(G.C.P.) J 2260(B) (50,000—2-2015) (Spl.- MAT-F-2 ...

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

15.07.2016

O.A No 570/2016

Shri P.K. Pawar ... Applicant

Vs.

The State of Maharashtra & Ors... Respondents

Heard Shri K.R Jagdale, learned advocate for the Applicant, Shri A.J Chougule learned Presenting Officer for the Respondents no 1 to 3 and Shri Rupesh Patil, learned advocate for Respondent no. 4.

Respondent no. 3 was asked to remain present to explain why he has not obeyed the order of the Chief Engineer. He is not present today. Representative from the office of Chief Engineer states that Respondent no. 3 is on leave and that might be the reason that he is not present.

Learned P.O places on record copy of order dated 8.7.2016, by which the Respondent no. – has transferred the Applicant to P.W D Works Sub Division No. 2, Panvel as per his own request.

As the Executive Engineer has neither remained present today before this Tribunal it is not clear whether the order requiring his presence has actually been conveyed to him as apparently he is on leave nor Applicant has been relieved to join his new posting), it is expected that Respondent no. 2 will ensure that the order dated 8.7.2016 is followed without any further loss of time, if necessary by issuing order of relieving the Applicant form his earlier post by the Respondent no. 2 himself.

S.O to 22.7.2016.

(Rajiv Agarwal)
Vice-Chairman

Akn

DATE: 18/7/16

CORAM:

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

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

APPEARANCE:

Shri/Smt. K.R. Jagdale

Advocate for the Applicant

Shri/Smt. A.J. chougule

C.P.O/P.O. for the Respondents Nos 1 to 3.

Rupesh Patil for R. No. 4.

Adj. To:

S.O. to 22/7/16.

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION 680 OF 2016

DISTRICT : RATNAGIRI

Shri M.R Dixit)...**Applicant**

Versus

The State of Maharashtra & Ors)...**Respondents**

Shri P.S Pathak, learned advocate for the Applicant.

Ms Archana B.K, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

DATE : 15.07.2016

O R D E R

1. Heard Shri P.S Pathak, learned advocate for the Applicant and Ms Archana B.K, learned Presenting Officer for the Respondents.

2. Learned Presenting Officer has placed for my perusal copies of the minutes of the Civil Services Board held on 24.5.2016. It appears that the Applicant was recommended for posting as District Sports Officer, Solapur. The Applicant has apparently made a request accordingly. A note was submitted on 30.5.2016 to the Minister. The Applicant was recommended by the Civil Services Board for posting at Solapur. When the note was

submitted on 30.5.2016, his posting was changed by the Minister, though there are a large number of over writings and it is difficult to read the instructions of Minister. On instructions from Shri Anand Vvakeswhar, Dy. Director of Sports, Pune, learned P.O states that the Hon'ble Minister changed the posting of the Applicant from Solapur to Ratnagiri. Orders were accordingly issued on 30.5.2016. As that was done after the tenure of the Applicant was over and the order was being issued in the month of April-May, it was in accordance with the Transfer Act. Learned P.O stated that the Minister was well within his powers to make such changes. It appears that the file was again submitted through the Minister on 30.5.2016 to the Hon. Chief Minister where the Minister proposed that the Applicant be posted to Yavatmal. Why on the same day the Applicant's transfer was proposed to Ratnagiri and why it was changed to Yavatmal is not clear.

As it happens the Applicant was posted to Ratnagiri by order dated 31.5.2016 and again the impugned order is passed on 7.7.2016 transferring him from Ratnagiri to Yavatmal within a period of one month. Prima facie, I do not find any mention of exceptional circumstances or special reasons for making mid-term or mid-tenure transfer of the Applicant to Yavatmal. The order dated 7.7.2016 is, therefore, stayed. The Applicant will be allowed to work as District Sports Officer, Ratnagiri till the disposal of this

S.O 12.8.2016. Hamdast.

Sd/-

(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai
Date : 15.07.2016
Dictation taken by : A.K. Nair.

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION 678 OF 2016

DISTRICT : SANGLI

Shri Naravan S. Jadhav)...**Applicant**

Versus

The State of Maharashtra & Others)...**Respondents**

Ms Bhosale, learned advocate holding for Shri H.D Ghorpade, learned advocate for the Applicant.

Shri K.B. Bhise, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

DATE : 15.07.2016

O R D E R

Heard Ms Bhosale, learned advocate holding for Shri H.D Ghorpade, learned advocate for the Applicant and Shri K.B. Bhise, learned Presenting Officer for the Respondents.

This Original Application has been filed against the order dated 31.3.2016 passed by the Respondent no. 2 placing the Applicant under suspension. The order states that there is some prima facie case found against the Applicant of violation of Maharashtra Civil Services (Conduct) Rules, 1979 and pending departmental proceedings against him, he is placed under suspension.

5. Learned Advocate Ms Bhosale stated that this order has been passed without giving an opportunity of being heard to the Applicant. Also if the order is allowed to continue, it will cause irreparable damage to the Applicant. She, therefore, prayed that the order may be stayed.

6. Learned Presenting Officer Shri Bhise stated that this Original Application is not maintainable at all as the Applicant has not exhausted all the remedies available under law. Under Rule 17 of the M.C.S (Discipline & Appeal) Rules, 1979, order of suspension can be challenged in appeal, which the Applicant has not done. Learned P.O also stated that the order of suspension does not require any prior show cause notice to be given to the Applicant and on that count also it cannot be challenged.

7. After hearing both sides, I am not convinced that this is a suitable case for granting interim relief. On the contrary, the Applicant will have to prove that he has approached the Tribunal after exhausting all the remedies available to him.

8. Issue notice before admission made returnable on 12.8.2016.

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

10. 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 12.8.2016.

Sd/-
(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai
Date : 15.07.2016
Dictation taken by : A.K. Nair.

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IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION 518 OF 2016

DISTRICT : KOLHAPUR

Shri S.S Khapale)...**Applicant**

Versus

The State of Maharashtra & Ors)...**Respondents**

Shri M.D Lonkar, learned advocate for the Applicant.

Ms Neelima Gohad, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

DATE : 15.07.2016

O R D E R

Heard Shri M.D Lonkar, learned advocate for the Applicant and Ms Neelima Gohad, learned Presenting Officer for the Respondents.

2. Learned Advocate Shri Lonkar stated that compilation of minutes of the Police Establishment Board was presented for perusal of this Tribunal on 13.7.2016 when the matter was last heard. He drew attention to the order of this Tribunal dated 20.6.2016, which reads as follows:-

"Learned P.O Ms Gohad seeks two weeks time to file reply. Along with the affidavit in reply the relevant record where the Police Establishment Board has taken decision to transfer the Applicant may also be produced for the perusal of the Tribunal. No further time will be granted."

Learned Advocate Shri Lonkar stated that clear directions were given to the Respondents to produce minutes of the P.E.B where the decision to transfer the Applicant was taken and it has to be presumed that all the relevant documents were presented on 13.7.2016, which was the next date appointed for hearing this matter. At that time learned P.O assured that the affidavit is being typed and will be submitted on the same day or next day. All the papers which was shown to this Tribunal on 13.7.2016 are now appended to the affidavit in reply.

3. Today, learned Presenting Officer has submitted another set of documents, said to be the minutes of the Police Establishment Board. Learned Advocate Shri Lonkar stated that this document is quite suspicious as it was not produced on 13.7.2016. It should have been produced on 13.7.2016 itself. He also pointed out that the date below the signature of the Chairman of P.E.S is 27.5.2016, while the order of transfer of the Applicant was issued on 26.5.2016.

4. Learned P.O is directed to file an affidavit signed by Respondent no. 2 himself as to why the minute of the meeting of the P.E.B was not produced for the perusal of the Tribunal on 13.7.2016. He should also explain the fact that the order of transfer of the Applicant was issued on 26.5.2016, while the minutes have been signed by the Respondent no. 2 on 27.5.2016. This affidavit should be filed within two weeks.

5. S.O to 29.7.2016.

(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai
Date : 15.07.2016
Dictation taken by : A.K. Nair.

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IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION 698 OF 2016

DISTRICT : MUMBAI

Shri Shrikrishna V. Kardile)...**Applicant**

Versus

The State of Maharashtra & Ors)...**Respondents**

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

Ms Neelima Gohad, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

DATE : 15.07.2016

O R D E R

1. Heard Shri C.T Chandratre, learned advocate for the Applicant and Ms Neelima Gohad, learned Presenting Officer for the Respondents.

2. Shri C.T Chandratre, learned advocates sought leave of this Tribunal to amend the Original Application to include the prayer for interim relief of staying the order dated 8.7.2016, qua the Applicant, as he inadvertently omitted to mention the same. while presenting the Original Application.

3. After hearing objection of learned Presenting Officer, the request of learned advocate Shri Chandratre to amend the O.A is granted. Learned Advocate Shri Chandratre stated that he will amend the Original Application forthwith and serve copy on the Respondents.

4. Shri Chandratre, learned advocate for the Applicant stated that the Applicant was transferred from Police Training Centre, Marol, Mumbai to Thane Police Commissionerate by order dated 24.5.2016. The Applicant accordingly joined on 1.6.2016. Now by the impugned order dated 8.7.2016 he is posted back to Police Training Centre, Marol, ostensibly on the ground that he had requested that he may be retained for one year at P.T.C, Marol. Learned Advocate Shri Chandratre stated that the Applicant has been transferred only after a month and this is in violation of Sec 22N of Maharashtra Police Act. The powers for mid-term/mid-tenure transfer cannot be exercised at the stale request of the Applicant. Once he has joined at a particular post without protest, his earlier request for a posting no longer remains valid.

5. Learned Presenting Officer placed for my perusal a report dated 16.6.2016 from the Addl. D.G.P (Training) addressed to the Respondent wherein it is mentioned that the Applicant had made request to either keep him at P.T.C, Marol for one more year or to post him to Navi Mumbai or Thane Police Commissionerate. Learned P.O further stated that as the Applicant has requested that he may be retained for one more year at P.T.C, Marol, the impugned transfer order has been issued as per his request.

6. I am unable to accept the arguments putforth by the learned Presenting Officer. The Applicant had made request before he was posted by order dated 24.5.2016 to Thane Police

Commissionerate and where he joined on 1.6.2016. In any case, the Applicant had not made one request. He had requested that either he may be retained at P.T.C, Marol, or transferred to Navi Mumbai or Thane Police Commissionerate. Once he was posted to Thane Police Commissionerate, his request was fulfilled. There was no reason to consider again his request to post him back to P.T.C. Marol.

7. Prima facie, it appears that the order has not been issued on the request of the Applicant or has been issued misinterpreting the request of the Applicant and it does not satisfy the requirement of Section 22N of the Maharashtra Police Act.

8. Interim relief of staying the impugned order dated 8.7.2016 is granted. The Applicant will be allowed to work at Police Commissionerate, Thane.

9. Issue notice before admission made returnable on 12.8.2016.

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

11. 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.

12. 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.

13. 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.

14. S.O 12.8.2016. Hamdast.

Sd/-

(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai
Date : 15.07.2016
Dictation taken by : A.K. Nair.

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(P.) J 2260(B) (50,000—2-2015) (Spl.- MAT-)

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

T.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

15.07.2016

O.A No 84/2016

Shri S.D Muluk ... Applicant

Vs.

The State of Maharashtra & Ors... Respondents

Heard Shri K.R Jagdale, learned advocate for the Applicant and Ms Archana B.K. learned Presenting Officer for the Respondents.

Learned Advocate Shri Jagdale files affidavit in rejoinder. O.A is admitted. Respondents are at liberty to file sur-rejoinder, if need be.

Place for final hearing on 8.8.2016.

Sd/-

(Rajiv Agarwal)
Vice-Chairman

Akn

DATE : 15/7/16

CORAM :

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

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

APPEARANCE :

~~Shri/Smt.~~ K. R. Jagdale

Advocate for the Applicant

~~Shri/Smt.~~ Archana B.K.

C.P.O. for the Respondents

Rejoinder filed by Applicant.

~~Next To~~ 8/8/16.

FH

(C.P.) J 2260(B) (50,000—2-2015) (Spl.- MAT-F 2)

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

15.07.2016

O.A No 694/2016

Shri Tejrao L. Wankhede ... Applicant.
Vs.
The State of Maharashtra & Ors... Respondents.

1. Heard Shri A.R Joshi, learned advocate for the applicant and Shri N.K. Rajpurohit, learned Chief Presenting Officer for the Respondents.

2. Issue notice before admission made returnable on 1.8.2016.

3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need 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 O.A. Respondent is 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 within one week. Applicant is directed to file affidavit of compliance and notice.

7. S.O 1.8.2016. Learned C.P.O waives service of notice

Sd/-
(Rajiv Agarwal

DATE: 15/7/16
CORAM:
Hon'ble Shri. RAJIV AGARWAL
(Vice - Chairman)
~~Hon'ble Shri R. B. MALIK (Member)~~
APPEARANCE:
Shri/Smt. A.R. Joshi
Advocate for the Applicant
Shri/Smt. N.K. Rajpurohit
~~P.O./P.O.~~ for the Respondents

S.O. to 1/8/16.

J 2260(B) (50,000—2-2015) (Spl.- MAT-...

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

.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

15.07.2016

O.A No 608/2016

Shri S.B Jadhav ... Applicant

Vs.

The State of Maharashtra & Ors... Respondents

Heard Shri S.S Dere, learned advocate for the Applicant and Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

Affidavit in reply is filed. Learned Advocate Shri Dere stated that he does not wish to file affidavit in rejoinder.

O.A is admitted. Place for final hearing on 21.7.2016.

Sd/-
(Rajiv Agarwal)
Vice-Chairman

Akn

DATE : 15/7/16

CORAM :

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

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

APPEARANCE :

Shri/~~Smt.~~ : S.S. Dere

Advocate for the Applicant

Shri/Smt. : K.S. Gaikwad

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

Reply filed by R. No. 3.

~~Call for~~ O.A. is admitted.

Post to 21/7/16.

FH

P.O. J 2260(B) (50,000—2-2015) [Spl.- MAT-

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

O.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
DATE : 15/7/16 CORAM : Hon'ble Shri. RAJIV AGARWAL (Vice - Chairman) ~~Hon'ble Shri R. B. MALIK (Member)~~ APPEARANCE : ~~Shri/Smt.~~ None for the applicant. ~~Advocate for the Applicant~~ Shri ~~/Smt.~~ A.J. Chougule ~~C.P.O~~/P.O. for the Respondents ~~Adj. To~~ O.A. is dismissed in default.	**15.07.2016** **O.A No 1049/2016** Shri S.B Kamble ... Applicant Vs. The State of Maharashtra & Ors... Respondents None for the Applicant. Heard Shri A.J. Chougule, learned Presenting Officer for the Respondents. This O.A was kept for final hearing on 12.4.2016 when the learned Advocate Shri Tawashikar was present on behalf of the Applicant. The matter was adjourned to 3.5.2016 when none was present for the Applicant. On the next date on 17.6.2016 again no one was present for the Applicant. The matter was kept for dismissal on 15.6.2016, i.e. today. Today also none is present for the Applicant. Original Application is therefore dismissed in default. Sd/- (Rajiv Agarwal) Vice-Chairman Akn