

M.A. No. 07/2021 in O.A. St. No. 1416/2020
(Chandrasen Venkatrao Lahade Vs. State of Maharashtra & Ors.)
(Speaking to minutes)

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

DATE : 17.05.2022

Oral Order :-

Today, Shri S.L. Bhapkar, learned counsel placed on record application for speaking to minutes and submitted that though by the order dated 06.01.2022 the name of respondent No. 6 in M.A. as well as in O.A. was already deleted, but inadvertently in para No. 5 in the order dated 06.05.2022 in M.A. No. 07/2021, the name of Shri S.L. Bhapkar, learned Advocate for respondent No. 6 was shown as absent.

2. In view of the above, the line “Shri S.L. Bhapkar, learned Advocate for respondent No. 6, **absent.**” from para No. 5 in the order dated 06.05.2022 in M.A. No. 07/2021 be deleted.

3. The Registrar to take necessary steps in this regard and issue corrected copy of order to the parties.

MEMBER (J)

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

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

DATE : 17.05.2022

ORAL ORDER :

Heard Shri U.R. Awate, learned Advocate holding for Shri S.B. Talekar, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. The present Original Application is filed challenging the impugned order of dismissal of the applicant from the service dated 09.05.2022 (Annexure A-21) issued by the respondent No. 4 i.e. the Sub-Divisional Officer, Ahmedpur and the applicant is seeking stay to the executing and implementation of the said impugned order stating that the said order is never served upon the applicant and he has not handed over the charge nor any relieving order is issued.

3. The applicant was working as Talathi at Mauje Dabheri, Tq. Moshi, Dist. Amravati since 12.03.2013. By the order dated 15.09.2016 (Annexure A-2), he was transferred to Latur District and posted at Talathi Sajja Shivankhed (Bu.) Tq. Chakur, Dist. Latur. While working on the said post on 31.12.2017, FIR bearing

//2//

O.A. No. 456/2022

Crime No. 339/2017 came to be registered against the applicant alleging that he acted as mediator between the accused persons and two students, which accused persons said to have appeared for the Sales Tax Assistant examination conducted by M.P.S.C. i.e. the respondent No. 2 in place of two students. The applicant was arrested in the said crime on 08.01.2018. He was released on regular bail on 03.05.2018. Two more crimes dated 22.03.2018 (Annexure A-5) and 26.03.2018 (Annexure A-7) also being registered in respect of said incidence. In the said crimes, the applicant has been released on bail on 26.04.2018 (Annexure A-6) and 26.06.2018 (Annexure A-8) respectively.

4. The respondent No. 4 i.e. the Sub-Divisional Officer, Ahmedpur suspended the services of the applicant vide order dated 21.05.2018 (Annexure A-9) contemplating disciplinary action against the applicant. The Departmental Enquiry was initiated against the applicant by serving memorandum of charges. The Tahasildar, Ahmedpur was being appointed as Enquiry Officer. The said Enquiry Officer submitted his report dated 10.05.2019 (Annexure A-10). According to the applicant as per the said enquiry

report, the applicant has been exonerated of all the alleged three charges.

5. The respondent No. 4 i.e. the Sub-Divisional Officer, Ahmedpur thereafter by the order dated 04.05.2010 (Annexure A-11) revoked the suspension order and reinstated the applicant in service. Pursuant to the enquiry report dated 10.05.2019, the respondent No. 4 i.e. the Sub-Divisional Officer, Ahmedpur issued show cause notice dated 21.09.2020 (Annexure A-12) to the applicant, to which the applicant sent reply dated 23.09.2020 (Annexure A-13) submitting that the charges were not proved against him and he accepts the enquiry report.

6. It is further submitted that the respondent No. 4 without considering the fact that the charges were not proved against the applicant passed the punishment order dated 28.12.2020 (Annexure A-14) thereby stopping one yearly increment for two years. The applicant preferred an administrative appeal on 29.01.2021 (Annexure A-15) against that order. The respondent No. 4 by the order dated 02.02.2021 (Annexure A-16) canceled the order dated 28.12.2020

//4//

O.A. No. 456/2022

(Annexure A-14) and stayed the departmental action against the applicant.

7. It is submitted that thereafter in view of the communication dated 14.02.2022 (Annexure A-17) addressed by the MPSC to the respondent No. 1, communication dated 28.02.2022 (Annexure A-18) addressed by the respondent No. 1 to the Collector, Latur, communication dated 25.03.2022 (Annexure A-19) issued by the Collector Latur to Sub-Divisional Officer, Ahmedpur and communication dated 29.04.2022 (Annexure A-20) issued by the Collector, Latur to the respondent No. 4, the respondent No. 4 in turn issued the impugned order dated 09.05.2022 (Annexure A-22) dismissing the applicant from service, which is totally illegal, as it is passed without issuing even show cause notice to the applicant and thought the applicant was exonerated from the Departmental Enquiry and that the said order is passed at the instance of the respondent No. 2 i.e. M.P.S.C. In view of above, learned Advocate for the applicant seeks stay to the execution and implementation of the impugned order dated 09.05.2022.

8. Learned Chief Presenting Officer on the other hand while resisting the O.A. submitted that the

impugned order of dismissal is already served upon the applicant and that he may be granted time for filing affidavit in reply.

9. After having considered the Original Application and documents on record, it is seen that the Departmental Enquiry was initiated against the applicant in the background of various crimes registered against the applicant. Initially the punishment of withholding one yearly increment for two years was imposed upon the applicant, but the same was subsequently recalled. According to the applicant, the impugned order of dismissal is passed without issuing show cause notice. Learned Advocate for the applicant submitted that the impugned order of dismissal is not served upon the applicant. Learned C.P.O. categorically stated that the impugned order is served upon the applicant. Upon perusal of documents annexed with the O.A., I am unable to understand as to how the applicant produced on record the impugned order of dismissal, if it is not duly served upon him. It is not explained. In the circumstances, prima-facie, it seems that the impugned order of dismissal is already executed and therefore, this is not a fit case to grant any interim relief at this stage. Hence, the interim relief as prayed for by the applicant is rejected.

//6//

O.A. No. 456/2022

10. Issue notice to the respondents, returnable on 16.06.2022.

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

12. 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.

13. 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.

14. 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.

15. S.O. to 16.06.2022.

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

MEMBER (J)

**M.A.NO. 215/2022 IN O.A.ST.NO. 886/2022
(Vanita K. Panchal & Ors. Vs. State of Maha. & Ors.)**

**CORAM : Shri V.D. Dongre, Member (J)
[VACATION COURT]**

DATE : 17.5.2022

ORAL ORDER :

Heard Shri Sandeep D. Munde, learned counsel 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. 886 OF 2022
(Vanita K. Panchal & Ors. Vs. State of Maha. & Ors.)**

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

[VACATION COURT]

DATE : 17.5.2022

ORAL ORDER :

Heard Shri Sandeep D. Munde, learned counsel for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. During the course of the arguments it is shown by the learned counsel for the applicant that as per order dated 30.3.2022 passed in O.A. No. 390/2020 filed by Aashatai Pandurang Metkar, seniority list dated 26.5.2020 was prepared by the respondent No. 3 in respect of the post of clerk is quashed and set aside.

3. The present Original Application is filed challenging the impugned order of reversion of the applicants dated 13.5.2022 (Annexure 'A-6') issued by the respondent No. 3 to the extent of applicant Nos. 1 to 4 herein, as well as, impugned order dated 13.5.2022 (Annexure 'A-7') issued by respondent No. 3 to the extent of promoting respondent Nos. 4, 5 & 6 and posting them against applicant Nos. 1, 2 & 3 respectively.

4. In the circumstances as above, learned Chief Presenting Officer to seek instructions as to whether the order dated 30.3.2022 passed by the learned Division

:: - 2 - ::

O.A. ST.NO. 886/2022

Bench of this Tribunal in O.A. No. 390/2020 is stayed or otherwise, so that the contentions raised on behalf of the applicants can be considered.

5. S.O. to 18.5.2022.

MEMBER (J)

ORAL ORDERS 17.5.2022-HDD

**M.A.216/22 IN M.A.ST.889/22 IN M.A.ST.890/22 IN
M.A.ST.891/22 IN O.A.ST.NO. 881/22
(Ankush K. Hiwale Vs. State of Maharashtra & Ors.)**

**CORAM : Shri V.D. Dongre, Member (J)
[VACATION COURT]**

DATE : 17.5.2022

ORAL ORDER :

Heard Shri J.M. Murkute, learned counsel for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. At the request of learned counsel for the applicants, S.O. to 18.5.2022.

MEMBER (J)

ORAL ORDERS 17.5.2022-HDD