

M.A. No. 273/2019 in O.A. St. No. 891/2019
(Shaikh Abdul Gafur Md. Sarwar Vs. State of Maharashtra & Ors.)

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

DATE : 15.11.2021.

O R D E R

1. The present Misc. Application is made by the applicant seeking condonation of delay of 2 years, 7 months and 5 days in filing the accompanying Original Application challenging the order of recovery of excess amount paid to the applicant on account of wrong pay fixation and refund of the same, as the said amount is already recovered.

2. Initially the applicant was appointed as Forest Guard on 17.05.1982, which is Class-IV post. On completion of qualifying service of 34 years, 3 months and 15 days, the applicant retired on 31.08.2016. Before his retirement his service book was sent to the Pay Verification Unit. In view of objection raised by the Pay Verification Unit, the respondent No. 4 on 20.09.2016 passed re-fixation and recovery order and directed to recover an amount of Rs. 1,36,105/- from the gratuity amount of the applicant. The recovery is ordered because of wrong pay fixation and not any misrepresentation or fraud committed by the applicant. As per the decision of the Hon'bel Apex

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Court, the amount of excess payment on account of wrong pay fixation cannot be recovered from the employees belongs to Group-C and Group-D category. In view of the same, the applicant has good case on merits. However, there is delay in filing the accompanying Original Application seeking the said relief. In fact, the applicant was waiting for corrective measures by the respondents themselves as the recovery was ordered because of wrong pay fixation. The applicant made representations from time to time for refund of the said amount. However, those representations were turned down. In the circumstances, there was delay which is sought to be condoned.

3. The affidavit in reply on behalf of respondent Nos. 1 to 3 is filed by one Khajapasha S/o Yadullasab Shaikh, Asst. Conservator of Forest in the office of Social Forestry Division Nanded, Taluka and Dist. Nanded i.e. respondent No. 3. Thereby he was denied the adverse contentions raised by the applicant in the present Misc. Application. No sufficient cause has been shown for condonation of inordinate delay in

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filing the accompanying O.A. and hence, the Misc. Application is liable to be dismissed.

4. I have heard the arguments advanced by Shri Ashish Rajkar, learned Advocate for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents at length.

5. The Original Application along with delay condonation application is presented on or about 25.04.2019. The impugned orders are dated 20.09.2016 and 27.10.2016. In the circumstances, there is delay of about 2 years 7 months and 5 days in filing the accompanying Original Application. The applicant has contended that there is continuous cause of action. However, the said contention of the applicant is devoid of merits. However, considering the case law of the Hon'ble Apex Court in the case of **Civil Appeal No. 11527/2014 arising out of S.L.P. (C) No. 11684/2012 & Ors. (State of Punjab and others etc. Vs. Rafiq Masih (White Washer) etc.)** reported at **AIR 2015 SC 596**, the applicant has prima-facie good case on merits. His claim is required to be considered on merits.

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6. It is a settled principle of law that the expression “sufficient cause” is to be construed liberally. Considering the nature of relief sought for in this matter, it cannot be said that it is going to adversely affect any other Government servant, if the claim is allowed. Refusing to give indulgence in the matters is likely to defeat cause of justice at the threshold. In the circumstances, in my opinion, this is a fit case to condone the delay by imposing costs of Rs. 1000/- on the applicant. In the result, I proceed to pass following order :-

ORDER

The Misc. Application No. 273/2019 is allowed in following terms:-

- (i) The delay of 2 years, 7 months and 5 days in filing the accompanying O.A. under Section 19 of the Administrative Tribunals Act, 1985 is hereby condoned subject to payment of costs of Rs. 1000/- by the applicant. The amount of costs shall be deposited in the Registry of this Tribunal

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within a period of one month from the date
of this order.

- (ii) Upon satisfaction of the costs as above, the accompanying O.A. be registered and numbered by taking in to account other office objection/s, if any.

MEMBER (J)

ORIGINAL APPLICATION NO.66/2018
(Dnyaneshwar Kadam Vs. State of Maharashtra & Ors.)

CORAM : **Hon'ble Justice Shri P.R. Bora, Member (J)**
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : **15.11.2021**

ORAL ORDER :

Heard Shri A.S.Deshmukh, learned Advocate for the applicant and Shri V.R.Bhumkar, learned Presenting Officer for the respondents.

2. At the request and consent of both the parties, S.O. to 09-12-2021.

MEMBER (A)

MEMBER (J)

**REVIEW NO.08/2017 IN O.A.NO.498/2013
(Shivraj Hawanna Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2021

ORAL ORDER :

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

2. At the request and consent of both the parties, S.O. to 10-12-2021.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO.804/2017
(Prakash Patil Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2021

ORAL ORDER :

Heard Shri S.D.Joshi, learned Advocate for the applicant and Shri M.P.Gude, learned Presenting Officer for the respondents.

2. At the request and consent of both the parties, S.O. to 10-12-2021.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO.330/2018
(P. L. Giri Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2021

ORAL ORDER :

Heard Shri Omprakash Kashid, learned Advocate for the applicant and Shri V.R.Bhumkar, learned Presenting Officer for the respondents.

2. At the request and consent of both the parties, S.O. to 20-12-2021.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO.337/2019
(Namdev Londhe Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2021

ORAL ORDER :

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

2. At the request and consent of both the parties, S.O. to 20-12-2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 351 OF 2019
(Sangita M. Kalbande & Anr. Vs. State of Maha. & Ors.)

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

DATE : 15.11.2021

ORAL ORDER :

Heard Shri V.G. Pingle, learned Advocate for the applicants and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. Learned P.O. for the respondents submits that he will file affidavit-in-sur-rejoinder during the course of day.

3. S.O. to 03.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.1027 OF 2019
(Arjun D. Sonwane Vs. State of Maha. & Ors.)

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

DATE : 15.11.2021

ORAL ORDER :

Heard Shri Suresh Dhongde, learned Advocate holding for Smt. Suchita A. Dhongde, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondent Nos.1, 2, 4 & 5. Shri Ajay D. Pawar, learned Advocate for the Respondent No.3 is **absent**.

2. At the request of learned P.O., time is granted for filing affidavit-in-reply on behalf of the Respondent Nos.2 & 5. Time is granted as a one more last chance.

3. S.O. to 14.12.2021.

MEMBER (J)

**ORIGINAL APPLICATION NO.102 OF 2021
(Sangram U. Rathod Vs. State of Maha. & Ors.)**

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

DATE : 15.11.2021

ORAL ORDER :

Heard Shri Suresh Dhongde, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. At the request of learned P.O., time is granted for filing affidavit-in-reply on behalf of the Respondents.

3. S.O. to 14.12.2021.

MEMBER (J)

**ORIGINAL APPLICATION NO.141 OF 2020
(Anil D. Sanap Vs. State of Maha. & Ors.)**

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

DATE : 15.11.2021

ORAL ORDER :

Heard Shri S.B. Solanke, learned Advocate for the applicants and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. Learned P.O. for the respondents submits that the matter is pertaining to policy decision and it is to be approved by the Government. Hence, he seeks time. Time is granted as most last chance.

3. S.O. to 09.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.86 OF 2021
(Prashant T. Sasane Vs. State of Maha. & Ors.)

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

DATE : 15.11.2021

ORAL ORDER :

Heard Shri Ganesh Jadhav, holding for Shri Avishkar S. Shelke, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. The Original Application is filed seeking directions against the respondent No.1 and 2 to take decision on the representation dated 22.06.2020 and 29.07.2020 (Annex. 'A-12' collectively) submitted to the respondent No.2 with regard to regularization of services of the applicant w.e.f. 08.03.1999 with all consequential benefits within a period of four months.

3. The Applicant was appointed as Craft Instructor (Electrician) under the establishment of respondent No.2 on ad-hoc basis vide appointment order dated 06.11.1997 (Annex. 'A-2'). The Applicant was continued by issuance of fresh appointment orders from time to time by giving technical breaks.

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4. The State Government issued Government Resolution dated 08.03.1999 (Annex. 'A-6') to regularize the services of the ad-hoc employees as one time measure.

5. Higher and Technical Education Department directed the respondents vide letter dated 13.12.1999 to take steps for regularization of ad-hoc employees. The Deputy Director, Vocational Education and Training, Aurangabad passed order dated 27.01.2000 (Annex. 'A-8') regularizing the services of the applicant w.e.f. 13.12.1999.

6. It is further contended that similarly situated employees approached this Hon'ble Tribunal by filing the Original Application No.749/1999 seeking regularization as per G.R. dated 08.03.1999. This Tribunal by order dated 02.09.2009 (Annex. 'A-9') allowed the Original Application and thereby the Respondents department regularized the services of those applicants w.e.f. 08.03.1999.

7. It is further contended that one Smt. Anju Vishwanath Kulal (Nirmal) and Shri Satish Bankatlal Chaparwal also filed O.A.No.678/1999 and

O.A.No.5/2000 seeking benefits of regularization from the date of Government Resolution. They were not granted similar relief of regularization w.e.f. 08.03.1999. Therefore, they approached Hon'ble High Court of Judicature of Bombay, Bench at Aurangabad by filing the Writ Petition No.4519/2016 praying for modification of the order dated 04.09.2009 and 05.03.2007. The Hon'ble High Court by order dated 29.06.2017 (Annex. 'A-10') allowed the said Writ Petition directing the respondent authorities to regularize the services of those applicants from the date of Government Resolution dated 08.03.1999.

8. Moreover, the Chief Secretary had issued circular dated 28.02.2017 (Annex. 'A-11') directing all the concerned departments to adhere to General Judicial Principles as per directions of Hon'ble MAT Mumbai in O.A.No.59/2016 and others decided on 14.12.2016. Thereafter, the applicant submitted representation dated 22.06.2020 and 29.07.2020 (Annex. 'A-12' collectively) seeking regularization of services w.e.f. 08.03.1999.

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9. The Applicant by making application sought information under Right to information Act, 2005 about the decision on his representations. The Respondent No.2 by letter dated 13.01.2021 (Annex. 'A-14') communicated to the Applicant that his representations are still awaited.

10. In these facts and circumstances as above, this Original Application can be disposed of by giving appropriate directions to the Respondent Nos.1 & 2 to take decision in accordance with law on the representations dated 22.06.2020 and 29.07.2020 made by the applicant to the respondent No.2 with regard to the regularization of the services of the applicant w.e.f. 08.03.1999 with all consequential benefits, within a period of four months from the date of this order and communicate the decision to the applicant within a period of one month thereafter. Hence it is ordered accordingly.

11. The Original Application is disposed of accordingly with no order as to costs.

MEMBER (J)

ORIGINAL APPLICATION NO.87 OF 2021
(Vijay V. Mangiraj Vs. State of Maha. & Ors.)

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

DATE : 15.11.2021

ORAL ORDER :

Heard Shri Ganesh Jadhav, holding for Shri Avishkar S. Shelke, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. The Original Application is filed seeking directions against the respondent No.1 and 2 to take decision on the representation dated 15.09.2020 (Annex. 'A-13') submitted to the respondent No.2 with regard to regularization of services of the applicant w.e.f. 08.03.1999 with all consequential benefits within a period of four months.

3. The Applicant was appointed as Maths Drawing Instructor under the establishment of respondent No.2 on ad-hoc basis vide appointment order dated 16.09.1997 (Annex. 'A-2'). The Applicant was continued by issuance of fresh appointment orders from time to time by giving technical breaks.

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4. The State Government issued Government Resolution dated 08.03.1999 (Annex. 'A-7') to regularize the services of the ad-hoc employees as one time measure.

5. Higher and Technical Education Department directed the respondents vide letter dated 13.12.1999 to take steps for regularization of ad-hoc employees. The Deputy Director, Vocational Education and Training, Aurangabad passed order dated 27.01.2000 (Annex. 'A-9') regularizing the services of the applicant w.e.f. 13.12.1999.

6. It is further contended that similarly situated employees approached this Hon'ble Tribunal by filing the Original Application No.749/1999 seeking regularization as per G.R. dated 08.03.1999. This Tribunal by order dated 02.09.2009 (Annex. 'A-10') allowed the Original Application and thereby the Respondents department regularized the services of those applicants w.e.f. 08.03.1999.

7. It is further contended that one Smt. Anju Vishwanath Kulal (Nirmal) and Shri Satish Bankatlal Chaparwal also filed O.A.No.678/1999 and

O.A.No.5/2000 seeking benefits of regularization from the date of Government Resolution. They were not granted similar relief of regularization w.e.f. 08.03.1999. Therefore, they approached Hon'ble High Court of Judicature of Bombay, Bench at Aurangabad by filing the Writ Petition No.4519/2016 praying for modification of the order dated 04.09.2009 and 05.03.2007. The Hon'ble High Court by order dated 29.06.2017 (Annex. 'A-11') allowed the said Writ Petition directing the respondent authorities to regularize the services of those applicants from the date of Government Resolution dated 08.03.1999.

8. Moreover, the Chief Secretary had issued circular dated 28.02.2017 (Annex. 'A-12') directing all the concerned departments to adhere to General Judicial Principles as per directions of Hon'ble MAT Mumbai in O.A.No.59/2016 and others decided on 14.12.2016. Thereafter, the applicant submitted representation dated 15.09.2020 (Annex. 'A-13' collectively) seeking regularization of services w.e.f. 08.03.1999.

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9. The Applicant by making application sought information under Right to information Act, 2005 about the decision on his representation. The Respondent No.2 by letter dated 13.01.2021 (Annex. 'A-15') communicated to the Applicant that his representations are still awaited.

10. In these facts and circumstances as above, this Original Application can be disposed of by giving appropriate directions to the Respondent Nos.1 & 2 to take decision in accordance with law on the representation dated 15.09.2020 made by the applicant to the respondent No.2 with regard to the regularization of the services of the applicant w.e.f. 08.03.1999 with all consequential benefits, within a period of four months from the date of this order and communicate the decision to the applicant within a period of one month thereafter. Hence it is ordered accordingly.

11. The Original Application is disposed of accordingly with no order as to costs.

MEMBER (J)

ORIGINAL APPLICATION NO.235 OF 2021
(Hirasingh K. Chandethakur Vs. State of Maha. & Ors.)

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

DATE : 15.11.2021

ORAL ORDER :

Shri K.A. Ingle, learned Advocate for the applicant is **absent**. Heard Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. At the request of learned P.O., time is granted for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 15.12.2021.

MEMBER (J)

**ORIGINAL APPLICATION NO.285 OF 2021
(Hemant S. Patil Vs. State of Maha. & Ors.)**

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

DATE : 15.11.2021

ORAL ORDER :

Heard Shri Avinash S. Deshmukh, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondent Nos.1 & 2. None appears for the respondent No.3, though duly served.

2. Learned P.O. for the respondents seeks time for filing affidavit-in-reply on behalf of the respondent No.1.

3. Record shows that last chance was granted to the respondent No.1 to file affidavit-in-reply. However, no affidavit-in-reply is filed by the respondent No.1.

4. However, in the interest of justice, one more last chance is granted for filing affidavit-in-reply on behalf of the respondent No.1.

5. S.O. to 06.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.301 OF 2021
(D.P. Jadhav Vs. State of Maha. & Ors.)

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

DATE : 15.11.2021

ORAL ORDER :

Heard Shri G.J. Pahilwan, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. At the request of learned P.O., time is granted for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 13.12.2021.

MEMBER (J)

**ORIGINAL APPLICATION NO.469 OF 2021
(Dhondiba M. Zade Vs. State of Maha. & Ors.)**

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

DATE : 15.11.2021

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. Affidavit-in-reply filed on behalf of the respondent Nos.1 to 3 is taken on record and copy thereof has been served on the other side.

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

4. S.O. to 15.12.2021. Interim relief granted earlier to continue till then.

MEMBER (J)

ORIGINAL APPLICATION NO.507 OF 2021
(Sunil N. Khamitkar Vs. State of Maha. & Ors.)

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

DATE : 15.11.2021

ORAL ORDER :

Heard Shri Avinash S. Deshmukh, learned Advocate for the applicant, Shri M.P. Gude, learned Presenting Officer for the respondent Nos.1 & 2, Shri V.B. Wagh, learned Advocate holding for Shri U. B. Bondar, learned Advocate for the respondent No.3 and Shri Satish S. Manale, learned Advocate for the respondent No.4

2. Affidavit-in-reply filed on behalf of the respondent Nos.1 & 2 is taken on record and copy thereof has been served on the other side.

3. Learned Advocate for the respondent No.3 submits that the respondent No.3 adopts affidavit-in-reply filed by respondent Nos.1 & 2.

4. Respondent No.4 has already filed affidavit-in-reply.

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

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6. S.O. to 07.12.2021. Interim relief granted earlier to continue till then.

MEMBER (J)

ORAL ORDERS 15.11.2021 - SAS

ORIGINAL APPLICATION NO.538 OF 2021
(Manohar K. Suryawanshi Vs. State of Maha. & Ors.)

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

DATE : 15.11.2021

ORAL ORDER :

None present on behalf of the applicant.

Heard Shri S.K. Shirse, learned Presenting Officer for the respondent Nos.1 to 4.

2. Shri S.B. Jadhav, learned Advocate files VAKALATNAMA on behalf of the respondent No.5. It is taken on record.

3. At the request of leaned P.O. and learned Advocate for the respondent No.5, time is granted for filing affidavit-in-reply.

4. S.O. to 17.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.589 OF 2021
(Prfull A. Suryawanshi Vs. State of Maha. & Ors.)

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

DATE : 15.11.2021

ORAL ORDER :

Ms. Rekha V. Sundale, learned Advocate for the applicant is **absent**. Heard Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. At the request of learned P.O., time is granted for filing affidavit-in-reply.

3. S.O. to 17.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.560 OF 2021
(Motiram D. Dakhore Vs. State of Maha. & Ors.)

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

DATE : 15.11.2021

ORAL ORDER :

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

2. Learned Advocate for the applicant submits that service is completed and he would file service affidavit during the course of day.

3. Learned P.O. seeks time for filing affidavit-in-reply. Time is granted.

4. S.O. to 16.12.2021.

MEMBER (J)

**ORIGINAL APPLICATION NO.601 OF 2021
(Ramesh M. Darekar Vs. State of Maha. & Ors.)**

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

DATE : 15.11.2021

ORAL ORDER :

Heard Shri Ganesh Jadhav, learned Advocate holding for Shri Avishkar S. Shelke, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. At the request of learned C.P.O., time is granted for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 20.12.2021.

MEMBER (J)

**ORIGINAL APPLICATION NO.613 OF 2021
(Digambar R. Deshpande Vs. State of Maha. & Ors.)**

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

DATE : 15.11.2021

ORAL ORDER :

Shri S.S. Jadhavar, learned Advocate for the applicant is **absent**. Heard Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. Await service of notice on the Respondents. As none present on behalf of the applicant, S.O. to 21.12.2021.

MEMBER (J)

M.A.NO.130/2020 IN O.A.NO.114/2020
(Dagdu G. Patil Vs. State of Maha. & Ors.)

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

DATE : 15.11.2021

ORAL ORDER :

Heard Ms. Tejal R. Mankar, learned Advocate holding for Ms. Preeti R. Wankhade, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.

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

3. S.O. to 20.12.2021.

MEMBER (J)

**M.A.NO.85/2021 IN O.A.ST.NO.348/2021
(Shankar F. Pawar Vs. State of Maha. & Ors.)**

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

DATE : 15.11.2021

ORAL ORDER :

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

2. At the request of learned P.O., time is granted for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 20.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.335 OF 2020
(Arjun N. Pache Vs. State of Maha. & Ors.)

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

DATE : 15.11.2021

ORAL ORDER :

Heard Ms. Tejal R. Mankar, learned Advocate holding for Ms. Preeti R. Wankhade, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. Record shows that pleadings are complete upto affidavit-in-rejoinder. The matter is pertaining to continuation of service. It is admitted and fixed for final hearing on 21.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.520 OF 2020
(Mutazabaddin Abdul Waheb Shaikh Vs. State of Maha. & Ors.)

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

DATE : 15.11.2021

ORAL ORDER :

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

2. Learned P.O. for the respondents places on record communication dated 12.11.2021 received from the respondent No.4 wherein it is stated that the bill for commutation of pension is already prepared. It is marked as document 'X' for the purpose of identification.

3. Record shows that pleadings are complete. The matter is pertaining to pensionary benefits whereby the applicant does not want commutation of pension of payment. It is admitted and fixed for final hearing.

4. In view of above, S.O. to 07.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.202 OF 2021
(Balaji M. Kshirsagar Vs. State of Maha. & Ors.)

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

DATE : 15.11.2021

ORAL ORDER :

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

2. The Original Application is filed seeking direction to respondent No.1 to consider and act upon the request application dated 25.03.2021 (Annex. 'A-13') made by the applicant seeking posting either in Pune or Thane division on the ground that the applicant's son is undergoing treatment for his mental illness at Pune and Aurangabad.

3. Learned Advocate for the Applicant submits that the applicant has been given posting now at Ahmednagar which is convenient to the applicant.

4. In the circumstances, grievance of the applicant said to have been redressed.

5. In view of above, the Original Application stands disposed of as the grievance of the applicant has been redressed. No order as to costs.

MEMBER (J)

**ORIGINAL APPLICATION NO.269 OF 2021
(Kishor G. Narwade Vs. State of Maha. & Ors.)**

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

DATE : 15.11.2021

ORAL ORDER :

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

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

3. S.O. to 09.12.2021.

MEMBER (J)

M.A.NO.122/2021 IN O.A.ST.NO.503/2021
(Ranjana B. Solat Vs. State of Maha. & Ors.)

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

DATE : 15.11.2021

ORAL ORDER :

Heard Dr. Swapnil Tawshikar, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. The present matter be treated as part heard.
3. S.O. to 24.11.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.832 OF 2018
(Shaikh Nasir Sk. Miya Vs. State of Maha. & Ors.)

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

DATE : 15.11.2021

ORAL ORDER :

Heard Shri V.G. Pingle, learned Advocate for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents.

2. The present matter is already part heard.

3. During the course of further arguments, it transpires that the applicant is seeking benefit of G.R. dated 31.01.1989 by which CEA was formed. The applicant is claiming exemption from the departmental examination contemplated in the said G.R. dated 31.01.1989 on attaining the age of 45 years on 30.10.1994 as the date of birth of the applicant is 31.10.1949.

4. The question arises as to whether the applicant during the period of 31.01.1989 to 30.10.1994 appeared for departmental examination. In this regard, learned Advocate for the applicant submitted across the Bar that the departmental examination for CEA was not conducted during the said period. He

//2// O.A.832/2018

submits that he would file applicant's affidavit in that regard so that the controversy can be resolved effectively.

5. In view of above, S.O. to 03.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.264 OF 2019
(Supadu V. Bhalerao Vs. State of Maha. & Ors.)

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

DATE : 15.11.2021

ORAL ORDER :

Heard Shri Swaraj Tandale, learned Advocate holding for Shri B.R. Kedar, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant submits that the matter was argued before the Hon'ble Member (A) substantially and it is part heard and only synopses are to be produced.

3. In view of above, the present matter be placed before the Hon'ble Member (A) for further hearing.

MEMBER (J)

ORIGINAL APPLICATION NO.386 OF 2019
(Gatuatm R. Fasale Vs. State of Maha. & Ors.)

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

DATE : 15.11.2021

ORAL ORDER :

Shri Raghavendra N. Bharaswadkar, learned Advocate is **absent**. Heard Shri M.P. Gude, learned Presenting Officer for the respondents.

2. None present on behalf of the applicant.
3. S.O. to 21.12.2021 for filing affidavit-in-rejoinder, if any.

MEMBER (J)

ORIGINAL APPLICATION NO.918 OF 2019
(Ashok M. Gaikwad Vs. State of Maha. & Ors.)

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

DATE : 15.11.2021

ORAL ORDER :

Heard Shri Suresh Dhongde, learned Advocate holding for Smt. Suchita A. Dhongde, 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, S.O. to 15.12.2021.

MEMBER (J)

**ORIGINAL APPLICATION NO.79 OF 2021
(Anil S. Puranik Vs. State of Maha. & Ors.)**

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

DATE : 15.11.2021

ORAL ORDER :

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

2. By consent of both the parties, S.O. to 01.12.2021.

MEMBER (J)

**ORIGINAL APPLICATION NO.211 OF 2021
(Sandu Y. Dongre Vs. State of Maha. & Ors.)**

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

DATE : 15.11.2021

ORAL ORDER :

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

2. The present matter be treated as part heard.
3. S.O. to 02.12.2021.

MEMBER (J)

**M.A. 311/21 WITH M.A.ST.1330/21 IN O.A. 189/2020
(Mamta Wd/o Sanjeev Vispute Vs. State of Maharashtra & Ors.)**

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

DATE : 15.11.2021

ORDER

The applicant namely Mamta Wd/o Sanjeev Vispute has filed these two MAs bearing M.A. No. 311/2021 and M.A. St. No. 1330/2021 seeking condonation of delay of about 57 days caused for setting aside the abetment caused due to death of applicant No. 1 in O.A. No. 189/2020 and seeking permission of this Tribunal to bring her name on record in the O.A. No. 189/2020 as legal heir of original applicant No. 1 namely Sanjeev Gajanan Vispute.

2. Deceased husband of the applicant and others filed O.A. No. 189/2020 challenging the recovery order of excess payment made to them towards benefit of one step promotions of Clerk Typist post.

3. The original applicant No. 1 i.e. Sanjeev S/o. Gajanan Vispute died on 25.4.2021 during the pendency of the Original Application No. 189/2020. He died due to illness of COVID-19. The right to sue survives in the applicant, who is widow of the deceased applicant No. 1 namely Sanjeev S/o. Gajanan Vispute. Due to lockdown she could not approach this Tribunal within a period of 30 days. Hence, these Miscellaneous Applications.

:: - 2 - ::

**M.A. 311/21 WITH M.A.
ST.1330/21 IN O.A. 189/2020**

4. Heard Shri Kakasaheb B. Jadhav, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

5. Perusal of death certificate annexed with the Original Application No. 189/2020 would show that the original applicant No. 1 namely Sanjeev Gajanan Vispute, died on 25.4.2021. He died due to illness of COVID-19. At the time of his death the pandemic situation was prevailing. The contention raised by the applicant that she could not file application in time is acceptable. Considering the nature of proceeding, the right to sue would survive in the applicant, who is widow of original applicant No. 1, as the proceeding is relating to recovery of excess amount paid to the applicant No. 1 and others in O.A. No. 189/2020. Hence, I proceed to pass the following order: -

ORDER

The M.A. No. 311/2021 & M.A. St. No. 1330/2021 are allowed in the following terms :-

(ii) The delay of about 57 days caused in filing application for setting aside abetment against the deceased applicant No. 1 and bringing on record the name of the applicant as legal representative of the original applicant No. 1 is condoned.

**:: - 3 - :: M.A. 311/21 WITH M.A.
ST.1330/21 IN O.A. 189/2020**

(iii) Consequently, abetment against deceased applicant No. 1 is set aside

(iv) The name of the applicant, Mamta S. Vispute, is allowed to be brought on record as legal representative of the original applicant No. 1 in O.A. No. 189/2020.

(v) The necessary amendment be carried out within a period of two weeks from the date of this order and the amended copy of O.A. be served on the other side.

MEMBER (J)

M.A.NO. 311-2021-HDD

**M.A. NO. 505/2019 IN O.A.ST. NO. 2039/2019
(Eteshamuddin Shaikh (died) through LRs Imranoddin E.
Shaikh & Ikramoddin E. Shaikh Vs. State of Maharashtra &
Ors.)**

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

DATE : 15.11.2021

ORDER

This application is made seeking condonation of delay of about two years and two months caused for filing accompanying O.A. St. No. 2039/2019 under Section 19 of the Administrative Tribunals Act, 1985 challenging the order of recovery dated 11/12.1.2016 issued by the respondent No. 3, thereby directing to recover the excess payment made to the original deceased applicant and seeking refund of the recovered amount of Rs. 64,743/-.

2. The original deceased applicant was initially appointed in the year 1977 as a Police Constable. Lastly he was promoted as Assistant Sub-Inspector in the year 2006 and retired from that post on 31.7.2016 from the office of the respondent No. 3, the Superintendent of Police, Beed. Before the retirement of the applicant the Pay Verification Unit, Aurangabad i.e. respondent No. 4 had raised the objection regarding pay fixation scale of the applicant and others. Therefore, the case of the original deceased applicant was allotted to the office of respondent No. 3 i.e. the Superintendent of Police, Beed. It was found that due to wrong pay fixation there was recovery of Rs. 64,743/-

made to the applicant during the period from 1.1.1996 to 1.7.2015. The original deceased applicant, therefore, filed the accompanying O.A. challenging the order of recovery dated 11/12.1.2016 passed by respondent No. 3. There was delay of about two years and two months for filing accompanying Original Application. During the pendency of the present M.A. the original deceased applicant died and hence, the present applicants are brought on record being legal representatives of the original deceased applicant.

3. It is contended that since original deceased applicant was suffering from illness of heart, he had taken treatment from the year 2014 in the United Ciigma Hospital, Aurangabad. Twice he was admitted in the said hospital in the year 2014. From time to time he was taking medical treatment for disease suffering by him during the period from 2014 to 2019. In view of the same, original deceased applicant could not file the accompanying O.A. challenging the recovery. Hence, this application for condonation of delay.

4. The affidavit in reply is filed on behalf of the respondent Nos. 1 to 3 by Swapnil Rajaram Rathod, Sub-Divisional Police Officer, Georai, thereby the adverse contentions raised by the original deceased applicant for condonation of delay are denied. It is stated that original

deceased applicant was taking treatment on OPD basis and that cannot be said to be sufficient cause for condonation of delay.

5. I have heard the arguments advanced by Shri Kakasaheb B. Jadhav, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

6. As per the contentions raised by the original deceased applicant, condonation of delay is sought on the prolonged illness, which he was suffering. In order to substantiate the same, the applicant has relied upon his medical treatment papers. Perusal of these documents would show that the applicant was suffering of heart disease and he was taking prolonged treatment. There is delay of about two years and two months caused in filing the accompanying O.A. under Section 19 of the Administrative Tribunals Act, 1985. The original deceased applicant sought refund of recovery amount, which was paid to him in excess due to wrong pay fixation. Hence, nothing can be attributed to the original deceased applicant for receiving the excess amount like misrepresentation or fraud by the applicant. In view of the same, *prima facie*, it seems that there is merit in the accompanying Original

**:: - 4 - :: M.A. NO. 505/2019 IN
O.A.ST. NO. 2039/2019**

Application filed by the original deceased applicant. The same is required to be decided on merit.

7. It is settled principle of law that the expression “sufficient cause” is to be construed liberally. In these circumstances, in my considered opinion when the original deceased applicant has produced on record to substantiate ground of illness, this is a fit case to condone the delay by imposing moderate costs. I compute cost of Rs. 1,000/- for the same. In the result, I proceed to pass the following order: -

ORDER

The present M.A. is allowed in the following terms: -

(ii) The delay of about two years and two months caused in filing accompanying Original Application is hereby condoned subject to costs of Rs. 1,000/-. The amount of cost shall be deposited by the applicant in the office of this Tribunal within a period of two weeks from the date of this order.

(iii) The office is directed to register the accompanying O.A. in accordance with law by taking into consideration other office objections, if any.

MEMBER (J)

Date : 15.11.2021

ORIGINAL APPLICATION NO. 697 OF 2021

(Dr. Santosh B. Naikwade V/s State of Maha. & Ors.)

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

1. Shri Pankaj A. Bharat, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for respondents, are present.
2. Circulation is granted. Issue notices to the respondents, returnable on 2.12.2021. The case be listed for admission hearing on **2.12.2021**.
3. Tribunal may take the case for final disposal at this stage and a separate notice for final disposal shall not be issued.
4. Applicant is authorized and directed to serve on Respondent intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
5. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 and the questions such as limitation and alternate remedy are kept open.
6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with Affidavit of compliance in the Registry as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

REGISTRAR

M.A.NO.259/2020 IN O.A.ST.NO.877/2020
(Vilas M. Yadav & Ors. V/s. State of Maharashtra & Ors.)

WITH

M.A.NO.260/2020 IN O.A.ST.NO.879/2020
(Indrakumar S. Auti & Ors. V/s. State of Maharashtra & Ors.)

WITH

M.A.NO.261/2020 IN O.A.ST.NO.881/2020
(Rahul V. Manjare & Ors. V/s. State of Maharashtra & Ors.)

CORAM : SHRI V.D.DONGRE, MEMBER (J)

DECIDED ON : 15.11.2021.

COMMON ORDER :

1. By these applications, the applicants are seeking condonation of delay of about 13 years and 10 months in filing the accompanying O.As. under section 19 of the Administrative Tribunals Act seeking relief of applying old pension scheme to all of them.

2. Advertisement was published on 20-01-2005 by respondent no.4 thereby calling applications from the eligible candidates for the posts of Assistant Sub Inspector

(Radio Mechanic), Assistant Sub Inspector (Storeman), Police Constable (Wireless Operator), Police Constable (Electrician), Police Constable (Mast Lasker). The recruitment process for the said posts was completed in the month of October, 2005. However, appointment orders to the applicants came to be issued only on 02-11-2005. Admittedly, new pension scheme came into existence with effect from 01-11-2005 as the Pension Rules are amended on 31-10-2005.

3. The applicants were persuading with the respondent authorities that they are entitled for old pension scheme as the recruitment process was completed before 01-11-2005. Similar issues were also raised by the Central Government employees. In that regard, the Government of India issued an Office Memorandum dated 17-02-2020 holding as follows:

“Since the result for recruitment was declared from 01-01-2004 denial of the pension under CCS Pension Rules,

1972 to the affected Government Servants is not considered justified.”

In view of that an option was given to such employees to opt for old pension scheme or new pension scheme.

4. In the circumstances as above, the applicants filed applications to the respondent authorities for getting old pension scheme, however, their applications are still not considered by the respondent authorities.

5. It is further contended that in fact there is continuous cause of action, however, even if delay of 13 years and 10 months is considered, it is not deliberate and intentional. Therefore, the same is required to be condoned. Hence these applications.

6. Affidavit in reply is filed on behalf of respondent nos.1 to 4 by Shri Sanjay s/o. Subhash Chandkhede, Deputy Superintendent of Police (Wireless), Aurangabad Range, Aurangabad. Thereby, he has denied the adverse contentions raised by the applicants that there is recurring

cause of action and the delay is not deliberate and intentional. In fact, there is more than 13 years' delay and no sufficient cause is shown for condonation of the same. Therefore, the applications are liable to be dismissed.

7. Heard Shri S.B.Solanke learned Advocate for the applicants and Smt. M.S.Patni, Shri B.S.Deokar and Shri I.S.Thorat learned Presenting Officers (POs) for the respondents in respective cases.

8. In order to support the contention of recurring cause of action, learned Advocate for the applicants has relied upon following citations:

(a) MANU/MH/0289/2017 in the matter of Dnyanoba Vishnu Sawant & Ors. V/s. Sitaram Mills Unit of National Textile Corporation, North Maharashtra & Ors. decided by the Hon'ble Bombay High Court on 24-01-2017.

(b) MANU/MH/0144/2005 in the matter of H. Jayarama Shetty V/s. The Sangli Bank Ltd. Decided by the Hon'ble Bombay High Court on 11-03-2005.

(c) MANU/SC/0172/1996 in the matter of M.R.Gupta V/s. Union of India (UOI) and Ors. decided by the Hon'ble Supreme Court of India on 21-08-1995.

9. Learned Advocate for the applicants further submitted that even if it is considered that the delay is of more than 13 years, same is condonable as it is not deliberate and intentional. He further submitted that the claim of the applicants is not going to affect other Government servants if the same is allowed. Hence, he prays for condonation of delay caused in filing the O.As.

10. Learned P.Os. on the other hand opposed the submissions made on behalf of the applicants and submitted that no sufficient cause has been shown for condonation of delay.

11. After having considered submissions on behalf of both the parties and pleadings and documents on record, it is evident that new pension scheme is made applicable to the Central Government employees with effect from 01-01-2004 and for Maharashtra State Government employees from 01-11-2005. The applicants have placed on record Office Memorandum issued by the Department of Pension and PW of Government of India which is dated 17-02-2020. As per the said Office Memorandum various representations made by the Central Government employees appointed after 01-01-2004 of which results were declared from 01-01-2004 were given options for opting old or new pension scheme. In view of the same, the applicants said to have filed representations dated 24-02-2020 to the respondent authorities whereby the applicants claimed old pension scheme on the footing of Office Memorandum dated 17-02-2020 issued by the Central Government. It is the further contention of the applicants that same representations are not yet decided.

In view of the same, the applicants filed O.As. on or about 08-09-2020 seeking the relief of declaration that they are entitled for old pension scheme.

12. As per the contentions raised by the applicants recruitment process was completed before 01-11-2005. Appointment letters, however, were issued to the applicants on 02-11-2005. In view of this, if the case pleaded by the applicants is taken into consideration, it can be said that they have *prima facie* some merit and hope of success. No doubt, learned Advocate for the applicants stated that there is continuous cause of action and relied upon citations as listed above. However, in those citations issues are regarding payment of gratuity in two matters and in one matter there is issue of fixation of pay. In this situation, in my humble opinion, ratio laid down in the said citations cannot be made applicable to hold that cause of action in these cases is also of recurring nature.

13. But keeping that apart, considering Office Memorandum issued by the Central Government, applicants herein have some hope of success in the matters. In the circumstances, merit of the case is required to be considered. In that background even if there is huge delay of 13 years, it cannot be said to be deliberate or intentional one. Even if the claim of the applicants on merit is allowed, ultimately, it is not going to adversely affect other Government servants. Moreover, it is a matter of record that immediately after Office Memorandum issued by the Central Government on 17-02-2020, the applicants made representations dated 24-02-2020 to the respondent authorities, however, the same is not yet decided. Applicants thereafter immediately approached this Tribunal by filing O.A. on or about 08-09-2020. In such circumstances, there are no laches or deliberate delay on the part of the applicants in pursuing the remedy. In such circumstances, in my opinion, it is a fit case to consider the expression “sufficient cause” liberally as per the settled law. Refusing

to condone the delay in such circumstances is likely to defeat the cause of justice at the threshold. In view of the same, I hold that these are fit cases to condone delay. I, therefore, proceed to pass following order:

ORDER

(i) M.A.Nos.259/2020, 260/2020 and 261/2020 are allowed.

(ii) Delay caused in filing the O.A.St.Nos.877/2020, 879/2020 and 881/2020 is hereby condoned.

(iii) Office to register the respective O.As. in accordance with law by taking into account other office objections, if any.

(V.D.DONGRE)
MEMBER (J)

Place : Aurangabad

Date : 15.11.2021.

M.A. NO. 13/2021 IN O.A. ST. NO. 50/2021
(Shri Dashrath D. Jadhav Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
DATE : 15.11.2021

ORDER

This application is made seeking condonation of delay of about 2 years and 6 months caused in filing accompanying O.A. No. St. 50/2021 U/s 19 of the Administrative Tribunals Act, 1985 challenging the impugned order dated 18.2.2016 issued by the respondent no. 3 to the extent of directing recovery of excess amount from the applicant and refund thereof.

2. The applicant was initially appointed as a Police Constable on 4.2.1982. Lastly he was promoted to the post of Assistant Sub Inspector in the year 2009. He retired from the service on 30.6.2018 from the office of the respondent no. 3 while working on the post of A.S.I. While in service the impugned order dated 18.2.2016 was issued by the respondent no. 3 i.e. the Commandant, S.R.P.F., Group-III, Jalna thereby re-fixing the pay of the applicant for the period from 1.1.1996 to 31.3.2016 to the extent of directing the recovery from him towards excess payment made due to wrong pay fixation to the applicant during the said

::-2-::

M.A. NO. 13/2021 IN
O.A. ST. NO. 50/2021

period. The said excess amount of Rs. 72,110/- is already recovered from the monthly salary of the applicant and therefore, he is seeking refund of the said amount. However, for filing the O.A. before this Tribunal delay of about 2 years and 6 months has been caused.

3. The applicant submits that he has a good case on merit as the excess amount is paid due to wrong pay fixation and not in view of any fraud or misrepresentation committed by the applicant or any wrong committed by him. He belongs to Group-C category. As per the settled law of the Hon'ble Supreme Court the recovery of such amount from Group-C category employee is impermissible. The delay caused in filing the O.A. is not deliberate or intentional one. Due to his personal illness and for want of knowledge the applicant could not file the O.A. in time. The applicant has no knowledge about the limitation period. Hence, this application for condonation of delay of about 2 years and 6 months caused in filing O.A.

::-3-::

M.A. NO. 13/2021 IN
O.A. ST. NO. 50/2021

4. Affidavit in reply is filed on behalf of the respondents by one Shri MohammadIlyas Mohammad Sayeed Shaikh, Assistant Commandant, in the office of the Commandant, S.R.P.F. Group-III, Jalna thereby he has denied the adverse contentions raised by the applicant in the M.A. It is his contention that no sufficient cause has been shown by the applicant for condonation of delay of about 2 years and 6 months caused in filing O.A. The applicant has slept over his alleged rights, and therefore, the present M.A. is liable to be dismissed.

5. Heard Shri K.B. Jadhav, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents, at length. I have also gone through the documents produced by both the sides.

6. The O.A. along with this M.A. for condonation of delay of about 2 years and 6 months is filed on or about 11.2.2021. The impugned order sought to be challenged is dated 18.2.2016. The applicant retired on superannuation on or about 30.6.2018. In view of the same there is delay of 2 years and 6 months in filing the O.A.

::-4-::

M.A. NO. 13/2021 IN
O.A. ST. NO. 50/2021

7. Considering the nature of relief sought for in the O.A. and considering further that the applicant belongs to Group-C category, there is prima-facie case for the applicant to agitate his right regarding refund of excess amount paid to him by the respondents. No doubt, the applicant slept over his alleged right quite for some time, however, it cannot be said that the said inaction on the part of the applicant is deliberate or intentional one. Thereby the applicant had nothing to gain. If the O.A. is considered in favour of the applicant, it is not likely to affect rights of any other Government servant. The excess amount paid to the applicant on account of wrong pay fixation is already recovered from him and it is a matter of only refund of it. In the circumstances, it would be just and proper to grant opportunity to the applicant to agitate his right.

8. It is settled principle of law that the expression sufficient cause is to be construed liberally. In the circumstances, in my considered opinion, this is a fit case to condone the delay of about 2 years and 6 months caused in filing O.A. Refusing to condone the

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M.A. NO. 13/2021 IN
O.A. ST. NO. 50/2021

delay is likely to defeat the cause of justice at the threshold. Hence, I proceed to pass the following order:-

ORDER

In the circumstances, the present M.A. is allowed in following terms :-

- (i) M.A. NO. 13/2021 stands disposed of.
- (ii) The delay of about 2 years and 6 months caused in filing O.A. St. no. 50/2021 is condoned, subject to payment of costs of Rs. 1,000/- by the applicant within a period of one week from the date of this order.
- (iii) The amount of costs be deposited in the Registry of this Tribunal.
- (iv) Upon satisfaction of costs as above by the applicant, the Office to register the O.A. St. no. 50/2021 on its due scrutiny.

MEMBER (J)

**M.A. NO. 325/2019 IN O.A. ST. No. 1389/2019
(Shri Sukhdeo R. Solankar Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2021

ORAL ORDER :

Heard Shri R.K. Khandelwal, learned Advocate for the applicant and Shri. N.U. Yadav, learned Presenting Officer for the respondents.

2. Learned Presenting Officer submits that before advancing his submissions, he intends to go through the record. He, therefore, seeks time. Time granted.

3. S.O. to 17.12.2021.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 664/2021
(Shri Sanjay D. Gangawane & Ors. Vs. State of Maha. &
Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2021

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. Learned Chief Presenting Officer seeks time for filing affidavit in reply of the respondents. Learned Advocate for the applicants submits that as the applicants are pressing interim relief in the present case, further time for filing affidavit in reply may not be granted. However, in the interest of justice time is granted to the respondents to file affidavit in reply.

3. S.O. to 3.12.2021.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 614/2021
(Smt. Varsha V. Malaskar Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2021

ORAL ORDER :

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

2. Learned Advocate for the applicant submits that all the respondents are served with notice of the Tribunal and he wants to submit on record the service affidavit. He is directed to tender the service affidavit in the Registry.

3. Learned Presenting Officer seeks time for filing affidavit in reply of the respondents. Time granted.

4. S.O. to 3.1.2022.

MEMBER (A)

MEMBER (J)

(1) T.A. 7/2021 (W.P. 10329/2021)
(Smt. Shilpa A. Chate Vs. State of Maha. & Ors.)

(2) T.A. 8/2021 (W.P. 10446/2021)
(Smt. Sonali R. Raghuwanshi Vs. State of Maha. & Ors.)

(3) T.A. 9/2021 (W.P. 11027/2021)
(Sahil Badsha Shaikh & Anr. Vs. State of Maha. & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2021

ORAL ORDER :

Heard Shri A.C. Deshpande, learned Advocate for the applicants in T.A. no. 7/2021 (W.P. no. 10329/2021) and T.A. no. 8/2021 (W.P. 10446/2021), Shri Hemant U. Dhage, learned Advocate for the applicants in T.A. no. 9/2021 (W.P. no. 11027/2021) and Shri. M.S. Mahajan, learned Chief Presenting Officer for the respective respondents in all these three cases.

2. Record shows that the respondents are not yet served with the notice of this Tribunal. In the circumstances, await service of respondents.

3. S.O. to 24.12.2021.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 425/2020
(Shri Sachin U. Shinde & Ors. Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2021

ORAL ORDER :

Heard Shri H.A. Joshi, learned Advocate for the applicants, Smt. Deepali S. Deshpande, learned Presenting Officer for the respondent nos.1 to 4 and Shri M.B. Bharaswadkar, learned Advocate for respondent nos. 5, 6 & 11. None appears for other respondents, though duly served.

2. Learned Presenting Officer seeks time for filing affidavit in reply of the respondent nos. 1 to 4. Time granted as a last chance.

3. S.O. to 9.12.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 103/2020

(Shri Vishwanath G. Nampalle Vs. State of Maha. & Ors.)

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2021

ORAL ORDER :

S/shri O.Y. Kashid / P.B. Rakhunde, learned Advocate for the applicant (**absent**). Shri. I.S. Thorat, learned Presenting Officer for the respondents, is present.

2. Record shows that the respondents are not served with the notice of this Tribunal. In the circumstances, await service of the respondents.

3. S.O. to 20.12.2021.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 443/2017
(Dr. Uttam B. Jadhav Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2021

ORAL ORDER :

Shri Shamsundar B. Patil, learned Advocate for the applicant (**absent**). Smt. M.S. Patni, learned Presenting Officer for the respondents, is present.

2. In view of absence of applicant and his learned Advocate, S.O. to 23.12.2021 for filing rejoinder affidavit, if any.

MEMBER (A)

MEMBER (J)

**C.P. 11/2021 IN O.A. 558/2020
(Shri Vithal T. Jadhav Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2021

ORAL ORDER :

Shri A.D. Sugdare, learned Advocate for the applicant (**absent**). Shri D.R. Patil, learned Presenting Officer for the respondents, is present.

2. Learned Presenting Officer seeks time for filing affidavit in reply of the respondents in the Contempt Petition. Time granted.

4. S.O. to 3.1.2022.

MEMBER (A)

MEMBER (J)

**C.P. 28/2020 IN O.A. 113/2012
(Shri Bhagwat T. Kadam Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2021

ORAL ORDER :

Shri K.G. Salunke, learned Advocate for the applicant (**absent**). Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents, is present.

2. Learned Presenting Officer tendered across the bar sur-rejoinder of the respondent no. 1. It is taken on record. She also undertook to supply copy thereof to the learned Advocate for the applicant. The said undertaking is taken on record.

3. S.O. to 24.12.2021.

MEMBER (A)

MEMBER (J)

**C.P. 3/2020 IN C.P. 47/2018 IN O.A. 138/2016
(Dr. Shaikh Taj Mohammad Noor Md. Vs. State of Maha.
& Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2021

ORAL ORDER :

Heard Shri I.D. Maniyar, learned Advocate for the applicant, Shri N.U. Yadav, learned Presenting Officer for the respondent nos. 1 to 3 and Shri D.T. Devane, learned Advocate for respondent no. 4.

2. Learned Presenting Officer and learned Advocate for respondent no. 4 seek time for filing affidavit in replies on behalf of respective respondents. Time granted as a last chance.

3. S.O. to 24.12.2021.

MEMBER (A)

MEMBER (J)

- (1) **C.P. 53/2019 IN O.A. 207/2018**
(Dr. Vijay P. Sonavane Vs. State of Maha. & Ors.)
- (2) **C.P. 54/2019 IN O.A. 338/2019**
(Dr. Govind K. Reddy Vs. State of Maha. & Ors.)
- (3) **C.P. 56/2019 IN O.A. 421/2017**
(Dr. Shamrao L. Sawant Vs. State of Maha. & Ors.)
- (4) **C.P. 57/2019 IN O.A. 335/2017**
(Dr. Ganpati N. Wadekar Vs. State of Maha. & Ors.)
- (5) **C.P. 58/2019 IN O.A. 23/2018**
(Dr. Archana C. Pergulwar Vs. State of Maha. & Ors.)
- (6) **C.P. 59/2019 IN O.A. 423/2017**
(Dr. Pandurang G. Pawde Vs. State of Maha. & Ors.)
- (7) **C.P. 60/2019 IN O.A. 422/2017**
(Dr. Sheshrao M. Narwade Vs. State of Maha. & Ors.)

CORAM : **Hon'ble Justice Shri P.R. Bora, Member (J)**
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : **15.11.2021**

ORAL ORDER :

Heard Shri J.S. Deshmukh, learned Advocate for the applicants in all these cases, S/shri M.P. Gude, V.R. Bhumkar, D.R. Patil, B.S. Deokar, Smt. Deepali S. Deshpande, Smt. Sanjivani Deshmukh Ghate & Smt. M.S. Patni, learned Presenting Officers for the respondent authorities in all these matters and Shri P.R. Tandale, learned Advocate for respondent no. 5 in C.P. No. 54/2019 in O.A. No. 338/2019.

::-2-:: C.P. 53/2019 IN O.A. 207/2018 & Ors.

2. Shri Tandale, learned Advocate has filed affidavit in reply of the respondent no. 5 in C.P. no. 54/2019 in O.A. 338/2019. It is taken on record and copy thereof has been supplied to other side.

3. It is brought to our notice by both the sides that related / similarly situated matters are pending before the Hon'ble High Court of Judicature at Bombay, Bench at Aurangabad for adjudication. Further time is, therefore, sought for making submissions. Time granted.

4. S.O. to 5.1.2022.

MEMBER (A)

MEMBER (J)

**C.P. 27/2018 IN O.A. 515/2013
(Dr. Balaji G. Phalke Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2021

ORAL ORDER :

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

2. The present Contempt Petition is taken up for hearing. Learned Presenting Officer tendered across the bar the copy of Government decision dated 7.10.2021. The same is taken on record and marked as document 'X' for the purpose of identification. It is brought to our notice that by the said Government decision dated 7.10.2021 the order dated 10.12.2014 passed by this Tribunal in O.A. No. 515/2013 has been complied with by the respondents.

3. Learned Advocate for the applicant also concedes that the order in question in the present C.P. has been complied with by the respondents.

4. In view of above, the present Contempt Petition stands disposed of. There shall be no order as to costs.

MEMBER (A)

MEMBER (J)

**M.A. 179/2021 IN O.A. ST. 695/2019
(Shri Ashok K. Bhalerao & Anr. Vs. State of Maha. &
Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2021

ORAL ORDER :

Heard Shri A.B. Rajkar, learned Advocate for the applicants and Shri. V.R. Bhumkar, learned Presenting Officer for the respondents.

2. This is an application preferred by the applicants seeking leave to sue jointly.

3. For the reasons stated in the application, and since the cause and the prayers are identical and since the applicants have prayed for same relief, and to avoid the multiplicity, leave to sue jointly granted, subject to payment of court fee stamps, if not paid.

4. Accompanying O.A. be registered and numbered, after removal of office objections, if any. The present M.A. stands disposed of accordingly without any order as to costs.

MEMBER (A)

MEMBER (J)

O.A. ST. 695/2019
(Shri Ashok K. Bhalerao & Anr. Vs. State of Maha. & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2021

ORAL ORDER :

Heard Shri A.B. Rajkar, learned Advocate for the applicants and Shri. V.R. Bhumkar, learned Presenting Officer for the respondents.

2. Issue notices to the respondents, returnable on 23.12.2021.

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

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

5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal

::-2-::

O.A. ST. NO. 695/2021

(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 23.12.2021.

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

MEMBER (A)

MEMBER (J)

M.A. 205/2021 IN O.A. ST. 2467/2019
(Shri Vijaykumar B. Rathi Vs. State of Maha. & Ors.)

CORAM : **Hon'ble Justice Shri P.R. Bora, Member (J)**
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : **15.11.2021**

ORAL ORDER :

Shri M.M. Bhokarikar, learned Advocate for the applicants (**absent**). Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents, is present.

2. The present Misc. Application has been filed by the applicant for condonation of delay caused in filing the accompanying O.A. i.e. O.A. St. no. 2467/2019.

3. Today the applicant and his learned Advocate are absent. On the last occasion also none were present.

4. In view of above, S.O. to 9.12.2021.

MEMBER (A)

MEMBER (J)

**M.A. 339/2021 IN O.A. ST. 1452/2021
(Shri Yogesh C. Gupta & Ors. Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2021

ORAL ORDER :

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

2. This is an application preferred by the applicants seeking leave to sue jointly.

3. For the reasons stated in the application, and since the cause and the prayers are identical and since the applicants have prayed for same relief, and to avoid the multiplicity, leave to sue jointly granted, subject to payment of court fee stamps, if not paid.

4. Accompanying O.A. be registered and numbered, after removal of office objections, if any. The present M.A. stands disposed of accordingly without any order as to costs.

MEMBER (A)

MEMBER (J)

O.A. ST. 1452/2021

(Shri Yogesh C. Gupta & Ors. Vs. State of Maha. & Ors.)

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2021

ORAL ORDER :

Heard Shri S.S. Dambe, 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 24.12.2021.

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

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

5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal

::-2-::

O.A. ST. NO. 1452/2021

(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 24.12.2021.

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

MEMBER (A)

MEMBER (J)

**C.P. 26/2019 IN O.A. 793/1996
(Shri Chokhoba S. Kharat Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2021

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the applicant, Smt. M.S. Patni, learned Presenting Officer for the respondent no. 1 and Shri S.B. Mene, learned Advocate for respondent nos. 2 & 3.

2. Shri Mene, learned Advocate seeks time for taking instructions from the respondent nos. 2 & 3. Time granted.

3. S.O. to 23.12.2021.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 277/2021
(Shri Shivaji N. Wagh Vs. State of Maha. & Ors.)**

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 15.11.2021

ORAL ORDER :

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

2. Learned P.O. seeks time for filing sur-rejoinder of the respondents. Time granted.
3. S.O. to 3.1.2022.
4. The interim relief granted earlier to continue till then.

MEMBER (A)

MEMBER (J)

**M.A. 81/2021 IN O.A. ST. 253/2021
(Shri Sahebrao B. Chavan Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2021

ORAL ORDER :

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

2. With the consent of both the sides, S.O. to 9.12.2021.

MEMBER (A)

MEMBER (J)

**M.A. 112/2021 IN O.A. 386/2020
(Smt. Ganga S. Suryawanshi Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 15.11.2021

ORAL ORDER :

Heard Shri Santosh C. Bhosale, 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 1.1.2022 for final hearing.

MEMBER (A)

MEMBER (J)