

ORIGINAL APPLICATION NO. 1001/2022
(Dr. Kanchan Wanere Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Heard Shri VB Wagh, learned counsel for the applicant and Shri MS Mahajan, learned Chief Presenting Officer for the respondent authorities.

2. The learned counsel for the applicant submitted that on 11.11.2022 vide Government Resolution of the said date, which is at annexure A-1 to the present OA the transfers of 17 officers were directed who are working in the cadre of Civil Surgeons, as well as, Deputy Directors of Health Services. The learned counsel pointed out that in the said order the name of the applicant appears at sr. no. 14 and she was transferred to the post of Deputy Director of Health Services (Monitoring and Evaluation) at Mumbai. The learned counsel submitted that the applicant has been transferred within 9 months after joining at Dhule and she has therefore made a representation for cancellation of her transfer.

3. The learned counsel pointed out that one another order was passed on the same day whereby the respondent no. 4 was transferred on the post of the applicant as Civil Surgeon at Dhule. The learned counsel pointed out that the orders so passed on 11.11.2022 were however stayed by the Hon'ble Health Minister. The learned counsel submitted that in view of the stay given to the aforesaid orders the applicant continued to work on the post of Civil Surgeon at Dhule. However, the respondent no. 4 on 14.11.2022 has attempted to take the charge of the post of Civil Surgeon at Dhule stating that the applicant has been relieved by the Deputy Director of Health Services, Nashik.

4. The learned counsel further submitted that when the orders of transfers pertaining to the applicant, as well as, respondent no. 4 are stayed by the Hon'ble Health Minister, Deputy Director of Health Services cannot relieve the applicant from the post of Civil Surgeon, Dhule on the basis of said order. In the aforesaid circumstances the learned counsel for the applicant has sought interim relief thereby seeking directions against the respondents

::-3-::

O.A. NO. 1001/2022

to continue the applicant on the post of Civil Surgeon at Dhule till the decision of the present OA.

5. The learned CPO has strongly opposed for granting any such relief. It has been contended that the applicant has already been relieved under the orders of the competent authority and as such she cannot claim further retention on the said post. It is further argued that the orders passed on 11.11.2022 under the authority of His Excellency Hon'ble the Governor may not be disturbed or stayed by the Hon'ble Cabinet Minister. The learned CPO submits that he will take proper instructions in this regard and will make concrete submissions within 3 days. In the circumstances the learned CPO prayed for time for making submissions on the issue more particularly about the validity of the stay granted by the Hon'ble Health Minister to the transfer orders vide his order dated 12.11.2022.

6. I have considered the submissions advanced by the learned counsel for the applicant and the learned CPO appearing for the respondent authorities. It is not in dispute that on 11.11.2022

::-4-::

O.A. NO. 1001/2022

the transfer orders are passed whereby the applicant has been transferred from Dhule to Mumbai, whereas the respondent no. 4 has been transferred from the post of Medical Superintendent, Sub-District Hospital, Georai, Dist. Beed to Dhule. Both the transfer orders are there on record. The copy of the order passed by the Hon'ble Health Minister whereby he has stayed the transfer orders issued on 11.11.2022 is also placed on record. The said order reveals that the transfer orders passed on 11.11.2022 are directed to be kept in abeyance on administrative ground and on the ground that "माता सुरक्षित घर सुरक्षित" campaign is in progress. It has contended by the learned CPO that the transfer orders passed under the authority of His Excellency Hon'ble the Governor cannot be stayed by the Hon'ble Health Minister. However, he has not brought to my notice any such provision, rule or precedent in support of his said contention. He has, however, not denied the fact that the Hon'ble Health Minister has stayed the transfer orders on the very next day i.e. on 12.11.2022. He has also not brought to my notice under which authority the Deputy Director of Health Services, Nashik Region

::-5-::

O.A. NO. 1001/2022

has relieved the applicant on 14.11.2022 when the transfer orders have been stayed by the Hon'ble Health Minister. The learned CPO has sought time to place on record the authentic information and the relevant rules of procedure within 3 days. Time as has been sought by the learned CPO deserves to be granted and is accordingly granted. However, in view of the prima-facie material placed on record by the applicant evidencing that the transfer orders are stayed by the Hon'ble Health Minister I deem it appropriate to pass the following order, which would meet the ends of justice :-

ORDER

1. Issue notices to the respondents, returnable on 18.11.2022 **till then the respondents to continue the present applicant on the post of Civil Surgeon at Dhule.**
2. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.
3. 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.

::-6-::

O.A. NO. 1001/2022

4. 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.

5. 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.

6. S.O. to 18.11.2022.

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

VICE CHAIRMAN

ARJ ORAL ORDER 15.11.2022

ORIGINAL APPLICATION NO. 386/2021
(Chandrashekhar R. Chopdar Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri Harish Bali, learned counsel for the applicants and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondent authorities, are present.

2. At the request of learned counsel for the applicant, S.O. to 22.11.2022 for hearing.

VICE CHAIRMAN

ARJ ORAL ORDER 15.11.2022

ORIGINAL APPLICATION NO. 410/2021
(Tulsiram Bakle Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri K.A. Ingle, learned counsel for the applicants (**absent**). Smt. Sanjivani Deshmukh Ghate, learned Presenting Officer for the respondent authorities, is present.

2. S.O. to 15.12.2022 for hearing.

VICE CHAIRMAN

ARJ ORAL ORDER 15.11.2022

ORIGINAL APPLICATION NO. 46/2022
(Adinath Nagargoje Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

None appears for the applicant. Smt. Sanjivani Deshmukh Ghate, learned Presenting Officer for the respondent authorities, is present.

2. At the request of learned counsel for the applicant, S.O. to 15.12.2022 for hearing.

VICE CHAIRMAN

ARJ ORAL ORDER 15.11.2022

**Ma 252/2022 IN OA ST. 954/2022
(Pallavi E. Bhand Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman**

DATE : 15.11.2022

ORAL ORDER :

None for the applicant. Shri SK Shirse, learned Presenting Officer for the respondent authorities, is present.

2. In view of absence of learned counsel for the applicant, S.O. to 16.11.2022.

VICE CHAIRMAN

ARJ ORAL ORDER 15.11.2022

**M.A. 223/2020 IN O.A. ST. 870/2020
(Vitthal Bade Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman**

DATE : 15.11.2022

ORAL ORDER :

Heard Shri RR Bangar, learned counsel for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondent authorities.

2. The delay of about 7 months has occurred in filing the annexed OA. It is contended that the applicant was making efforts to get set aside the impugned order and get the amounts claimed by him by meeting to the departmental authorities and after failing in those attempts has filed the present application. The learned counsel submitted that the delay occurred in filing the annexed OA is unintentional and for bona-fide reasons. He therefore prayed for condoning the delay.

3. The PO opposed for condoning the delay stating that the reasons as are assigned by the applicant are not sufficient for condoning the delay of 7 months. It is pointed out that even otherwise also there is no case for the applicant on merit.

::-2-::

**M.A. 223/2020 IN
O.A. ST. 870/2020**

4. Since the reasons as are assigned by the applicant seems to be sufficient and delay does appear to be unintentional I am inclined to allow the present application. Hence the following order :-

ORDER

(i) The present Misc. Applications is allowed without any order as to costs.

(ii) The delay caused in filing accompanying O.A. is condoned.

(ii) Registry to register the accompanying O.A. on its due scrutiny.

VICE CHAIRMAN

O.A. ST. 870/2020
(Vitthal Bade Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Heard Shri RR Bangar, learned counsel for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondent authorities.

2. The learned counsel for the applicant seeks leave to correct the mistakes occurred in O.A. in mentioning instead of 'travelling allowance' as 'transfer allowance'. Leave granted as prayed for. The necessary amendment be carried out forthwith.

3. Issue notices to the respondents, returnable on 21.12.2022.

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

5. 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.

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.

::-2-::

O.A. ST. 870/2020

7. 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.
8. S.O. to 21.12.2022.
9. Steno copy and Hamdast is allowed to both parties.

VICE CHAIRMAN

ARJ ORAL ORDER 15.11.2022

M.A. 49/2022 IN O.A. ST. 37/2022
(Dipak Sherkhane Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Heard Shri GJ Kore, learned counsel for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondent authorities.

2. The present application has been filed by the applicant for condonation of 190 days occurred in filing the accompanying O.A.

3. For the reasons stated in the application, which according to me are sufficient, the delay is condoned.

4. Accordingly the present application stands allowed without any order as to costs.

5. Registry to register the accompanying O.A. on its due scrutiny.

VICE CHAIRMAN

O.A. ST. 37/2022
(Dipak Sherkhane Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Heard Shri GJ Kore, learned counsel for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondent authorities.

2. Issue notices to the respondents, returnable on 21.12.2022.

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

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

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

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

7. S.O. to 21.12.2022.

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

VICE CHAIRMAN

**M.A. 475/2022 IN MA 232/2020 IN OA ST. 321/2020
(Bismilla Daut Tadvi Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman**

DATE : 15.11.2022

ORAL ORDER :

Heard Shri A.M. Hazare, learned counsel for the applicant and Shri SK Shirse, learned Presenting Officer for the respondent authorities.

2. By filing the present Misc. Application No. 475/2022 the applicant has sought to amend the O.A. by adding one paragraph as 14-A and prayer in that context in the O.A. In the present matter the respondents have not yet filed the affidavit in reply. As such I am inclined to allow the present MA. Hence the following order :-

ORDER

(i) The present Misc. Application stands allowed without any order as to costs.

(ii) The necessary amendment be carried out within one week from today in O.A. and amended copy be supplied to other side.

VICE CHAIRMAN

MA 232/2020 IN OA ST. 321/2020
(Bismilla Daut Tadvi Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Heard Shri A.M. Hazare, learned counsel for the applicant and Shri SK Shirse, learned Presenting Officer for the respondent authorities.

2. In the present M.A. the delay occasioned though appears to be of bit longer period i.e. for more than the period of 3 years, the reasons which are assigned are quite justifiable. The applicant was working as Van Majoor and that his services were liable to regularized on the strength of GR dated 31.1.1996. A show cause notice was issued to the applicant as to why his services shall not be terminated. When the applicant approached the Tribunal it was noticed that the applicant had actually worked for 240 days in preceding five years and was thus entitled for regularization. The applicant was thereafter continued to work up to year 2015 with the respondents and was retired on attaining the age of superannuation. However, thereafter when he claimed the pension his request has been rejected stating that he is not entitled for any pension since he was never regularized in the service.

3. It is the contention of the learned counsel for the applicant that he tried to get resolve his dispute by meeting the higher authorities, however, after being failed he approached the Tribunal. The learned counsel submitted that since the issue of entitlement of pension is involved in the matter the Tribunal may favourably consider the case of the applicant by condoning the delay so that the applicant maybe able to prosecute the OA on merits.

4. The learned PO has opposed for condoning the delay by stating that inordinate delay has been committed by the applicant in approaching the Tribunal and no evidence is placed on record to condone the delay.

5. I have considered the submissions advanced by the learned counsel for the applicant and the learned PO for the respondents. It is not in dispute that the request of the applicant claiming pension has been rejected. It is his contention that he has completed the period of qualifying service and thus entitled for pension. Some documents placed on record prima-facie lead to inference that the applicant has the case to be considered for grant of pension if he succeeds in establishing the case as has been made out by him. If

::-3-::

MA 232/2020 IN
OA ST. 321/2020

the present application is rejected only on the ground of long delay the very purpose of filing the OA will be defeated. I therefore deem it appropriate to condone the delay so that applicant may get opportunity to prosecute his matter on merits. Hence the following order :-

ORDER

- (i) The present application stands allowed without any order as to costs.
- (ii) The delay caused in filing accompanying O.A. is condoned.
- (ii) Registry to register the accompanying O.A. on its due scrutiny.

VICE CHAIRMAN

OA ST. 321/2020
(Bismilla Daut Tadvi Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Heard Shri A.M. Hazare, learned counsel for the applicant and Shri SK Shirse, learned Presenting Officer for the respondent authorities.

2. Issue notices to the respondents, returnable on 21.12.2022.

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

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

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

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

7. S.O. to 21.12.2022.

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

VICE CHAIRMAN

M.A. 78/2022 IN O.A. ST. 293/2022
(Vaishali Tote Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri AD Gadekar, learned counsel for the applicant and Smt. MS Patni, learned Presenting Officer for the respondent authorities, are present.

2. S.O. to 14.12.2022 for hearing.

VICE CHAIRMAN

ARJ ORAL ORDER 15.11.2022

ORIGINAL APPLICATION NO. 448/2022
(Laxmikant Gojre Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri KB Jadhav, learned counsel for the applicant and Shri MP Gude, learned Presenting Officer for the respondent authorities, are present.

2. S.O. to 25.11.2022 for hearing.

VICE CHAIRMAN

ARJ ORAL ORDER 15.11.2022

ORIGINAL APPLICATION NO. 224/2022
(Jayprakash Sonawane Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri SS Jadhavar, learned counsel for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondent authorities, are present.

2. S.O. to 25.11.2022 for hearing.

VICE CHAIRMAN

ARJ ORAL ORDER 15.11.2022

ORIGINAL APPLICATION NO. 148/2022
(Dr. Rajendra R. Dharmadhikari Vs. State of Maharashtra
& Ors.)

CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Heard Shri VB Wagh, learned counsel for the applicant and Shri VR Bhumkar, learned Presenting Officer for the respondent authorities.

2. The present application is filed by the applicant seeking the following relief :-

“B) To direct the respondent no. 1 to take the decision in respect of the extra ordinary leave period dated 1.12.2009 to 29.1.2017, which the proposal is being pending for decision and further to prepare the pension papers of the applicant and forward to the office of Accountant General, (A.G.-I) Mumbai for sanction and to release all the retirement benefits forthwith with interest.”

3. It is the contention of the applicant that though respondent no. 2 has forwarded the proposal to respondent no. 1 in respect of taking decision in regard to the period of absence from duty in the period between 1.12.2009 to 29.1.2017, the decision has not been taken by respondent no.1. In the affidavit in reply filed on behalf of respondent nos. 1 to 3 it has been stated that the said proposal is under consideration.

::-2-::

O.A. NO. 148/2022

4. Having regard to the prayer made in the application and the contentions raised in the affidavit in reply, it appears to me that the present OA can be disposed of without going into merits of the dispute raised by the applicant by directing the respondent no. 1 to take the decision on the proposal forwarded to it by respondent no. 2 on its own merit and in accordance with law within 12 weeks from the date of this order and shall also take the necessary subsequent actions promptly if so required.

5. It is further directed that in the meanwhile period the respondents shall continue to pay the applicant the provisional pension according to their own calculations.

6. The present Original Application stands disposed of in above terms without any order as to costs.

VICE CHAIRMAN

ARJ ORAL ORDER 15.11.2022

ORIGINAL APPLICATION NO. 580/2022
(Ramhari G. Sontakke Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Heard Shri K.G. Salunke, learned counsel for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondent authorities.

2. Aggrieved by the decision of respondent no. 3 thereby rejecting the request of the applicant to consider his case for appointment on compassionate ground for the reason that deceased father of the applicant was having more than 2 children and 3rd child had born after cutoff date i.e. after 31st December, 2001 the applicant has preferred the present Original Application.

3. Few facts which are necessary to be reproduced are thus :-

Earlier also the request of the applicant was rejected by the respondents on the ground that deceased father of the applicant was a Group-B employee. The applicant had therefore approached

this Tribunal by filing OA No. 672/2018 however, the same was rejected thereby upholding the decision rendered by the respondents. The applicant thereafter approached the Hon'ble High Court by filing WP No. 13166/2019, which came to be allowed with direction to the respondents to consider the application of the petitioner / applicant for appointment on compassionate ground on its own merits and with further directions that it shall not be rejected on the ground on which it was earlier rejected i.e. deceased father of the applicant was a Group-B employee. However, even thereafter the respondents have rejected the request of the applicant on the ground as aforementioned.

4. The learned counsel relying upon the judgment of the Division Bench of Hon'ble Bombay High Court in the case of **Ms. Kashabai Sheshrao Wagh Vs. the Zilla Parishad, Nashik and Ors., Writ Petition No. 7742/2014** delivered on 3.7.2019 submitted that the condition as about 3rd child on the basis of which the request of the applicant has been rejected by the respondents has been held unconstitutional and as such the request

of the applicant could not have been rejected by the respondents on the said ground. The learned counsel pointed out that after the said decision of the Hon'ble High Court this Tribunal, as well as, Nagpur Bench of the Tribunal has considered the identical cases for compassionate appointment and have accordingly passed the orders. The learned counsel in the circumstances prayed for allowing the present application by setting aside the impugned communication / order dated 22.3.2022.

5. The learned Presenting Officer has opposed for considering the request of the applicant and has supported the impugned order. The learned PO submitted that the import of the decision rendered by the Hon'ble High Court in the case of **Ms. Kashabai Sheshrao Wagh** (cited supra) is not as interpreted by the learned counsel for the applicant. The learned PO pointed out that in the matter before the Hon'ble High Court the second wife of deceased employee was having only one child and that situation was considered by the Hon'ble High Court. The learned PO submitted that in the present matter there are admittedly more than 2 children and 2 are

born after the cutoff date. He therefore prayed for rejecting the present application.

6. The contention as has been raised by the learned PO is liable to be rejected for the reasons that in the present matter also the applicant is the only son of the first wife of deceased employee and as such the ratio laid down in the judgment of the Hon'ble High Court relied upon by the applicant would squarely apply to the case of the applicant.

7. In the circumstances the present application deserves to be allowed and is accordingly allowed. Hence the order :-

ORDER

(i) The present Original Application stands allowed without any order as to costs.

(ii) The impugned order is quashed and set aside. The respondents shall include the name of the present applicant in the list of candidates who are held eligible for appointment on compassionate ground and as and when turn of the applicant

::-5-::

O.A. NO. 580/2022

would come shall offer him the appointment on compassionate ground.

(iii) It is clarified that the seniority of the applicant in the list of the candidates eligible to be appointed on compassionate ground shall be determined on the basis of the first application submitted by the applicant for his compassionate appointment i.e. on 13.6.2016.

VICE CHAIRMAN

ARJ O.A. NO. 580 OF 2022

ORIGINAL APPLICATION NO.356/2021
(Mirza Saleem Baig Ismail Baig Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman

DATE : 15-11-2022

ORAL ORDER :

Heard Shri Kakasaheb B. Jadhav, learned Counsel for the applicant and Smt. M.S.Patni, learned Presenting Officer for the respondent authorities.

2. By filing the present O.A. applicant has sought refund of the amount of Rs.52,856/-, which has been recovered from the wages of the applicant on account of alleged excess payment made to him allegedly because of wrong fixation of his pay. The recovery was directed when less than one year's period was left for the retirement of the applicant. Applicant got retired on 31st December, 2016 on attaining age of superannuation. The alleged amount has been recovered in 3 installments from his salary for the months October, to December, 2016. The order directing recovery was passed by respondent no.3 on 21-01-2016, and accordingly amount has been recovered from the applicant. Further order for recovery of the alleged excess payment was passed by respondent no.3 on

=2=

O.A.NO.356/2021

14-10-2016 thereby directing the recovery of the said amount in 3 equal installments.

3. Shri Kakasaheb B. Jadhav, learned Counsel appearing for the applicant has assailed the said order being patently illegal in view of the law laid down by the Hon'ble Apex Court in the case of ***State of Punjab and Others Vs. Rafiq Masih (White Washer), (2015) 4 SCC 334***. Learned Counsel referring to the said judgment, and more particularly, bringing to my notice guidelines issued by the Hon'ble Apex Court in paragraph 12 of the said judgment submitted that, as directed by the Hon'ble Apex Court, the respondents were not expected to recover the alleged amount allegedly recovered on account of excess payment made to the applicant, in the last year of his retirement. Period of less than one year was left for retirement of the applicant when the said recovery has been made. The guidelines issued by the Hon'ble Apex Court are applicable to the employees falling in the category of Class-III and Class-IV employees. According to the applicant, he is a Class-III employee. Learned Counsel further submitted that the pay fixation was unilaterally done by the respondents without giving

any opportunity of hearing to him. Learned Counsel in the circumstances has prayed for refund of the said amount within stipulated period.

4. The submissions and the prayers so made are resisted by the respondents. Respondent nos.1 to 3 have filed joint affidavit in reply opposing the prayer made in the O.A. It is the contention of the respondents that the Government employee is liable to make payment to the Government of any amount which has been paid to him in excess of his entitlement. Learned P.O., further submitted that the applicant cannot claim the amount for which he was never entitled to. Learned P.O. further submitted that the applicant has also furnished an undertaking to the effect that if it is found that any excess payment is made to him, he will refund the said amount to the Government. Learned P.O. submitted that once the applicant has given an undertaking to refund the said amount, now he cannot retract from the said undertaking and claim back the said amount. Learned P.O. in the circumstances has prayed for rejecting the O.A.

5. I have considered the submissions advanced by the learned Counsel appearing for the parties. I have also gone through the documents filed on record. Following facts are not in dispute:

(i) That the applicant falls in the category of Class-III employee.

(ii) That the applicant got retired from the Government service on attaining age of superannuation on 31-12-2016.

(iii) Recovery was first directed by the respondent no.3 on 21-01-2016 and the further order for recovery of the said alleged excess payment from the salary of the applicant was passed on 14-10-2016.

It is thus evident that the recovery was directed against the applicant when the period of less than one year was left for his retirement.

6. In the case of ***State of Punjab and Others Vs. Rafiq Masih (White Washer)***, the Hon'ble Apex Court in paragraph 12 thereof has laid down the following guidelines:-

“12. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarize the following few situations, wherein recoveries by the employers, would be impermissible in law.

(i) Recovery from employees belong to Class-III and Class-IV services (or Group ‘C’ and Group ‘D’ services).

(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer’s right to recover.”

7. Considering the case of the applicant in the light of the said guidelines, the order of recovery may not be sustained. The applicant is admittedly a Class-III employee. It is further not in dispute that the recovery for whatsoever reason cannot be directed against the applicant when the period of less than one year was left for his retirement. It is not the case of the respondents that the alleged earlier wrong fixation of pay was at the instance of the applicant. When the impugned order came to be passed, the judgment delivered by the Hon'ble Apex Court in the case of ***State of Punjab and Others Vs. Rafiq Masih (White Washer)*** was holding the field. In view of the guidelines issued by the Hon'ble Apex Court in the aforesaid judgment, it was not permissible for the respondent no.3 or any of the other respondents to recover the amount as mentioned in the impugned order.

8. The contention as has been raised on behalf of the respondents that since the applicant has given an undertaking to refund the amount to the Government, if paid in excess, and as such, the applicant is now estopped from claiming any relief, has to be rejected at the threshold. I have perused

the undertaking which has been much depended upon by the respondents. The said undertaking is of the date 09-11-2017. It is difficult to accept the contention of the respondents that the applicant has given the said undertaking voluntarily. On the contrary, it would be appropriate to say that the respondents have obtained the same from the applicant under coercion. Even if it is accepted that such undertaking is given by the applicant that may not be of any help or use for the respondents to oppose the request made by the applicant for the reason that the said undertaking has been obtained recently after the retirement of the applicant and importantly after the entire amount was recovered from the applicant. Had the applicant given an undertaking before the excess payment is alleged to have been made, perhaps, then equations would have been different and the applicant may not have escaped from the liability to refund the said amount. In the present matter, however, no such case is made out by the respondents. Respondents may not dispute that according to their own contention such excess payment has been made to the applicant in the period spread over between years 2001 to 2015.

=8= O.A.NO.356/2021

In the circumstances, undertaking much relied upon by the respondents is of no help to them.

9. For the reasons stated above, the recovery of the amount of Rs.52,856/- made by respondent no.3 has to be held impermissible and illegal. The applicant is, therefore, entitled for getting refund of the said amount. In the result, the following order:

ORDER

(i) Impugned orders dated 11/12-01-2016, 21-01-2016 and 14-10-2016 issued by respondent no.3, are quashed and set aside.

(ii) Respondent no.3 is directed to refund the amount of Rs.52,856/-, recovered from the applicant within 8 weeks from the date of this order.

(iii) O.A. is allowed and disposed of accordingly with no order as to costs.

VICE CHAIRMAN

ORIGINAL APPLICATION NO.358/2021
(Taj Mohammad Khan Ameer Mohammad Khan Durani
Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman

DATE : 15-11-2022

ORAL ORDER :

Heard Shri Kakasaheb B. Jadhav, learned Counsel for the applicant and Shri I.S.Thorat, learned Presenting Officer for the respondent authorities.

2. Amount of Rs.61,060/- has been recovered from the gratuity of the applicant by the respondents on account of alleged excess payment made to him towards salary as well as allowances. Refund of the said amount is prayed by the applicant in the present O.A. on the ground that such recovery was impermissible in the last one year of the service of the applicant, in other words, when the period of less than one year was left for the applicant to retire from the Government service, in view of the guidelines issued by the Hon'ble Apex Court in the case of ***State of Punjab and Others Vs. Rafiq Masih (White Washer)*, (2015) 4 SCC 334.**

3. Respondents in their affidavit in reply have raised a contention that no employee possesses a right to receive wages in excess of his entitlement. It has been argued by the learned P.O. that mistakes may occur in pay fixation of the employees and when the said mistakes are detected at the time of retirement of an employee in the final re-fixation of pay, the excess payment made to such employees can be recovered by the Government. Learned P.O. pointed out that it is not the case of the applicant that he was entitled for the amount which is sought to be recovered. In the circumstances, learned P.O. has prayed for dismissal of the O.A.

4. In the case of ***State of Punjab and Others Vs. Rafiq Masih (White Washer)***, the Hon'ble Apex Court in paragraph 12 thereof has laid down the following guidelines:-

“12. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarize the following few situations, wherein recoveries by the employers, would be impermissible in law.

(i) Recovery from employees belong to Class-III and Class-IV services (or Group 'C' and Group 'D' services).

(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."

5. Considering the case of the applicant in light of the above guidelines of the Hon'ble Apex Court there remains no doubt that the recovery of the impugned amount by the respondents was not permissible. It is not in dispute that the applicant falls in the category of Class-III employee. It is further not in dispute that he retired from the Government service

on 31-07-2016 on attaining age of superannuation. It is further not in dispute that the first order in respect of the alleged recovery was passed on 26-07-2016/ 04-08-2016. It is thus evident that the order was passed either before few days of retirement of the applicant if it is held to have been passed in the month of July, 2016 and if it is held to be passed on 04-08-2016, it is of course passed after retirement of the applicant. In both the contingencies, recovery cannot be directed in view of the guidelines issued by the Hon'ble Supreme Court in the judgment cited supra.

6. Though an attempt has been made by the learned P.O. to justify that inadvertently the wrong pay fixation was made and that resulted in directing recovery from the applicant, it has to be stated that in the very opening paragraph of the judgment, Hon'ble Apex Court has taken note of such contingencies.

7. For the reasons stated above, O.A. deserves to be allowed and is accordingly allowed with following order:

=5= O.A.NO.358/2021

ORDER

- (i) Impugned order dated 26-07-2016/04-08-2016 issued by respondent no.3 is quashed and set aside.
- (ii) Respondent no.3 is directed to refund the amount of Rs.61,060/-, recovered from the applicant within 8 weeks from the date of this order.
- (iii) O.A. is allowed and disposed of accordingly with no order as to costs.

VICE CHAIRMAN

YUK ORAL ORDER 15.11.2022

ORIGINAL APPLICATION NO. 621 OF 2022
(Dattatray A. Kakade Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Ms. Pratiksha Kale, learned Advocate holding for Shri P.C. Kale, learned Advocate for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents.

2. Learned Presenting Officer filed affidavit in reply on behalf of respondent Nos. 1 to 4. Same is taken on record and copy thereof has been served on the other side.

3. At the request of learned Advocate for the applicant, S.O. to 16.12.2022 for filing rejoinder affidavit, if any.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 670 OF 2022
(Dr. Rajeshree N. Agarwal Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri S.B. Kakde, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. At the request of learned Chief Presenting Officer, time is granted as a last chance for filing affidavit in reply on behalf of respondents.

3. S.O. to 15.12.2022.

MEMBER (A)

MEMBER (J)

**M.A. No. 88/2022 in O.A. No. 815/2021
(Yashwant B. Birhade Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2022

ORAL ORDER :

Shri H.P. Randhir, learned Advocate for the applicant in the present M.A. / intervenor (**Absent**). Shri M.S. Mahajan, learned Presenting Officer for the respondent authorities and Shri Jitendra Patil, learned Advocate for the applicant in O.A.

2. At the request of learned C.P.O., time is granted for filing affidavit in reply on behalf of respondents in M.A.
3. S.O. to 01.12.2022.

MEMBER (A)

MEMBER (J)

**M.A. St. No. 1938/2022 in O.A. St. No. 1939/2022
(Manjusha R. Jadhav & Ors. Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2022

ORAL ORDER :

Heard Ms. Pradnya Talekar, learned Advocate holding for Shri S.B. Talekar, learned Advocate for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicants, S.O. to 17.11.2022.

MEMBER (A)

MEMBER (J)

KPB ORAL ORDERS 15.11.2022

**M.A. No. 400/2022 in O.A. St. 1437/2022
(Namdev J. Patil Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2022

ORAL ORDER :

Heard Shri Jitendra Patil, learned Advocate for the applicant and Shri M.S. Maharaj, learned Chief Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicant, S.O. to 05.01.2023.

MEMBER (A)

MEMBER (J)

KPB ORAL ORDERS 15.11.2022

M.A. No. 491/2022 in O.A. St. No. 1934/2022
(Vinodkumar N. Kamble & Anr. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri I.D. Maniyar, learned Advocate for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. By this Misc. Application, the applicants are seeking permission to sue the respondents jointly.

3. The Original Application is filed challenging the impugned Circular dated 16.10.2018 (Annexure A-5) issued by the respondent No. 1 and further seeking direction to respondents to declare the result of Advertisement No. 40 as per reservation provided in G.R. dated 17.05.2017 (Annexure A-1). In view of the same, the applicants are pursuing the same cause of action and are seeking same relief. Hence, in order to avoid multiplicity of proceedings, permission to sue the respondents is granted, subject to payment of court fee stamps, if not paid.

4. Accordingly, M.A. stands disposed of accordingly without any order as to costs.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION ST. NO. 1934 OF 2022
(Vinodkumar N. Kamble & Anr. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri I.D. Maniyar, learned Advocate for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. Issue notices to the respondents, returnable on 21.12.2022.
3. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.
4. Applicants are authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.
6. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.
7. S.O. to 21.12.2022.
8. Steno copy and Hamdast is allowed to both parties.

MEMBER (A)

MEMBER (J)

**O.A. Nos. 56, 57, 58, 59, 60, 61, 62, 63, 64, 64,
65, 66 & 67 all of 2019**

(Dr. Balaji M. Mirkute & Ors. Vs. State of Maharashtra & Ors.)

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

and

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard M.R. Kulkarni, learned Advocate for the applicants in all these O.As. and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondent Nos. 1 to 3 in all these O.As. Shri A.B. Shinde, learned Advocate for respondent Nos. 4 & 5, **absent**.

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

3. Record shows that in spite of grant of opportunities, the affidavit in reply is not filed on behalf of respondent Nos. 4 & 5

4. At the request of learned Advocate for the applicants, S.O. to 16.12.2022 for filing rejoinder affidavit, if any in all these O.As. Status quo granted earlier in all these O.As. to continue till then.

MEMBER (A)

MEMBER (J)

**O.A. No. 259/2018 with O.A. No. 154/2017
(Naseem Banu Nazir Patel Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2022

ORAL ORDER :

Heard Shri Avinash Deshmukh, learned Advocate for the applicant in both the O.As. and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents in both the O.As..

2. Learned Chief Presenting Officer placed on record a copy of judgment dated 08.10.2021 passed in **Civil Revision Application No. 102/2019 with Interim Application No. 2183/2021**, which is referred to by the learned C.P.O. Same is taken on record and marked as document 'X' for the purpose of identification.

3. At the request of learned C.P.O., S.O. to 05.12.2022. **High on Board.**

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 953 OF 2022
(Somesh P. Nilkanth Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondent Nos. 1 & 2. None present on behalf of respondent No. 3, though duly served.

2. Learned Advocate for the applicant seeks permission to correct the designation and address of respondent No. 1.

3. Permission as prayed for by the applicant is granted. The applicant shall carry out the necessary amendment in the O.A. forthwith.

4. After amendment, issue fresh notice to the respondent No. 1, returnable on 01.12.2022.

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

//2//

O.A. No. 953/2022

6. Applicants are 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 01.12.2022.

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

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 830 OF 2022
(Saheb P. Kapure Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2022

ORAL ORDER :

Heard Shri P.A. Rathod, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant submits that in spite of grant of interim relief regarding releasing of provisional pension, the provisional pension is not released to the applicant.

3. At the request of Presenting Officer, time is granted for filing affidavit in reply on behalf of respondents.

4. S.O. to 25.11.2022.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 788 OF 2019
(Santoshkumar A. Kaul Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard S.B. Bhosale, learned Advocate for the applicant, Smt. M.S. Patni, learned Presenting Officer for the respondent No. 1 and Shri S.D. Dhongde, learned Advocate for respondent No. 2.

2. Record shows that the pleadings are complete. The present matter is pertaining to dismissal. Hence, the O.A. is admitted and it be fixed for final hearing on 16.12.2022.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 670 OF 2022
(Dr. Rajeshree N. Agarwal Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri S.B. Kakde, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. At the request of learned Chief Presenting Officer, time is granted as a last chance for filing affidavit in reply on behalf of respondents.

3. S.O. to 15.12.2022.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 861 OF 2022
(Shobha R. Tak Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. At the request of learned Presenting Officer, time is granted for filing affidavit in reply on behalf of respondents.

3. S.O. to 02.12.2022.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 373 OF 2022
(Dr. Vandana P. Sonone Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri P.D. Bodade, learned Advocate holding for Shri D.S. Mutalik, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicant, time is granted for filing rejoinder affidavit.
3. S.O. to 08.12.2022.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 456 OF 2022
(Narsappa S. Birajdar Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

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 respondents.

2. Learned Presenting Officer filed affidavit in reply on behalf of respondent No. 2. Same is taken on record and copy thereof has been served on the other side.

3. S.O. to 19.12.2022 for filing rejoinder affidavit, if any.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 772 OF 2022
(Moreshwar D. Nawale Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri Avinash Khedkar, learned Advocate for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents.

2. At the request of learned Presenting Officer, time is granted for filing affidavit in reply on behalf of respondents.

3. S.O. to 21.12.2022.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 474 OF 2022
(Anurath A. Lande Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Shri S.S. Kulkarni / V.S. Kadam, learned Advocate for the applicant (**Absent**). Heard Shri M.P. Gude, learned Presenting Officer for the respondents.

2. Learned Presenting Officer filed affidavit in reply on behalf of respondent No. 2. Same is taken on record.
3. S.O. to 21.12.2022 for filing rejoinder affidavit, if any.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 785 OF 2022
(Bhaurao M. Ghane Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri A.T. Kanawade, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicant, time is granted for filing rejoinder affidavit, if any.

3. S.O. to 14.12.2022.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 944 OF 2022
(Suresh D. Machal Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2022

ORAL ORDER :

Heard Shri J.M. Murkute, learned Advocate for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents.

2. Await service of notice upon the respondents.
3. S.O. to 21.12.2022.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 954 OF 2022
(Sahebrao S. Rathod Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri A.V. Thombre, learned Advocate holding for Shri S.S. Thombre, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. Await service of notice upon the respondents.
3. S.O. to 20.12.2022.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 955 OF 2022
(Swapnil G. Sabale Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri A.V. Thombre, learned Advocate holding for Shri S.S. Thombre, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. Await service of notice upon the respondents.
3. S.O. to 20.12.2022.

MEMBER (A)

MEMBER (J)

C.P. No. 01/2021 in O.A. No. 83/2018
(Vyankat S. More & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri A.M. Nagarkar, learned Advocate holding for Shri K.M. Nagarkar, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicant, S.O. to 05.12.2022.

MEMBER (A)

MEMBER (J)

KPB ORAL ORDERS 15.11.2022

**C.P. No. 17/2022 in O.A. No. 06/2021
(Dattu R. Raut Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2022

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. Learned Presenting Officer filed affidavit in reply on behalf of respondent No. 2. Same is taken on record and copy thereof has been served on the other side.

3. S.O. to 21.12.2022 for filing rejoinder affidavit, if any.

MEMBER (A)

MEMBER (J)

KPB ORAL ORDERS 15.11.2022

ORIGINAL APPLICATION NO. 448 OF 2019
(Anil T. Patil Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Shri S.D. Kotkar, learned Advocate for the applicant (**Absent**). Heard Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. As none present for the applicant, S.O. to 19.12.2022 for filing rejoinder affidavit, if any.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 651 OF 2019
(Chandulal D. Ghule Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Shri P.N. Nagargoje, learned Advocate for the applicant (**Absent**). Heard D.R. Patil, learned Presenting Officer for the respondents.

2. As none present for the applicant, S.O. to 19.12.2022 for filing rejoinder affidavit, if any.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 45 OF 2020
(Shila A. Mule Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Shri P.D. Bachate, learned Advocate for the applicant (**Absent**). Heard Shri D.R. Patil, learned Presenting Officer for the respondents.

2. Await service of notice upon the respondents.
3. As none present for the applicant, S.O. to 20.12.2022.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 72 OF 2020
(Sheshrao D. Totwad Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri A.D. Gadekar, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicant, S.O. to 20.12.2022 for filing rejoinder affidavit, if any.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 257 OF 2020
(Sambhaji S. Pawar Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2022

ORAL ORDER :

Heard Jitendra Patil, learned Advocate for the applicant, Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondent No. 1 and Shri H.P. Jadhav, learned Advocate for respondent No. 2. None present on behalf of respondent No. 3, though duly served.

2. Learned Presenting Officer filed affidavit in reply on behalf of respondent No. 1. Same is taken on record and copy thereof has been served on the other sides.

3. At the request of learned Advocate for respondent No. 2, time is granted for filing affidavit in reply.

4. S.O. to 01.12.2022.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 366 OF 2020
(Bharat L. Dhonde Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri Amol Kokad, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondent Nos. 1 and 2. Shri M.B. Ubale, learned Advocate for respondent No. 3, **absent.**

2. Record shows that the affidavit in reply is already filed on behalf of respondent Nos. 2 and 3.
3. At the request of learned Presenting Officer, time is granted for filing affidavit in reply on behalf of respondent No. 1.
4. S.O. to 12.12.2022.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 425 OF 2020
(Sachin U. Shinde & Anr. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri I.D. Maniyar, learned Advocate holding for Shri H.A. Joshi, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondent authorities. Shri M.B. Bharaswadkar, learned Advocate for respondent Nos. 2 to 7 & 11, **absent**.

2. At the request of learned Advocate for the applicant, S.O. to 13.12.2022 for filing rejoinder affidavit, if any.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 440 OF 2020
(Sitaram D. Kolte & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Ms. Preeti Wankhade, learned Advocate for the applicant (**Leave Note**). Heard Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents.

2. Record shows that the affidavit in reply is already filed on behalf of respondent Nos. 1, 3 & 4.

3. At the request of learned Presenting Officer, time is granted for filing affidavit in reply on behalf of respondent No. 2.

4. S.O. to 08.12.2022.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 451 OF 2020
(Shrihari S. Solanke Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2022

ORAL ORDER :

Shri Kuldeep Patil, learned Advocate for the applicant (**Absent**). Heard Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. At the request of learned Chief Presenting Officer, time is granted for filing affidavit in reply on behalf of respondent No. 1.
3. S.O. to 20.12.2022 for filing rejoinder affidavit, if any.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 572 OF 2021
(Babasaheb E. Jakate Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

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

2. Learned Advocate for the applicant filed rejoinder affidavit. Same is taken on record and copy thereof has been served on the other side.

3. S.O. to 01.12.2022 for admission.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 724 OF 2021
(Sunil S. Mate Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2022

ORAL ORDER :

Heard Shri P.S. Gaikwad, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondent authorities. Shri Ganesh Kedar, learned Advocate for respondent No. 8, **absent**.

2. Learned Advocate for the applicant filed rejoinder affidavit. Same is taken on record and copy thereof has been served on the other side.
3. S.O. to 19.12.2022 for admission.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 774 OF 2021
(Ganesh L. Chavan Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2022

ORAL ORDER :

Heard Shri S.A. Kulkarni, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. At the request of learned Presenting Officer, time is granted for filing affidavit in reply on behalf of respondent Nos. 1 to 3.

3. S.O. to 21.12.2022.

MEMBER (A)

MEMBER (J)

**M.A. No. 42/2022 in O.A. St. No. 1695/2021
(Dr. Shivaji G. Mundhe Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2022

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicant, Smt. Deepali S. Deshpande, learned Presenting Officer for the respondent Nos. 1 to 3 and Shri U.S. Mote, learned Advocate for respondent No. 4.

2. At the request of learned Advocate for the applicant, time is granted for filing rejoinder affidavit, if any in M.A.

3. S.O. to 06.12.2022.

MEMBER (A)

MEMBER (J)

**M.A. No. 375/2022 in O.A. St. No. 1210/2022
(Abhiman G. Saindane Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2022

ORAL ORDER :

Heard Shri S.N. Suryawanshi, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. At the request of learned Chief Presenting Officer, time is granted for filing affidavit in reply on behalf of respondents.

3. S.O. to 08.12.2022.

MEMBER (A)

MEMBER (J)

KPB ORAL ORDERS 15.11.2022

**M.A. No. 409/2022 in O.A. St. No. 1053/2022
(Punjaji M. Shinde Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2022

ORAL ORDER :

Shri S.V. Suryawanshi, learned Advocate for the applicant (**Absent**). heard Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. At the request of learned Presenting Officer, time is granted for filing affidavit in reply on behalf of respondents in M.A.

3. S.O. to 08.12.2022.

MEMBER (A)

MEMBER (J)

KPB ORAL ORDERS 15.11.2022

**M.A. No. 410/2022 in O.A. St. No. 1052/2022
(Uttam T. Padme Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2022

ORAL ORDER :

Shri S.V. Suryawanshi, learned Advocate for the applicant (**Absent**). Heard Shri M.P. Gude, learned Presenting Officer for the respondents.

2. At the request of learned Presenting Officer, time is granted for filing affidavit in reply on behalf of respondents in M.A.

3. S.O. to 08.12.2022.

MEMBER (A)

MEMBER (J)

KPB ORAL ORDERS 15.11.2022

O.A. Nos. 241/2022, 242/2022, 250/2022, 257/2022, 258/2022, 271/2022, 272/2022 and T.A. 03/2022 (W.P. No. 3432/2022)
(Dr. Ravi K. Tale & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Shri A.D. Kulkarni, learned Advocate holding for Shri A.A. Yadkikar, learned Advocate for the applicant in respective matters. S/shri G.K. Kshirsagar, N.K. Chaudhari & C.V. Dharurkar, learned Advocates for the respective applicants in respective cases (**Absent**). Heard Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents in all these cases.

2. Record shows that affidavit in reply is filed on behalf of respondent No. 4 in some of the matters.

3. S.O. to 21.12.2022.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 476 OF 2021
(Machindra K. Bhalerao Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2022

ORAL ORDER :

Heard Shri Mayur Sharma, learned Advocate holding for Shri Mohit Deshmukh, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

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

3. Learned Presenting Officer submits that the respondent Nos. 1 and 3 adopt the affidavit in reply filed on behalf of respondent No. 2. He further seeks waiver of costs imposed upon the respondent Nos. 1 and 3 vide farad sheet order dated 14.10.2022.

3. In the interest of justice, the cost imposed upon the respondent Nos. 1 and 3 is waived.

4. At the request of learned Advocate for the applicant, S.O. to 20.12.2022 for filing rejoinder affidavit, if any.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 358 OF 2018
(Haseeb Ur Rehman Khan Vs. State of Maharashtra & Ors.)
WITH
ORIGINAL APPLICATION NO. 359 OF 2018
(Sunil M. Bandawar Vs. State of Maharashtra & Ors.)
WITH
ORIGINAL APPLICATION NO. 360 OF 2018
(Mohammad Abdul Sami Vs. State of Maharashtra & Ors.)
WITH
ORIGINAL APPLICATION NO. 361 OF 2018
(Anil G. Tornekar Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri A.D. Sugdare, learned Advocate for the applicants in all these O.As. and Shri I.S. Thorat, learned Presenting Officer for the respondents in all these O.As.

2. The present matters are closed for order.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.762 OF 2018
(Sahebrao D. Deshmukh & ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri S.D. Joshi, learned Advocate for the applicants and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. The present matter has already been treated as part heard.

3. By consent of both the sides, S.O. to 17.11.2022. **High on board.**

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.870 OF 2019
(Dr. Devrao S. Dakhure Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri S.D. Joshi, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. The present matter has already been treated as part heard.

3. By consent of both the sides, S.O. to 25.11.2022. **High on board.**

MEMBER (A)

MEMBER (J)

**M.A.NO.73 OF 2021 IN O.A.ST.NO.1245 OF 2020
(Balkrishna M. Joshi Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2022

ORAL ORDER :

Heard Shri I.D. Maniyar, learned Advocate holding for Shri R.A. Joshi, learned Advocate for the applicant for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. At the request of the learned Advocate for the applicant, S.O. to 30.11.2022 for hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.797 OF 2016
(Gaurav A. Chavan Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri S.E. Sarode, learned Shri C.V. Thombre, learned Advocate for the applicants and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. At the request of the learned Advocate for the applicant, S.O. to 09.12.2022 for hearing.

MEMBER (A)

MEMBER (J)

**O.A.NOS.825, 864, 865, 866, 867 ALL OF 2016
(Prakash A. Gaikwad & Ors. Vs. State of Maharashtra &
Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2022

ORAL ORDER :

Heard Shri R.G. Godghase, learned Advocate holding for Shri V.B. Jodgan Patil, learned Advocate for the applicants in all these O.A.s, Shri V.R. Bhumkar, learned Presenting Officer for the respondent authorities in all these O.As and Shri I.D. Maniyar, learned Advocate holding for Shri H.A. Joshi, learned Advocate for the respondent Nos.7 to 9 in O.A.No.852/2016.

Shri Pradeep Patil, learned Advocate for respondent No.5 in O.A.No.864/2016 and Shri Satyajit Bora, learned Advocate for the respondent No.5 in O.A.Nos.865, 866 & 867 all of 2016, **are absent.**

2. By consent of parties, S.O. to 21.12.2022 for re-hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.246 OF 2019
(Shriniwas S. Kulkarni & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri S.S. Bhendekar, learned Advocate holding for Shri S.B. Solanke, learned Advocate for the applicants and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. At the request of the learned Advocate for the applicant, S.O. to 15.12.2022 for hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.674 OF 2019
(Madhukar K. Brahmane Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri A.M. Nagarkar, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. By consent of both the sides, S.O. to 14.12.2022 for hearing.

MEMBER (A)

MEMBER (J)

**O.A.NOS.39 OF 2020, 477/2018, 982/2018 AND
983 OF 2018**

(Anil B. Nikam & Ors. Vs. State of Maharashtra & Ors.)

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2022

ORAL ORDER :

Heard Shri A.S. Deshmukh, learned Advocate for the applicant in O.A.No.39/2020, Shri V.B. Wagh, learned Advocate for the applicants in O.A.Nos.477, 982 & 983 all of 2018 and Shri S.K. Shirse, learned Presenting Officer for the respondents in all these O.As.

2. With the consent of both the sides, S.O. to 07.12.2022 for hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.354 OF 2020
(Suresh L. Kamthane Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Shri Girish L. Awale, learned Advocate for the applicant (**absent**). Heard Shri V.R. Bhumkar, learned Presenting Officer for the respondent authorities and Shri V.B. Wagh, learned Advocate for the respondent Nos.4,6 & 7.

2. In view of absence of learned Advocate for the applicant, S.O. to 21.12.2022 for hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.370 OF 2020
(Shrimant M. Ture Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri A.S. Deshmukh, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. With the consent of both the sides, S.O. to 13.12.2022 for hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.412 OF 2020
(Omprakash H. Kothari Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri A.S. Deshmukh, learned Advocate for the applicant, Shri S.K. Shirse, learned Presenting Officer for the respondent authorities and Shri S.B. Patil, learned Advocate for the respondent Nos.2 & 4.

2. With the consent of all the sides, S.O. to 19.12.2022 for hearing. Interim relief granted earlier to continue till then.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO.192 OF 2021
(Suresh B. Lande Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2022

ORAL ORDER :

Heard Shri S.B. Kakade, learned Advocate for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. With the consent of both the sides, S.O. to 19.12.2022 for hearing.

MEMBER (A)

MEMBER (J)

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

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Shri C.V, Dharurkar, learned Advocate for the applicant and Shri M.B. Kolpe, learned Advocate for the respondent No.4, are **absent**.

Heard Shri N.U. Yadav, learned Presenting Officer for the respondent authorities and Shri A.S. Deshmukh, learned Advocate for the respondent No.5.

2. In view of absence of learned Advocate for the applicant, S.O. to 20.12.2022 for hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.448 OF 2021
(Sarjerao M. Phalke Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri A.D. Kulkarni, learned Advocate for the applicants and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. With the consent of both the sides, S.O. to 19.12.2022 for hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.547 OF 2021
(Jalamsing D. Valvi Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri S.D. Dhongde, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. With the consent of both the sides, S.O. to 20.12.2022 for hearing.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO.633 OF 2021
(Sunil H. Nirmal Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2022

ORAL ORDER :

Heard Shri S.S. Bhendekar, learned Advocate holding for S.B. Solanke, learned Advocate for the applicants and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. At the request of the learned Advocate for the applicant, S.O. to 21.12.2022 for hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.634 OF 2021
(Shankar S. Waghmare Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri I.D. Maniyar, learned Advocate holding for Shri V.S. Panpatte, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. With the consent of both the sides, S.O. to 06.12.2022 for hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.727 OF 2021
(Dipak D. Joshi & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri Asif Ali, learned Advocate holding for Smt. A.N. Ansari, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. With the consent of both the sides, S.O. to 20.12.2022 for hearing.

MEMBER (A)

MEMBER (J)

**O.A.NOS.759/2021, 21/2022 AND 639/2022
(Sahebrao D. Deshmukh & ors. Vs. State of Maharashtra &
Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2022

ORAL ORDER :

Heard Shri A.V. Thombre, learned Advocate for the applicants in all these O.As. and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents in all these O.As.

2. At the request of the learned C.P.O., S.O. to 28.11.2022.

MEMBER (A)

MEMBER (J)

SAS ORAL ORDERS 15.11.2022

**ORIGINAL APPLICATION NO.01 OF 2022
(Vishnu B. More Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2022

ORAL ORDER :

Heard Shri K.G. Salunke, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. With the consent of both the sides, S.O. to 06.12.2022 for hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.02 OF 2022
(Shantilal D. Hiwarale Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri K.G. Salunke, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. With the consent of both the sides, S.O. to 06.12.2022 for hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.22 OF 2022
(Abaji B. Amrute Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. With the consent of both the sides, S.O. to 29.11.2022 for hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.88 OF 2022
(Ravi H. Kondar Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri Ajay T. Kanwade, learned Advocate for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondent authorities. Smt. Laxmi R.Thakur, learned Advocate for the respondent No.5, is **absent**.

2. At the request of the learned Advocate for the applicant, S.O. to 14.12.2022 for hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.100 OF 2022
(Rakesh A. Salunke Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

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

2. With the consent of both the sides, S.O. to 05.12.2022 for hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.104 OF 2022
(Bhagwan N. Ugalmugale Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri R.N. Bharaswadkar, learned Advocate holding for Smt. P.R. Bharaswadkar, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. At the request of the learned Advocate for the applicant, S.O. to 02.12.2022 for hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.108 OF 2022
(Sitaram K. Zodage Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri A.S. Khedkar, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. With the consent of both the sides, S.O. to 21.12.2022 for hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.181 OF 2022
(Sahebrao B. Chavhan Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. With the consent of both the sides, S.O. to 21.12.2022 for hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.252 OF 2022
(Dr. Sudhir V. Bhise Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri K.G. Salunke, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. With the consent of both the sides, S.O. to 08.12.2022 for hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.280 OF 2022
(Sharad U. Malshikare Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. Record shows that in spite of grant of opportunities, affidavit in reply is not filed on behalf of the respondents till today.

3. In view of above, list the matter for hearing S.O. to 22.12.2022.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.350 OF 2022
(Pralhad C. Shelke Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri K.G. Salunke, learned Advocate for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. With the consent of both the sides, S.O. to 08.12.2022 for hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.524 OF 2022
(Anil C. Kamble Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Shri S.R. Zambare, learned Advocate for the applicant (**absent**). Heard Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. In view of absence of learned Advocate for the applicant, S.O. to 07.12.2022 for hearing.

MEMBER (A)

MEMBER (J)

M.A.NO.308 OF 2021 IN O.A.NO.492 OF 2021
(Ganesh K.Chate & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. By consent of both the sides, S.O. to 06.12.2022 for hearing.

MEMBER (A)

MEMBER (J)

SAS ORAL ORDERS 15.11.2022

**M.A.NO.489/2022 IN M.A.NO.490/2022 IN
O.A.NO.951/2022
(Chetan A. Gangane Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2022

ORAL ORDER :

Heard Shri Y.V. Kakade, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. At the request of the learned Advocate for the applicant, S.O. to 16.11.2022.

MEMBER (A)

MEMBER (J)

SAS ORAL ORDERS 15.11.2022

ORIGINAL APPLICATION NO.760 OF 2017
(Jeetesh A. Jangale Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri Vinod P. Patil, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. With the consent of both the sides, S.O. to 13.12.2022 for final hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.832 OF 2017
(Ramkrishna K. Mhaske & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri R.P. Bhumkar, learned Advocate for the applicants and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. With the consent of both the sides, S.O. to 14.12.2022 for final hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.845 OF 2017
(Rambhau L. Kuskar Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. With the consent of both the sides, S.O. to 09.12.2022 for final hearing.

MEMBER (A)

MEMBER (J)

O.A.NOS.884 TO 895 ALL OF 2017
(Prabhakar D. Mali & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri G.M. Ghongade, learned Advocate holding for Shri S.G. Chapalgaonkar, learned Advocate for the applicants in all these O.As and Shri M.P. Gude, learned Presenting Officer for the respondent authorities in all these O.As.

Shri Vivek Deshmukh, learned Advocate for the respondent No.5 in O.A.No.884, 888, 892 & 893 all of 2017, Shri N.K. Tungar, learned Advocate for the respondent No.5 in O.A.No.886 & 895 both of 2017, Shri Abhijit More, learned Advocate for the respondent No.5 in O.A.o.887/2017 and Shri B.R. Sontakke Patil, learned Advocate for the respondent No.5 in O.A.No.892/2017, are **absent**.

2. By consent of learned Advocate for the applicants and learned P.O., S.O. to 21.12.2022 for final hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.899 OF 2017
(Dr. Vandana S. Shinde Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

None present on behalf of the applicant and on behalf of the respondent No.4.

Heard Shri M.S. Mahajan, Mahajan, learned Chief Presenting Officer for the respondent authorities.

2. At the request of the learned C.P.O., S.O. to 04.01.2023 for final hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.08 OF 2018
(Devendra S. Jade Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Smt. Prathibha Bharad, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. At the request of the learned Advocate for the applicant, S.O. to 16.12.2022 for final hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.205 OF 2018
(Santosh K. Trimanwar Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. With the consent of both the sides, S.O. to 06.12.2022 for final hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.406 OF 2018
(Arun S. Gosavi Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. With the consent of both the sides, S.O. to 06.12.2022 for final hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.517 OF 2018
(Pooja B. Pansare Vs. State of Maharashtra & Ors.)
WITH
ORIGINAL APPLICATION NO.47 OF 2019
(Suresh M. Jaybhaye Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri Sandeep Munde, learned Advocate for the applicants in both the O.As., Shri M.S. Mahajan, learned Chief Presenting Officer for the respondent authorities in both the O.As. and Shri A.S. Deshmukh, learned Advocate for the respondent Nos.4 to 7 in O.A.No.517/2018. Shri S.C. Arora, learned Advocate for the respondent No.4 in O.A.No.47/2019, is **absent**.

2. With the consent of all the sides, S.O. to 12.12.2022 for final hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.369 OF 2020
(Uttam G. Salve Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2022

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents.

2. With the consent of both the sides, S.O. to 19.12.2022 for final hearing.

MEMBER (A)

MEMBER (J)

**M.A.NO.99/2021 IN O.A.ST.NO.350/ 2021
(Mohammad Asgar Mohammad Moosa Vs. State of
Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
and
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2022

ORAL ORDER :

Heard Shri A.B. Rajkar, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. With the consent of both the sides, S.O. to 21.12.2022 for final hearing.

MEMBER (A)

MEMBER (J)

SAS ORAL ORDERS 15.11.2022

**M.A.NO.399 OF 2022 IN O.A.NO.596 OF 2022
(Kantabai B. Phad Vs. State of Maharashtra & Ors.)**

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

DATE : 15.11.2022

FURTHER ORDER :

Heard Shri Manoj U. Shelke, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. This Misc. Application seeking amendment in the Original Application was allowed by order dated 20.10.2022 and the applicant was directed to carry out amendment within the period of two weeks and to serve amended copy on the other side. However, the applicant failed to carry out amendment.

3. Today, when the matter is taken up, the learned Advocate for the applicant made application seeking extension of time to carry out the amendment in O.A. He submitted that immediately after the date of order, Diwali vacation started and therefore, he could not carry out amendment.

4. In such circumstances, in the interest of justice, the applicant is allowed to carry out amendment in O.A. within the period of three days. The applicant to serve the amended copy of the O.A. on the other side.

MEMBER (J)

**ORIGINAL APPLICATION NO.387 OF 2021
(Shankar B. Ghogare Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri Justice P.R. Bora
Vice Chairman**

DATE : 15.11.2022

ORAL ORDER :

Shri A.V. Thombre, learned Counsel for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondent authorities, are present.

2. Rejoinder is not filed till today. Hence, list the matter for hearing on 06.12.2022.

VICE CHAIRMAN

**ORIGINAL APPLICATION NO.728 OF 2021
(Shaikh Abdul Gafur Md. Sarwar Vs. State of Maharashtra
& Ors.)**

**CORAM : Hon'ble Shri Justice P.R. Bora
Vice Chairman**

DATE : 15.11.2022

ORAL ORDER :

Shri A.B. Rajkar, learned Counsel for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondent authorities, are present.

2. Learned Counsel for the applicant has sought time for filing affidavit in rejoinder. Time granted.

3. S.O. to 05.12.2022.

VICE CHAIRMAN

SAS ORAL ORDERS 15.11.2022

ORIGINAL APPLICATION NO.730 OF 2021
(Imronoddin E. Shaikh & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Justice P.R. Bora
Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri K.B. Jadhav, learned Counsel for the applicants and Shri S.K. Shirse, learned Presenting Officer for the respondent authorities, are present.

2. Learned Presenting Officer has sought time for filing affidavit in sur-rejoinder. Time granted.

3. S.O. to 05.12.2022.

VICE CHAIRMAN

SAS ORAL ORDERS 15.11.2022

**ORIGINAL APPLICATION NO.833 OF 2021
(Deepali Y. Patil Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri Justice P.R. Bora
Vice Chairman**

DATE : 15.11.2022

ORAL ORDER :

Shri D.B. Thoke, learned Counsel for the applicant (**absent**). Shri V.R. Bhumkar, learned Presenting Officer for the respondent authorities and Shri R.A. Joshi, learned Counsel for the respondent No.4, are present.

2. Learned Counsel for the respondent No.4 has sought time for filing affidavit in reply on behalf of respondent No.4. Time granted.

3. S.O. to 13.12.2022.

VICE CHAIRMAN

**ORIGINAL APPLICATION NO.263 OF 2022
(Bhaskar B. Hire Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri Justice P.R. Bora
Vice Chairman**

DATE : 15.11.2022

ORAL ORDER :

Shri A.D. Sugdare, learned Counsel for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondent authorities, are present.

2. Learned Counsel for the applicant has sought time for filing affidavit in rejoinder. Time granted.
3. S.O. to 13.12.2022.

VICE CHAIRMAN

ORIGINAL APPLICATION NO.399 OF 2022
(Tawshikar G. Gyanoba Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Justice P.R. Bora
Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri C.V. Thombre, learned Counsel for the applicant (**absent**). Shri M.P. Gude, learned Presenting Officer for the respondent authorities, is present.

2. Learned Presenting Officer for the respondents tendered across the bar affidavit in reply of respondent No.2. It is taken on record and undertook to supply copy of the same to other side.

3. S.O. to 13.12.2022.

VICE CHAIRMAN

ORIGINAL APPLICATION NO.587 OF 2022
(Kantilal S. Shahane Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Justice P.R. Bora
Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri A.P. Gunge, learned Counsel for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondent authorities, are present.

2. Learned Counsel for the applicant has sought time for filing affidavit in rejoinder. Time granted.
3. S.O. to 13.12.2022.

VICE CHAIRMAN

ORIGINAL APPLICATION NO.792 OF 2022
(Madhukar L. Pradhan Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Justice P.R. Bora
Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri O.D. Mane, learned Counsel for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondent authorities, are present.

2. Learned Presenting Officer for the respondents has sought time for filing affidavit in reply. Time granted.

3. S.O. to 08.12.2022.

VICE CHAIRMAN

**ORIGINAL APPLICATION NO.845 OF 2022
(Mayur M.Kakade Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri Justice P.R. Bora
Vice Chairman**

DATE : 15.11.2022

ORAL ORDER :

Shri S.D. Joshi, learned Counsel for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondent authorities, are present.

2. Await service.
3. S.O. to 14.12.2022.

VICE CHAIRMAN

SAS ORAL ORDERS 15.11.2022

**M.A.NO.306/2020 IN O.A.ST.NO.1336 OF 2020
(Sanjeev R. Kadam Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri Justice P.R. Bora
Vice Chairman**

DATE : 15.11.2022

ORAL ORDER :

Shri J.B. Choudhary, learned Counsel for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondent authorities, are present.

2. Rejoinder is not filed till today. Hence, list the matter for hearing on 08.12.2022.

VICE CHAIRMAN

SAS ORAL ORDERS 15.11.2022

**M.A.NO.196/2021 IN M.A.ST.NO.780 OF 2021 IN
O.A.No.198/2020
(Harishchandra B. Bhujbal Vs. State of Maharashtra &
Ors.)**

**CORAM : Hon'ble Shri Justice P.R. Bora
Vice Chairman**

DATE : 15.11.2022

ORAL ORDER :

Shri Walmik S. Jadhav, learned Counsel for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondent authorities, are present.

2. Learned Presenting Officer has sought time for filing affidavit in reply. Time granted as one more last chance.

3. S.O. to 08.12.2022.

VICE CHAIRMAN

SAS ORAL ORDERS 15.11.2022

**M.A.NO.156/2022 IN O.A.ST.NO.621 OF 2021
(Bhimrao S. Bilappatte Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri Justice P.R. Bora
Vice Chairman**

DATE : 15.11.2022

ORAL ORDER :

Shri M.L. Muthal, learned Counsel for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondent authorities, are present.

2. Reply is not filed till today. Hence, list the matter for hearing on 25.11.2022.

VICE CHAIRMAN

SAS ORAL ORDERS 15.11.2022

**M.A.NO.164/2022 IN O.A.ST.NO.2280 OF 2019
(Govardhan H. Chavan Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri Justice P.R. Bora
Vice Chairman**

DATE : 15.11.2022

ORAL ORDER :

Shri P.B. Patil, learned Counsel for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondent authorities, are present.

2. Learned Presenting Officer has sought time for filing affidavit in reply on behalf of respondent Nos.1 to 4. Time granted.

3. S.O. to 14.12.2022.

VICE CHAIRMAN

SAS ORAL ORDERS 15.11.2022

**M.A.NO.208/2022 IN O.A.ST.NO.794 OF 2021
(Vishwash R. Nimbalkar Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri Justice P.R. Bora
Vice Chairman**

DATE : 15.11.2022

ORAL ORDER :

Shri A.V. Sakolkar, learned Counsel for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondent authorities, are present.

2. Await service of notice on respondent No.3.

3. Learned Presenting Officer has sought time for filing affidavit in reply on behalf of respondent Nos.1 to 2. Time granted.

3. S.O. to 14.12.2022.

VICE CHAIRMAN

SAS ORAL ORDERS 15.11.2022

ORIGINAL APPLICATION NO.996/2022
(Jyoti Shete Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman

DATE : 15-11-2022

ORAL ORDER :

Shri S.D.Joshi, learned Counsel for the applicant and Shri S.K.Shirse, learned Presenting Officer for the respondent authorities, are present.

2. Issue notice to the respondents, returnable on 21-12-2022.

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

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

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

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

7. S.O. to 21-12-2022.

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

VICE CHAIRMAN

**ORIGINAL APPLICATION NO.404/2022
(Manesh Nagargoje Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman**

DATE : 15-11-2022

ORAL ORDER :

Shri K.G.Salunke, learned Counsel for the applicant and Smt. Deepali Deshpande, learned Presenting Officer for the respondent authorities, are present.

2. S.O. to 29-11-2022.

VICE CHAIRMAN

YUK ORAL ORDER 15.11.2022

**ORIGINAL APPLICATION NO.330/2019 & 331/2019
(Tukaram Khedkar & Laxman Bade Vs. State of
Maharashtra & Ors.)**

**CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman**

DATE : 15-11-2022

ORAL ORDER :

Shri P.H.Sukale, learned Counsel for the applicants is **absent**. Shri V.R.Bhumkar & Shri I.S.Thorat, learned Presenting Officers for the respondent authorities, are present.

2. On previous date i.e. on 10-10-2022 following order was passed:

“2. As none present for the applicant, S.O. to 15.11.2022 for passing necessary order.”

3. On the dates previous to that i.e. on 14-09-2022, 11-08-2022, 13-07-2022, 15-06-2022 and 25-04-2022 neither applicant nor the Counsel for the applicant had attended the present matters. Today also none is present before the Tribunal when the matter is called out. Continuous absence of applicant and his Counsel reasonably leads to the inference that the applicants have lost interest in prosecuting these matters. Hence, the following order:

ORDER

Both the O.As. stand dismissed for want of prosecution.

VICE CHAIRMAN

**ORIGINAL APPLICATION NO.14/2020
(Gokulgir Gosavi Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman**

DATE : 15-11-2022

ORAL ORDER :

Shri A.T.Kanawade, learned Counsel holding
for Shri S.R.Sapkal, learned Counsel for the
applicant and Shri M.P.Gude, learned Presenting
Officer for the respondent authorities, are present.

2. S.O. to 07-12-2022.

VICE CHAIRMAN

YUK ORAL ORDER 15.11.2022

**ORIGINAL APPLICATION NO.349/2020
(Prakash Raut Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman**

DATE : 15-11-2022

ORAL ORDER :

Ku. Preeti Wankhade, learned Counsel for the applicant has filed **leave note** on record. Shri S.K.Shirse, learned Presenting Officer for the respondent authorities is present.

2. In view of leave note of learned Counsel for the applicant, S.O. to 08-12-2022.

VICE CHAIRMAN

YUK ORAL ORDER 15.11.2022

**ORIGINAL APPLICATION NO.453/2020
(Bhatu Mahale Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman**

DATE : 15-11-2022

ORAL ORDER :

Shri Vinod P. Patil, learned Counsel for the applicant and Shri M.P.Gude, learned Presenting Officer for the respondent authorities, are present.

2. S.O. to 12-12-2022.

VICE CHAIRMAN

YUK ORAL ORDER 15.11.2022

ORIGINAL APPLICATION NO.476/2020
(Laxmikant Deshpande Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman

DATE : 15-11-2022

ORAL ORDER :

Shri R.N.Bharaswadkar, learned Counsel for the applicant and Smt. M.S.Patni, learned Presenting Officer for the respondent authorities, are present.

2. On request of learned Counsel for the applicant, S.O. tomorrow i.e. 16-11-2022.

VICE CHAIRMAN

YUK ORAL ORDER 15.11.2022

**ORIGINAL APPLICATION NO.486/2020
(Jitendra Raut Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman**

DATE : 15-11-2022

ORAL ORDER :

Smt. M.A.Kulkarni, learned Counsel for the applicant is **absent**. Smt. Sanjivani Ghate, learned Presenting Officer for the respondent authorities is present.

2. When the matter is taken up for hearing, neither applicant nor his Counsel is present. On previous date i.e. on 10-10-2022 none was present for the applicant. Prior to that i.e. on 21-09-2022 also applicant and his Counsel were absent.

3. Record also shows that on 19-07-2022, 28-06-2022, 13-06-2022, 13-04-2022, 17-03-2022 and 03-02-2022 i.e. after notices are issued applicant did not appear before the Tribunal nor his Counsel caused appearance. It appears that the applicant has lost interest in prosecuting the O.A. further. Hence, the following order:

ORDER

O.A. is dismissed for want of prosecution.

VICE CHAIRMAN

**ORIGINAL APPLICATION NO.147/2021
(Ratnaprabha Hingade Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman**

DATE : 15-11-2022

ORAL ORDER :

Shri P.B.Rakhunde, learned Counsel for the applicant is **absent**. Shri M.S.Mahajan, learned Chief Presenting Officer for the respondent authorities is present.

2. None appears for the applicant.

3. S.O. to 09-12-2022.

VICE CHAIRMAN

YUK ORAL ORDER 15.11.2022

**ORIGINAL APPLICATION NO. 682 OF 2022
(Bhimrao N. Doiphode Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri S.R. Shirsath, learned counsel for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondent authorities, are present.

2. Learned Chief Presenting Officer has sought time to file affidavit in reply. Learned counsel for the applicant submits that two opportunities are already availed by the respondents. In the interest of justice, time granted for filing affidavit in reply.

3. S.O. to 13.12.2022.

VICE CHAIRMAN

ORAL ORDERS 15.11.2022-HDD

**ORIGINAL APPLICATION NO. 407 OF 2019
(Sadhana U. Borse Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri Amruta Paranjape Menezes, learned counsel for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondent authorities, are present.

Shri H.P. Deshmukh, learned counsel for respondent No. 4 (**absent**).

2. Though the time has again been sought for filing affidavit in reply it cannot be granted in view of earlier orders passed. List the matter for hearing on 8.12.2022.

VICE CHAIRMAN

ORAL ORDERS 15.11.2022-HDD

**ORIGINAL APPLICATION NO. 231 OF 2022
(Bharat L. Rudrawar Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri R.P. Bhumkar, learned counsel for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondent authorities, are present.

2. Learned counsel for the applicant submits that the applicant is not intending to file any rejoinder affidavit. List the matter for hearing on 8.12.2022.

VICE CHAIRMAN

ORAL ORDERS 15.11.2022-HDD

**ORIGINAL APPLICATION NO. 704 OF 2022
(Prakash S. Aghav Patil Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri Saket Joshi, learned counsel for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondent authorities, are present.

2. Learned Presenting Officer has sought time for filing affidavit in reply. Time granted by way of last chance.

3. S.O. to 13.12.2022.

VICE CHAIRMAN

ORAL ORDERS 15.11.2022-HDD

ORIGINAL APPLICATION NO. 708 OF 2022
(Sayyed Abeda Begum Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Heard Shri Angad L. Kanade, learned counsel for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondent authorities.

2. Learned counsel for the applicant today has tendered the documents pertaining to pension being received to the applicant and the same are taken on record. The copies of the said documents are provided to the learned Presenting Officer.

3. Issue notices to the respondents, returnable on 21.12.2022.

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

5. 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.

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 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.

8. S.O. to 21.12.2022.

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

VICE CHAIRMAN

ORIGINAL APPLICATION NO. 513 OF 2022
(Vikram S. Vairale Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Heard Shri Akshay Kulkarni, learned counsel for the applicant and Mrs. Deepali S. Deshpande, learned Presenting Officer for the respondent authorities.

2. Issue notices to the respondents, returnable on 21.12.2022.

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

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

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

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

7. S.O. to 21.12.2022.

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

VICE CHAIRMAN

ORIGINAL APPLICATION NO. 484 OF 2022
(Jayendra Parmal Ahire Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri S.U. Chaudhari, learned counsel for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondent authorities, are present.

2. Learned Presenting Officer has tendered across the bar communication received to the office of Chief Presenting Officer from the Resident Deputy Collector, Nandurbar, thereby informing that one Shri Jaysing Gunjarya Pawara has been appointed as Assistant Talathi in the Sub-Division Office at Nandurbar. The communication is taken on record. The copy of the same is given to the other side.

3. Learned counsel appearing for the applicant submits that in view of the development as is noticed he may be required to amend the present Original Application. He has, therefore, sought time. Granted.

4. S.O. to 28.11.2022.

VICE CHAIRMAN

ORIGINAL APPLICATION NO. 89 OF 2018
(Sayeda Khalida wd/o. Md. Naeem Vs. State of Maha. &
Ors.)

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri Saket Joshi, learned counsel holding for Shri Avinash S. Deshmukh, learned counsel for the applicant, Shri V.R. Bhumkar, learned Presenting Officer for the respondent authorities and Shri S.R. Pande, learned counsel for respondent No. 3, are present.

2. By consent of both the parties, S.O. to 23.11.2022.

VICE CHAIRMAN

ORAL ORDERS 15.11.2022-HDD

ORIGINAL APPLICATION NO. 200 OF 2018
(Dinkar G. Shahane Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri S.D. Joshi, learned counsel for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondent authorities, are present.

2. S.O. to 24.11.2022.

VICE CHAIRMAN

ORAL ORDERS 15.11.2022-HDD

**ORIGINAL APPLICATION NO. 626 OF 2018
(Dilip Shankar Pawar Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri S.N. Suryawanshi, learned counsel for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondent authorities, are present.

2. At the request of learned counsel for the applicant, S.O. to 8.12.2022.

VICE CHAIRMAN

ORAL ORDERS 15.11.2022-HDD

**ORIGINAL APPLICATION NO. 862 OF 2018
(Kiran Santosh Pawar Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri Suresh D. Dhongde, learned counsel for the applicant (**absent**). Shri I.S. Thorat, learned Presenting Officer for the respondent authorities, is present.

2. S.O. to 8.12.2022.

VICE CHAIRMAN

ORAL ORDERS 15.11.2022-HDD

ORIGINAL APPLICATION NO. 451 OF 2019
(Suryakant R. Biradar Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri Shamsunder B. Patil, learned counsel for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondent authorities, are present.

2. S.O. to 30.11.2022 for further consideration.

VICE CHAIRMAN

ORAL ORDERS 15.11.2022-HDD

**ORIGINAL APPLICATION NO. 374 OF 2021
(Pradeep Kishanrao Puri Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri Saket Joshi, learned counsel holding for Shri Avinash S. Deshmukh, learned counsel for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondent authorities, are present.

2. S.O. to 5.12.2022.

VICE CHAIRMAN

ORAL ORDERS 15.11.2022-HDD

ORIGINAL APPLICATION NO. 103 OF 2019
(Balkrishna R. Chhallare Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri S.N. Suryawanshi, learned counsel for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondent authorities, are present.

2. At the request of learned counsel for the applicant, S.O. to 8.12.2022.

VICE CHAIRMAN

ORAL ORDERS 15.11.2022-HDD

ORIGINAL APPLICATION NO. 129 OF 2019
(Tejrao B. Gadekar Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri J.N. Patil, learned counsel for the applicant, Smt. Sanjivani Deshmukh-Ghate, learned Presenting Officer for the respondent authorities and Smt. Vaishali S. Chaudhari, learned counsel for respondent Nos. 3 & 4, are present.

2. S.O. to 5.1.2023.

VICE CHAIRMAN

ORAL ORDERS 15.11.2022-HDD

ORIGINAL APPLICATION NO. 253 OF 2019
(Laxmikant M. Bhoskar Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri R.N. Bharaswadkar, learned counsel for the applicant and Mrs. Deepali S. Deshpande, learned Presenting Officer for the respondent authorities, are present.

2. S.O. to 2.12.2022.

VICE CHAIRMAN

ORAL ORDERS 15.11.2022-HDD

ORIGINAL APPLICATION NO. 361 OF 2019
(Jijabai J. Sonwane & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri A.D. Gadekar, learned counsel for the applicants and Shri S.K. Shirse, learned Presenting Officer for the respondent authorities, are present.

2. S.O. to 14.12.2022.

VICE CHAIRMAN

ORAL ORDERS 15.11.2022-HDD

**ORIGINAL APPLICATION NO. 1080 OF 2019
(Ravindra S. Patil Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri A.D. Sugdare, learned counsel for the applicant, Shri D.R. Patil, learned Presenting Officer for the respondent authorities and Smt. Sunita D. Shelke, learned counsel for respondent Nos. 2 & 3, are present.

2. S.O. to 1.12.2022.

VICE CHAIRMAN

ORAL ORDERS 15.11.2022-HDD

**ORIGINAL APPLICATION NO. 211 OF 2020
(Nilesh B. Dighe Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri M.S. Taur, learned counsel for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondent authorities, are present.

2. S.O. to 7.12.2022.

VICE CHAIRMAN

ORAL ORDERS 15.11.2022-HDD

**ORIGINAL APPLICATION NO. 439 OF 2020
(Bhimrao B. Bangar Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri Milind K. Deshpande, learned counsel for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondent authorities, are present.

2. S.O. to 8.12.2022.

VICE CHAIRMAN

ORAL ORDERS 15.11.2022-HDD

**ORIGINAL APPLICATION NO. 507 OF 2020
(Anil S. Burkul Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri S.D. Dhongde, learned counsel for the applicant (**absent**). Smt. M.S. Patni, learned Presenting Officer for the respondent authorities, is present.

2. S.O. to 8.12.2022.

VICE CHAIRMAN

ORAL ORDERS 15.11.2022-HDD

**ORIGINAL APPLICATION NO. 509 OF 2020
(Dr. Nomani Muhammed Mufti Tahir Vs. State of
Maharashtra & Ors.)**

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri C.V. Dharurkar, learned counsel for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondent authorities, are present.

2. S.O. to 8.12.2022.

VICE CHAIRMAN

ORAL ORDERS 15.11.2022-HDD

ORIGINAL APPLICATION NO. 197 OF 2020
(Vijay R. Suryawanshi Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri Saket Joshi, learned counsel holding for Shri Avinash Deshmukh, learned counsel for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondent authorities, are present.

2. S.O. to 02.12.2022 for final hearing.

VICE CHAIRMAN

ORAL ORDERS 15.11.2022-HDD

ORIGINAL APPLICATION NO. 542 OF 2020
(Rajaram S. Shendge Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri Saket Joshi, learned counsel holding for Shri Avinash Deshmukh, learned counsel for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondent authorities, are present.

2. S.O. to 02.12.2022 for final hearing.

VICE CHAIRMAN

ORAL ORDERS 15.11.2022-HDD

**ORIGINAL APPLICATION NO. 66 OF 2021
(Gajendra T. Patil Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri S.R. Patil, learned counsel for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondent authorities, are present.

2. S.O. to 05.01.2023 for final hearing.

VICE CHAIRMAN

ORAL ORDERS 15.11.2022-HDD

**M.A. No. 94/2021 in O.A. NO. 1060/2019
(Devidas D. Patil Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri S.V. Suryawanshi, learned counsel for the applicant in M.A. / respondent No. 8 in O.A. and Shri D.B. Thoke, learned counsel for respondent No. 1 in present M.A. / applicant in O.A., are **absent**. Shri V.R. Bhumkar, learned Presenting Officer for the respondent authorities, is present.

2. S.O. to 02.12.2022 for final hearing.

VICE CHAIRMAN

ORAL ORDERS 15.11.2022-HDD

**ORIGINAL APPLICATION NO. 384 OF 2021
(Shripatrao B. Gaikwad Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri V.B. Wagh, learned counsel for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondent authorities, are present.

2. S.O. to 08.12.2022 for final hearing.

VICE CHAIRMAN

ORAL ORDERS 15.11.2022-HDD

**ORIGINAL APPLICATION NO. 591 OF 2021
(Vaishnavi S. Landage Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri S.B. Choudhari, learned counsel for the applicant (**Absent**). Smt. M.S. Patni, learned Presenting Officer for the respondent authorities, is present.

2. S.O. to 13.12.2022 for final hearing.

VICE CHAIRMAN

ORAL ORDERS 15.11.2022-HDD

**ORIGINAL APPLICATION NO. 99 OF 2022
(Rohit C. Mote Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Shri K.B. Jadhav, learned counsel for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondent authorities, are present.

2. S.O. to 28.11.2022 for final hearing.

VICE CHAIRMAN

ORAL ORDERS 15.11.2022-HDD

**M.A. No. 254/2022 in O.A. St. No. 626/2022
(Dr. Megha D. Deshmukh Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Smt. Priya R. Bharaswadkar, learned counsel for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondent authorities, are present.

2. At the request of learned counsel for the applicant, issue fresh notices to the respondents in M.A., returnable on 12.12.2022.

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

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

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

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

7. S.O. to 12.12.2022.

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

VICE CHAIRMAN

CHAMBER APPEAL NO. 22 OF 2022
(Jagganath S. Patil V/s. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora,
Vice Chairman

DATE : 16.11.2022

ORAL ORDER :

Heard Shri Santosh Bhosale, learned counsel for the applicant.

2. Vide order dated 04.07.2022 the Registrar of this Tribunal was pleased to refuse the registration of M.A. St. No. 820/2022 In O.A No. 539/2021 under Rule 5 (4) of Maharashtra Administrative Tribunal (Procedural) Rules, 1988. On 12.05.2022 the office has raised the following office objections in M.A.:-

- 1) Page Nos. 23, 27, 29, 31, 33, 35, 37, 39, 118, 119, 120 & 140 are not legible; and
- 2) Verification not signed by Advocate.

3. Vide office note dated 29.06.2022 Registrar of this Tribunal at Aurangabad Bench noted that nobody appeared for the applicant and office objections not removed.

4. The applicant has made prayer for condonation of delay of about 86 days caused in filing Chamber Appeal No. 22/2022.

5. The learned Advocate for the applicant appeared today. He undertakes to remove the office objections within a reasonable period.

:: - 2 - :: CHAMBER APPEAL NO. 22 OF 2022

6. Technically, the Registrar was right in refusing the registration of M.A. St. No. 820/2022 In O.A. No. 539/2021 for amendment since nobody appeared for the applicant in view of the objections in spite of repeated chances. The fact that the M.A. is filed by the applicant seeking leave to amend the O.A. and in order to give an opportunity to the applicant to prove his claim on merits, it will be in the interest of justice to allow the appeal by condoning delay of about 86 days caused in filing this Chamber Appeal as the applicant shall not suffer for the negligence of his Advocate. Hence, the following order:-

ORDER

- (i) Delay caused in filing Chamber Appeal stands condoned. Consequently, the Chamber Appeal No. 22/2022 is allowed as the applicant undertakes to remove the office objections within a reasonable period.
- (ii) Registrar of this Tribunal Bench at Aurangabad is directed to register the M.A. after removing the office objections by the learned Advocate for the applicant and place the same before the appropriate bench for hearing.

VICE CHAIRMAN

**ORIGINAL APPLICATION NO. 340 OF 2022
(Nandkishor Sitaram Chitlange Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora,
Vice Chairman**

DATE : 15.11.2022

ORAL ORDER :

Heard Shri M.R. Kulkarni, learned counsel for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondent authorities.

2. It is the grievance of the applicant that he has not been granted the leave encashment, as well as, amount of gratuity though he has retired from the Government service on attaining the age of superannuation on 30.9.2016.

3. The claim of the applicant has been opposed by the respondents on the ground that the applicant got retired while under suspension and further that the departmental enquiry proceedings, as well as, criminal prosecution are pending against him. The provisions under Maharashtra Civil Services (Leave) Rules, 1981 and more particularly rule 22 r/w rule 67 are taken support of insofar as refusal of encashment of the earned leave is concerned. Insofar as the refusal for grant of gratuity amount is

concerned, the respondents are relying upon the Maharashtra Civil Services (Pension) Rules, 1982 and more particularly rule 130 (1) (c). Reference has also been made to rule 27 of the Pension Rules 1982. I would like to quote all relevant rules, which are taken support of by the respondents, as well as, by the applicant.

Maharashtra Civil Services (Leave) Rules, 1981

“22. Leave at credit to cease on removal or resignation.- (1) Except as provided in Rule 67 and this rule, any claim to leave to the credit of a Government servant, who is dismissed or removed or who resigns from Government service, ceases from the date of such dismissal or removal or resignation, as the case may be.

(2) Where a Government servant applies for another post under the government but outside his parent office or department and if such application is forwarded through proper channel and the applicant is required to resign his post before taking up the new one, such resignation shall not be a resignation of public service provided that there is no physical break or if there be any, it does not exceed the joining time admissible under the rule, and shall not result in the lapse of the leave to his credit.

(3) A Government servant, who is dismissed or removed from service but is reinstated on

appeal or revision, shall be entitled to count for leave his service prior to dismissal or removal, as the case may be.

(4) A Government servant, who having retired on compensation, or invalid pension or gratuity is re-employed and allowed to count his past service for pension, shall be entitled to count his former service towards leave.

67. Leave beyond the date of compulsory retirement or quitting of service.- (1) Except as provided hereinafter, no leave shall be granted to a Government servant beyond-

- (a) the date of his compulsory retirement; or
- (b) the date of his final cessation of duties;
- or
- (c) the date of his resignation from service.

(2) Where the service of a Government servant has been extended in the interest of public service beyond the date of his compulsory retirement, he may be granted earned leave, subject to maximum of [300 days].

(3) Where the service of a Government servant, not in permanent employee is terminated by notice or by payment of pay and allowances in lieu of notice, or otherwise in accordance with the terms and conditions of his appointment, he may be granted earned leave to his credit, subject to a maximum of (150) days, even though such leave extends beyond the date on which he ceases to be in service. If the Government servant himself resigns or

quits service, he may be granted earned leave to the extent of half of such leave to his credit subject to a maximum (150 days).

Provided that the leave so granted to such Government servant, other than a Government servant re-employed after attaining the age of compulsory retirement does not extend beyond the date on which he attains the age of compulsory retirement.”

Maharashtra Civil Services (Pension) Rules, 1982

130. Provisional pension where departmental or judicial proceedings may be pending.-

(c) No gratuity shall be paid to the Government servant until the conclusion of the departmental or judicial proceedings and issue of final orders thereon.

[Provided that where departmental proceedings have been instituted under Rule 10 of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979, for imposing any of the minor penalties specified in sub-clauses (i), (ii) and (iv) of clause (1) of Rule 5 of the said rules, the payment of gratuity shall be authorized to be paid to the Government servant.]

27. Right of Government to withhold or withdraw pension.- (1)

Government may, by order in writing, withhold or withdraw a pension or any part of it, whether permanently or for a specified period, and also order the recovery from such pension, the whole or part of any pecuniary loss caused to Government, if, in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of his service including service rendered upon re-employment after retirement:

Provided that the Maharashtra Public Service Commission shall be consulted before any final orders are passed in respect of officers holding posts within their purview :

Provided further that where a part of pension is withheld or withdrawn, the amount of remaining pension shall not be reduced below the minimum fixed by Government.

(2) (a) The Departmental proceedings referred to in sub-rule (1), if instituted while the Government servant was in service whether before his retirement or during his re-employment, shall, after the final retirement of the Government servant, be deemed to be proceedings

under this rule and shall be continued and concluded by the authority by which they were commenced in the same manner as if the Government servant had continued in service.

(b) The Departmental proceedings, if not instituted while the Government servant was in service, whether before his retirement or during his re-employment.-

- (i) shall not be instituted save with the sanction of the Government,
- (ii) shall not be in respect of any event which took place more than four years before such institution, and
- (iii) shall be conducted by such authority and at such place as the Government may direct and in accordance with the procedure applicable to the departmental proceedings in which an order of dismissal from service could be made in relation to the Government servant during his service.

(3) No judicial proceedings, if not instituted while the Government servant was in service, whether before his retirement or during his re-employment, shall be instituted in respect of a cause of action which arose or in respect of an

event which took place, more than four years before such institution.

(4) In the case of a Government servant who has retired on attaining the age of superannuation or otherwise and against whom any departmental or judicial proceedings are instituted or where departmental proceedings are continued under sub-rule (2), a provisional pension as provided in Rule 130 shall be sanctioned.

(5) Where Government decides not to withhold or withdraw pension but orders recovery of pecuniary loss from pension, the recovery shall not, subject to the provision of sub-rule (1) of this rule, ordinarily be made at a rate exceeding one-third of the pension admissible on the date of retirement of a Government servant.

(6) For the purposes of this rule, -

- (a) departmental proceedings shall be deemed to be instituted on the date on which the statement of charges is issued to the Government servant or pensioner, or if the Government servant has been placed under suspension from an earlier date, on such date; and
- (b) judicial proceedings shall be deemed to be instituted-

- (i) in the case of criminal proceedings, on the date on which the complaint or report of a police officer of which the Magistrate takes cognizance is made, and
- (ii) in the case of civil proceedings, on the date of presenting the plaint in the Court.”

4. First I will consider the claim of the applicant for the amount of gratuity. The respondents have not released the amount of gratuity payable to the applicant on the ground that the departmental, as well as, judicial proceedings are pending against the applicant. It is not in dispute that on 14.8.2016 FIR was lodged against the applicant for the offences punishable under sections 7, 13 (1)(d) and 13 (2) of the Prevention of Corruption Act. The applicant was arrested on 13.8.2016 and was released on bail on 16.8.2016. He thus, remained in custody of the Police for more than 48 hours. It is further not in dispute that the applicant was suspended vide order dated 30.9.2016 retrospectively w.e.f. 13.8.2016 i.e. from the date of his arrest. There is further no dispute that on attaining the age of superannuation

the applicant got retired from the Government services on 30.9.2016.

5. Now it has to be ascertained whether on the date of his retirement any departmental proceeding can be said to be pending against the applicant and whether the respondents have brought on record any such evidence showing that the departmental proceeding was pending against the applicant on the date of his retirement. It is not the case of the respondents that the statement of charge has been issued to the applicant before the date of his retirement. Rule 27(2)(b) provides that the departmental proceedings, if not instituted while the Government servant was in service; (i) shall not be instituted save with the sanction of the appointing authority; (ii) shall not be in respect of any event which took place more than four years before such institution.

6. As has been argued by the learned Presenting Officer the departmental proceedings shall be deemed to be instituted against the applicant on the date on which he was placed

under suspension i.e. on 13.8.2016 as provided under Rule 27 (6) (a) of the M.C.S. (Pension) Rules. The submission so made is wholly unacceptable. The provision under Rule 27 (6) cannot be interpreted to mean that once the Government servant is suspended, there is no limitation for service of the statement of charge upon him or for conducting the departmental enquiry against him. In the present matter the suspension of the applicant is admittedly not on the ground that the departmental enquiry was contemplated against him. It is evident that since the applicant remained in Police custody for more than 48 hours the deeming provision was invoked and formal order of his suspension retrospectively from the date of his arrest was passed. Secondly, till this date the respondents have not served upon the applicant any statement of charge and have not initiated any departmental enquiry against him. The period of more than six years has lapsed after the retirement of the applicant. In the

circumstances, it is evident that now it may not be permissible to serve any memorandum of charge or to conduct an enquiry in view of the specific provision under Rule 27(2)(b)(ii). Thus, the amount of gratuity payable to the applicant cannot be withheld on the ground that the departmental proceedings are pending against him.

7. Now it has to be seen whether judicial proceedings can be said to be pending against the applicant on the date of his retirement. The applicant has specifically pleaded that the charge-sheet in case of Prevention of Corruption Act, wherein he was arrested, has been filed in the month of July, 2017 i.e. after his retirement. It is the contention of the learned Presenting Officer that since FIR was filed on 14.8.2016 i.e. before retirement of the applicant, the criminal prosecution is to be held pending against the applicant on the date of his retirement.

8. Learned counsel for the applicant has relied upon the judgment delivered by the Principal Seat of this Tribunal at Mumbai in O.A. Nos. 401/2018 (Shri Rajesham Laxmpathi Boga Vs. State of Maharashtra & Ors.). In the said judgment this Tribunal has recorded an unambiguous finding that mere filing of FIR if no charge-sheet is filed before the retirement of the Government employee cannot be a ground to withhold gratuity as provided under rule 130 (1) (c) of the pension Rules, 1982. Thus, the respondents cannot withhold the amount of gratuity payable to the applicant on the ground that the judicial proceeding is pending against the applicant.

9. Next issue, which falls for consideration is whether the respondents can withhold the benefit of leave encashment. While denying the said benefit the respondents have relied upon the provisions under sub-rule 6 (A) of Rule 68 of the Maharashtra Civil Services (Leave) Rules, 1981. The said rule reads thus:

“6(A): The authority competent to grant leave may withhold whole or part of cash equivalent of earned leave in case of a Government servant who retires from service on attaining the age of .; 5 retirement while under suspension or while disciplinary or criminal proceedings are pending against him, if in the view of such authority there is a possibility of some money becoming recoverable from him on conclusion of the proceedings against him. On conclusion of the proceedings, he shall become eligible to the amount so withheld after adjustment of Government dues, if any.”

10. Rule 68 (5) of the said Rules also relevant which reads thus:

"68(5): Subject to the provision of sub-rule (6), a Government servant who retires from service on attaining the age of compulsory retirement while under suspension shall be paid cash equivalent of leave salary under sub-rule (1) above in respect of the period of earned leave at his credit on the date of his superannuation, provided that in the opinion of the authority competent to order reinstatement, the Government servant has been fully exonerated and the suspension was wholly unjustified."

(emphasis supplied)

11. The question is whether the pendency of the prosecution is *per se* and *ipso facto* sufficient ground to withhold the encashment dues of the applicant. The criminal prosecution pending against the applicant is for the offences under the Prevention of Corruption Act. As has been observed by this Tribunal in the order passed in O.A. No. 517/2016 decided on 21.09.2016 even if the applicant is convicted and sentenced it would be a conviction and sentence for an offence which is entirely personal and that by itself would entail no payment to the Government in the sense these sub-rules envisage. In the circumstances, even this cannot be a ground for withholding the benefit of leave encashment in favour of the applicant.

12. During the course of the arguments the learned P.O. had referred to the judgment delivered by this tribunal in O.A. No. 346/2021 and had submitted that if the Tribunal reaches to the conclusion that the aforesaid amounts cannot be withheld and direct the respondents

to release the said amounts in favour of the applicant, the applicant may be required to furnish requisite undertaking to the effect that if required he would refund the amounts of pensionary benefits paid to him within the period of two months, in case he is held guilty in the criminal proceedings pending against him. Learned counsel appearing for the applicant concedes for imposing such condition on the applicant.

13. For the reasons stated above order dated 8.2.2022 issued by respondent no. 3 cannot be sustained and deserves to be set aside. Further the applicant is held entitled to receive the amount of gratuity, as well as, leave encashment. Hence the following order :-

ORDER

- (i) The impugned communication/order dated 8.2.2022 passed by respondent no. 3 is quashed and set aside.
- (ii) The applicant is held entitled to receive the amount of gratuity, as well as, leave

encashment. The said amount be released in favour of the applicant within the period of 3 weeks from the date of this order. The respondents are directed to release the said amount in favour of the applicant upon furnishing the requisite undertaking by the applicant that if required he would refund the amount so received to him within the period of 2 months in case he is held guilty in the criminal proceeding pending against him.

(iii) Having regard to the observations made in the body of the order the respondents shall consider the request of the applicant for release of other retiral benefits also in accordance with law and complete the process of pension expeditiously.

(iv) The Original Application stands disposed of in above terms. No order as to costs.

VICE CHAIRMAN

**ORIGINAL APPLICATION NO. 657 OF 2022
(Laxman Hunnu Rathod Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Shri P.R. Bora, Vice Chairman

DATE : 15.11.2022

ORAL ORDER :

Heard Shri Vinod Godbharle, learned counsel for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondent authorities.

2. It is the grievance of the applicant that the leave encashment earlier granted in his favour has been illegally withdrawn subsequently by the then In-charge Officer. The applicant was working as Police Inspector in the Police services and retired from the said services on attaining the age of superannuation on 31.5.2015. While in service the applicant was placed under suspension vide order passed on 19/21.8.2012 and suspension was not revoked till the date of his superannuation meaning thereby that he retired from the Government service on attaining the age of superannuation while under suspension. The then Superintendent of Police, Latur vide order passed on 18.9.2015 held the applicant entitled for leave encashment and accordingly passed the orders. The said order was revoked on 24.11.2015 by the then In-charge

Superintendent of Police, Latur. Perusal of the said order reveals that the earlier order was cancelled by relying upon the provision under Rule 68 (5) of the Maharashtra Civil Services (Leave) Rules, 1988. Learned counsel appearing for the applicant has assailed the impugned order stating that without understanding the import of sub-clause 5 of rule 68, the said order has been passed. Learned counsel further submitted that from the contention raised in the affidavit in reply there is reason to believe that while passing the impugned order the erstwhile rules were before the concerned officer and on the basis of the said rules the impugned order has been passed. Learned counsel pointed out that the rules are amended in the year 2006 and invited my attention to the amended rules. He referred to said both sub-rule 5, as well as, sub-rule 6 of the Leave Rules of 1981. I deem it appropriate to reproduce Sub-rules 5 & 6 of Rule 68, which read thus,

“68. Cash equivalent of leave salary in respect of earned leave at the credit at the time of retirement on superannuation.-

(5) Subject to the provision of sub-rule (6), a Government servant who retires from

service on attaining the age of compulsory retirement while under suspension shall be paid cash equivalent of leave salary under sub-rule (1) above in respect of the period of earned leave at his credit on the date of his superannuation, provided that in the opinion of the authority competent to order reinstatement, the Government servant has been fully exonerated and the suspension was wholly unjustified.

(6)(a) The authority competent to grant leave may withhold whole or part of cash equivalent of earned leave in the case of a Government servant who retires from service on attaining the age of retirement while under suspension or while disciplinary or criminal proceedings are pending against him, if in the view of such authority there is a possibility of some money becoming recoverable from him on conclusion of the proceedings against him. On conclusion of the proceedings, he shall become eligible to the amount so withheld after adjustment of Government dues, if any.

(b) Where a Government servant is compulsorily retired as a measure of punishment under the provisions of the Maharashtra Civil Services [Discipline and Appeal] Rules, 1979, the authority competent to grant leave shall issue an order granting cash equivalent of leave salary for earned leave, if any, at credit of the Government servant on the date of

such retirement, subject to a maximum of three hundred days, in the manner specified in this rule.

Note 1.	--	--	--	--	--	----
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Note 2.	--	--	--	--	--	----
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Note 3.	--	--	--	--	--	----
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3. Learned counsel pointed out that the case of the applicant may not be covered under Sub-rule 5 of Rule 68 since he was not compulsorily retired. Learned counsel further argued that Sub-rule 6 of Rule 68 would apply to the case of the present applicant since he got retired on attaining the age of superannuation while under suspension. Learned counsel however, assailed the impugned order on the ground that without giving any opportunity of hearing the said order has been modified and while modifying the order compliance of Sub-rule 6 has not been made. Learned counsel submitted that without mentioning whether withholding of the leave encashment was necessary and if necessary for which purpose the order could not have been revised or even fresh order could not have been

passed under Sub-rule 6 also. Learned counsel further submitted that since there is no departmental enquiry pending against the applicant and the criminal prosecution pending against him is for the offences punishable under Sections 7 and 13 of the Prevention of Corruption Act, there is no possibility of any amount or money becoming recoverable from him on conclusion of the proceeding. As such, it was the contention of the learned counsel that the impugned order deserves to be quashed and earlier order deserves to be restored.

4. Shri Thorat, learned Presenting Officer reiterated the contentions raised in the affidavit in reply in his argument. He supported the impugned order. According to learned PO, since the criminal prosecution is pending, the applicant is not entitled for leave encashment.

5. The argument so made on behalf of the respondents is unacceptable. Admittedly there is no departmental enquiry pending against the applicant. The criminal prosecution is admittedly for the offences punishable u/s 7 and 13 of the Prevention

of Corruption Act. The question is whether the pendency of the criminal prosecution is *per se* and *ipso facto* sufficient ground to withhold the encashment dues of the applicant. Even if the applicant is convicted and sentenced it would be a conviction and sentence for an offence which is entirely personal and that by itself would entail no payment to the Government in the sense these sub-rules envisage. In these circumstances, on this ground the leave encashment cannot be withheld. The Original Application deserved to be allowed.

6. During the course of arguments it was submitted on behalf of respondents that if the Tribunal is inclined to allow the present Original Application, he may be required to furnish requisite undertaking to the effect that if required he would refund the amount of leave encashment paid to him within the period of two months in case he is held guilty in the criminal case pending against him. The submission so made is worth consideration. In the circumstances, following order is passed :-

ORDER

(i) The impugned communication/order dated 8.2.2022 passed by respondent no. 3 is quashed and set aside.

(ii) The applicant is held entitled to receive the amount of leave encashment. The said amount be released in favour of the applicant within the period of 8 weeks from the date of this order. The respondents are directed to release the said amount in favour of the applicant upon furnishing the requisite undertaking by the applicant that if required he would refund the amount so received to him within the period of 2 months in case he is held guilty in the criminal proceeding pending against him.

(iii) The Original Application stands disposed of in above terms. No order as to costs.

VICE CHAIRMAN