

**ORIGINAL APPLICATION NO.337/2020
(Avinash Adke Vs. State of Maharashtra & Ors.)**

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

DATE : 14.07.2021

ORAL ORDER :

Heard Shri V.G.Pingle learned Advocate holding for Smt. Punam Mahajan, learned Advocate for the Applicant and Shri S.K.Shirse, learned Presenting Officer for the Respondents.

2. At the request of learned Advocate for the applicant, S.O. to 23-07-2021.

MEMBER (J)

ORIGINAL APPLICATION NO.52/2021
(Dr. Rekha Gaikwad Vs. State of Maharashtra & Ors.)

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

DATE : 14.07.2021

ORAL ORDER :

Heard Shri C.V.Dharurkar, learned Advocate for the Applicant and Shri S.K.Shirse, learned Presenting Officer for the Respondents.

2. Learned Advocate for the applicant submits that in the O.A., the respondent no.1 i.e. Deputy Director, Health Services, Aurangabad Division, Tq. & Dist. Aurangabad is inadvertently joined as party respondent instead of Secretary, Public Health Service, Mumbai. In case of grant of O.A. in terms of prayer clause (C), Secretary, Public Health Services, Mumbai would be having powers to take appropriate disciplinary action. Notices are yet to be issued. In view of the same, leave is granted to the applicant for substituting Secretary, Public Health Services, Mumbai as party respondent no.1.

3. He further submits that so far as the respondent no.2 is concerned, in the title sheet, the authority through whom the respondent no.2. is to be served remained to be mentioned and the said authority is District Woman and Child Development Officer. He seeks amendment to that effect also. Leave is also granted to said amendment also.

4. After amendment is carried out, issue notices to the respondents, returnable on 18.08.2021.

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O.A.No.52/2021

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

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

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

8. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

9. S.O. to 18.08.2021.

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

MEMBER (J)

**ORIGINAL APPLICATION NO.444/2020
(Alkesh Getme Vs. State of Maharashtra & Ors.)**

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

DATE : 14.07.2021

ORAL ORDER :

Heard Shri S.T.Chalikwar, learned Advocate for the Applicant, Smt. Deepali Deshpande, learned Presenting Officer for the Respondent nos.1 and 2, Shri E.G.Erale learned Advocate for respondent nos.3 and 4 and Shri B.R.Kedar learned Advocate for respondent no.5.

2. Affidavit in rejoinder filed by the applicant is taken on record. Copy thereof has been served on the other side.

3. Learned Advocate for the applicant submits that there is urgency in the matter in view of G.R. dated 09-07-2021. In view of this G.R. if the matter is not decided by 31-07-2021, the O.A. will become infructuous.

4. It is pertinent to note that today only the applicant has filed rejoinder with voluminous documents. In view of the same, time is granted to the respondents to consider the said rejoinder whether to file any response or not. Hence, adjournment is granted.

5. S.O. to 06-08-2021.

MEMBER (J)

ORIGINAL APPLICATION NO.483/2020
(Bhagwan Dahale Vs. State of Maharashtra & Ors.)

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

DATE : 14.07.2021

ORAL ORDER :

Heard Shri D.T.Devane, learned Advocate for the Applicant and Shri M.P.Gude, learned Presenting Officer for the Respondents.

2. On the request of learned Advocate for the applicant, time is granted to file affidavit in rejoinder.
3. Interim relief granted earlier to continue till next date.
4. S.O. to 06-08-2021.

MEMBER (J)

ORIGINAL APPLICATION NO.497/2020
(Bhunang Godbole Vs. State of Maharashtra & Ors.)

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

DATE : 14.07.2021

ORAL ORDER :

Heard Shri V.B.Wagh, learned Advocate for the Applicant and Shri B.S.Deokar, learned Presenting Officer for the Respondents.

2. On the request of learned P.O., S.O. to 02-08-2021.

MEMBER (J)

YUK ORAL ORDERS 14.07.2021

ORIGINAL APPLICATION NO.23/2021
(Nagnath Telange Vs. State of Maharashtra & Ors.)

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

DATE : 14.07.2021

ORAL ORDER :

Heard Shri Kakasaheb B. Jadhav, learned Advocate for the Applicant and Smt. Sanjivani Ghate, learned Presenting Officer for the Respondents.

2. Learned Advocate for the applicant seeks time to file affidavit in rejoinder. Time is granted.
3. S.O. to 11-08-2021.

MEMBER (J)

**ORIGINAL APPLICATION NO.95/2021
(Nitin Shelar Vs. State of Maharashtra & Ors.)**

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

DATE : 14.07.2021

ORAL ORDER :

Heard Shri V.B.Wagh, learned Advocate for the Applicant and Shri V.R.Bhumkar, learned Presenting Officer for the Respondents.

2. Learned P.O. files affidavit in reply on behalf of respondent nos.1 to 3. It is taken on record. Copy thereof has been served on the other side.

3. Learned Advocate for the applicant seeks time to file affidavit in rejoinder. Time is granted.

4. S.O. to 13-08-2021.

MEMBER (J)

**ORIGINAL APPLICATION NO.181/2021
(Ravindra Kanade Vs. State of Maharashtra & Ors.)**

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

DATE : 14.07.2021

ORAL ORDER :

Heard Shri V.B.Wagh, learned Advocate for the Applicant, Smt. Sanjivani Ghate, learned Presenting Officer for the Respondents and Shri A.D.Aghav learned Advocate for respondent no.2. None appears for respondent no.3.

2. On the request of learned P.O. and learned Advocate for respondent no.2, time is granted for filing reply.

3. S.O. to 11-08-2021.

MEMBER (J)

ORIGINAL APPLICATION NO.193/2021
(Dr. Govardhan Doifode Vs. State of Maharashtra & Ors.)

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

DATE : 14.07.2021

ORAL ORDER :

Heard Shri U.B.Bondar, learned Advocate for the Applicant and Shri I.S.Thorat, learned Presenting Officer for the Respondents.

2. On the request of learned P.O. time is granted for filing reply.
3. S.O. to 05-08-2021.

MEMBER (J)

YUK ORAL ORDERS 14.07.2021

**ORIGINAL APPLICATION NO.256/2021
(Priya Salve Vs. State of Maharashtra & Ors.)**

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

DATE : 14.07.2021

ORAL ORDER :

Heard Shri I.S.Godse learned Advocate holding for Shri A.S.Deshmukh, learned Advocate for the Applicant and Shri S.K.Shirse, learned Presenting Officer for the Respondents.

2. Learned P.O. files affidavit in reply on behalf of respondent nos.1 to 4. It is taken on record. Copy thereof has been served on the other side.

3. S.O. to 11-08-2021.

MEMBER (J)

**M.A.NO.148/2020 IN M.A.NO.592/2019 IN
O.A.ST.NO.2196/2019
(Arvind A. Joshi Vs. State of Maharashtra & Ors.)**

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

DATE : 14.07.2021

ORAL ORDER :

Heard Shri V.S.Kadam, learned Advocate for the Applicant and Smt. Deepali Deshpande, learned Presenting Officer for the Respondents.

2. By this M.A.No.148/2020, the applicant is seeking restoration of M.A.No.592/2019 which was dismissed for default by order dated 10-02-2020.

3. It is contention of the applicant that by order dated 13-12-2019 this Tribunal granted liberty to the applicant to amend prayer clause in order to add prayer thereby seeking benefits of G.R. dated 16-11-2016 which itself grants benefits of G.R. dated 23-09-2003 to the applicant. On 10-02-2020 the said amendment was ready. However, on that date, the learned Advocate inadvertently failed to remain present and the O.A. was dismissed for default. For the mistake on the part of the learned Advocate, the applicant should not suffer.

4. The present application is made on 09-03-2020 i.e. within 30 days of dismissal of the M.A.No.592/2019 for default. Plausible reason is stated on behalf of the applicant for restoration. In view of the same, in my

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M.A.NO.148/2020 IN M.A.NO.592/2019 IN
O.A.ST.NO.2196/2019

opinion, it would be just and proper to give fair opportunity to the applicant by restoring the M.A. Hence, following order:

ORDER

- (i) M.A.No.148/2020 is allowed.
- (ii) Order of dismissal dated 10-02-2020 passed in M.A.No.592/2019 is set aside.
- (iii) M.A.No.592/2019 is restored to file under its original number and the said matter shall proceed further from the stage as on 20-02-2020.
- (iv) There shall be no order as to costs.

MEMBER (J)

**M.A.NO.592/2019 IN O.A.ST.NO.2196/2019
(Arvind A. Joshi Vs. State of Maharashtra & Ors.)**

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

DATE : 14.07.2021

ORAL ORDER :

Heard Shri V.S.Kadam, learned Advocate for the Applicant and Smt. Deepali Deshpande, learned Presenting Officer for the Respondents.

2. Learned P.O. seeks time to file affidavit in reply. Time is granted.
3. S.O. to 11-08-2021.

MEMBER (J)

YUK ORAL ORDERS 14.07.2021

**O.A.NO.86/2019, 118/2019, 278/2019, 421/2019,
392/2020, 394/2020, 395/2020 AND 398/2020
(Bhimrao S. Pawar & Ors. Vs. State of Maharashtra & Ors.)**

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

DATE : 14.07.2021

ORAL ORDER :

Heard Shri S.D.Dhongde, learned Advocate for the applicants and Shri V.R.Bhumkar, learned Presenting Officer for the respondents in respective cases.

2. Learned P.O. placed on record status report from the website of the Hon'ble Supreme Court of India which is marked as document "X" for identification, which shows that SLP (C) No.009426-/2021 registered on 12-07-2021 with Diary No.15018/2021 which is filed on 06-07-2021 by the State of Maharashtra & Ors. V/s. Yamuna Laksyhmanrao Bhosale in respect of similar type of order. Said document shows that said case is registered as SLP (C) No.009426-/2021 registered on 12-07-2021. In view of the same, learned P.O. seeks time.

3. Learned Advocate for the applicant on the other hand submitted that controversy involved in the matter is already decided by the Hon'ble Supreme Court in the matter of Sandhya V/s. State of Maharashtra & Ors. in Civil Appeal Arising out of SLP (C) No.24083 of 2013 decided on 01-07-2014. He invited my attention to paragraph 18 and 19 thereof which are reproduced as follows (paper book page 25-26:

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O.A.NO.86/2019 & Ors.

“18. The order of termination dated 20th April, 1998 was set aside by the Tribunal by its order dated 24th November, 2011. The Tribunal directed the respondents to consider the case of appellant for regularization in terms of Government Resolution dated 10th March, 2005. The order of termination being set aside, in the eye of law the appellant shall be deemed to be continued in service even on 10th March, 2005 i.e. the date when the Government Resolution was issued. Such being the position of law, the appellant is entitled for regularization. But the High Court was not correct in holding that the appellant was not in service on 10th March, 2005 and wrongly rejected her claim for regularization.

19. For the reason aforesaid, the impugned judgment passed by the High Court cannot be upheld. The impugned judgment dated 15th March, 2013 passed by the High Court is set aside. The respondents are directed to comply with the order and directions passed by the Tribunal on 24th November, 2011 in O.A.No.293/1998 and regularize the services of the appellant with retrospective effect within two months from the date of receipt of copy of this judgment. The appeal is allowed with the aforesaid direction and observation. No costs.”

4. Learned Advocate for the applicant further submits that on the last occasion the respondents had given different Diary No. bearing SLP (Civil) Diary No(s).45904/2019. In that respect, learned P.O. has placed on record document from the website of Hon’ble Supreme Court of India which is marked as document “X-1” for identification. It seems that it is in respect of case of State of Maharashtra & Ors. V/s. Balwant Raghu Nalawade &

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O.A.NO.86/2019 & Ors.

Ors. and it is registered as SLP (C) No.004862-/2020 registered on 20-02-2020.

5. Learned Advocate for the applicant further submits that unless some stay order is there from the higher court, the hearing of the present matter cannot be withheld.

6. Considering the fact that there is recent development of filing SLP which is registered on 12-07-2021 in respect of matter of State of Maharashtra & Ors. V/s. Yamuna Laksyhmanrao Bhosale, in my opinion it will be just and proper to wait for some reasonable time.

7. Learned P.O. to make endeavor to find out whether thereafter any steps are taken for obtaining stay in the matter and inform the Tribunal on the next date the status thereof.

8. S.O. to 05-08-2021.

MEMBER (J)

ORIGINAL APPLICATION NO.334/2019
(Goraba Aaradwad & Ors. Vs. State of Maharashtra & Ors.)

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

DATE : 14.07.2021

ORAL ORDER :

Heard Shri B.S.Shinde, learned Advocate for the Applicant and Shri V.R.Bhumkar, learned Presenting Officer for the Respondents.

2. Arguments of both sides are heard at length. Case is reserved for order.

MEMBER (J)

YUK ORAL ORDERS 14.07.2021

ORIGINAL APPLICATION NO.230/2020
(Ashwini Jadhav Vs. State of Maharashtra & Ors.)

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

DATE : 14.07.2021

ORAL ORDER :

Heard Shri S.B.Solanke, learned Advocate for the Applicant and Shri D.R.Patil, learned Presenting Officer for the Respondents.

2. At the request of leaned Advocate for the applicant,
S.O. to 02-08-2021 for filing affidavit in rejoinder.

MEMBER (J)

YUK ORAL ORDERS 14.07.2021

ORIGINAL APPLICATION NO. 255 OF 2021
(Ashvini M. Dudhbhate Vs. State of Maharashtra & Ors.)

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

DATE : 14.7.2021

ORAL ORDER :

Heard Shri C.V. Dharurkar, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. Issue notice to the respondents, returnable on 25.8.2021.

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

:: - 2 - :: O.A. NO. 255 OF 2021

produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

7. S.O. to 25.08.2021.
8. Steno copy and Hamdast is allowed to both parties.
9. The present case be listed on separate board.

MEMBER (J)

ORAL ORDERS 14.7.2021-HDD

C.P.NO. 34/2019 IN O.A.NO. 925/2017
(Mahadeo B. Khandare Vs. State of Maharashtra & Ors.)

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

DATE : 14.7.2021

ORAL ORDER :

Heard Smt. Amruta Paranjape-Menezes, learned Advocate for the applicant, Shri M.P. Gude, learned Presenting Officer for respondent 1 & 2, Shri A.B. Shinde, learned Advocate for respondent No. 3 and Shri Deepak Rajput, learned Advocate for respondent No. 4.

2. Record shows that affidavit in reply is filed on behalf of respondent Nos. 1 & 3.

3. Learned Presenting Officer has filed affidavit in reply on behalf of respondent No. 4 and the same is taken on record and copy thereof has been served on the other side.

4. S.O. to 25.8.2021.

MEMBER (J)

ORAL ORDERS 14.7.2021-HDD

M.A.NO. 95/2021 IN O.A.NO. 170/2021
(Shivkumar V. Chivde Vs. State of Maharashtra & Ors.)

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

DATE : 14.7.2021

ORAL ORDER :

Heard Ms. Anagha Pandit, learned Advocate holding for Shri S.B. Talekar, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondent Nos. 1 to 4. None appears for respondent Nos. 5 to 7.

2. At the request of learned Presenting Officer for the respondent Nos. 1 to 4, S.O. to 12.8.2021 for filing affidavit in reply.

3. The present case be listed on separate board.

MEMBER (J)

ORAL ORDERS 14.7.2021-HDD

M.A.NO. 96/2021 IN O.A.NO. 171/2021
(Shivkumar V. Chivde Vs. State of Maharashtra & Ors.)

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

DATE : 14.7.2021

ORAL ORDER :

Heard Ms. Anagha Pandit, learned Advocate holding for Shri S.B. Talekar, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondent Nos. 1 to 4. None appears for respondent Nos. 5 & 6.

2. At the request of learned Presenting Officer for the respondent Nos. 1 to 4, S.O. to 12.8.2021 for filing affidavit in reply.

3. The present case be listed on separate board.

MEMBER (J)

ORAL ORDERS 14.7.2021-HDD

ORIGINAL APPLICATION NO. 1030 OF 2019
(Dr. Jaya P. Dighe Vs. State of Maharashtra & Ors.)

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

DATE : 14.7.2021

ORAL ORDER :

Heard Ms. Anagha Pandit, learned Advocate holding for Shri S.B. Talekar, learned Advocate for the applicant, Shri S.K. Shirse, learned Presenting Officer for the respondent Nos. 1 to 4, Shri Ashish Rajkar, learned Advocate for respondent Nos. 5 to 12 & 14. Shri N.S. Choudhary, learned Advocate for respondent No. 13 and Shri A.S. Shelke, learned Advocate for respondent No. 15 **(absent)**.

2. Record shows that affidavit in reply is filed on behalf of respondent No. 13.
3. Learned Presenting Officer for the respondent Nos. 1 to 4 and learned Advocate for respondent No. 13 seek time for filing affidavit in reply. Time granted.
4. S.O. to 17.8.2021.
5. The present case be listed on separate board.

MEMBER (J)

ORIGINAL APPLICATION NO. 232 OF 2020
(Ku. Rohini N. Charole Vs. State of Maharashtra & Ors.)

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

DATE : 14.7.2021

ORAL ORDER :

Heard Shri B.R. Kedar, learned Advocate holding for Shri S.K. Mathpati, learned Advocate for the applicant, Shri D.R. Patil, learned Presenting Officer for the respondent Nos. 1 to 3 and Shri S.P. Salgar, learned Advocate holding for Shri N.V. Gaware, learned Advocate for respondent No. 5. Shri B.S. Chondhekar, learned Advocate for respondent No. 4 (**absent**).

2. Record shows that affidavit in reply is filed on behalf of respondent No. 2.

3. Learned Advocate for respondent No. 5 submits that during the pendency of this application, respondent No. 5 viz. Asha D/o. Wasudeo Sahare, has been appointed on the post of Talathi and she has joined on the said post. In order to give fair opportunity to the respondents, time is granted to the respondents for filing affidavit in reply.

4. S.O. to 20.8.2021.

5. The present case be listed on separate board.

MEMBER (J)

ORIGINAL APPLICATION NO. 260 OF 2021
(Ramrao K. Yadav & Ors. Vs. State of Maharashtra & Ors.)

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

DATE : 14.7.2021

ORAL ORDER :

Heard Shri Sandeep D. Munde, learned Advocate for the applicant and Mrs. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. Learned Presenting Officer seeks time for filing affidavit in reply.

3. Considering the facts of the case early response from the respondents for filing affidavit in reply is desirable and expected. In view of the same and in view of communication produced by the learned Presenting Officer on record received from the respondents short time is granted.

4. S.O. to 12.8.2021.

5. The present case be listed on separate board.

MEMBER (J)

ORAL ORDERS 14.7.2021-HDD

**ORIGINAL APPLICATION NO. 265 OF 2021
(Vasant Shivram Patil Vs. State of Maharashtra & Ors.)**

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

DATE : 14.7.2021

ORAL ORDER :

Heard Shri S.D. Dhongde, learned Advocate for the applicant and Smt. Sanjivani Deshmukh-Ghate, learned Presenting Officer for the respondents.

2. At the request of learned Presenting Officer, S.O. to 13.8.2021 for filing affidavit in reply.
3. The present case be listed on separate board.

MEMBER (J)

ORAL ORDERS 14.7.2021-HDD

**ORIGINAL APPLICATION NO. 268 OF 2021
(Raosaheb R. Borade Vs. State of Maharashtra & Ors.)**

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

DATE : 14.7.2021

ORAL ORDER :

Shri R.N. Bharaswadkar, learned Advocate for the applicant (**absent**). Mrs. Deepali S. Deshpande, learned Presenting Officer for the respondents, present.

2. Await service.
3. S.O. to 20.8.2021.
4. The present case be listed on separate board.

MEMBER (J)

ORAL ORDERS 14.7.2021-HDD

**ORIGINAL APPLICATION NO. 271 OF 2020
(Siddharth M. Kadam Vs. State of Maharashtra & Ors.)**

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

DATE : 14.7.2021

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicant, S.O. to 27.7.2021.

MEMBER (J)

ORAL ORDERS 14.7.2021-HDD

M.A.NO. 152/2021 IN O.A.NO. 431/2020
(Smt. Seema G. Patil & Ors. Vs. State of Maharashtra & Ors.)

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

DATE : 14.7.2021

ORAL ORDER :

Heard Shri S.P. Salgar, learned Advocate for the applicants in the present M.A. (respondent Nos. 3 to 5 in O.A.), Shri S.G. Kulkarni, learned Advocate holding for Shri Ajay Deshpande, learned Advocate for respondent No. 1 in the present M.A. (applicant in O.A.), Shri V.R. Bhumkar, learned Presenting Officer for respondent Nos. 2 & 3 in present M.A. (Respondent Nos. 1 & 2 in O.A.) and Shri S.D. Joshi, learned Advocate for respondent No. 4 in the present M.A. (Respondent No. 6 in O.A.).

2. Learned Advocate for respondent No. 1 has filed affidavit in reply on his behalf and the same is taken on record and copy thereof has been served on the other side.

3. Learned Presenting Officer for respondent Nos. 2 & 3 in the present M.A. (Respondent Nos. 1 & 2 in O.A.) seeks time for filing affidavit in reply. Time granted.

4. S.O. to 20.8.2021.

5. The present case be listed on separate board.

MEMBER (J)

M.A.NO. 188/2021 IN O.A.NO. 431/2020
(Purushottam G. Khule Vs. State of Maharashtra & Ors.)

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

DATE : 14.7.2021

ORAL ORDER :

Heard Shri S.G. Kulkarni, learned Advocate holding for Shri Ajay Deshpande, learned Advocate for the applicant, Shri V.R. Bhumkar, learned Presenting Officer for respondent Nos. 1 & 2, Shri S.P. Salgar, learned Advocate for respondent Nos. 3 to 5 and Shri Vivek Pingle, learned Advocate holding for Shri S.D. Joshi, learned Advocate for respondent No. 6.

2. Issue notice to the respondents in M.A. No. 188/2021, returnable on 20.8.2021.

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)

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**M.A.NO. 188/2021 IN
O.A.NO. 431/2020**

Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

6. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

7. S.O. to 20.08.2021.

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

9. The present case be listed on separate board.

MEMBER (J)

ORAL ORDERS 14.7.2021-HDD

M.A. 418/2019 IN O.A. ST. 1475/2019
(Siddharth Bhalerao Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
DATE : 14.07.2021

ORDER

1. By filing the present Misc. Application the applicant is seeking condonation of 75 days' delay caused in filing accompanying O.A. i.e. O.A. ST. No. 1475/2019.

2. The applicant was working with the Forest Department. After working for about 31 years, he retired on superannuation on 31.8.2016. Even after his retirement, the respondents have not forwarded the pension papers of the applicant. He has not received the amount of gratuity and other retiral benefits.

3. It is the contention of the applicant that before his retirement, the respondent no. 2 by letter dtd. 12.3.2016 intimated him that there are certain disallowed vouchers for the period during which he was working at Ambad and Jalna. Thereafter the respondent no. 4 issued the order dtd. 18.8.2018 and thereby the applicant was directed to pay the amount as mentioned in the said order. After receipt of the said order dtd. 18.8.2018 passed by the respondent no. 4, the applicant many time visited the office of the respondent no. 4 and also tried to explain him that he was not at fault in respect of disallowed vouchers and

requested to quash / cancel the order dtd. 18.8.2016. He also made various representations from November, 2017 to May, 2019 to the respondents in that regard, but the respondents did not respond to the same. Therefore, the applicant was constrained to file accompanying O.A. st. No. 1475/2019 seeking various reliefs including quashing and setting aside 3 orders dated 18.8.2016 issued by the respondent no. 4 directing the applicant to pay amount of disallowed vouchers as per Exhibit-B and to pay pensionary benefits, amount of gratuity to the applicant along with interest. There is delay in filing the O.A. The applicant was pursuing the matter by making representations and visiting the office of the respondents and in view of the same there is continuous cause of action. According to the applicant, even if there is delay, it is not intentional and therefore the applicant has filed this Misc. Application.

4. The respondent Nos. 2 & 4 have filed affidavit in reply and resisted the Misc. Application for condonation of delay. The said reply is filed by one Smt. Pushpa Parasram Pawar, Assistant Conservator of Forest (EGS & Wildlife), Jalna. It is denied that there was no fault on the part of the applicant and that the impugned order of recovery is not in accordance with the law. It is admitted that various representations were made by the applicant. In fact, a

decision was taken on the representation dated 17.11.2017 filed by the applicant and it was rejected. The reasons given by the applicant for condonation of delay caused in filing accompanying O.A. are not proper. The applicant has failed to give plausible explanation in respect of disallowed vouchers and in view of the same the present M.A. is liable to be rejected.

5. Shri Gangadhar Motiram Shinde, Deputy Director, Forest Training Institute, Jalna has filed separate affidavit in reply on behalf of respondent no. 5. He has resisted the M.A. on the same footings as contended by the respondent nos. 2 & 4.

6. The respondents rely upon the decision of this Bench of the Tribunal dated 26.4.2019 passed in M.A. No. 434/2018 in O.A. St. 1076/2018, M.A. No. 435/2018 in O.A. St. 1078/2018, M.A. No. 436/2018 in O.A. St. 1080/2018 and M.A. No. 437/2018 in O.A. St. 1082/2018. It is the contention of the respondents that in similar type of cases of recovery, this Bench of the Tribunal rejected the delay condonation applications by observing that the delay is not properly explained by the respective applicants.

7. Heard Shri A.M. Hajare, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents, at length.

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8. Record shows that O.A. St. 1475/2019 is filed by the applicant challenging 3 orders of recovery dated 18.8.2016 (Exhibit-B) passed by the respondent no. 4 thereby directing the applicant to pay the amount of disallowed vouchers. The applicant has also prayed for payment of pensionary benefits and amount of gratuity. It was filed on or about 25.7.2019. Record also shows that Registry has raised the office objection about limitation. Thereafter the applicant has filed the present Misc. Application seeking condonation of delay in filing O.A. on 19.8.2019.

9. The applicant, in fact, in the O.A. and in the present M.A. has prayed that there is continuous cause of action and there is no delay. The respondents, however, have objected to it and have contended that the limitation would start from the date of the impugned order, which is dated 18.8.2016, and therefore, there is delay of about 2 years in filing the O.A., which is filed on 25.7.2019.

10. From the pleadings of both the parties it is evident that the impugned order of recovery is dated 18.8.2016, whereas the applicant retired on superannuation on 31.8.2016. The applicant has not been paid the pensionary benefits in view of the impugned recovery order. It is also the fact that various representations have been made by the applicant after his retirement. The said representations are dated 12.11.2017, 12.11.2018,

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19.1.2019, 7.2.2019, 18.4.2019 and 24.5.2019. It is the contention of the applicant that the said representations are not considered by the respondents. From these facts on record, it cannot be said that the applicant was sleeping over his rights. The representations, however, would not extend the limitation, which would start from the date of the impugned order. In the decision of this Bench of the tribunal in the matters of **Smt. Nargis Tajammun Shaikh & Ors. Vs. the State of Maharashtra & Ors. [M.A. No. 434/2018 in O.A. St. 1076/2018 and the batch]** decided on 26.4.2019 there was delay of about 6 to 7 years and, in such circumstances, this tribunal observed that there was gross negligence on the part of the respective applicants, who slept over their rights for a considerable period. In view of the same, I am of the opinion that, the facts in the said cases are distinguishable than the facts in the present case, though said cases were pertaining to recovery of amount in view of wrong calculation of pay by the Department.

11. In the case in hand, apart from challenging the impugned order of recovery, the applicant is also seeking relief in respect of his pension and pensionary benefits. In such circumstances, if indulgence is not given in the present matter by condoning the delay caused in filing the

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O.A., valuable rights of the applicant would be defeated at the very threshold.

12. The relief sought for by the applicant is of monetary nature and it does not affect the interest of other Government servants adversely. No doubt, there is delay in approaching the Tribunal, however, it cannot be said to be deliberate or intentional one. Refusing to give indulgence in the matter is likely to defeat the cause of justice at the threshold. Hence, in my opinion, this is a fit case to condone delay by imposing costs on the applicant. I compute costs of Rs. 2,000/- (Rs. Two thousand only) for that purpose. Hence, I proceed to pass following order :

ORDER

(i) M.A. is allowed, subject to payment of costs of Rs. 2,000/- by the applicant with Registry of the Tribunal within one month from the date of this order and the delay in filing the O.A. is condoned.

(ii) Upon satisfaction of the costs as above, Office to register the O. A. in accordance with rules and after removal of office objections, if any.

M.A. stands disposed of accordingly with costs.

MEMBER (J)

Date :14.07.2021

ORIGINAL APPLICATION NO.340 OF 2021

(Shri Popat Bhushan Ahire V/s The State of Maharashtra & Ors.)

Per :- Standing directions of Hon'ble Chairperson, M.A.T., Mumbai

1. Shri R.M. Bhagwat, ld. Advocate holding for Shri S.P. Chate, ld. Advocate for the applicant and Shri S.K. Shirse, ld. P.O. for the respondents, are present.
2. Circulation is granted. Issue notices to the respondents, returnable on 13.08.2021. The case be listed for admission hearing on 13.08.2021.
3. Tribunal may take the case for final disposal at this stage and a separate notice for final disposal shall not be issued.
4. 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 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 acknowledgement be obtained and produced along with Affidavit of compliance in the Registry as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

REGISTRAR

Date :14.07.2021

ORIGINAL APPLICATION NO.341 OF 2021

(Shri Prashant S. Pardhi V/s The State of Maharashtra & Ors.)

Per :- Standing directions of Hon'ble Chairperson, M.A.T., Mumbai

1. Shri R.M. Bhagwat, ld. Advocate holding for Smt. Sharda P. Chate, ld. Advocate for the applicant and Shri M.P. Gude, ld. P.O. for the respondents, are present.
2. Circulation is granted. Issue notices to the respondents, returnable on 13.08.2021. The case be listed for admission hearing on 13.08.2021.
3. Tribunal may take the case for final disposal at this stage and a separate notice for final disposal shall not be issued.
4. 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 case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
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REGISTRAR