

**O.A.NO.358/2020, O.A.NO.359/2020,  
O.A.NO.360/2020, O.A.NO.361/2020 AND  
O.A.NO.362/2020,  
(Vidya Bornare & Ors. Vs. State of Maharashtra & Ors.)**

**CORAM : Justice Mridula Bhatkar, Chairperson**

**DATE : 21.01.2021**

**ORAL ORDER :**

Heard Shri S.A.Deshmukh learned Advocate for the applicants and Shri M.S.Mahajan learned Chief Presenting Officer for the respondents in respective matters.

2. All applicants in this group of Original Applications were working as Law Instructors in Police Training Academy at various places all over Maharashtra. They were working on contractual basis. Their services are terminated after their period of agreement of 11 months is over. Therefore, the applicants pray that the orders of termination of their service of contract are to be quashed and set aside and they be given a fresh contractual appointment of 11 months.

3. Learned Counsel for the applicants submits that all these applicants who worked as Law Instructors in various Police Training Academies have rendered their services for a period of 11 months for 2 terms. He points out the proforma of the 11 months contract which is required to be executed between Law Instructor and the Government. He points out that as per this agreement, the contract is renewable for one more term and further subject to the

satisfaction of the respondents. He submits that the Police Training Academies which were non-functional due to Covid-19 Pandemic have now started working and batches are available so these Law Instructors can be given contractual assignment.

3. Learned CPO relies on the affidavit in reply of respondent nos.1 to 6 filed by one Shri Balkrishna Ramchandra Shejal dated 02-11-2020. Learned CPO submits that due to the Covid-19 Pandemic the Police Training Academies could not be run and no batches of the Police Personnel were available. No training was imparted during this period. In between, the contractual period of 11 months of all these applicants was over and therefore their services are at present terminated. No further contract was executed due to this peculiar situation of the Pandemic.

4. Perused the format of the 11 months' contract which is required to be executed between the parties. Clause 5 in the said contract reads as follows:

*“5. Assignment of 11 months contract is renewable for a further two terms of 11 months (i.e. total 3 terms). Subject to the satisfaction of Competent Authority, and on its recommendations.”*

5. Thus, though it is a contractual service of 11 months and the applicants have completed 2 terms of 11 months, the contract is renewable for one more term of 11 months. The respondents are considering this aspect.

6. On query made by the Tribunal, learned CPO informed that the batches of the Trainee Police Personnel are going to start and he will take instructions from the respondents in an hour.

7. Later on, learned CPO submits that he has been instructed that the respondents are going to hold the meeting on this issue within a fortnight, and therefore, the matter may be adjourned.

8. Hence, the matter is fixed on 15-02-2021 as per the request of the learned CPO. It is desirable to consider the applicants as per clause 5 of the prescribed format of agreement if there are vacancies as they had experience of imparting training as Law Instructors in various Police Training Academies.

9. S.O. to 15-02-2021.

**CHAIRPERSON**

**M.A.NO.20/2021 IN O.A.NO.96/2020 AND  
M.A.NO.22/2021 IN O.A.NO.829/2018  
[Kiran Kolte (in both cases) Vs. State of Maharashtra & Ors.]**

**CORAM : Justice Mridula Bhatkar, Chairperson**

**DATE : 21.01.2021**

**ORAL ORDER :**

Heard Ku. Pradnya Talekar learned Advocate holding for Shri S.B.Talekar learned Advocate for the common applicant in both cases and Shri M.S.Mahajan learned Chief Presenting Officer for the respondents in both cases.

2. Learned Counsel for common applicant submits that the applicant is waiting for his appointment for want of verification of Sports Certificate. She prays that the matters be transferred to Mumbai as the Division Bench at Aurangabad is not available. She further submits that the issue is already decided and it is not res-integra.

3. Learned CPO submits to the orders of the Tribunal.

4. In view of the above submissions both the matters are transferred to Mumbai and to be placed for hearing on 09-02-2021.

5. S.O. to 09-02-2021 at Mumbai.

**CHAIRPERSON**

**M.A.NO.21/2021 IN O.A.NO.537/2019**  
**(Narendra Thakur Vs. State of Maharashtra & Ors.)**

**CORAM : Justice Mridula Bhatkar, Chairperson**

**DATE : 21.01.2021**

**ORAL ORDER :**

Heard Ku. Pradnya Talekar 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. Learned Counsel for the applicant submits that she has moved this application under section 25 of the Maharashtra Administrative Tribunals Act, 1985 for transfer from Aurangabad to Mumbai Principal Bench as the Division Bench at Aurangabad is not available. She submits that the Counsel is ready to appear physically before the Principal Bench at Mumbai. It is a matter of termination so it is urgent.

3. Learned CPO submits to the order of the Tribunal.

4. M.A. for transfer of the O.A. at Mumbai is allowed. Matter be transferred to Principal Bench at Mumbai.

5. S.O. to 09-02-2021 at Mumbai.

**CHAIRPERSON**

**M.A.NO.136/2020 IN O.A.NO.80/2020**  
**(Dr. Md. Ashfaque Vs. State of Maharashtra & Ors.)**

**CORAM : Justice Mridula Bhatkar, Chairperson**

**DATE : 21.01.2021**

**ORAL ORDER :**

Heard Shri Shamsundar B. Patil learned Advocate for the applicant and Shri M.P.Gude learned Presenting Officer for the respondents.

2. Learned Counsel for the applicant states that there is delay of only 18 days for filing the O.A. Learned Counsel further submits that he is challenging the conditions in the G.R. dated 04-01-2019. As per the said G.R., he has joined on 18-01-2019. He has filed O.A. on 05-02-2020 and M.A. for condonation of delay is filed on 02-03-2020. Hence, there is delay of 18 days for filing the O.A.

3. Learned P.O. submits to the order of the Tribunal as delay is short.

4. In view of the reasons given in paragraph 5 of the M.A. and the submissions of the learned Counsel for the applicant, the M.A. for condonation of delay caused for filing the O.A. is hereby allowed. Delay of 18 days is condoned. Accordingly M.A. stands disposed of with no order as to costs.

**CHAIRPERSON**

**ORIGINAL APPLICATION NO.80/2020**  
**(Dr. Md. Ashfaque Vs. State of Maharashtra & Ors.)**

**CORAM : Justice Mridula Bhatkar, Chairperson**

**DATE : 21.01.2021**

**ORAL ORDER :**

Heard Shri Shamsundar B. Patil learned Advocate for the applicant and Shri M.P.Gude learned Presenting Officer for the respondents.

2. Issue notices to the respondents, returnable on 04.03.2021.

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.

6. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and

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O.A.NO.80/2020

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 04.03.2021.

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

**CHAIRPERSON**

YUK ORAL ORDERS 21.01.2021



**ORIGINAL APPLICATION NO.465/2020**  
**(Ramesh Sarwade Vs. State of Maharashtra & Ors.)**

**CORAM : Justice Mridula Bhatkar, Chairperson**

**DATE : 21.01.2021**

**ORAL ORDER :**

Heard Shri A.D.Sugdare learned Advocate for the applicant, Shri M.S.Mahajan learned Chief Presenting Officer for the respondent nos.1 to 3 and Shri A.S.Deshmukh learned Advocate for respondent no.4.

2. The applicant who has completed 2 years as Deputy Superintendent of Police (Dy.S.P.), Degloor is transferred by order dated 28-10-2020 to Nanded as Dy. S.P. He is going to retire on 30-05-2021. Learned Counsel has submitted that his case should have been considered sympathetically as the officer is going to retire moreover he has some medical ailments. Though stay was granted by this Tribunal, private person i.e. respondent no.4 who is transferred at Degloor in the place of the applicant could have been kept at his original place at Latur. Learned Counsel submits that the applicant is to be accommodated in the last phase of his service.

3. Learned Counsel for the respondent no.4 produced one order dated 18-01-2021 of Shri Nikhil Pingle, S.P. Latur thereby relieving the respondent no.4 and charge of Dy.S.P. Latur is given to Shri Jitendra Jagdale who is promoted and posted in place of the Respondent no.4 at

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O.A.No.465/2020

Latur. Learned Counsel points out that the respondent no.4 at present is without posting.

4. Learned CPO also supported the case of the respondent no.4 and pointed out that the Government has given promotions to the officers which were due to the post of Dy.S.P. by order dated 24-12-2020 and thereby Shri Jitendra Jagdale who was Police Inspector at Police Training Academy, Khandala has taken charge of the post of Dy.S.P. Latur. Thus, the respondent no.4 cannot be accommodated as the post of Dy.S.P. is only post. Thus, there is no breach of any provision of section under the Maharashtra Police Act, 1951.

5. In view of these submissions, the relief prayed for by the applicant cannot be entertained. Stay granted earlier in the O.A. is hereby vacated. O.A. stands dismissed with no order as to costs.

**CHAIRPERSON**

**M.A.NO.24/2021 IN O.A.NO.941/2019**  
**(Dr. Shukracharya Dudhal Vs. State of Maharashtra & Ors.)**

**CORAM : Justice Mridula Bhatkar, Chairperson**

**DATE : 21.01.2021**

**ORAL ORDER :**

Heard Ku. Pradnya Talekar 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. Learned Counsel for the applicant submits that she has moved this application under section 25 of the Maharashtra Administrative Tribunals Act, 1985 for transfer from Aurangabad to Mumbai Principal Bench as the Division Bench at Aurangabad is not available. She submits that the Counsel is ready to appear physically before the Principal Bench at Mumbai. It is a matter of termination so it is urgent.

3. Learned CPO submits to the order of the Tribunal.

4. M.A. for transfer of the O.A. at Mumbai is allowed. Matter be transferred to Principal Bench at Mumbai.

5. S.O. to 09-02-2021 at Mumbai.

**CHAIRPERSON**

**ORIGINAL APPLICATION NO. 44 OF 2020**  
**(Asha Wd/o Sandesh Gaikwad Vs. State of Mah. & Ors.)**

**CORAM : JUSTICE MRIDULA R. BHATKAR**  
**CHAIRPERSON**

**DATE : 21.01.2021**

**ORAL ORDER :**

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

2. Today, the learned Advocate for the applicant produces a copy of corrigendum dated 11<sup>th</sup> September, 2019. The copy of the same is taken on record and marked as document 'X' for the purpose of identification. As per the said corrigendum 20% posts are to be kept vacant or required to be kept vacant for compassionate appointment. He points out the explanation given in column (b) & (d) of the said corrigendum.

3. Today, the Police Inspector Ms. S.D. Naik representing the Home Deputy Superintendent of Police, Jalna is present. The officer or representative of Home Deputy Superintendent of Police, Jalna is required to make a very short affidavit of one paragraph on the following :-

(i) Whether no post on compassionate ground was vacant from the year 2016 till 10.05.2020.

(ii) Document at page No. 64 is the copy of information dated 06.11.2018 provided to the applicant under Right to Information Act by the In-charge Office Superintendent in the office of Superintendent of Police, Jalna, that as on that date four posts of junior clerks were vacant and thereafter the letter dated 20.05.2020 informing that age limit for appointment on compassionate ground is extended from 40 to 45 years. However, the applicant has completed 45 years of her age on 10.05.2020 and, therefore, her name is deleted from the wait list of candidates seeking appointment on compassionate ground.

It is made clear that while making the statement in short affidavit, respondents are directed to take into account the letter dated 05.12.2016, (Annexure A-8, page-27) of Mr. Ramesh D. Devalekar, Office Superintendent, office of the Superintendent of Police, Jalna, along with the same, the list of candidates seeking appointment on compassionate ground has

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**O.A. NO. 44 OF 2020**

been attached, wherein the name of the applicant stood at **Sr. No. 1** in the wait list.

4. S.O. to 01.02.2021 on VIDEO CONFERENCE.

**CHAIRPERSON**

ORAL ORDERS 21.01.2021-hdd

**ORIGINAL APPLICATION NO. 340 OF 2020  
(Kalpana B. Kshirsagar Vs. State of Mah. & Ors.)**

**CORAM : JUSTICE MRIDULA R. BHATKAR  
CHAIRPERSON**

**DATE : 21.01.2021**

**ORAL ORDER :**

Heard Shri Anant Devkate, learned Advocate for the applicant, Shri M.S. Mahajan, learned Chief Presenting Officer for the respondent Nos. 1 to 3 and Shri D.R. Irale Patil, learned Advocate for respondent No. 4.

2. Today, affidavit in reply dated 20.01.2021 is filed by the respondent Nos. 1 & 2 through Smt. Rashmi S. Khandekar, Assistant Commissioner (Inquiry) in the office of Divisional Commissioner, Aurangabad Division, Aurangabad. It is taken on record and copy of the same has been served on the other side.

3. A copy of letter dated 16<sup>th</sup> July, 2020 of the Hon'ble Cabinet Minister of Public Health is annexed along with the said affidavit in reply. By the said letter the Hon'ble Cabinet Minister, Health Services recommends to the Hon'ble Cabinet Minister, Rural Development that the present applicant be transferred because President of Zilla Parishad and the Members of Zilla Parishad have expressed disapproval towards her working and appointment. The minutes of the

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**O. A. NO. 340 OF 2020**

meeting of the CSB are produced. At Sr. No. 15 the name of the applicant is appearing and in column of “own request (स्वचिन्ती)” it is mentioned that she has asked for Project Director, District Rural Development Agency, Zilla Parishad, Jalna. Learned Advocate for the applicant categorically submits that the applicant has never asked for such transfer. Moreover, in the reasons given in the minutes of the meeting for transfers of the Civil Servants the case of the applicant is not covered in either of the reasons.

4. Learned Advocate for the applicant points out another tabular form i.e. part of the minutes of the Civil Services Board, wherein at page No. 72 of the original application, at Sr. No. 15 the name of the applicant is appearing and the reason for the transfer is not given as her own request but reason is given that the Hon’ble Health Minister has recommended the transfer on the basis of some complaints.

5. Learned Chief Presenting Officer seeks time. Time granted.

6. S.O. to 08.02.2021 on VIDEO CONFERENCE.

**CHAIRPERSON**



**ORIGINAL APPLICATION NO. 309 OF 2020  
(Chandrakant Y. Bansode Vs. State of Mah. & Ors.)**

**CORAM : JUSTICE MRIDULA R. BHATKAR  
CHAIRPERSON**

**DATE : 21.01.2021**

**ORAL ORDER :**

Heard Shri A.S. Golegaonkar, learned Advocate holding for Shri Madhur A. Golegaonkar, learned Advocate for the applicant and Mrs. Priya R. Bharaswadkar, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant prays that at this stage his case to be considered as the applicant is under suspension.

3. S.O. to 04.03.2021.

4. In the meanwhile, the respondents to take review of the suspension case of the applicant as per the ratio laid down by the Hon'ble Supreme Court in the case of **AJAY KUMAR CHOUDHARY THROUGH ITS SECRETARY VS. UNION OF INDIA AND OTHERS (2015) 7 SCC 291 dated 16.02.2015.**

**CHAIRPERSON**

**ORIGINAL APPLICATION NO. 179 OF 2020  
(Arun S. Gaware Vs. State of Mah. & Ors.)**

**CORAM : JUSTICE MRIDULA R. BHATKAR  
CHAIRPERSON**

**DATE : 21.01.2021**

**ORAL ORDER :**

Heard Shri Sunil B. Jadhav, learned Advocate for the applicant, Shri V.R. Bhumkar, learned Presenting Officer for the respondent Nos. 1 to 3 & 5 and Shri A.B. Gaikwad, learned Advocate for respondent No. 4.

2. On instructions, learned Advocate for the applicant seeks permission of this Tribunal to withdraw the present Original Application.

3. Permission granted. Withdrawal is allowed. Accordingly, the present Original Application stands disposed of as withdrawn with no order as to costs.

**CHAIRPERSON**

ORAL ORDERS 21.01.2021-hdd

**ORIGINAL APPLICATION NO.210/2018**

**(Shri Mir Firasat Mir Mohammed Ali Vs. State of Maharashtra & Ors.)**

**CORAM : Justice Mridula Bhatkar, Chairperson**

**DATE : 21.1.2021**

**ORAL ORDER :**

Heard Shri V.G. Pingle, learned Advocate for the applicant, Shri M.S. Mahajan, learned Chief Presenting Officer for the respondent Nos. 1 to 3 and Shri Shamsundar B. Patil, learned Advocate for the Respondent No.4.

2. Pursuant the order dated 20.01.2021 the learned Advocate for the Applicant today informs that the Applicant has submitted the application for medical leave in prescribed format on 19.7.2017. He pointed out the pleadings contained in para no. 6.15 of O.A., where the Applicant has submitted that he was granted leave by the bench of Maharashtra Administrative Tribunal, Aurangabad in O.A.No.38 of 2017 to file fresh application for grant of leave in prescribed format. Thereafter, he moved application on 19.7.2017. The copy of the said application is at page no.44 of the present Original Application.

3. Learned Advocate for the Applicant submits that the Applicant is entitled to grant medical leave and therefore he has rightly moved the application for the direction to the

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O.A.No.210/2018

Respondents that the Respondents should treat his absence of 287 days as commuted leave under Rule 61 of M.C.S. (leave) Rules, 1981.

4. Learned C.P.O. for the Respondents submits that the final order is to be considered along with the earlier order dated 20.01.2021 where the facts and other submissions are already mentioned.

5. Learned C.P.O. for the Respondents while making further submissions on the application given by the Applicant in specific format relies on the communication / order dated 26.10.2017 passed by Shri Ajaysingh Patil, Desk Officer, Water Resources Department, State of Maharashtra.

6. Learned C.P.O. for the Respondents points out that the said application dated 19.7.2017 is considered by the Respondents, but on the other valid grounds the said application for medical leave was rejected.

7. The Applicant remained absent from 5.7.2011 to 17.4.2012 without any intimation except one line intimation dated 7.7.2011 sent on e-mail. No reason of his leave was mentioned at that time. The application though was made subsequently i.e. after five years as leave was granted by this Tribunal, it was not along with the proper medical certificate.

8. As mentioned in the communication dated 26.10.2017, the Desk Officer has specifically mentioned that the said certificate is doubtful. The Applicant though was suffering from Jaundice, he has taken a fitness certificate from the Pediatrician and on the said fitness certificate Civil Surgeon, Nanded has signed on 18.04.2012. However, the fitness certificate dated 18.4.2012 was produced in 2017 and on the said certificate there is a stamp of counter signature of Civil Surgeon of Shri G.G.M. Hospital, Nanded but it is not properly signed. Therefore, it is difficult to accept that the Civil Surgeon of Shri G.G.M. Hospital, Nanded has put signature of approval on the fitness certificate given by Pediatrician, Dr. Ansari to an adult person. If at all, the Civil Surgeon has issued such certificate then it is not at all proper and acceptable. This certificate appears not for the genuine reason and the reason of jaundice given in the medical certificate is false. Not only the Applicant remained absent from service for total 287 days without any good cause but showed audacity to produce false certificate and lied before the authority. Under such circumstances, in fact the Respondents have shown favour to the Applicant in considering his leave under Rule 63 of MCS (leave) Rules, 1981 as extra ordinary leave.

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O.A.No.210/2018

9. In view of the above discussion, the Original Application is rejected. No order as to costs.

**CHAIRPERSON**

**Date : 21.01.2021**

**ORIGINAL APPLICATION NO.30/2021  
(Shri Kedarnath Ramnaji Budhwant V/s  
State of Maharashtra & Ors.)**

**Per :- Standing directions of Hon'ble  
Chairperson, M.A.T., Mumbai**

1. Shri V.B. Wagh, Id. Advocate for the applicant and Shri M.S. Mahajan, Id. C.P.O. for respondents, are present.
2. Circulation is granted. Issue notices to the respondents, returnable on 26.02.2021. The case be listed for admission hearing on 26.02.2021.
3. Tribunal may take the case for final disposal at this stage and a separate notice for final disposal shall not be issued.
4. Applicant is authorized and directed to serve on Respondent intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of 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.
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 as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

**REGISTRAR**

**Date : 21.01.2021**

**ORIGINAL APPLICATION NO. 154 OF 2020**

**(Venkatesh V. Joshi & Anr. Vs. The State of Maharashtra &Ors.)**

**Per :- Standing directions of Hon'ble**

**Chairperson, M.A.T., Mumbai-**

1. Shri Mujahed Hussain, learned Advocate for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents, are present.

2. Circulation is granted. Issue notices to the respondents, returnable on 09.02.2021. The case be listed for admission hearing on 09.02.2021.

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

4. Applicant is authorized and directed to serve on Respondent intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of 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.

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 as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

**REGISTRAR**



**ORIGINAL APPLICATION NO. 518 OF 2020**  
**(Smt. Nisha Balasaheb Ghatole Vs. State of Maharashtra & Ors.)**

**CORAM : Justice Mridula Bhatkar, Chairperson**

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

**DATE : 21.01.2021**

**ORAL ORDER :**

Heard Shri S.D. Dhongde, learned Advocate holding for Smt. Suchita A. Dhongde, learned Advocate for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant on instruction states that the applicant does not want to proceed with the present O.A. and wants to withdraw the same. Therefore, he seeks leave of this Tribunal to withdraw the O.A.

3. In view of the submissions advanced by learned Advocate for the applicant, leave as prayed for is granted. The O.A. is disposed of as withdrawn with no order as to costs.

**CHAIRPERSON**

**ORIGINAL APPLICATION NO. 783 OF 2019**  
**(Anil P. Chittarwad Vs. State of Maharashtra & Ors.)**

**CORAM : Justice Mridula Bhatkar, Chairperson**

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

**DATE : 21.01.2021**

**ORAL ORDER :**

Heard Shri Swapnil Deshmukh, learned Advocate holding for Shri Sunil B. Jadhav, 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 08.03.2021.

**CHAIRPERSON**

**ORIGINAL APPLICATION NO. 333 OF 2019**

(Dr. Manoj D. Shankhpale & Ors. Vs. State of Maharashtra & Ors.)

**WITH**

**ORIGINAL APPLICATION NO. 318 OF 2019**

(Dr. Raman S. Dalvi Vs. State of Maharashtra & Ors.)

**WITH**

**ORIGINAL APPLICATION NO. 319 OF 2019**

(Dr. Amol B. Bansode Vs. State of Maharashtra & Ors.)

**WITH**

**ORIGINAL APPLICATION NO. 320 OF 2019**

(Dr. Rohit R. Zarkar Vs. State of Maharashtra & Ors.)

**CORAM : Justice Mridula Bhatkar, Chairperson**

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

**DATE : 21.01.2021**

**ORAL ORDER :**

**O.A. No. 333/2019**

Heard Ms. Preeti R. Wankhade, learned Advocate holding for Shri A.S. Deshmukh, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

**O.A. Nos. 318, 319 & 320 all of 2019**

Heard Shri K.G. Salunke, learned Advocate for the applicants in all these O.As. and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents in all these O.As.

2. Presently Division Bench at Maharashtra Administrative Tribunal, Bench at Aurangabad is not available due to retirement of other Members, however, the

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matters are heard by way of circuit sitting by me as a Chairperson and therefore, by consent of both the parties, the present matter of D.B. is decided finally.

3. Learned Advocate for the applicant produces a copy of judgment of the Hon'ble High Court of Judicature at Bombay in **W.P. No. 5119 of 2019** in the case of **Dr. Ravi K. Tale and others Vs. State of Maharashtra and others** decided on 11.08.2020. She has submitted that some group of Dental Surgeons have approached the Hon'ble Bombay High Court, wherein the Hon'ble High Court granted status-quo to remove termination of service and now by this judgment and order, the Hon'ble Bombay High Court directed the State Government to take a fresh decision regarding continuance of contractual employment of the petitioners as Dental Surgeons under the National Health Mission in the State of Maharashtra.

4. Learned Advocate for the applicant submits that in the present O.A. also similar direction can be given to the Government.

5. Learned P.O. seeks time to go through the judgment to find out whether the present applicants and the petitions before the Hon'ble High Court stand on the same footing and what criteria was applied by the Hon'ble High

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O.A. No. 333/2019 & Ors.

Court in respect of funding of limited 44 posts by the Central Government.

6. The present matter is keep back for some time for taking instruction by the learned P.O.

#### **CHAIRPERSON**

##### **Later on**

7. Learned Presenting Officer after going through the judgment of **Dr. Ravi K. Tale and others Vs. State of Maharashtra and others (supra)** and on seeking instructions from the respondents, produces a copy of letter dated 05.01.2021 sent by Dr. Satish Pawar, Additional Program Director, National Health Mission, Mumbai addressed to all District Civil Surgeons, District Hospitals in Maharashtra State, calling details of the Civil Surgeons who are working on contract basis for compliance of the order of the Hon'ble High Court in the case of **Dr. Ravi K. Tale and others Vs. State of Maharashtra and others in W.P. No. 5119/2019.** Copy of the said letter is taken on record and marked as document X-1.

8. Learned Advocate for the applicant in O.A. No. 333/2019 Shri A.S. Deshmukh, draws my attention to Annexure-C of the said letter giving details of the Court cases filed by the Civil Surgeons in the Maharashtra State.

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He submits that names and details of the present applicants should have been mentioned in this Annexure, as all the present O.As. are pending before this Tribunal. There is substance in the submission of the learned Advocate for the applicant and therefore, the respondents are hereby directed to consider this issue at the earliest i.e. within a period of four weeks from today.

9. In view of the above, all these O.As. stand disposed of with no order as to costs.

**CHAIRPERSON**

**O.A. Nos. 1037, 1038, 1039, 1040, 1041, 1042 & 1043 All of 2019**  
**(Shri Sambhaji B. Wadje & Ors. Vs. State of Maharashtra & Ors.)**

**CORAM : Justice Mridula Bhatkar, Chairperson**

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

**DATE : 21.01.2021**

**ORAL ORDER :**

Heard Shri Prashant Deshmukh, learned Advocate for the applicants in all these O.As. and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respective respondents in respective O.As.

2. In this group of O.As., all the applicants are working as Peon in the Health Department in different districts i.e. Latur, Beed and Nanded. They seek directions to the respondents that they are to be considered for promotion to the post of Driver Class-III, as they are holding necessary driving license.

3. Learned Advocate for the applicants submits that the applicants were called for practical test on 22.11.2017. He relies on the letter dated 06.11.2017 written by the Director of Health Services, Latur Circle, Latur directing those candidates to remain present on 22.11.2017 at Pune for practical examination. Learned Advocate for the applicants relies on the letter

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dated 19.07.2018 written by the applicants to the Deputy Director of Health Services, Latur, where they have informed that we have appeared for practical training examination however where they have mentioned that the decision of the practical test was communicated to the office of the Deputy Director of Health Services, Latur by the office of Deputy Director of Health Services Transport, Pune. By that letter the applicants have requested the respondents to take decision of their promotion. Earlier one such letter was also sent by the Association of the Class-IV employees dated 02.08.2018. Another letter was sent on 22.10.2018 requesting about the promotion. Learned Advocate for the applicants further pointed out one more reminder dated 25.1.2019 sent by the Association informing that the persons who had appeared for the examination from Class-IV have not yet given promotion to Class III posts, though the practical test was conducted and result was communicated.

4. Learned P.O. submits that till today C.P.O. office has not received any parawise remarks from the respondents and therefore, she seeks time to obtain



//3// O.A. No. 1037/2019 & Ors.

instructions and communication from the respondents.

5. On request of learned P.O. by way of last chance time can be granted up to 27.01.2021 to submit affidavit in reply and copy of the said affidavit in reply can be handed over to the learned Advocate for the applicants on or before 27.01.2021, as this matter is fixed before the Division Bench at Principal Seat of this Tribunal at Mumbai on 29.01.2021 for Virtual Hearing.

6. No further time can be given to the respondents as there is considerable delay on the part of the respondents to consider the promotions of Class-IV employees. Examinations are conducted in the year 2017 for 24 vacant posts. If the candidates from Class-IV group are found eligible, then the respondents should have given promotion to those eligible persons. It appears that files in the Mantralaya are not moving speedily and therefore, the attention of the respondents is drawn to Section 10 of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of

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Official Duties Act, 2005. Especially section 10 of the said Act is useful which is reproduced herein under for consideration of respondents :-

**“10. Disciplinary action.**

- (1) *Every Government servant shall be bound to discharge his official duties and the official work assigned or pertaining to him most diligently and as expeditiously as feasible: Provided that, normally no file shall remain pending with any Government servant in the Department or office for more than seven working days: Provided further that, immediate and urgent files shall be disposed of as per the urgency of the matter, as expeditiously as possible, and preferably the immediate file in one day or next day morning and the urgent file in four days: Provided also that, in respect of the files not required to be referred to any other Department, the concerned Department shall take the decision and necessary action in the matter within forty-five days and in respect of files required to be referred to any other Department, decision and necessary action shall be taken within three months.*
- (2) *Any wilful or intentional delay or negligence in the discharge of official duties or in carrying out the official work assigned or pertaining to such Government servant shall amount to dereliction of official duties and shall make such Government servant liable*

//5// O.A. No. 1037/2019 & Ors.

*for appropriate [disciplinary action under the All India Services (Discipline and Appeal) Rules , 1969, the] Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 or any other relevant disciplinary rules applicable to such employee.*

- (3) *The concerned competent authority on noticing or being brought to its notice any such dereliction of duties on the part of any Government servant, after satisfying itself about such dereliction on the part of such Government servant shall, take appropriate disciplinary action against such defaulting Government servant under the relevant disciplinary rules including taking entry relating to such dereliction of duty in the Annual Confidential Report of such Government servant.”*

7. S.O. to 29.01.2021 before the Division Bench at Mumbai for Virtual Hearing.

**CHAIRPERSON**

**ORIGINAL APPLICATION NO. 232 OF 2019**  
**(Maruti T. Kamble & ors. Vs. State of Maharashtra & Ors.)**

**CORAM : Justice Mridula Bhatkar, Chairperson**

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

**DATE : 21.01.2021**

**ORAL ORDER :**

Heard Shri V.G. Pingle, learned Advocate for the applicants and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. Today, learned P.O. produces a copy of G.R. dated 08.06.1995 by which the Government has taken a policy decision of giving promotion to Class III and Class-IV Group C and D employees in the service of State Government. Learned P.O. points out clause 2(C) of the said G.R., where it is stated that the Class C and Class D employees who are appointed directly or by promotion are entitled to take the benefit of time bound promotion after 12 years only after their services is regularized.

3. The judgment and order in the case of **the State of Maharashtra Vs. Smt. Meena A. Kuwalekar in W.P. No. 9051/2013** and other W.Ps. which are decided on 28.04.2016 by the Division Bench of Hon'ble High Court of Judicature at Bombay is relied by the learned Advocate for the applicants in support of his pleadings. He submits that similar issue of giving time bound promotion right

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from the date of initial date of appointment in respect of Group C and Group D employees was considered in favour of such employees and therefore, the present applicants are entitled to get the benefit, as the issue involved herein is covered under the said judgment.

4. On perusal of the said judgment it appears that the Hon'ble Division Bench had no opportunity to deal with G.R. dated 08.06.1995, therefore, the applicability of the said judgment is required to be considered from that point of view. It is made clear that relevant condition in the said G.R. dated 08.06.1995 i.e. condition No. 2 (C) is not challenged by the applicants.

5. Learned P.O. also seeks time to go through the above said judgment to meet this issue.

6. S.O. to 11.02.2021.

**CHAIRPERSON**

**ORIGINAL APPLICATION NO. 614 OF 2018**  
**(Dr. Minakshi B. Pathak Vs. State of Maharashtra & Ors.)**

**CORAM : Justice Mridula Bhatkar, Chairperson**

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

**DATE : 21.01.2021**

**ORAL ORDER :**

Heard Shri V.B. Wagh, learned Advocate for the applicant, Shri M.P. Gude, learned Presenting Officer for the respondent Nos. 1 to 3 and Shri Rahul Pawar, learned Advocate for respondent Nos. 4 & 5.

2. Leaned Advocate for respondent Nos. 4 and 5 prays for recalling the order which is passed yesterday i.e. on 20.01.2021 by this Bench on the basis of wrong statement made by him. He has submitted that the applicant is retimed in the month of June, 2018 after completion of 58 years of age and he did not give benefit of 60 years however, due to oversight he made a statement that the applicant retimed in the month of June, 2020 and he is beneficiary of extended period of age of retirement till 60 years. He fairly points out that on the basis of this statement the O.A. was disposed of. He therefore prays that the order passed by this Tribunal on yesterday i.e. on 20.1.2021 be recalled and the O.A. be restored to its original file.

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O.A. 614/2018

3. Learned Advocate for the applicant and learned P.O. for respondent Nos. 1 to 3 both are present and have no objection for recalling the yesterday's order.

4. On the basis of specific statement made by the learned Advocate for respondent Nos. 4 and 5 this Tribunal found that there was no issue remained for further adjudication and therefore, the O.A. was disposed of. However, as the issue is still exist and incorrect statement was made, it is a good ground to recall the order which was passed yesterday i.e. on 20.01.2021.

5. In view thereof, the impugned order dated 20.01.2021 is recalled and the O.A. is restored to its original file.

6. S.O. 15.02.2021.

**CHAIRPERSON**

**C.P. 8/2020 IN O.A. 890/2018**

**(Shaikh Hajrabee wd/o of Shaikh Dadamiya & Ors. Vs. State of Maharashtra & Ors.)**

**CORAM : Justice Mridula Bhatkar, Chairperson**

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

**DATE : 21.1.2021**

**ORAL ORDER :**

Heard Shri K.B. Jadhav, learned Advocate for the applicants and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. Presently Division Bench at Maharashtra Administrative Tribunal, Bench at Aurangabad is not available due to retirement of other Members, however, the matters are heard by way of circuit sitting by me as a Chairperson and therefore, by consent of both the parties, the present matter of D.B. is decided finally.

3. Pursuant to the order dated 2.1.2021 passed by this Tribunal the learned Presenting Officer answering the query raised in para no. 4 of the said order informs that the decision on 2 proposals dated 11.8.2017 and 12.6.2019 was already taken by the respondent no. 2 on 6.1.2018. On 6.1.2018 the respondent no. 2 has in fact forwarded the said 2 proposals to consider the



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**C.P. 8/2020 IN O.A. 890/2018**

regularization of the applicants, who are Badli / temporary workers.

4. It is to be noted that in the order, which is a matter of contempt, this Tribunal has given specific orders to decide 2 proposals dated 11.8.2017 and 12.6.2019 of regularization of Badli / temporary workers within 4 weeks from the date of that order. However, on perusal of the affidavit in reply filed by the respondent no. 2 it transpires that the respondent no. 2 has no power to take a policy decision, but such powers are vested with the Government.

5. In view of above, explanation given by the respondent no. 2 in his affidavit in reply is accepted and this Tribunal is of the opinion that there is no contempt of the order dated 23.1.2020 passed by this Tribunal in O.A. no. 890/2018. It is hereby made clear that as directions were given only to respondent no. 2, there is no contempt.

6. Learned Advocate for the applicants seeks liberty of this Tribunal to move an application for Review or modification in para nos. 7 & 8 of the order dated 23.1.2020 passed by this Tribunal in O.A. no.

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**C.P. 8/2020 IN O.A. 890/2018**

890/2018. As the O.A. is already disposed of, liberty as prayed for by the learned Advocate for the applicants to move such an application is granted.

7. In the circumstances, the present Contempt Petition stands disposed of with no order as to costs.

**CHAIRPERSON**

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

**CORAM : Justice Mridula Bhatkar, Chairperson**  
**DATE : 21.1.2021**

**ORAL ORDER :**

Heard Shri A.S. Deshmukh, learned Advocate for the applicant in M.A. / respondent no. 3 in O.A., Shri M.S. Mahajan, learned Chief 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. The applicant in O.A. has challenged his transfer order dtd. 10.8.2020 transferring him from the post of Taluka Agriculture Officer, Sengaon, Dist. Hingoli to the post of Technical Officer, Aurangabad. This Tribunal by the order dated 17.8.2020 has considered the grievance of the applicant in the O.A. that he has hardly completed 5 months tenure since his appointment as he joined on 14.3.2020, and this prima-facie breach of sections 4 (4) and 4(5) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (for short the Transfer Act, 2005) and granted interim stay in favour of the applicant.

:::2-:: **M.A. 214/2020 IN O.A. 286/2020**

3. The respondent no. 3 in O.A. i.e. Ravi Harne who is also working as Taluka Agriculture Officer has moved this M.A. for vacating the interim stay granted by the Tribunal in O.A. and seeks early hearing on the ground that the respondent no. 3 in O.A. on the same day i.e. on 10.8.2020 has been transferred by another order from Hingoli to Sengaon. The learned Advocate for respondent no. 3 places on record the letter dtd. 17.8.2020 of Chief Executive Officer, Zilla Parishad, Parbhani that the respondent no. 3 was relieved on 17.8.2020 and has been directed to handover the charge to one Shri N.N. Kutwad. Learned Advocate for respondent no. 3 submits that the respondent no. 3 is thereafter without posting from 17.8.2020 till today.

4. Learned C.P.O. has filed affidavit in reply of Shri Rajkumar T. More, Administrative Officer in the office of Divisional Joint Director of Agriculture, Latur on behalf of res. nos. 1 & 2 dated 21.9.2020, wherein it is mentioned that the applicant has filed earlier application on 26.2.2020 that he be transferred from Sengaon to Aurangabad on account of his domestic difficulties. The said application was therefore processed and his request was considered and thereafter he has been transferred to Aurangabad.

**::-3-:: M.A. 214/2020 IN O.A. 286/2020**

5. On query made to Shri K.G. Salunke, learned Advocate for the applicant in O.A. he seeks time to give details of domestic difficulties of the applicant when he gave first application dated 26.2.2020 for his transfer from Sengaon, Dist. Hingoli to Aurangabad. Time as prayed for is granted.

6. S.O. to 1.2.2021 for virtual hearing.

**CHAIRPERSON**

**M.A. 19/2021 IN O.A. ST. 94/2021**  
**(Ashok R. Tonde & Ors. Vs. State of Maharashtra & Ors.)**

**CORAM : Justice Mridula Bhatkar, Chairperson**  
**DATE : 21.1.2021**

**ORAL ORDER :**

Heard Shri G.K. Kshirsagar, 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.

**CHAIRPERSON**

**O.A. ST. 94/2021**

**(Ashok R. Tonde & Ors. Vs. State of Maharashtra & Ors.)**

**CORAM : Justice Mridula Bhatkar, Chairperson**

**DATE : 21.1.2021**

**ORAL ORDER :**

Heard Shri G.K. Kshirsagar, learned Advocate for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. All the applicants, who are Sales Tax Inspectors, challenged the order dated 21.12.2020 by which the Government informed all the Sales Tax Commissioners in the State about a policy decision of the Government that the Sales Tax Officers, who were earlier working in the Zilla Parishads and not in the Government service from beginning, then they are not entitled for pay protection.

3. In the circumstances, issue notice before admission to the respondents, returnable on 10.3.2021.

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.

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 10.3.2021.

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

**CHAIRPERSON**



**O.A. 34/2021**

**(Arvind B. Salve Vs. State of Maharashtra & Ors.)**

**CORAM : Justice Mridula Bhatkar, Chairperson**

**DATE : 21.1.2021**

**ORAL ORDER :**

Heard Shri V.B. Wagh, learned Advocate for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents.

2. The applicant has challenged the order of recovery from his monthly pay and his recovery is going to commence from the month of January, 2021. He further submits that departmental enquiry has also initiated against the applicant. The present matter is coming on board first time.

3. The learned Presenting Officer seeks time to take instructions from the respondents. Time granted.

4. S.O. to 15.2.2021.

5. In the meantime the respondents can continue with the departmental enquiry and the applicant is directed to cooperate to the Enquiry Officer.

**CHAIRPERSON**