

ORIGINAL APPLICATION NO. 192 OF 2021
(Suresh B. Lande Vs. State of Maharashtra & Ors.)

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

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

DATE : 18.05.2021

ORAL ORDER :

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

2. Issue notices to respondents, returnable on 29.06.2021.

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.

//2//

O.A. No. 192/2021

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 29.06.2021.

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

MEMBER (J)

KPB ORAL ORDERS 18.05.2021

ORIGINAL APPLICATION NO. 219 OF 2021
(Manoj S. Belkhede Vs. State of Maharashtra & Ors.)

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

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

DATE : 18.05.2021

ORAL ORDER :

Heard Shri S.B. Solanke, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondent Nos. 1 to 4.

2. Issue notices to respondent Nos. 1 to 5, returnable on 01.07.2021.

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.

//2//

O.A. No. 219/2021

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 01.07.2021.

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

MEMBER (J)

M.A. No. 113/2021 in O.A. St. No. 511/2021
(Sashikumar B. Jadhav & Ors. Vs. State of Maharashtra & Ors.)

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

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

DATE : 18.05.2021

ORAL ORDER :

M.A. No. 113/2021

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

2. Learned Advocate for the applicant seeks permission to withdraw the present M.A. with liberty to file fresh M.A. in detail.

3. In view this, the M.A. stands disposed of as withdrawn. Liberty is granted to the applicants to move the fresh M.A. There shall be no order as to costs.

O.A. St. 511/2021

S.O. to 21.05.2021.

MEMBER (J)

M.A. No. 526/2019 in O.A. St. No. 2141/2019
(Chandu M. Waghmare Vs. State of Maharashtra & Ors.)

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

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

DATE : 18.05.2021

ORAL ORDER :

1. By this Misc. Application, the applicant is seeking condonation of delay of 310 days caused for filing O.A. St. No. 2141/2019 challenging the applicant's dismissal order dated 12.12.2017 issued by the respondent No. 1 pursuant to the final order dated 21.12.2016 issued by the respondent No. 2 in Departmental Enquiry held against him.

2. It is contention of the applicant that the order of dismissal dated 12.12.2017 was communicated to him vide communication dated 16.12.2017. The applicant received it on 23.12.2017. Considering the provisions under Section 21 of the Administrative Tribunal Act, 1985, there is delay in filing the O.A.

3. It is further contention of the applicant that the delay caused is not deliberate and intentional. The applicant's wife was suffered of illness. She was undergoing prolonged treatment. She was even required to be hospitalized. In view of the same, there is delay of 310 days caused in filing the accompanying O.A. and hence, the present M.A.

//2// M.A. 526/2019 in
O.A. St. 2141/2019

4. The affidavit in reply at page No. 36 of paper book is filed on behalf of respondent No. 2. The respondents denied the reasons set out by the applicant for condonation of delay. According to the respondents, the applicant was totally negligent. No satisfactory ground is made out for inordinate delay.

5. Heard Shri Sunil B. Jadhav, learned Advocate for the applicant and Shri D.R. Patil, learned P.O. for the respondents.

6. The applicant by filing the O.A. St. No. 2141/2019 seeks to challenge his dismissal order dated 12.12.2017. The applicant said to have received the copy of the order on 23.12.2017. The said O.A. St. No. 2141/2019 along with the present M.A. is presented on 22.10.2019. In view of the same, it is evident that there is delay of 310 days in filing O.A.

7. The ground of illness of wife of the applicant is supported by the copies of medical papers. The said documents would show that the applicant's wife is suffering from mental illness for prolonged period since November, 2017 till today. In view of the same, it can be said that the applicant was facing difficulty and hence, could not seek relief in time.

//3// M.A. 526/2019 in
O.A. St. 2141/2019

8. It is a settled principal of law that the expression “sufficient cause” is to be construed liberally. By giving an opportunity to the applicant in O.A. what highest would happen is that the matter would be decided on merit. In such circumstances, refusing to give indulgence in the matter is likely to defeat cause of justice at the threshold. In view of the same, in my opinion, this is a fit case to condone the delay by construing reasons stated by the applicant liberally. No doubt, some negligence can be attributed to the applicant in not approaching the Tribunal within a reasonable time, however, the said negligence cannot be said to be gross or deliberate one. Thereby the applicant had nothing to gain.

9. In view of above, the M.A. No. 526/2019 is allowed. The delay of 310 days caused in filing the accompanying O.A. St. No. 2141/2019 is condoned. The office is directed to register the said O.A. St. No. 2141/2019 in accordance with law by taking into consideration other office objections, if any.

Accordingly, the present M.A. stands disposed of with no order as to costs.

MEMBER (J)

ORIGINAL APPLICATION St. NO. 2141 OF 2019
(Chandu M. Waghmare Vs. State of Maharashtra & Ors.)

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

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

DATE : 18.05.2021

ORAL ORDER :

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

2. Issue notices to respondents, returnable on 05.07.2021.

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.

//2//

O.A. St. 2141/2019

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 05.07.2021.

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

MEMBER (J)

**M.A.ST. 416/21 IN O.A.ST.NO. 417/21 WITH
M.A.ST. 418/21 IN O.A.ST.NO. 419/21 WITH
M.A.ST. 420/21 IN O.A.ST.NO. 421/21 WITH
M.A.ST. 422/21 IN O.A.ST.NO. 423/21 WITH
M.A.ST. 424/21 IN O.A.ST.NO. 425/21 WITH
O.A.ST. 426/21 WITH O.A.ST. 427/21 AND
O.A.ST. 428/21**
(Pandurang H. Bhalerao & Ors. Vs. State of Maharashtra & Ors.)

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

DATE : 18.5.2021

ORAL ORDER :

Heard Shri Vikram S. Kadam, learned Advocate for the applicants in all these matters and S/Shri M.S. Mahajan, V.R. Bhumkar, D.R. Patil, S.K. Shirse & Mrs. Deepali S. Deshpande, learned Chief Presenting Officer & learned Presenting Officers for the respective respondents in respective matters.

2. Record shows that the office of this Tribunal has raised the office objection stating that Original Application is barred by limitation in view of Government Circular dated 28.02.2017.

3. Learned Advocate for the applicants invited my attention to the said Government Circular dated 28.02.2017, a copy of which is placed on record at Annexure 'A-6', page-52 of the paper book of O.A., and stated that by this Government Circular the departments are directed to take action according to the directions given by the Principal Seat of this Tribunal at Mumbai on

14.12.2016 in O.A. Nos. 59, 61 and 90 of 2016 reiterating the legal position expounded by the Hon'ble Supreme Court. According to the learned Advocate for the applicants, the applicants have only relied upon the Government Circular dated 28.02.2017. The applicants' claim in these OAs is based on subsequent Government Resolution dated 28.02.2019, a copy of which is placed on record at Annexure 'A-7', page-55 of the paper book of O.A., whereby the departments are directed to make proposals for grant of service benefits of Government Resolution dated 29.09.2003 and fix the pay scales of all the applicants on higher post w.e.f. 29.3.2003.

4. In limitation clause in the Original Applications the applicants have pleaded that there is no delay and these Original Applications are filed within limitation referring to this Government Notification dated 28.02.2019. The Original Applications are filed on 09.04.2021. As per order of the Hon'ble Supreme Court in Suo-Moto W.P. (Civil) No. 03/2020 the period of limitation from 15.03.2020 till date can be excluded. However, from Government Notification dated 28.02.2019 one year's period as specified in Section 21 of the Administrative Tribunals Act, 1985 would come to an end on 27.02.2020. The Original Applications are filed on 09.04.2021. Hence, the applicants have to deal with this delay by taking appropriate steps.

:: - 3 - ::

**M.A.ST. 416/21 IN
O.A.ST.NO. 417/21 &
Batch**

5. At the request of learned Advocate for the applicants,
S.O. to 27.05.2021.

MEMBER (J)

ORAL ORDERS 18.5.2021-HDD

ORIGINAL APPLICATION NO. 66 OF 2021
(Gajendra Tanaji Patil Vs. State of Maharashtra & Ors.)

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

DATE : 18.5.2021

ORAL ORDER :

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

2. At the request of learned Presenting Officer, S.O. to 30.6.2021 for enabling him to file affidavit in reply on behalf of the respondents.

MEMBER (J)

ORIGINAL APPLICATION NO. 1089 OF 2019
(Dadasaheb T. Yadmal (Joshi) Vs. State of Maharashtra & Ors.)

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

DATE : 18.5.2021

ORAL ORDER :

Heard Shri M.B. Bharaswadkar, learned Advocate for the applicant, Shri V.R. Bhumkar, learned Presenting Officer for the respondent Nos. 1 to 5 and Shri Amarnath S. Sakhare, learned Advocate holding for Shri Sandeep R. Sapkal, learned Advocate for respondent No. 6, at length.

2. Pleadings of both the parties are complete. Hence, the case is reserved for orders.

MEMBER (J)