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

Date : 17.06.2019.

O.A.No.405 of 2019

Dr. R. S. Paravde ....Applicant
Versus
The State of Maharashtra & Ors. ...Respondents.

1. Heard Shri A. V. Bandiwadekar, learned Advocate for the Applicant and Smt. Kranti Gaikwad, learned Presenting Officer for the Respondents.

2. In the present O.A., the Tribunal has passed speaking order on 03.05.2019 and expressed serious displeasure of withholding service benefits of the Applicant right from 2002. The directions were given to the Respondent No.3 Civil Surgeon under whose control, presently the Applicant is serving to take necessary steps to update the service book of the Applicant and to release all service benefits as per her entitlement within four weeks, failing which the Respondent No.3 was held liable to pay interest on the amount payable to the Applicant.

3. Today, learned P.O. submitted that now the service book is being updated. The issue of regularization of leave period is under consideration of the Government. She, therefore, sought two weeks time.

4. It is really disgusting to note that though the Applicant was appointed on 2002 as Medical Officer through M.P.S.C. since then not a single increment was released for no fault on her part. Besides, the benefits of 6th Pay Commission were not granted. The Applicant was earlier serving at St. George Hospital, Mumabi then transferred to Kama & Albless Hospital, Mumbai. At present, the Applicant is working as a Medical Superintendent on the establishment of Respondent No.3 at Civil Hospital, Dist. Thane. The Applicant apparently deprived of service benefits due to inaction and lethargy on the part of Respondents. The serious note of the same, needs to be taken.

5. In view of above, the Respondent No.1 is directed to file Affidavit explaining delay for not granting service benefits as mentioned above to the Applicant and the steps taken by the department in terms of order passed by this Tribunal on 03.05.2019.

6. The Affidavit be filed within a week without fail.

7. S.O. to 03.07.2019.

Sd/-

(A.P. Kurhekar)
Member(J)

vsm

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION No.303 of 2019

M. N. Thosare)..... **Applicant**

Versus

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

Shri A. V. Bandiwadekar, Advocate for Applicant.
Ms S. P. Manchekar, Chief Presenting Officer for the Respondents

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

DATE : 17.06.2019

ORDER

1. Heard Shri A. V. Bandiwadekar, learned Advocate for the Applicant and Ms S. P. Manchekar, learned Chief Presenting Officer for the Respondents.

2. This is second round of litigation challenging the suspension order dated 12.07.2017. Earlier, the Applicant has filed O.A. No.691/2018, challenging the suspension which was disposed of by this Tribunal on 31.10.2018 giving directions to the Respondents to place the matter before Review Committee to consider the issue of revocation of suspension and reinstatement in service. While passing the order dated 31.10.2018, the Tribunal has observed that though the Applicant was kept under suspension because of registration of offence vide F.I.R. No.298/2017, there was no progress in the investigation and even the charge sheet was not filed. It was further observed by this Tribunal that the prolong suspension is prima-facie unsustainable in view of the law laid down by the Hon'ble High Court in ***(2015) 7 SCC 291 (Ajay Kumar Choudhary V/s Union of India & Ors).***

3. In pursuance of the order passed by the Tribunal, the matter was placed before the Review Committee on 17.11.2018 and at that time the decision was deferred on the ground that investigation of Criminal Case is in progress and it was decided to take review after two months. Thereafter, again the matter was placed before the Review Committee on 22.01.2019, but again the Review Committee decided to continue the suspension on the ground that charge sheet is not yet filed. Thirdly, again the matter was placed before the Review Committee on 27.03.2019 whereby the Review Committee has specifically resolved and recommended for revocation of suspension of the Applicant in terms of G.R. dated 31.01.2015. It needs to be noted that Additional Chief Secretary while making recommendations for revocation of suspension made following note:-

> "अनियमितता गंभीर स्वरुपाची असल्याने अकार्यकारी पदावर पदस्थापना करणे अपेक्षीत आहे. कोल्हापूर येथील पदावर पदस्थापना द्यावयाची झाल्यास, महत्वाचे अधिकार जसे ५: प्रमाणपत्र (खेळाडूंना) आर्थिक मंजूरीचे अधिकार काढू. ते सहसंचालक, पुणे यांना देणे उचित ठरेल."

4. However, the Hon'ble Minister thereon made following note:-

> "श्री. ठोसरे हयांच्या बाबतीत अतिशय गंभीर आरोप अनेकांनी केलेले आहेत. आर्थिक पासून नैतिक पर्यंतचे आरोप आहेत तरी त्वरीत मा.उच्च न्यायालयात निकाला विरोधात याचिका दाखल करावी.
>
> विनोद तावडे.

5. On the above background, the Applicant has again filed the present O.A. challenging the prolong suspension.

6. As such, it is obvious from the order passed by the Hon'ble Minister noted above that there is no specific order much less speaking order rejecting the recommendation of the Review Committee and the Hon'ble Minister simply ordered for filing W.P. before the Hon'ble High Court against the decision of the Maharashtra Administrative Tribunal. In fact, the Maharashtra Administrative Tribunal has not passed any order of revocation of suspension and has directed the Government to place the matter before the Review Committee.

If the Hon'ble Minister was not agreeable with the recommendation made by the Review Committee, he was required to record some reasons for the same. However, no such exercise as expected in law is undertaken.

7. Suffice to say, there is no specific order of rejection of recommendations made by the Review Committee much less with the reasons for the same. Unless it is done, the Tribunal could not be in a position to assess the legality of the order. This is one of the aspects of the matter which requires to be considered by the Government while passing appropriate order.

8. In view of above, it would be appropriate to direct the Respondents to place the note prepared by the Review Committee as referred to above and to place before the Hon'ble Minister for appropriate order in accordance to law.

9. Learned C.P.O. for the Respondents also fairly concedes that there being no final decision on the recommendations made by the Review Committee, time be granted to reconsider the matter in proper perspective.

10. The Respondents may consider the following aspects while passing the appropriate order.

(A) The alleged incident of misapprehension took place in 2013 when the Applicant was serving at Pune. Whereas, the suspension order was issued much belatedly on 12.05.2017 while the Applicant was serving at Latur.

(B) Till date, no charge sheet is filed in Criminal Court.

(C) The Applicant has been subjected to prolong suspension of near about two years.

(E) Charge sheet in D.E. was issued on 14.11.2018 but D.E. is not progressing.

(F) No useful purpose seems can be achieved by continuing the suspension of the Applicant.

11. In view of above, it would be appropriate for the Respondents to place the matter before the Hon'ble Minster for passing appropriate order, as he deems fit.

12. The matter is adjourned for two weeks to facilitate the Respondents to place the matter before the Hon'ble Minister for passing appropriate order.

13. S.O. to 03.07.2019.

Sd/-

(A.P. KURHEKAR)
MEMBER (J)

(G.C.P.) J 2959 (A) (50,000—3-2017) [Spl.- MAT-F-2 E.

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

Original Application No. of 20 DISTRICT

..... Applicant/s

(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
	Date : 17.06.2019. **O.A.No.303 of 2019** **Manik N. Thosare ....Applicant** **Versus** **The State of Maharashtra & Ors. ...Respondents.** 1. Heard Shri A. V. Bandiwadekar, learned Advocate for the Applicant and Ms S. P. Manchekar, learned Chief Presenting Officer for the Respondents. 2. Today, learned Advocate has filed Affidavit-in-Rejoinder. It is taken on record. 3. Arguments heard. Sd/- **(A.P. Kurhekar)** **Member(J)** vsm

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

Date : 17.06.2019

O.A.No.953 of 2018 in O.A.No.214 of 2019

B.H. Wadkar & Ors. (O.A.No.853/2018)
A.V. Yelmar & Ors. (O.A.No.214/2019) ....Applicants
Versus
The State of Maharashtra & Ors. ...Respondents.

1. Heard Shri A.V. Bandiwadekar, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

2. Today learned Advocate Shri A.V. Bandiwadekar for the Applicant has pointed out that the employees who have filed complaint i.e. ULP No.176/2018 before Industrial Tribunal, Solapur have withdrawn their complaint on 15.06.2019 with liberty to redress their grievances in M.A.T.

3. Learned Advocate has, therefore, submitted that now these employees want to be impleaded in the present O.A. He, states, that he has instructions from those employees for impleading them in the present O.A. He, therefore, seeks one week's time for filing application for impleading them as Party Petitioners.

4. S.O. to 24.06.2019.

Sd/-

(A.P. Kurhekar)
Member(J)

prk

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

Date : 17.06.2019

M.A.No.259 of 2019 in O.A.No.93 of 2019

R.J. Kamane ....Applicant
Versus
The State of Maharashtra & Ors. ...Respondents.

1. Heard Shri B.S. Shinde, learned Advocate holding for Shri R. Hakepatil, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

2. O.A.No.93 of 2019 was dismissed in default in terms of conditional order dated 08.04.2019 wherein directions were issued to comply the office objections within stipulated period as objections were not removed O.A. was dismissed.

3. Today, learned Advocate for the Applicant submits that he is ready to comply the office objections within three days and therefore requested for restoration of O.A.No. 93/2019. O.A. has been filed challenging the order of punishment imposed on completion of Departmental Enquiry whereby 25% deduction of pension has been ordered with forfeiture of gratuity.

4. As the learned Advocate is ready to comply the office objection within three days it will be proper to give him time as sought so as to decide O.A.No.93/2019 on merit.

5. In view of this, three days time is granted for removal of office objection. If the office objections are removed in three days O.A.No.93 of 2019 be listed on board for further orders.

6. M.A.No.259/2019 is disposed of.

Sd/-

(A.P. Kurhekar)
Member(J)

prk

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

Date : 17.06.2019

M.A.No.298 of 2019 in O.A.No.176 of 2019

The State of Maharashtra & Ors.

....Applicant(Org. Respd.)

Versus

H.S. Inamdar & Ors. ...Respondents. (Org. Applicants)

1. Heard Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents (Org. Applicants). Applicant who is learned Counsel for O.A.No.176 of 2019 is absent.

2. The present M.A. has been filed for extension of time to comply the order passed by this Tribunal on 16.04.2019, wherein directions were given to refund sum of Rs.2,91,868/- within two months from the date of order failing which amount will carry interest at the rate of 9% till actual payment.

3. Learned P.O. Smt. K.S. Gaikwad submitted that the file is under process for compliance of the order and some time is required for passing the final order.

4. Perusal of M.A.No.298/2019 reveals that the Department has taken steps for the compliance of the order and it is in process. Two weeks time is granted for the compliance order passed on 06.04.2019.

5. M.A. is disposed of with no order as to costs.

Sd/-

(A.P. Kurhekar)
Member(J)

prk

(G.C.P.) J 2959(B) (50,000—3-2017) [Spl.- MAT-F-2 E.

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

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

I N

Original Application No. of 20

FARAD CONTINUATION SHEET No.

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

Date : 17.06.2019

O.A.No.306 of 2019
(Subject : Transfer)

Dr. P.M. Kasdekar ....Applicant
Versus
The State of Maharashtra & Ors. ...Respondents.

1. Heard Shri P.D. Purway, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

2. In the present matter, Applicant has challenged the impugned transfer order dated 05.03.2019, whereby he was transferred from Pune to Baramati.

3. Today, learned P.O. pointed out that the impugned transfer order dated 05.03.2019 has been cancelled by order dated 16.03.2019 and the Applicant has been reposted at Pune. She has also tendered copy of order dated 16.03.2019 passed by the Director of Medical Education and Research. It is taken on record.

4. Thus, the impugned order set aside is cancelled by Respondent No.3 and therefore no cause of action survives in the O.A.

5. In view of the above, O.A. is disposed of with no order as to costs.

Sd/-

(A.P. Kurhekar)
Member(J)

prk

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

Date : 17.06.2019

O.A.No.555 of 2019

M.R. Holkar ....Applicant.
Versus
The State of Maharashtra & Ors. ...Respondents.

1. Heard Shri U.V. Bhosale, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

2. Issue notice before admission returnable on 01.07.2019.

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. In case notice is not collected within three days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

8. S.O. to 01.07.2019.

Sd/-

(A.P. Kurhekar)
Member(J)

prk

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

Date : 17.06.2019

O.A.No.541 of 2019

P.G. Bhalerao ....Applicant.
Versus
The State of Maharashtra & Ors. ...Respondents.

1. Heard Shri S.L. Jadhav, learned Advocate holding for Shri R.G. Panchal, for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

2. Issue notice before admission returnable on 15.07.2019.

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. In case notice is not collected within three days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

8. S.O. to 15.07.2019.

Sd/-

(A.P. Kurhekar)
Member(J)

prk

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

Date : 17.06.2019

M.A.No.301 of 2019 and M.A.No.302 of 2019 in O.A.No.303 of 2019

Dr. M.C. Singh ....Applicants
Versus
The State of Maharashtra & Ors. ...Respondents.

1. Heard Shri M.B. Kadam, learned Advocate holding for Shri J.N. Kamble, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

2. M.A.No.302 of 2019 is for condonation of delay of 10 months caused for filing restoration of O.A.No.303 of 2019 and M.A.No.301 of 2019 is filed for restoration of O.A.No.303 of 2019.

3. Issue notice before admission in M.A.No.301/2019 and M.A.No.302/2019 returnable on 08.07.2019.

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

5. 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 M.A.. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

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

7. The service may be done by Hand delivery, speed post, courier and 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.

8. In case notice is not collected within three days or service report on affidavit is not filed 3 days before returnable date, Misc. Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

9. S.O. to 08.07.2019.

Sd/-

(A.P. Kurhekar)
Member(J)

prk

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

Date : 17.06.2019

O.A.No.463 of 2019

N.D. Hole **....Applicant**
Versus
The State of Maharashtra & Ors. **...Respondents.**

1. Heard Shri R.M. Kolge, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

2. In the present matter, the Applicant has challenged the suspension order dated 23.03.2019 passed by the Respondent No.2, Superintendent of Police, Satara. The Applicant has filed representation dated 24.04.2019 for revocation of suspension but the same is not decided and therefore the Applicant has approached this Tribunal.

3. Learned Advocate Shri R.M. Kolge for the Applicant submitted that, prima facie, suspension is not sustainable in law and pointed out that no order has been passed on his representation.

4. Whereas learned P.O. submitted that representation can be considered by the Respondent No.2 and seek time to file representation.

5. As the Applicant has filed representation on 24.04.2019 the same is required to be decided by the Respondent No.2 at the earliest. Respondent No.2 is therefore directed to decide the representation and to pass appropriate order thereon in accordance to law within four weeks from today. Learned P.O. is at liberty to file reply on next date if found necessary.

6. S.O. to 15.07.2019.

Sd/-

(A.P. Kurhekar)
Member(J)

prk

(G.C.P.) J 2959(B) (50,000—3-2017)

[Spl.- MAT-F-2 E.

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

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

I N

Original Application No. of 20

FARAD CONTINUATION SHEET No.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	Date : 17.06.2019 **O.A.No.636 of 2018** **B.N. Gadge ....Applicant** **Versus** **The State of Maharashtra & Ors. ...Respondents.** 1. Heard Shri S.M. Katkar, learned Advocate for the Applicant, Shri S.D. Dole, learned Presenting Officer for the Respondents No.1 to 3 and Shri T. Jadhav, learned Counsel for the Respondent No.4. 2. Today learned Advocate Shri S.M. Katkar for the Applicant has filed affidavit-in-rejoinder. It is taken on record. 3. On the request of learned Counsel Shri T. Jadhav for the Respondent No.4 one week time is granted. 4. For hearing at the stage of admission. S.O. to 24.06.2019. Sd/- **(A.P. Kurhekar)** **Member(J)** prk