

**ORIGINAL APPLICATION NO. 252/2020**  
**(Harikisan D. Jadhav Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri A.P. Kurhekar, Member (J)**

**DATE : 16.02.2021**

**ORAL ORDER :**

Heard Ms. Preeti Wankhade, learned Counsel for the applicant, Shri I.S. Thorat, learned Presenting Officer for the respondent No. 4 and Shri Shamsunder B. Patil, learned Advocate for respondent Nos. 1 to 3.

2. Though enough time is granted to the respondent Nos. 1 to 3 to file affidavit in reply, they have not filed the same. The respondent No. 4 has filed affidavit in reply.

3. The applicant stood retired at the end of May 2019. After his retirement by the impugned order dated 25.11.2019 recovery of Rs. 1,06,915/- is sought on account of excess payment made to him. He is Class-IV employee.

4. Prima-facie, the recovery on account of excess payment from Class-IV employee is not permissible in view of the Judgment of Hon'ble Apex Court in **Rafiq Masih's** case. At this juncture, it would be appropriate to reproduce Para No.12 of the Judgment, which reads as follows:-

*“12. It is not possible to postulate all situations of hardship, which would govern employees on the issue*

*of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarize the following few situations, wherein recoveries by the employers, would be impermissible in law.*

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

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

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

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

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

5. In view of the above, interim stay is granted to the recovery order dated 25.11.2019.

6. Two weeks time is granted for filing affidavit in reply on behalf of respondent Nos. 1 to 3.

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7. The respondent No. 3 is directed to ensure payment of regular pension to the applicant and compliance be reported on the next date.

8. S.O. to 18.03.2021.

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 334/2020**  
**(Vijaykumar P. Narwade Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri A.P. Kurhekar, Member (J)**

**DATE : 16.02.2021**

**ORAL ORDER :**

Heard Shri M.R. Kulkarni, learned Counsel for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. In the present Original Application, the applicant has challenged the transfer order dated 10.08.2020 whereby he has been transferred from Nandurbar to Jalgaon, since he didn't get posting as per his choice. Admittedly, he was due for transfer at the time of impugned transfer order.

3. Learned C.P.O. submits that the applicant has already given option of Jalgaon and accordingly, he was posted at Jalgaon. However, the applicant's first choice was Buldhana, which he didn't get.

4. Subsequent development in the matter is that the respondent No. 2 i.e. the Charity Commissioner, Maharashtra State, Mumbai has stayed the transfer of the applicant subject to decision in this O.A.

5. Learned Advocate for the applicant submits that O.A. be disposed of with a direction to the respondent No. 2 to

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consider his representation/s at the time of General Transfers of the year 2021.

6. In view of the above, the O.A. is disposed of with following direction:-

The respondent No. 2 is directed to consider the representation/s made by the applicant at the time of General Transfers of the year 2021 and shall pass appropriate order in accordance to the rule and decision shall be communicated to the applicant.

No order as to costs.

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 340/2020 With  
Caveat Nos. 70/2020 & 921/2020  
(Kalpana B. Kshirsagar Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri A.P. Kurhekar, Member (J)**

**DATE : 16.02.2021**

**ORAL ORDER :**

Heard Shri Anant Devkate, learned Counsel for the applicant, Shri M.S. Mahajan, learned Chief Presenting Officer for the respondent Nos. 1 & 2 and Shri D.R. Irale Patil, learned Advocate for respondent No. 4 (caveator).

2. Today, the respondent No. 3 made his first appearance in the O.A. through Advocate Shri Vaibhav P. Deshmukh, who requested for grant of time to file affidavit in reply.

3. At this stage, the learned Advocate for the applicant submits that he wants to delete the name of respondent No. 3 and requested to hear the matter on merit. Applicant is allowed to delete the name of respondent No. 3.

4. Arguments heard.

**MEMBER (J)**

**ORIGINAL APPLICATION NO.447/2020**  
**(Vaishali Hinge Vs. State of Maharashtra & Ors.)**

**CORAM : Shri A.P.Kurhekar, Member (J)**

**DATE : 16.02.2021**

**ORAL ORDER :**

Heard Shri S.D.Joshi learned Advocate for the applicant and Shri M.S.Mahajan learned Chief Presenting Officer for the respondents.

2. Enough time is granted but no reply is filed by the respondents. At the request of learned CPO two weeks' time is granted as a last chance for filing reply.

3. S.O. to 03-03-2021.

**MEMBER (J)**

**ORIGINAL APPLICATION NO.498/2020**  
(Devidas Ghuge Vs. State of Maharashtra & Ors.)

**CORAM : Shri A.P.Kurhekar, Member (J)**

**DATE : 16.02.2021**

**ORAL ORDER :**

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

2. The applicant has initially challenged the suspension order dated 24-01-2020 thereby he was suspended in contemplation of departmental enquiry invoking Rule 4(1)(a) of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979.

3. Today, learned P.O. has tendered copy of order dated 05-02-2021 which shows that the suspension of the applicant is revoked and he is reinstated in service subject to decision in the departmental enquiry.

4. The learned Advocate for the applicant has raised grievance that his client has not been served with reinstatement order dated 05-02-2021. If it is so, respondents are directed to serve the copy of the reinstatement order upon the applicant without loss of time.

5. Thus, in view of the statement of the learned P.O. and order dated 05-02-2021, O.A. has become infructuous and it needs to be disposed of with suitable directions.



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6. Hence, O.A. is disposed of with directions to the respondents to ensure completion of departmental enquiry including passing final order therein within 4 months from today.

**MEMBER (J)**

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**ORIGINAL APPLICATION NO.506/2020**  
**(Sudhir Giridhar Dhiware Vs. State of Maharashtra & Ors.)**

**CORAM : Shri A.P.Kurhekar, Member (J)**

**DATE : 16.02.2021**

**ORAL ORDER :**

Heard Shri D.R.Irale Patil learned Advocate for the applicant and Shri M.P.Gude learned Presenting Officer for the respondents.

2. Today, learned P.O. has filed affidavit in reply on behalf of respondent nos.1 to 3. It is taken on record. Learned Advocate for the applicant has also filed affidavit in rejoinder. It is also taken on record.

3. Arguments are heard and O.A. is disposed of by separate order.

**MEMBER (J)**

**ORIGINAL APPLICATION NO.568/2020**  
**(Shankar Waghmare Vs. State of Maharashtra & Ors.)**

**CORAM : Shri A.P.Kurhekar, Member (J)**

**DATE : 16.02.2021**

**ORAL ORDER :**

Heard Shri R.R.Wakekar learned Advocate holding for Shri A.D.Sugdare learned Advocate for the applicant and Shri V.R.Bhumkar learned Presenting Officer for the respondents.

2. Learned P.O. seeks time to file affidavit in reply on behalf of the respondents. Time is granted.

3. S.O. to 16-03-2021.

**MEMBER (J)**

**ORIGINAL APPLICATION NO.577/2020**  
**(Kailas B. Choudhari Vs. State of Maharashtra & Ors.)**

**CORAM : Shri A.P.Kurhekar, Member (J)**

**DATE : 16.02.2021**

**ORAL ORDER :**

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

2. The applicant has challenged the transfer order dated 18-12-2020 and this Tribunal has already granted interim relief by order dated 24-12-2020.

3. Interim relief continued till next date. Adjourned for hearing.

4. S.O. to 16-03-2021.

**MEMBER (J)**

**ORIGINAL APPLICATION NO.574/2020**  
**(Anil Rokade Vs. State of Maharashtra & Ors.)**

**CORAM : Shri A.P.Kurhekar, Member (J)**

**DATE : 16.02.2021**

**ORAL ORDER :**

Heard Shri Kakasaheb B. Jadhav learned Advocate for the applicant, Shri S.K.Shirse learned Presenting Officer for the respondent no.1 and Shri Shamsundar B. Patil learned Advocate for respondent nos.2 and 3.

2. The Applicant has challenged the suspension order dated 10-02-2017 whereby he was suspended in view of registration of crime and police custody for offences under section 420, 468, 471 & 34 of Indian Penal Code.

3. Today, learned Advocate for respondent nos.2 and 3 Shri Patil has tendered copy of letter dated 03-11-2020 issued by respondent no.2 addressed to the Government which reveals that departmental enquiry is completed and in view of the positive report of the Enquiry Officer, major punishment is proposed.

4. The Applicant is also served with the report of the Enquiry Officer and he has tendered reply to the same. Thus, what remains is passing of final order in the departmental enquiry.

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5. Learned P.O. submits that final decision in the departmental enquiry will be taken within 2 weeks without fail.

6. In view of above, O.A. deserves to be disposed of since the departmental enquiry is already completed except passing of final order.

7. O.A. is disposed of with direction to the respondent no.2/competent authority to pass final order in the departmental enquiry within 2 weeks in accordance with the law and the decision as the case may be, shall be communicated to the applicant within a week thereafter.

7. On decision of departmental enquiry applicant is at liberty to take further remedy as may be available to him in law. O.A. stands disposed of with no order as to costs.

**MEMBER (J)**

**ORIGINAL APPLICATION NO.225/2020**  
**(Shri Subhash M. Rathod Vs. State of Maharashtra & Ors.)**

**CORAM : Shri A.P. Kurhekar, Member(J)**  
**DATE : 16.02.2021**

**ORAL ORDER :**

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

Shri K.J. Suryawanshi, learned Advocate for the Respondent Nos.4 & 6 (**absent**).

2. Pleadings are complete. Admit to come up for hearing in due course.

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 175 OF 2020**  
**(Shri Rajiv Hari Jamodkar Vs. State of Mah. & Ors.)**

**CORAM : SHRI A.P. KURHEKAR, MEMBER (J)**

**DATE : 16.02.2021**

**ORAL ORDER :**

Heard Shri M.R. Kulkarni, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. In the present case the applicant has challenged transfer order.

3. Today, the learned Advocate for the applicant states that he has received instructions from his client i.e. the applicant to withdraw the present Original Application.

4. Allowed to withdraw the present Original Application. Accordingly, the present Original Application stands disposed of as withdrawn without any order as to costs.

**MEMBER (J)**



**ORIGINAL APPLICATION NO. 122 OF 2020**  
**(Shri Sandip P. Jadhav Vs. State of Mah. & Ors.)**

**CORAM : SHRI A.P. KURHEKAR, MEMBER (J)**

**DATE : 16.02.2021**

**ORAL ORDER :**

Heard Shri Kakasaheb B. Jadhav, learned Advocate holding for Shri A.B. Girase, learned Advocate for the applicant, Shri M.S. Mahajan, learned Chief Presenting Officer for the respondent Nos. 1 to 3 and Smt. Suchita Amit Dhongde, learned Advocate holding for Shri S.D. Dhongde, learned Advocate for respondent No. 4. Shri Nilesh N. Desale, learned Advocate for respondent No. 5 (absent).

2. Learned Advocate Shri Kakasaheb Jadhav seeks adjournment on the ground that the Senior Advocate Shri A.B. Girase is not available today due to his personal difficulty.

3. In view of the above, the present O.A. is admitted and adjourned for final hearing in due course of time.

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 97 OF 2020**  
**(Shri Tukaram V. Sanap Vs. State of Mah. & Ors.)**

**CORAM : SHRI A.P. KURHEKAR, MEMBER (J)**

**DATE : 16.02.2021**

**ORAL ORDER :**

Shri M.R. Andhale, learned Advocate for the applicant **(absent)**. Shri S.K. Shirse, learned Presenting Officer for the respondents, present.

2. On perusal of the record it reveals that the affidavit in reply on behalf of respondent Nos. 2 & 3 has already been filed on record.

3. Pleading is complete.

4. The present O.A. is admitted and adjourned for final hearing in due course of time.

**MEMBER (J)**

ORAL ORDERS 16.02.2021-hdd

**ORIGINAL APPLICATION NO. 87 OF 2020**  
**(Shri Rajendra B. Kamble Vs. State of Mah. & Ors.)**

**CORAM : SHRI A.P. KURHEKAR, MEMBER (J)**

**DATE : 16.02.2021**

**ORAL ORDER :**

Heard Ms. Preeti R. Wankhade, learned Advocate for the applicant and Mrs. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. By filing the present Original Application the applicant has challenged the punishment imposed upon him.

3. On request of learned Presenting Officer for the respondents, two weeks' time is granted for filing affidavit in reply.

4. S.O. to 07.03.2021.

**MEMBER (J)**

ORAL ORDERS 16.02.2021-hdd

**ORIGINAL APPLICATION NO. 44 OF 2020**  
**(Smt. Asha S. Gaikwad Vs. State of Mah. & Ors.)**

**CORAM : SHRI A.P. KURHEKAR, MEMBER (J)**

**DATE : 16.02.2021**

**ORAL ORDER :**

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

2. On perusal of the record it reveals that the affidavit in reply on behalf of respondent Nos. 3 & 4 has already been filed on record.

3. Pleading is complete. The present Original Application is ready for final hearing and hence, the same is admitted and adjourned for final hearing in due course of time.

**MEMBER (J)**

ORAL ORDERS 16.02.2021-hdd

**ORIGINAL APPLICATION NO. 03 OF 2020**  
**(Shri Anil Vishwanath Lad Vs. State of Mah. & Ors.)**

**CORAM : SHRI A.P. KURHEKAR, MEMBER (J)**

**DATE : 16.02.2021**

**ORAL ORDER :**

Heard Shri R.D. Khadap, learned Advocate holding for Shri M.S. Karad, learned Advocate for the applicant, Mrs. Deepali S. Deshpande, learned Presenting Officer for the respondent Nos. 1 to 4 and Shri Avinash S. Deshmukh, learned Advocate for respondent No. 5.

2. Today, learned Advocate Shri Avinash S. Deshmukh has filed affidavit in reply on behalf of respondent No. 5 and the same is taken on record and copy thereof has been served on the other side.

3. On perusal of the record it reveals that the affidavit in reply on behalf the respondents has already been filed on record. The present Original Application is ready for final hearing and hence, the same is admitted.

4. S.O. to 24.03.2021.

**MEMBER (J)**

**O.A.NO. 592/2019 WITH O.A.NO. 285/2020**  
**(Dr. Veena R. Garje Vs. State of Maharashtra & Ors.)**

**CORAM : SHRI A.P. KURHEKAR, MEMBER (J)**

**DATE : 16.02.2021**

**ORAL ORDER :**

Heard Shri Avinash S. Deshmukh, learned Advocate for the applicant in both the cases and Shri I.S. Thorat & Mrs. Deepali S. Deshpande, learned Presenting Officers for the respective respondents in respective cases.

2. On the request of learned Presenting Officers, S.O. to 17.02.2021 for enabling them to take instructions from the respondents.

**MEMBER (J)**

ORAL ORDERS 16.02.2021-hdd

**M.A.NO. 36/2021 IN O.A.ST.NO. 153/2021**  
**(Shri Ashok D. Shiradkar & Ors. Vs. State of Mah. & Ors.)**

**CORAM : SHRI A.P. KURHEKAR, MEMBER (J)**

**DATE : 16.02.2021**

**ORAL ORDER :**

Heard Shri Kakasaheb B. Jadhav, 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 (J)**

**ORIGINAL APPLICATION ST.NO. 153 OF 2021**  
**(Shri Ashok D. Shiradkar & Ors. Vs. State of Mah. & Ors.)**

**CORAM : SHRI A.P. KURHEKAR, MEMBER (J)**

**DATE : 16.02.2021**

**ORAL ORDER :**

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

2. Issue notice to the respondents, returnable on 23.03.2021.

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

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

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



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**O.A. ST.NO. 153 OF 2021**

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 23.03.2021.

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

**MEMBER (J)**

**M.A.NO. 31/2021 IN O.A.ST.NO. 62/2021**  
**(Shri Ramkisan J. Nampalle & Ors. Vs. State of Mah. & Ors.)**

**CORAM : SHRI A.P. KURHEKAR, MEMBER (J)**

**DATE : 16.02.2021**

**ORAL ORDER :**

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

2. This is an application preferred by the applicants seeking condonation of delay of 1 year and 8 months caused in filing accompanying Original Application.

3. Issue notice to the respondents in M.A. No. 31/2021, returnable on 22.03.2021.

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

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

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**M.A.NO. 31/2021 IN O.A.ST. 62/2021**

6. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.
7. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.
8. S.O. to 22.03.2021.
9. Steno copy and Hamdast is allowed to both parties.

**MEMBER (J)**

ORAL ORDERS 16.02.2021-hdd

**ORIGINAL APPLICATION NO. 22/2021  
(Muktyarsing R. Theng Vs. State of Maharashtra & Ors.)**

**CORAM : Shri A.P. Kurhekar, Member (J)**

[This matter is placed before the Single Bench  
due to non-availability of Division Bench.]

**DATE : 16.2.2021**

**ORAL ORDER :**

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

2. The applicant has challenged the Departmental Enquiry, which has been initiated by the charge sheet dated 11.6.2010. The applicant stand retired on 30.6.2010.

3. Learned Counsel for the applicant seeks interim stay to the proceedings of the Departmental Enquiry on the ground of inordinate delay in appointment of Enquiry Officer.

4. The applicant has filed the present O.A. quite belatedly i.e. after about 10 years from his retirement, and therefore, at this stage, without considering the gravity of the charges leveled against the applicant, I am not inclined to grant interim relief as prayed for by the applicant.

5. Issue notice before admission, returnable on 23.03.2021.

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**O.A. NO. 22/2021**

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

7. 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.

8. 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.

9. 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.

10. S.O. to 23.03.2021.

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

**MEMBER (J)**

**M.A. 37/2021 IN O.A. ST. 147/2021  
(Chhaya d/o Dnyanoba Saste @ Chhaya w/o Vivek Kale  
& Ors. Vs. State of Maharashtra & Ors.)**

**CORAM : Shri A.P. Kurhekar, Member (J)**

[This matter is placed before the Single Bench  
due to non-availability of Division Bench.]

**DATE : 16.2.2021**

**ORAL ORDER :**

Heard Shri Nitin V. Gaware, learned Counsel for the applicants and Smt. Deepali S. Deshpande, 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 (J)**

**O.A. ST. 147/2021**

**(Chhaya d/o Dnyanoba Saste @ Chhaya w/o Vivek Kale  
& Ors. Vs. State of Maharashtra & Ors.)**

**CORAM : Shri A.P. Kurhekar, Member (J)**

[This matter is placed before the Single Bench  
due to non-availability of Division Bench.]

**DATE : 16.2.2021**

**ORAL ORDER :**

Heard Shri Nitin V. Gaware, learned Counsel for the applicants and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. Issue notice before admission, returnable on 24.03.2021.

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.

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**O.A. ST. 147/2021**

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 24.03.2021.
8. Steno copy and Hamdast is allowed to both parties.

**MEMBER (J)**



**ORIGINAL APPLICATION NO. 385/2019  
(Suresh U. Nande Vs. State of Maharashtra & Ors.)**

**CORAM : Shri A.P. Kurhekar, Member (J)**

[This matter is placed before the Single Bench  
due to non-availability of Division Bench.]

**DATE : 16.2.2021**

**ORAL ORDER :**

Shri P.R. Rakhunde, learned Counsel for the applicant (**absent**). Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. Affidavits in replies on behalf of respondent nos. 2 & 3 are filed long back. Enough time was granted for filing affidavit in reply on behalf of respondent nos. 1 & 4.
3. Learned Presenting Officer seeks time to file affidavit in reply on behalf of respondent nos. 1 & 4.
4. Time granted as a last chance.
5. S.O. to 30.3.2021.

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 330/2020  
(Dilip M. Tribhuwan & Ors. Vs. State of Maharashtra &  
Ors.)**

**CORAM : Shri A.P. Kurhekar, Member (J)**

[This matter is placed before the Single Bench  
due to non-availability of Division Bench.]

**DATE : 16.2.2021**

**ORAL ORDER :**

Heard Shri Avinash S. Deshmukh, learned Counsel for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondent nos. 1 to 3. Shri Satyajit Rahane, learned Counsel for respondent nos. 4, 5, 6, 9, 10, 12, 14 & 15 (**absent**).

2. The present matter pertains to the Division Bench, which is to be heard by the Division Bench.

3. In the circumstances, the present matter be kept before the Division Bench for admission hearing in due course of time.

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 501/2020  
(Dr. Prashant B. Shamkuwar Vs. State of Maharashtra &  
Ors.)**

**CORAM : Shri A.P. Kurhekar, Member (J)**

[This matter is placed before the Single Bench  
due to non-availability of Division Bench.]

**DATE : 16.2.2021**

**ORAL ORDER :**

Heard Shri V.G. Pingle, learned Counsel for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. Today Shri V.G. Pingle, learned Advocate has filed his V.P. for the applicant in addition to Shri Ajay V. Shinde, learned Advocate. The said V.P. is taken on record.

3. Learned C.P.O. seeks time for filing affidavit in reply of the respondents. Time granted.

4. S.O. to 23.3.2021.

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 55/2021  
(Arvind S. Bhavar Vs. State of Maharashtra & Ors.)**

**CORAM : Shri A.P. Kurhekar, Member (J)**

[This matter is placed before the Single Bench  
due to non-availability of Division Bench.]

**DATE : 16.2.2021**

**ORAL ORDER :**

Heard Shri B.V. Dhage, learned Advocate holding for Shri P.S. Anerao, learned Counsel for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

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

3. S.O. to 24.3.2021.

**MEMBER (J)**

**MA 102/2020 WITH M.A.ST. 161/2020 IN O.A. 53/2018  
(Sopan E. Patil Vs. State of Maharashtra & Ors.)**

**CORAM : Shri A.P. Kurhekar, Member (J)**

[This matter is placed before the Single Bench  
due to non-availability of Division Bench.]

**DATE : 16.2.2021**

**ORAL ORDER :**

Heard Shri H.U. Tungar, learned Counsel for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. M.A. No. 102/2020 has been filed by the applicant for condonation of 13 days delay caused in filing M.A. st. No. 161/2020. Said M.A. St. 161/2020 has been filed by the applicant for restoration of O.A. no. 53/2018 to its original file, which is dismissed in default by this Tribunal vide order dated 12.12.2019.

3. Learned Counsel for the applicant submits that he was not aware about listing of O.A. before the Single Bench on 12.12.2019, and therefore, he remained absent on that day.

4. The O.A. pertains to the Division Bench, but it was placed before the Single Bench and in view of absence of applicant and his learned Counsel, it was dismissed in default on 12.12.2019.

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**MA 102/2020 WITH M.A.ST. 161/2020**  
**IN O.A. 53/2018**

5. Reasons for condonation of 13 days delay caused in filing M.A. for restoration of O.A. has been explained properly.

6. It appears that O.A. is filed by the applicant for revision of his pay, and therefore, it is appropriate to decide the matter on merit.

7. In view of above, both the M.As. are allowed. O.A. no. 53/2018 is restored to its original file.

8. Accordingly, O.A. be placed before the Division Bench as and when it is available for admission hearing.

**MEMBER (J)**

**MA 309/2020 IN O.A. 431/2020  
(Sujit D. Borkar Vs. State of Maharashtra & Ors.)**

**CORAM : Shri A.P. Kurhekar, Member (J)**

[This matter is placed before the Single Bench  
due to non-availability of Division Bench.]

**DATE : 16.2.2021**

**ORAL ORDER :**

Heard Shri S.D. Joshi, learned Advocate for the applicant in the present M.A., Shri S.G. Kulkarni, learned Advocate holding for Shri Ajay S. Deshpande, learned Advocate for respondent no. 1 in the present M.A. / applicant in O.A., Shri M.S. Mahajan, learned Chief Presenting Officer for the respondent nos. 2 & 3 in the present M.A. / respondent nos. 1 & 2 in the O.A. and Shri Vivek Kabade, learned Advocates for respondent nos. 4 to 6 in the present M.A. / respondent nos. 3 to 5 in O.A.

2. Learned C.P.O. seeks time till tomorrow to take instructions from the respondents on the line of directions contained in para 6 of the order of this Tribunal dated 14.12.2020 passed in present M.A. Time granted as prayed for.

3. S.O. to 17.2.2021.

**MEMBER (J)**

**MA 35/2021 IN O.A. 890/2018  
(Shaikh Hajrabee wd/o Shaikh Dadamiya & Ors. Vs.  
State of Maharashtra & Ors.)**

**CORAM : Shri A.P. Kurhekar, Member (J)**

[This matter is placed before the Single Bench  
due to non-availability of Division Bench.]

**DATE : 16.2.2021**

**ORAL ORDER :**

Heard Shri K.B. Jadhav, learned Advocate for the applicants and Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. M.A. No. 35/2021 is filed by the applicants for modification of the order passed by this Tribunal in O.A. No. 890/2018 on 23.1.2020, thereby in para nos. 7 & 8 directions were given to the respondent no. 2 to take appropriate decision as per rules on the proposals dated 11.8.2017 and 12.6.2019 forwarded by the respondent no. 3, within 4 weeks from the date of that order and communicate the same to the applicant in writing. As the directions given by this Tribunal vide order dtd. 23.1.2020 in O.A. were not complied with by the respondents, the applicants filed C.P. No. 8/2020 in which it was transpired that the said powers lies with the respondent no. 1 the Government and not with the respondent no. 2 and therefore the said C.P. was disposed of on 21.1.2021 with liberty to the applicants to move an application for review or modification of directions given by the Tribunal vide



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**MA 35/2021 IN O.A. 890/2018**

para 7 & 8 in the order dtd. 23.1.2020 passed in O.A. no. 890/2018.

3. It was on above background the present M.A. has been filed for modification of directions given in para nos. 7 & 8 of the order dated 23.1.2020 that in place of respondent no. 2 it be corrected as respondent no. 1.

4. Learned P.O. submits that appropriate order be passed in the present M.A.

5. Obviously, the powers to decide the proposals dated 11.8.2017 and 12.6.2019 forwarded by the respondent no. 3 of regularization of Badli / temporary workers are vest in respondent no. 1 the Government and not in the respondent no. 2, and therefore modification as sought for by the applicants is necessary.

6. In view of above, para nos. 7 & 8 of the order dated 23.1.2020 passed by this Tribunal in O.A. No. 890/2018 are hereby replaced & modified and the same be read as under :-

***“7. In view of the above, it is just and proper to direct the respondent no. 1 the Government to decide the said proposals dated 11.8.2017 and 12.6.2019 sent by the respondent no. 3 within 4 weeks from today.*”**

***8. In view of above, O.A. is disposed of with a direction to the respondent no. 1 the Government to take appropriate decision as per rules on the proposals dated 11.8.2017 and 12.6.2019 forwarded by respondent no. 3 within 4 weeks from the date of this order and communicate the same to the applicant in writing. There shall be no order as to costs.”***

7. At this stage, learned P.O. submits that now some more time needs to be given to the respondent no. 1 the Government to take appropriate decision in the matter. The request of the learned P.O. is reasonable.

8. In the circumstances, the modified directions contained in para 7 & 8 be complied with by the respondent no. 1 the Government within 6 weeks from the date of this order and communicate the decision to the applicants in writing.

9. Accordingly, M.A. stands disposed of. There shall be no order as to costs.

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 80/2021  
(Bhimrao N. Kokate Vs. State of Maharashtra & Ors.)**

**CORAM : Shri A.P. Kurhekar, Member (J)**

**DATE : 16.2.2021**

**ORAL ORDER :**

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

2. Applicant has filed the present O.A. challenging the order dated 28.12.2020 passed by the respondent no. 5 the Deputy Collector (E.G.S.), Nanded, thereby recovery of Rs. 1,09,895/- is sought on account of wrong pay fixation of the applicant, who is Class-IV employee.

3. Learned Advocate for the applicant prays for interim relief on the ground that there was no fault on the part of the applicant and due to mistake the Department has granted wrong pay to the applicant for which now recovery is sought.

4. Prima-facie, no fault or misconduct can be attributed to the applicant and excess payment seems to have been made due to wrong pay fixation. Therefore, in view of decision of Hon'ble the Supreme Court in **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 recovery is not permissible and needs to be stayed.

5. In view of above the interim relief as prayed for by the applicant in para XII (a) is granted.

6. Learned Counsel for the applicant has submitted that the applicant is not getting his salary since November, 2020.

7. By way of interim relief the respondents are directed to release the monthly salary of the applicant.

8. In the circumstances, issue notice before admission, returnable on 22.03.2021.

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

10. 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.

11. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure)

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**O.A. NO. 80/2021**

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

12. 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.

13. S.O. to 22.03.2021.

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

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 138/2020**  
**(Balasaheb R. Kundgir Vs. State of Maharashtra & Ors.)**

**CORAM : Shri A.P. Kurhekar, Member (J)**

**DATE : 16.2.2021**

**ORAL ORDER :**

Heard Shri V.G. Pingle, learned Advocate holding for Shri V. B. Wagh, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicant, S.O. to 17.2.2021.

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 420/2020  
(Anish S. Patel Vs. State of Maharashtra & Ors.)**

**CORAM : Shri A.P. Kurhekar, Member (J)**

**DATE : 16.2.2021**

**ORAL ORDER :**

Heard Smt. Suchita A. Dhongde, learned Advocate holding for Shri Suresh D. Dhongde, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant submits that today only she has received the copy of affidavit in reply of respondent nos. 1 to 3. She therefore seeks time to go through the said reply and advance her submissions. Time granted.

3. S.O. to 16.3.2021.

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 903/2019  
(Dr. Vithal R. Mekane Vs. State of Maharashtra & Ors.)**

**CORAM : Shri A.P. Kurhekar, Member (J)**

**DATE : 16.2.2021**

**ORAL ORDER :**

Heard Shri Anand Kaware, learned Advocate for the applicant, Shri I.S. Thorat, learned Presenting Officer for the respondent nos. 1 to 3 and Shri A.B. Shinde, learned Advocate for respondent no. 4.

2. Perusal of record reveals that the affidavit in reply filed by the respondent nos. 1 to 3 is allowed to be taken on record, subject to costs of Rs. 15,000/- as seen from the order dated 18.3.2020. Learned P.O. submits that due to certain technical difficulties faced by the Bank, the draft was not en-cashed. Therefore, he sought time to deposit the costs of Rs. 15,000/-. According time is extended till next date to deposit the costs of Rs. 15,000/-.

3. Perusal of record further reveals that the applicant was suspended by the order dtd. 31.8.2019 and he retired on 30.6.2020 and the Departmental Enquiry is yet in progress.

4. However, learned Advocate for the applicant wants to challenge the legality of the impugned suspension order.

5. In the circumstances, the present matter be heard only after depositing the costs of Rs. 15,000/- imposed by



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**O.A. NO. 903/2019**

this Tribunal for taking on record the affidavit in reply of respondent nos. 1 to 3.

6. S.O. to 26.2.2021.

**MEMBER (J)**

ARJ ORAL ORDERS 16.2.2021

**M.A. 89/2020 IN O.A. 632/2019**  
**(Ashok M. Prakashkar Vs. State of Maharashtra & Ors.)**

**CORAM : Shri A.P. Kurhekar, Member (J)**

**DATE : 16.2.2021**

**ORAL ORDER :**

Shri D.M. Pingale, 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 16.3.2021.

**MEMBER (J)**

**M.A. 214/2020 WITH O.A. 286/2020  
(Ravi B. Harne Vs. State of Maharashtra & Ors.)**

**CORAM : Shri A.P. Kurhekar, Member (J)**

**DATE : 16.2.2021**

**ORAL ORDER :**

Heard Shri A.S. Deshmukh, learned Advocate for the applicant in M.A. / respondent no. 3 in O.A., Shri M.P. Gude, learned Presenting Officer for the respondent nos. 2 & 3 in M.A. and Shri K.G. Salunke, learned Advocate for respondent no. 1 in M.A. / applicant in O.A..

2. With the consent of both the sides, S.O. to 16.3.2021 for admission hearing.

**MEMBER (J)**

**M.A. 324/2020 IN O.A. 455/2020  
(Sahebrao B. Wagh Vs. State of Maharashtra & Ors.)**

**CORAM : Shri A.P. Kurhekar, Member (J)**

**DATE : 16.2.2021**

**ORAL ORDER :**

Heard Shri S.D. Joshi, learned Advocate holding for Shri R.A. Joshi, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicant, S.O. to 17.2.2021 for admission hearing.

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 89/2019  
(Rajendra A. Jehurkar Vs. State of Maharashtra & Ors.)**

**CORAM : Shri A.P. Kurhekar, Member (J)**

**DATE : 16.2.2021**

**ORAL ORDER :**

Heard Shri S.D. Joshi, learned Advocate for the applicant, Shri V.R. Bhumkar, learned Presenting Officer for the respondent nos. 1 to 3 and Shri K.G. Salunke, learned Advocate for respondent no. 4.

2. With the consent of both the sides, S.O. to 9.3.2021 for final hearing.

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 892/2019**  
**(Nagnath M. Shinde Vs. State of Maharashtra & Ors.)**

**CORAM : Shri A.P. Kurhekar, Member (J)**

**DATE : 16.2.2021**

**ORAL ORDER :**

Heard Shri I.D. Maniyar, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. With the consent of both the sides, S.O. to 10.3.2021 for final hearing.

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 258/2020  
(Atul P. Bhange Vs. State of Maharashtra & Ors.)**

**CORAM : Shri A.P. Kurhekar, Member (J)**

**DATE : 16.2.2021**

**ORAL ORDER :**

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

2. With the consent of both the sides, S.O. to 18.2.2021 for final hearing.

**MEMBER (J)**

**ORIGINAL APPLICATION NO. 305/2020  
(Vandana S. Mali Vs. State of Maharashtra & Ors.)**

**CORAM : Shri A.P. Kurhekar, Member (J)**

**DATE : 16.2.2021**

**ORAL ORDER :**

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

2. With the consent of both the sides, S.O. to 16.3.2021 for final hearing.

**MEMBER (J)**



**ORIGINAL APPLICATION NO. 482/2020**  
**(Kautik Y. Kachole Vs. State of Maharashtra & Ors.)**

**CORAM : Shri A.P. Kurhekar, Member (J)**

**DATE : 16.2.2021**

**ORAL ORDER :**

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

2. At the request of learned Advocate for the applicant, S.O. to 18.2.2021 for admission hearing.

**MEMBER (J)**