal (Vice-Chairman)**

**DATE : 13.10.2016**

**ORDER**

1. Heard Shri C.T Chandratre, learned advocate for the Applicants in both the O.As, Smt Kranti S. Gaikwad, holding for

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Shri A.J Chougule, learned Presenting Officer for the Respondents in O.A no 992/2016 and Ms Archana B.K. learned P.O for the Respondents in O.A 994/2016.

2. These two Applicants working in the Water Resource Department in the rank of Executive Engineer, have been transferred by order dated 10.10.2016. Learned Advocate Shri Chandratre stated that there was no special case made out to transfer the Applicant in O.A no 992/2016 as he has completed just one year in the present post. As regards Applicant in O.A no 994/2016 learned Advocate Shri Chandratre stated that though he has completed three years, there was no reason to transfer him in the month of October when it was not considered necessary to transfer him during general transfers. The special case for transferring him mid-term has not been clearly mentioned in the transfer order. Prima facie, the transfer order does not make out any special case and therefore the order may be stayed qua the Applicant.

3. Learned Presenting Officers vehemently opposed grant of any interim relief at this stage. It was mentioned that proper procedure as per section 4(5) of the Transfer Act has been followed in both the cases and proposal has been approved at the level of Hon. Minister, Water Resources. Learned Presenting Officer has made available the Mantralaya file for my perusal. It is seen that the Applicant Shri Kulkarni has been transferred as there were complaints against him from the Chief Engineer, Water Resources Department, Konkan Region, Mumbai and the order is passed under Section 4(5) of the Maharashtra Government Servants Regulation of Transfer and Prevention of Delay in Discharge of Official Duties Act, 2005 (the Transfer Act). This order has been issued under section 4(5) of the Transfer Act, which deals with



mid-tenure transfer. However, the order does not mention that it has been issued in compliance with section 4(4)(ii) of the Transfer Act, which deals with transfer order which is issued in the month other than April and May. Prima facie, both the orders are therefore issued in violation of the provisions of the Transfer Act.

4. Learned Advocate Shri Chandratre also relied heavily on the circular issued by the Government dated 11.2.2015 regarding transfer of Government servant, especially para 3, 5 and 8. Para 8 of the aforesaid circular provides that Government servant cannot be transferred on mere complaint, unless the complaints are verified. Learned Advocate Shri Chandratre stated that Shri Kulkarni, against whom complaints are said to be received from the Chief Engineer on the ground that his performance is substandard was never given opportunity to present his case. In fact, the Applicant's performance is the best in Konkan Region as far as completion of Irrigation works in Konkan Region is concerned. However, he was never given opportunity to explain these facts and he has been transferred without verifying the complaints against him by the Chief Engineer. This also appears to be prima facie ground for giving interim relief to Shri Kulkarni.

5. As regards Shri Shimpi, it appears that the post on which he is transferred has not yet become vacant as one Shri Musle is posted there and no order transferring Shri Musle is issued. It is not understood as to what was the urgency in transferring Shri Shimpi to a post which is not vacant and keeping the post of Shri Shimpi vacant.

6. Considering above facts, I am inclined to grant interim relief in terms of para 10(a) in these O.As. The orders dated

10.10.2016, qua the Applicants are stayed till the final disposal of these Original Applications. Learned Presenting Officer may make available copies of the relevant file notings to the Applicants.

7. Issue notice before admission made returnable on 17.11.2016.

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

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

10. 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.

11. 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 one week. Applicant is directed to file affidavit of compliance and notice.

12. S.O 17.11.2016. Hamdast.

  
(Rajiv Agarwal)  
Vice-Chairman

**Place : Mumbai**

**Date : 13.10.2016**

**Dictation taken by : A.K. Nair.**

H:\Anil Nair\Judgments\2016\1st Oct 2016\O.A nos 992 and 994.16 Transfer order challenged.  
SB.Int order 1016.doc

**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><b><u>13.10.2016</u></b></p> <p><b><u>O.A No 989/2016</u></b></p> <p>Shri M.N Pawar ... Applicant Vs. The State of Maharashtra &amp; Ors... Respondents</p> <p>1. Heard Shri A.V Bandiwadekar, learned advocate for the applicant, Shri N.K. Rajpurohit, learned Chief Presenting Officer for the Respondent no. 1 and Shri M.D Lonkar, files Vakalatnama on behalf of Respondent no. 2 and also files affidavit in reply.</p> <p>2. Learned Advocate Shri Bandiwadekar was heard for quite sometime and Shri Rajpurohit learned C.P.O was heard in brief. The concerned Mantralaya file is perused. The copies of relevant extract should be made available to the Applicant as well as private Respondent no. 2.</p> <p>3. It is seen that the Applicant is posted as Associate Professor (in some Training Institute at Kundal). The Recruitment Rules for the said post may be produced. If the rules have not been framed yet, the reason why non Engineering person is posted to a post dealing with Engineering may clearly be brought out by filing a short affidavit in reply.</p> <p>4. The matter regarding grant of interim relief will be heard on Saturday, 15.10.2016. Till then status quo should be maintained.</p> <p>5. Issue notice before admission made returnable on 15.10.2016.</p> <p>6. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need not be issued.</p>

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p><u>DATE:</u> 13/10/16</p> <p><u>CORAM:</u> Hon'ble Shri. RAJIV AGARWAL (Vice - Chairman) <del>Hon'ble Shri R. B. MALIK (Member)</del></p> <p><u>APPEARANCE:</u> Shri/Smt. <u>A.U. Bandiswadkar</u> Advocate for the Applicant Shri/Smt. <u>M. K. Rajwaralit</u> C.P.O./P.O. for the Respondents No. 1. <u>M. D. Lonkar</u> Room No. 2. Akn v.p. filed. Adj. To <u>Reply filed by A. No. 2.</u> <u>S.O. to 15/10/16.</u> <u>Hamdast</u></p>	<p>7. Applicant is authorized and directed to serve on Respondent intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.</p> <p>8. 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.</p> <p>9. 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 one week. Applicant is directed to file affidavit of compliance and notice.</p> <p>10. S.O 15.10.2016. Hamdast.</p> <p style="text-align: right;">Sd/- (Rajiv Agarwal) Vice-Chairman</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.704/2016**

**Shri D.R. Mhetre** ... Applicant  
**Vs.**  
**The State of Mah. & ors.** ... Respondents

Heard Shri B.A. Bandiwadekar, the learned Advocate for the Applicants and Ms. S. Suryawanshi, the learned Presenting Officer for the Respondents.

Affidavit-in-rejoinder is taken on record. Admit. Liberty to mention granted.

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.

This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988. 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.

Sur-rejoinder, if any, must be filed on the next date and not thereafter when the matter appears before the Bench.

DATE: 13/10/16

CORAM: Shri R.B. Malik  
Hon'ble Justice Shri A. H. Joshi (Chairman)  
Hon'ble M. Rameshkumar (Member) A

APPEARANCE:  
Shri / Smt. B.A. Bandiwadekar

Advocate for the Applicant  
Shri / Smt. S. Suryawanshi  
C.O. / P.O. for the Respondent/s

Adj. To: Admit.

Sd/- 10/16

(R.B. Malik)  
Member (J)  
13.10.2016

(skw)

**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.954/2016**

**Shri J.R. Sonawane ... Applicant**  
**Vs.**  
**The State of Mah. & ors. ... Respondents**

Heard Shri B.A. Bandiwadekar, the learned Advocate for the Applicants and Shri A.J. Chougule, the learned Presenting Officer for the Respondents.

Shri Chougule, the learned PO seeks an adjournment for filing Affidavit-in-reply. The statement made by ~~me~~ on the last occasion to hold till the date next to the filing of the reply.

Adjourned to 10<sup>th</sup> November, 2016.

**DATE:** 13/10/16

**CORAM:** Shri R.B. Malik (M/J)  
Hon'ble Justice Shri A. H. Joshi (Chairman)  
Hon'ble Shri M. Rameshkumar (Member) A

**APPEARANCE:**

Shri/Smt. B. A. Bandiwadekar

Advocate for the Applicant

Shri/Smt. A.J. Chougule  
C.P.O / P.O. for the Respondent/s

Adj. To 10/11/16

(skw)

Sd/-

(R.B. Malik)  
Member (J)  
13.10.2016

10/16

*B.K.*

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**ORIGINAL APPLICATION 987 OF 2016**

**DISTRICT : PUNE**

Shri Bhanupratap S Barge,

)...**Applicant**

**Versus**

The State of Maharashtra & Others

)...**Respondents**

Smt Punam Mahajan learned advocate for the Applicant.

Smt Kranti S. Gaikwad learned Presenting Officer for the Respondents.

**CORAM : Shri Rajiv Agarwal (Vice-Chairman)**

**DATE : 13.10.2016**

**ORDER**

1. Heard Smt Punam Mahajan learned advocate for the Applicant and Smt Kranti S. Gaikwad learned Presenting Officer for the Respondents.

2. Learned Advocate Smt Mahajan stated that the Applicant has been transferred by order dated 1.10.2016. He has not completed his tenure of two years in the present post as A.C.P, A.T.S at Pune. The order is also issued in the month of October, 2016, while the general transfers are to be issued under the Maharashtra Police Act in the month of April-May. The order is, therefore, mid-term and mid-tenure. The State Government can order such mid-tenure transfer under proviso to Section 22N(1) of the Maharashtra Police Act. However, none of the contingencies mentioned in the aforesaid proviso exist in the present case and the transfer order of the Applicant only mentions that he has been

*RS*

transferred under provisions of Section 22N(2) of the Maharashtra Police Act.

3. Learned Presenting Officer made available for perusal of this Tribunal, the minutes of the Police Establishment Board No. 1. The meeting was held on 26.9.2016 and as regards the Applicant, it is mentioned that he may be transferred on 'administrative grounds' (प्रशासकीय कारणास्तव). The concerned Mantralaya file also mentions that the Applicant may be transferred on administrative grounds and the same has been approved by the Hon. Chief Minister. Learned P.O vehemently opposed grant of interim relief and sought time to file affidavit in reply. She claimed that order has been issued in full compliance of the Maharashtra Police Act.

4. As the Applicant has been transferred on the recommendation of the P.E.B No. 1, he could not have been transferred unless all the contingencies under Section 22N(2), namely exceptional circumstances, public interest and administrative exigencies were fulfilled. In the present case the Applicant is being transferred merely for administrative reasons which prima facie does not fulfil the contingency under Section 22N(2). In any case, none of the contingencies mentioned in proviso to Section 22N(1) are alleged in the case of the Applicant.

5. There is prima facie case to grant interim relief sought by the Applicant in the present case. The effect and operation of the impugned transfer order dated 1.10.2016 qua the Applicant is stayed till the disposal of the Original Application. If he has been relieved, the Respondents will post him back to the post he was occupying before the transfer order was passed, within one week from the date of this order.

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6. Issue notice before admission made returnable on 10.11.2016.


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

8. Applicant is authorized and directed to serve on Respondent intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is 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 one week. Applicant is directed to file affidavit of compliance and notice.

11. S.O 10.11.2016. Hamdast.

  
(Rajiv Agarwal)  
Vice-Chairman

**Place : Mumbai**  
**Date : 13.10.2016**  
**Dictation taken by : A.K. Nair.**

H:\Anil Nair\Judgments\2016\1st Oct 2016\O.A 987.16 Transfer order challenged SB.  
Int order 1016.doc