

Office Notes, Office Memoranda of Coram,
Appearance, Tribunal's orders or
directions and Registrar's orders

Tribunal's orders

O.A. No.179 of 2015

Dr. S. A. Mahajan & Ors. ... Applicants
V/s.
The State of Mah. & ors. ... Respondents

Heard Shri M.B. Kadam holding for Shri G. Sadavarte, the learned Advocate for the Applicants and Shri A.J. Chougule, the learned P.O. for the Respondents.

The learned P.O. invites attention to the following contents in Marathi at page 64 of the Paper-Book :-

“शासकीय सेवेमध्ये दंत शल्य चिकीत्सक या पदासाठी वरीलप्रमाणे सेवा भरती नियम असून पाचव्या वेतन आयोगानुसार या संवर्गातील पदासाठी रु.८०००-१३५०० हि वेतनश्रेणी होती. दंत शल्य चिकीत्सक हि पदवी (बी डी एस व एम डी एस) अखिल भारतीय वैद्यक शास्त्रातील शाखा असून सदरचे शास्त्र हे एक प्रकारचे विशेष अर्हता किंवा विशेष संवर्ग आहे त्यामुळे दंत शल्य चिकीत्सक या संवर्गास एम बी बी एस पदवी धारकाप्रमाणे गट -अ संवर्गात समाविष्ट करण्यात यावे हि संघटनेची मागणी योग्य वाटते.

तथापी सेवा प्रवेश नियमात सुधारणा करणे, श्रेणीवाढ करणे, इत्यादी बाबी धोरणात्मक निर्णयाशी निगडित असल्यामुळे अंतिम निर्णय शासन स्तरावरून होणे अपेक्षित आहे.”

The learned P.O. submits that the case of the Applicants will be considered when the issue of 7th Pay Commission is taken up for consideration. The learned Advocate for the Applicants submits that an appropriate direction in this regard be given for which the Applicants have no objection and the Original Application may be disposed of.

This OA is disposed of with a direction to the Respondents to consider the case of the Applicants when the issue of 7th Pay Commission is taken up and once that is done, the case of the Applicants be considered as expeditiously as possible. No order as to costs.

DATE: 16/8/17

CORAM:

Hon'ble Shri. RAJIV AGARWAL

(Vice-Chairman)

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

APPEARANCE:

Shri M. B. Kadam

holding for G. Sadavarte

Advocate for the Applicant

Shri/Smt. A. J. Chougule

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

Adj. TO. O.A. is disposed of.

01.

(R.B. Malik)

Member (J)

16.08.2017

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. _____ of 20

IN

Original Application No. _____ of 20

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
---	-------------------

O.A. No.770 of 2017

Shri S.M. Saundane ... Applicant

V/s.

The State of Mah. & ors. ... Respondents

Heard Shri A.V. Bandiwadkar, the learned Advocate for the Applicant and Smt. Kranti Gaikwad, the learned P.O. for the Respondents.

Not on board taken on board. It is directed that the inspection of the file noting and xerox copies with regard to the transfer of the Applicant out of Nashik be furnished to the Applicant during the course of the day.

DATE: 16/8/17

CORAM:

~~Shri RAJIV AGARWAL~~

(Vice-Chairman)

~~Shri R. B. MALIK (Member)~~

ADVOCATE:

~~Shri A. V. Bandiwadkar~~

Advocate for the Applicant

~~Shri/Smt. R. S. Gaikwad~~

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

Order passed in

~~the Tribunal's~~

Column.

[Handwritten Signature]

(vsm)

Sd/-

(R.B. Malik)
Member (J)
16.08.2017

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. of 20

IN

Original Application No. of 20

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
---	-------------------

O.A. No.643 of 2017

Shri C.T. Patil ... Applicant

V/s.

The State of Mah. & ors. ... Respondents

Heard Shri A.V. Bandiwadekar, the learned Advocate for the Applicant and Smt. Kranti Gaikwad, the learned P.O. for the Respondents.

Hearing the rival submissions, I direct the concerned Respondents to reconsider the case of the Applicant because in the year 2014, the Applicant got transferred from Mumbai to take charge at Pune because his successor has not reported. One month delay had occurred. The said authority may consider as to whether this aspect of the matter can be held in favour of the Applicant. In view of the fact, the OA is now pending and interim relief is insisted on, the decision be taken within one week from today.

S.O. to 28.08.2017. Hamdast.

Sd/-

(R.B. Malik) 16.08.17
Member (J)
16.08.2017

(vsm)

DATE: 16/8/17

CORAM:

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

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

APPEARANCE:

Shri/Smt. A.V. Bandiwadekar

Advocate for the Applicant

Shri/Smt. K.S. Gaikwad

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

Adj. To

S.O. to 28/8/17

Hamdast

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

**MISC. APPLICATION NO. 243 OF 2017
IN
ORIGINAL APPLICATION NO.522 OF 2017**

DISTRICT : Pune

1. Shri Raphael A. Demelo)
R/at. House No.355, Survey No.41/1A,)
Chandannagar, Kharadi, Pune 411014.) **..Applicant**

VERSUS

1. The Additional Chief Secretary, Home)
Department, Mantralaya, Mumbai 32.)
2. The Director General of Police, MS, Old)
Vidhan Bhavan, Colaba, Mumbai.)
3. The Commissioner of Police, Pune City,)
Pune 411 001.) **...Respondents**

Shri V.V. Joshi, the learned Advocate for the Applicants
Shri N.K. Rajpurohit, the learned C. P.O. for the Respondents

CORAM : Shri R.B. Malik, Member (J)

DATE : 16th August, 2017

ORDER

1. This Misc. Application seeks condonation of delay in filing the OA. The delay is of three and half years.
2. I have perused the record and proceedings and heard Shri V.V. Joshi, the learned Advocate for the Applicant and Shri N.K. Rajpurohit, the learned C.P.O. for the Respondents. As a matter of fact, the present MA is fully governed by an earlier M.A. decided by this Tribunal dated 31.01.2017 in M.A. 290/16 in OA 740/16 with M.A.292/16 in O.A.741/16 and for facility the said order needs to be fully reproduced :-



“These two Misc. Applications seeking in effect the relief of condonation of delay in bringing the Original Applications are heard together and are, therefore, disposed of by this common order.

I have perused the record and proceedings and heard Shri V.V. Joshi, the learned Advocate for the Applicants and Shri K.B. Bhise, the learned P.O. for the Respondents.

In fact there was a judgment rendered by this Tribunal in its Aurangabad Bench in O.A.No.818/2009 which was followed in number of judgments by the different benches of this Principal Bench including one fasciculus of Original Application leading one being O.A. Nos.849 to 856/2015 (Shri Dilip Bhosale V/s. One Anr. V/s Secretary Water Resource Department and Ors., dated 03.11.2015) rendered by me. The basic premise of the said judgments was that the Respondent should not drive to litigation, the personnel who were so similarly placed as the applicants of the Aurangabad Bench and that was apparently the reason why the present applicants did not move to this Tribunal earlier. The pith of the controversy shall be considered and determined in the O.A. and in my opinion, there does not appear to be a vice of limitation for the afore stated reason and even if a technical hurdle is required to be crossed, it should be allowed to be crossed. It was for this particular reason that I did not accept the request of the learned P.O. for grant of time in these Misc. Applications for filing Affidavit-in-Reply of the Respondent Nos.1 and 2.

It is held that there is no hitch of limitation and, therefore, the office and the applicants are directed to take all steps necessary to make sure that the Original Application Nos.740/2016 and 741/2016 are placed before the bench for hearing and disposal according to law.

Misc. Applications are allowed with no order as to costs.”

A handwritten signature in black ink, appearing to be 'B. Joshi', with a horizontal line underneath it.

This is, therefore, a matter for which the Applicant should not have been driven to this litigation.

3. The learned C.P.O. is very strongly opposing the application, invited my attention to the references to para nos.4, 5, 8 and 9 of the Affidavit-in-Reply in which reliance is placed on the judgments of the Hon'ble Apex Court. The ratio is apparently culled out there. It laid down a principle of the law that an indolent party cannot claim to be a recipient of judicial indulgence in the matter of condonation of delay. However, as already mentioned above the present facts are governed by entirely different set of principles for the reasons herein above mentioned. Delay is, therefore, condoned. The office and the applicant are directed to process the OA further so as to place it before an appropriate bench for disposal according to law.

4. Misc. Application is accordingly allowed in these terms with no order as to costs.

Sd/-

(R.B. MALIK)
MEMBER (J)
16.08.2017

Date : 16.08.2017

Place : Mumbai

Dictation taken by : VSM

E:\VSO\2017\August 2017\M.A. 243 of 17 in OA 522 of 17.doc

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

**MISC. APPLICATION NOS.300 & 340 OF 2017
IN
REVIEW APPLICATION NO.14 OF 2017
IN
ORIGINAL APPLICATION NO.15 OF 2016**

The State of Maharashtra & Ors.

**)...Applicants
(Ori. Respondents)**

Versus

Mr. A.J. Thakare.

**)...Respondent
(Ori. Applicant)**

Ms. N.G. Gohad, Advocate for Applicants (Ori. Respondents)

**Mr. A.V. Bandiwadekar, Advocate for Respondent (Ori.
Applicant)**

P.C. : R.B. MALIK (MEMBER-JUDICIAL)

DATE : 16.08.2017

ORDER

1. This Misc. Application seeks reference to the Larger Bench the application for review as well as that for condonation of delay.

2. I have perused the record and proceedings and heard Ms. N.G. Gohad, the learned Presenting Officer for



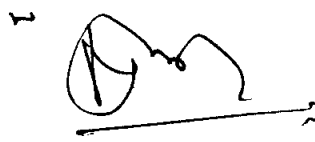
the Applicants (Ori. Respondents) and Mr. A.V. Bandiwadekar, the learned Advocate for the Respondent (Ori. Applicant).

3. The ultimate decision hereof turns on the question as to whether an application for review under the provisions of Administrative Tribunals Act read with the relevant Rules is such to which in the event of delay, the applications for condonation of delay lie. According to the present Applicants, the Division Bench of this Tribunal at Nagpur in **C.A.470/2016 in R.A.Stamp No.1887/2016 in OA 492/2015 (Umashankar P. Buruje Vs. State of Maharashtra and 3 Ors., dated 25.4.2017)** in effect held that the application for condonation of delay in Review Applications would not lie. Quite pertinently, on this precise issue, the Judgment of a Division Bench of the Hon'ble Bombay High Court in **Writ Petition No.4096/2002 (Union of India Vs. Shri V.N. Mangalanadan, dated 8th April, 2008)** was not cited before the Nagpur Bench of this Tribunal. The Aurangbad Bench of this Tribunal had earlier taken a view that the applications for condonation of delay in Review Applications before this Tribunal are not maintainable. However, in MA 41/2010 in RA 1/2010 in OA 361/2009, the Bench of the then Hon'ble Chairman relied upon the above referred Judgment of the Hon'ble Bombay High



Court and held that, such applications for condonation of delay would be maintainable. It appears quite clearly that the Rule 18 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 and Rule 17 of the Central Administrative Tribunal (Procedure) Rules, 1987 are in *pari-materia* and before the Hon'ble High Court in **Mangalanadan's** case (supra), the provisions of Rule 18 of the Central Rules were the subject matter. It was pointed out by Ms. Gohad, the learned PO that, even after the Judgment of the Hon'ble Nagpur Bench of this Tribunal, this Tribunal here in the Principal Bench had in fact condoned the delay in some matters, a copy whereof is annexed hereto.

4. Now, it is no doubt true that, left alone with the Judgment of the Division Bench of this Tribunal at Nagpur, I would be left with no other alternative but to hold that application for condonation of delay is not maintainable. That is by the elementary principles of law of precedents. However, on the same subject matter, the net result that is produced is that the orders of the Division Bench of this Tribunal (Nagpur) is not in keeping with the principles laid down by the Hon'ble Bombay High Court in **Mangalanadan** (supra), and therefore, if **Mangalanadan** (supra) is applied to the present facts, it



can be so done without getting drawn into the academics of the matter as to whether Umashankar (Nagpur Bench of MAT) was rendered *per in curium* in Mangalanadan (supra). Mangalanadan has to be applied hereto because that is a Judgment of the Hon'ble High Court which is binding, I would therefore, conclude by holding that, it is not at all necessary for me to make any reference to the Hon'ble Chairman for constitution of Larger Bench and I must repeat that, that is because that the Judgment of the Hon'ble Bombay High Court governs us all. MA 340/2017 is, therefore, disposed of as above.

5. In so far as MA 300/2017 is concerned which seeks condonation of delay in bringing the application for review before this Tribunal in so far as this particular MA is concerned, I think, the same can be safely allowed and the application for review can be heard. That MA is, therefore, allowed and the delay is condoned and the Review Application stands adjourned for hearing to 23rd August, 2017.

Sd/-

(R.B. Malik)
Member-J
16.08.2017

16.08.17

Mumbai

Date : 16.08.2017

Dictation taken by :

S.K. Wamanse.


**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. of 20

IN

Original Application No. of 20

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p>DATE: <u>16/8/17</u></p> <p>CORAM: Shri. Mr. Shri. RAJIV AGARWAL (Vice Chairman) Shri R. B. MALIK (Member)</p> <p>APPEARANCE: Shri/Smt. R.M. Kolge Advocate for the Applicant Shri/Smt. <u>N.K. Rajpurohit</u> C.P.O./P.O. for the Respondants holding P.O. Archana <u>B.K.</u> <u>O.A. is admitted.</u> <u>S.O. to 11/9/17.</u></p> <p style="text-align: right;">FH </p>	<p style="text-align: center;"><u>O.A. No.88 of 2017</u></p> <p>Smt. S.S. Dhobale ... Applicant</p> <p style="text-align: center;">V/s.</p> <p>The State of Mah. & ors. ... Respondents</p> <p>Heard Shri R.M. Kolge, the learned Advocate for the Applicant and Shri N.K. Rajpurohit, the learned C.P.O. holding for Smt. Archana B.K., the learned P.O. for the Respondents.</p> <p>The learned Advocate for the Applicant submits that the Applicant does not want to file Rejoinder.</p> <p>The Original Application is admitted and appointed for final hearing on 11.09.2017.</p> <p style="text-align: right;">Sd/- (R.B. Malik) <u>16.8.17</u> Member (J) 16.08.2017</p> <p style="text-align: center;">(vsm)</p>

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p>DATE: <u>16/8/17</u></p> <p>CORAM:</p> <p>Hon'ble Shri. RAJIV AGARWAL (Vice-Chairman)</p> <p>Hon'ble Shri R. B. MALIK (Member) J</p> <p>APPEARANCE:</p> <p>Shri/Smt. <u>A. More</u> Advocate for the Applicant</p> <p>Shri/Smt. <u>N.K. Rajpurohit</u> C.P.O./P.O. for the Respondents</p> <p>Adj. To <u>S.O. to 13/9/17.</u></p>	<p><u>O.A. Nos.669, 670, 671, 672 & 673 of 2017</u></p> <p>Shri A.D. Manchekar & Ors. ... Applicants</p> <p>V/s.</p> <p>The State of Mah. & ors. ... Respondents</p> <p>Heard Shri A. More, the learned Advocate for the Applicants and Shri N.K. Rajpurohit, the learned C.P.O. for the Respondents.</p> <p>Issue notice returnable on 13.09.2017.</p> <p>Tribunal may take the case for final disposal at this stage and separate notice for final disposal need not be issued.</p> <p>Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.</p> <p>This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 and the questions such as limitation and alternate remedy are kept open.</p> <p>The service may be done by hand delivery / speed post / courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within four weeks. Applicant is directed to file Affidavit of compliance and notice.</p> <p>S.O. to 13.09.2017. Learned P.O. do waive service.</p> <p>Sd/- (R.B. Malik) <u>16.8.17</u> Member (J) 16.08.2017</p> <p>(vsm)</p>

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

M.A./R.A./C.A. No.


of 20

IN

Original Application No.

of 20

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p><u>DATE:</u> 16/8/17</p> <p><u>CORAM:</u> Hon'ble Shri. RAJIV AGARWAL (Vice-Chairman) Hon'ble Shri R. B. MALIK (Member) J</p> <p><u>APPEARANCE:</u> Shri/Smt. <u>A.V. Bandiwadkar</u> Advocate for the Applicant Shri/Smt. <u>Ms. S. Suryawanshi</u> P.O./P.O. for the Respondents D.A. is admitted. Adj. To <u>11/9/17</u></p> <p style="text-align: right;">FH  (vsm)</p>	<p style="text-align: center;"><u>O.A. No.198 of 2016</u></p> <p>Shri C.S. Vyavahare ... Applicant</p> <p style="text-align: center;">V/s.</p> <p>The State of Mah. & ors. ... Respondents</p> <p>Heard Shri A.V. Bandiwadkar, the learned Advocate for the Applicant and Ms S.Suryawanshi, the learned P.O. for the Respondents.</p> <p>The pleadings are complete. The Original Application is admitted and appointed for final hearing on 01.09.2017.</p> <p style="text-align: right;">Sd/- (R.B. Malik) 16.8.17 Member (J) 16.08.2017</p>

2

(G.C.P.) J 2280(B) (50,000--2-2015)

(Spl. MAT-F-2 E.

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. of 20

IN

Original Application No. of 20

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p><u>DATE:</u> 16/8/17</p> <p><u>CORAM:</u> Shri. Rajiv Agarwal (Vice-Chairman) Shri R. B. MALIK (Member)</p> <p><u>APPEARANCE:</u> Applicant in person Advocate for the Applicant Shri/Smt. N. L. Rajpurohit C.P.O./P.O. for the Respondents Rejoinder filed by Applicant. Adj. to O.A. is admitted. S.O. to 8/9/17</p> <p style="text-align: right;">FH </p>	<p style="text-align: center;"><u>O.A. No. 1106 of 2016</u></p> <p>Shri S. S. Vardam ... Applicant</p> <p style="text-align: center;">V/s.</p> <p>The State of Mah. & ors. ... Respondents</p> <p>Heard the Applicant in person and Shri N.K. Rajpurohit, the learned C.P.O. for the Respondents.</p> <p>The Affidavit-in-Rejoinder is taken on record. The Original Application is admitted and appointed for final hearing on 08.09.2017.</p> <p>Sur-Rejoinder, if any, must be filed on that day and not thereafter.</p> <p style="text-align: right;">Sd/- (R.B. Malik) 16.8.17 Member (J) 16.08.2017</p>

Office Notes, Office Memoranda of Coram,
Appearance, Tribunal's orders or
directions and Registrar's orders

Tribunal's orders

O.A. No.772 of 2017

Dr. D.K. Pardeshi ... Applicant

V/s.

The State of Mah. & ors. ... Respondents

Heard Shri A.V. Bandiwadekar, the learned Advocate for the Applicant and Shri N.K. Rajpurohit, the learned C.P.O. for the Respondents.

Issue notice returnable on 18.08.2017.

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

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

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.

The service may be done by hand delivery / speed post / courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within four weeks. Applicant is directed to file Affidavit of compliance and notice.

S.O. to 18.08.2017. Learned P.O. do waive service.

Sd/-

(R.B. Malik) (6-8-17)
Member (J)
16.08.2017

(vsm)

DATE: 16/8/17

CEM:

~~Present Shri. RAJIV AGARWAL~~
(Vice-Chairman)

Present Shri R. B. MALIK (Member)

APPEARANCE:

Shri A.V. Bandiwadekar

Advocate for the Applicant

Shri/Smt. N.K. Rajpurohit

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

Adj. To S.O. to 18/8/17

Office Notes, Office Memoranda of Coram,
Appearance, Tribunal's orders or
directions and Registrar's orders

Tribunal's orders

O.A. No.773 of 2017

Shri D.S. Jadhav ... Applicant

V/s.

The State of Mah. & ors. ... Respondents

Heard Shri P. Pandey, the learned Advocate for the Applicant and Shri N.K. Rajpurohit, the learned C.P.O. for the Respondents.

Reserving the rights of the Applicant to renew the request for interim relief, I direct notice to be issued returnable on 23.08.2017.

Issue notice returnable on 23.08.2017.

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

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

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.

The service may be done by hand delivery / speed post / courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within four weeks. Applicant is directed to file Affidavit of compliance and notice.

S.O. to 23.08.2017. Learned P.O. do waive service.

Sd/-

(R.B. Malik)
Member (J)
16.08.2017

16-8-17

DATE: 16/8/17

CORAM:

~~Shri. RAJIV AGARWAL~~
(Vice-Chairman)

Shri. R. B. MALIK (Member)

APPEARANCE:

Shri. P. Pandey

Advocate for the Applicant

Shri/Smt. N.K. Rajpurohit

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

Adj. To

S.O. to 23/8/17

[Signature]

Office Notes, Office Memoranda of Coram,
Appearance, Tribunal's orders or
directions and Registrar's orders

Tribunal's orders
Date : 16.08.2017.

O.A.No.465 of 2017

G.R. KarpeApplicant.
Versus
The State of Maharashtra & Ors.Respondents.

1. Heard Shri M.D. Lonkar, the learned Advocate for the Applicant and Shri K.B. Bhise, the learned Presenting Officer for the Respondents.

2. In view of amendment fresh notice returnable on 06.09.2017.

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

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

7. S.O. to 06.09.2017.

Sd/-

(A.H. Joshi J.)
Chairman

prk

DATE: 16/8/2017

FORUM:

Hon'ble Justice Shri A. H. Joshi (Chairman)

Hon'ble Shri M. Rameshkumar (Member-A)

APPEARANCE:

Shri/Smt: M. D. Lonkar

Advocate for the Applicant

Shri/Smt: K.B. Bhise

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

Adj. To: 6/9/2017.

prk

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI**ORIGINAL APPLICATION NO.590 OF 2017****DISTRICT: PUNE**

V.B. Bhise

.. Applicant

Versus

The State of Maharashtra & Ors.

..Respondents

Shri A.V. Bandiwadekar, the learned Advocate for the Applicant.

Ms. N.G. Gohad, the learned Presenting Officer for the Respondents.

CORAM : Justice Shri A.H. Joshi, Chairman

DATE : 16.08.2017.

ORDER

1. Heard Shri A.V. Bandiwadekar, the learned Advocate for the Applicant and Ms. N.G. Gohad, the learned Presenting Officer for the Respondents
2. Issue notice before admission returnable on 20.09.2017.
3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
4. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A.. 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 within one week. Applicant is directed to file Affidavit of compliance and notice.
7. Heard on the point of interim relief.
8. In the interest of justice, this Tribunal directs that final orders furtherance to impugned notice dated 15.05.2017, copy whereof is at page 15, Exhibit-A of O.A. paper book; should not be passed, till next date of hearing.
9. It is hoped that the affidavit-in-reply answering all averments, grounds and points involved in the O.A. be filed on the next date.
10. S.O. to 20.09.2017.
11. Hamdast of notice and order is allowed.



Sd/-

(A.H. Joshi, J.)

Chairman

prk

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI**ORIGINAL APPLICATION NO.697 OF 2017
WITH
O.A.NO.753 OF 2017 WITH M.A.NO.341 OF 2017**

DISTRICT: PUNE

S.S. Patil & Ors. (O.A.No.697 of 2017)

K.B. Phund & Ors. (O.A.No.753/2017 with M.A.No.341/2017)

.. Applicants

Versus

The State of Maharashtra & Ors.

..Respondents

Shri A. Dubey, the learned Advocate for the Applicants in O.A.No.697/2017.

Shri Atul Rajadhyaksha, the learned Advocate for the Applicants in O.A.No.753/2017 with M.A.No.341/2017.

Shri N.K. Rajpurohit, the learned Chief Presenting Officer for the Respondents.

CORAM : Justice Shri A.H. Joshi, Chairman

DATE : 16.08.2017.

ORDER

1. Heard Shri A. Dubey, the learned Advocate for the Applicants in O.A.No.697/2017, Shri Atul Rajadhyaksha, the learned Advocate for the Applicants in O.A.No.753/2017 with M.A.No.341/2017 and Shri N.K. Rajpurohit, the learned Chief Presenting Officer for the Respondents.
2. Admit. To be heard along with O.A.No.916 of 2016 and O.A.No.1099 of 2016
3. Tribunal may take the case for final disposal on the date as may be posted on warned list.
4. Applicants are authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A.. 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 within one week. Applicants are directed to file Affidavit of compliance and notice.

7. Heard on the point of interim relief. It is considered necessary in the interest of justice that the finalization of seniority list furtherance to impugned circular can proceed, but its final proclamation should not be done without express leave of this Tribunal.

Sd/-

(A.H. Joshi, J.)
Chairman

prk

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

**ORIGINAL APPLICATION NOS.681 to 686, 691 & 692/2017
WITH
ORIGINAL APPLICATION NOS.694 & 701 to 703/2017**

Shri V.A. Kose & Ors.)...**Applicants**

Versus

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

**Mr. M.R. Patil with Ms. S.P. Manchekar, Advocates for
Applicants.**

Ms. S.T. Suryawanshi , Presenting Officer for Respondents.

P.C. : R.B. MALIK (MEMBER-JUDICIAL)

DATE : 16.08.2017

ORDER

1. These OAs are placed before me for consideration of interim orders in matters relating to transfer of Assistant Commissioners of Food and Drugs.



2. I have perused the record and proceedings and heard Mr. M.R. Patil with Ms. S.P. Manchekar, the learned Advocate for the Applicants and Ms. S.T. Suryawanshi, the learned Presenting Officer for the Respondents.

3. Be it noted right at the outset that, I am at the stage of interim relief at the moment, and therefore, no observation made herein shall conclude the parties in so far as the final hearings of the OAs are concerned. If there is an element of tentativeness and I insist, if it is there, then that perhaps is not something which can be helped.

4. The sum and substance of the case of the Applicants is that the impugned orders of transfers are mid-tenure and/or mid-term transfers because they came to be issued on 20th July, 2017 and obviously not in the months of April and/or May. The service conditions of transfer of the Applicants is governed by the provisions of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (Transfer Act). The Applicants have pleaded that, they have not completed their tenure, and therefore, if they were to be transferred, there should have been special reasons and exceptional circumstances as



provided for in Section 4(5) and Section 5 of the Transfer Act. Reasons ought to have been assigned for the same.

5. With the assistance of both the sides, I was taken through the record in extenso and for interim relief, these matters were really argued at their heart's content.

6. It appears that, in a Marathi Daily, back in the year 2013, a series of news-items or articles were carried to highlight the fact that in these departments, there were personnel who had put in a large number of years and they were not transferred and certain other facts and factors to tone-up the administration came to be highlighted therein the said press items. Thereafter, a Committee under Mr. Mahesh Zagade came to be constituted which submitted its report in 2014. An extremely voluminous reports has been placed on record and to the extent it is relevant for my present purposes, it pointed out in its own guarded manner that a number of employees were "managing" to take postings in Mumbai and Thane and that produce the deleterious results and hence, the need to make the transfers outside these two Districts of Mumbai and Thane. As a matter of fact, in these very matters, it is pleaded that a number of Assistant Commissioners, Food and Drugs were earlier served for a long durations of time

✓


in Mumbai and/or Thane and were transferred outside these Districts have been brought back in the current orders of transfer. It is not necessary for me to set out in great detail, the names, etc. of the concerned Officers. However, the fact remains that the special reason or exceptional circumstance was in all probability Zagade Committee Report.

7. Even at this interim stage, it is clear to me that while one has to view the responsibility discharged by the press with the kind of respect that it deserves and other factors remaining constant, nothing can be said *per-se* against the Zagade Committee Report, but then in the Affidavit-in-reply, as well as in certain other documents, there are quite clear recitals to the effect that Zagade Committee's Report should prevail over the Transfer Act. It is mentioned that, such transfers should be effected even if the normal tenure has not been completed. I do not feel called upon to closely examine Zagade Committee Report and place on record any point of view thereabout. The said Report must have been based on the reasons that appeal to Mr. Zagade and his Committee. However, one aspect of the matter is quite clear and that is, that when a particular aspect of the service condition is statute regulated, then no other Committee can be given



preference over the statute and such findings cannot prevail over the statute. Zagade Committee's Report can be implemented but it can be implemented bearing in mind the need for it to be in consonance with and consistent with and to further the cause enshrined in the Transfer Act. Transfer Act cannot be subordinated to Zagade Committee Report. May be in future, the transfers can be effected provided they come within the purview of Transfer Act but the difficulty here is that, according to the Respondents, Zagade Committee's Report by itself is an exceptional circumstance and special reason. I am conscious of the fact that, at interim stage or at any stage for that matter, the judicial forum exercising the power of judicial review of administrative action has got circumscribed jurisdiction, but even within them, in my view, unless the reasons in respect of each one of the Applicants was set up in a cogent manner, I do not think, generally relying on Zagade Committee Report, the Respondents could have carried the day. I must also make it clear that, I have made these observations to reason out my conclusions and I am not giving any direction for or against the transfers being made any time. That aspect of the matter will be covered by the statute. Even at this interlocutory stage, I am convinced that the law enshrined in the Transfer Act has not been complied with in the

A handwritten signature in black ink, consisting of a stylized, cursive name, positioned at the bottom right of the page. The signature is written over a horizontal line that extends to the right.

manner, it should have been, and therefore, this judicial forum cannot be a mute spectator.

8. The learned PO Ms. **S. Suryawanshi** relied upon **Amarjeet Singh and others Vs. Devi Ratan & Others : (2010) 1 SCC 417.** According to her, the Applicants have not challenged Zagade Committee Report, and therefore, they cannot now be allowed to seek any relief such as they have sought. **Amarjeet's** case was on entirely different fact situation. It was held that, in the matter of any service condition like promotion, etc. if there was a seniority list which had not been challenged, then the Applicants could not succeed. Here what has happened really is that the Respondents have not complied with the requirement of Transfer Act which is a duly enacted law. Not only that, they have made it very clear that they would prefer Zagade's Report to the law.

9. Another Judgment rendered by me in **OAs 396/2015 and 397/2015 (Avinash P. Bhanushali Vs. State of Maharashtra and one another, dated 3.8.2015)** was also pressed into service by Ms. Suryawanshi, the learned PO. In that particular matter, the issue was about the transfer of Sectional Engineers from Palghar District to Gadchiroli District. The Applicants therein in various



capacities had worked therein that District for 15 years or even more. The learned PO contended that, here also in various capacities, the present Applicants have been there in and around Mumbai and Thane for a very long time in fact much longer than their statutory tenure. Mr. Patil, the learned Advocate for the Applicant retorted by contending that, as per the provisions of Transfer Act, the issue would be as to whether the Applicants have completed their tenure in their present post. The learned PO told me that, going by **Bhanushali's** case, their earlier period will also have to be taken into consideration. Now, in the first place, Mumbai and Thane, regardless of their actual distance are two different Districts and that should be so even in the case of the Department of Food and Drugs. In **Bhanushali's** case, there was an issue of complaints which had to be decided against the Applicants there. No material was there to show malafides and most importantly, the findings in Para 71 (Page 59 of the said Judgment) were clear that the transfers themselves were effected in the month of May, 2015 and it was, therefore, not a case of a mid-term or mid-tenure transfer and that would make a world of difference between those facts and the present fasciculus of OAs.



10. In view of the foregoing, after having heard the parties at really great length, I am of the opinion that, a case for interim relief is made out. It is possible that the Respondents might contend that the order has been effectuated. But that is to be so in almost every case of this nature because the paper work is after-all in the hands of the Respondents. If it comes to that, if a case is found to have been made out, then the Tribunal is armed with powers to make orders of mandatory nature even at interlocutory stage, and therefore, when a direction will be given for the reposting of the Applicants, it goes without saying that, they would be reposted at the place they have been transferred from and they shall be allowed to actually function there.

11. In the manner mentioned in the preceding Paragraph, the Respondents are directed to repost the Applicants to the posts they had been transferred from by the orders herein impugned within a period of one week from today and having reposted them, the Applicants shall be allowed to actually function just as they were functioning when the impugned orders were issued. The Respondents are free to make alternative postings of those Officers who may have been posted in place of the Applicants for which precise posting, no direction is being



given but it is made clear that, their alternative posting resulting from the reposting of the Applicants would not be hampered by this interim order. With this interim relief, these OAs stand adjourned to 21st September, 2017 for Affidavits-in-reply. Handwritten

m n ~

Sd/-

(R.B. Malik)
Member-J
16.08.2017

16.08.17

Mumbai

Date : 16.08.2017

Dictation taken by :

S.K. Wamanse.

D:\SANJAY WAMANSE\JUDGMENTS\2017\8 August, 2017\O.A.681.17 & group for interim relief.doc

Office Notes, Office Memoranda of Coram,
Appearance, Tribunal's orders or
directions and Registrar's orders

Tribunal's orders

OA 656/17

Learned Advocate for applicant
states that applicant wants to
collect papers not so far collected
and therefore he wants to
amend the OA.

He therefore prays for leave to
substitute the paperbook.
Leave to substitute entire paper
is granted.

So to 5/11/2017.

In case substitution is done in
four weeks issue usual
notice of amended OA.

If substitution is not done, OA
shall stand dismissed after four
weeks without reference to
the Tribunal.

2

Sd/-

CA/Agst/MS

16/8/2017.

DATE: 16/8/2017

CORAM:

Hon'ble Justice Shri A. H. Joshi (Chairman)

Hon'ble Shri M. Kameshkumar (Member) A

APPEARANCE:

Shri/Smt: B. A. Bardiwadar

Advocate for the Applicant

Shri/Smt: K. S. Gaikwad

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

Adj. To: 6/11/2017

RJK

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders

Tribunal's orders

O A NO 305/17

Issue usual fresh notice to the Respondent returnable on 20/9/2017

Sd/-

[Signature]

16/8/2017

DATE: 16/8/2017

CORAM:

Hon'ble Justice Shri A. H. Joshi (Chairman)

Hon'ble Shri M. Rameshkumar (Member) A

APPEARANCE:

Shri/Smt: S.S. Dey

Advocate for the Applicant

Shri/Smt: K.S. Gaikwad

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

Ad. To: 20/9/2017

[Signature]

Mr. S.A.H

(Advocate

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders

Tribunal's orders

objection:-
1] Illegible:- 9 to 13
2] Black shadings:- 14 to 16

Applicant shall take the order & notice from the Registry.

Sd/-
[Signature]
16/8/2017

DATE: 16/8/17

CORAM:

Hon'ble Justice Shri A. H. Joshi (Chairman)

Hon'ble Shri M. Rameshkumar (Member) A

APPEARANCE:

Shri/Smt: M.D. Lokker

Advocate for the Applicant

Shri/Smt: A.J. Chougale

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

Applicant shall take the order & notice from the Registry.

[Signature]