

**M.A.NO.117/2021 IN O.A.ST.NO.511/2021**  
**(Sushilkumar Jadhav & Ors. Vs. State of Maharashtra & Ors.)**

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

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

**DATE : 21.05.2021**

**ORAL ORDER :**

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

2. By this application, applicants are seeking permission to sue the respondents jointly.

3. In the O.A., the applicants have challenged recruitment rules of 2021 published by the State Government vide its notification dated 27-02-2021 and published notice dated 19-04-2021 to the extent of clause 4 published by the respondent no.4.

4. It is contention of the applicants that the applicants applied for various posts in various categories in response to advertisement dated 21-03-2019 published by respondent no.3. Written examination was held and the result is declared. Thereafter, new recruitment rules have been published by the respondents. According to the applicants, clause 4 of public notice dated 19-04-2021 is detrimental to the interest of the applicants in as much as it is not having the retrospective effect. In view of the

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same, applicants state that the applicants are having common interest as they are likely to be affected in like manner.

5. Considering the facts as discussed above, in my opinion this is a fit case to grant permission as prayed for in order to avoid multiplicity of proceedings. Hence, application is allowed. Applicants are permitted to sue their cause jointly against the respondents. M.A.No.117/2021 stands disposed of with no order as to costs.

**MEMBER (J)**

**O.A.ST.NO.511/2021**

**(Sushilkumar Jadhav & Ors. Vs. State of Maharashtra & Ors.)**

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

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

**DATE : 21.05.2021**

**ORAL ORDER :**

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

2. Issue notices to the respondents, returnable on 10.06.2021.

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

4. Applicants are 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

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(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 produced along with affidavit of compliance in the Registry before due date. Applicants are directed to file affidavit of compliance and notice.

7. S.O. to 10.06.2021.

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

**MEMBER (J)**

**M.A.NO.116/2021 WITH M.A.NO.237/2021 IN  
O.A.NO.42/2014  
(State of Maharashtra & Ors. V/s. Surekha B. Andhale & Ors.)**

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

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

**DATE : 21.05.2021**

**ORAL ORDER :**

Heard Shri M.S.Mahajan, learned Chief Presenting Officer for the applicants (respondents in O.A.) and Shri S.R.Shirsat, learned Advocate holding for Shri S.S.Jadhavar learned Advocate for the respondents (applicants in O.A.).

2. Learned CPO for the applicants who are respondents in O.A.No.42/2014 and learned Advocate for the respondents herein who are the applicants in the said O.A.

3. Learned CPO submits that earlier also M.A.No.237/2019 was made by the respondents and same is pending. He submits that because of order dated 07-05-2021 passed by Hon'ble Bombay High Court Bench at Aurangabad in PIL No.47/2021 directing to take emergency steps for filling up vacancies and due to Covid-19 Pandemic the urgency has arisen in the matter.

4. Learned Advocate for the respondents/applicants requests time for filing reply.

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5. Considering the facts and circumstances of the case, time is granted till 27-05-2021 for filing reply.

6. S.O. to 27-05-2021.

**MEMBER (J)**

YUK ORAL ORDERS 21.05.2021

**M.A.NO.119/2021 IN O.A.NO.198/2021**  
**(Umesh Bavare & Ors. Vs. State of Maharashtra & Ors.)**

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

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

**DATE : 21.05.2021**

**ORAL ORDER :**

Heard Shri Sandeep Munde, learned Advocate for the applicant, Shri M.S.Mahajan, learned Chief Presenting Officer for the respondents.

2. By this application applicants are seeking amendment in O.A.No.198/2021. Said O.A. is filed seeking to quash and set aside the impugned communication/order dated 06-04-2021 issued by the respondent no.1 and consequential directions to the respondents to prepare seniority list of the Kotwal on the basis of merit/marks secured by the candidates.

3. It is contention of the applicants that during the pendency of the said O.A., the respondent no.3 Collector, Beed published the seniority list of Kotwal dated 10-05-2021. In view of the same, applicants seek amendment to challenge the said seniority list dated 10-05-2021 in the O.A.

4. Considering the developments in the matter as above, in my opinion, it would be just and proper to allow the

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requisite amendment as prayed for as it would help to determine the controversy between the parties. Hence, application allowed. Applicants to carry out the amendment within a week. M.A.No.119/2021 is disposed with no order as to costs.

5. After amendment is carried out matter be listed on board.

**MEMBER (J)**

YUK ORAL ORDERS 21.05.2021



**ORIGINAL APPLICATION NO.214/2021**  
**(Ramnath Raut Vs. State of Maharashtra & Ors.)**

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

**DATE : 21.05.2021**

**ORAL ORDER :**

Heard Smt. Pranoti Khedkar learned Advocate holding for Shri A.S.Khedkar, learned Advocate for the applicant, Smt. Deepali Deshpande, learned Presenting Officer for the respondents.

2. This O.A. is filed challenging impugned office order no.307/2020 dated 23-12-2020 issued by the respondent no.3 the Deputy Executive Engineer, Upper Prawara Dam Division, Sangamner, Tq. Sangamner, Dist. Ahmednagar whereby an amount of Rs.7383/- per month from monthly salary of December, 2020 due on 01-01-2021 in 15 such equal installments.

3. The applicant is seeking ad-interim stay to the execution and implementation of the said impugned order.

4. The applicant was initially appointed as Majoor in the year 1985. Since then he has been working as Majoor. From time to time admissible service benefits were given to him by fixing pay in accordance with rules. The impugned recovery has occasioned due to mistake on the part of the department while fixing pay of the applicant. The applicant is a Class-IV employee.

5. In view of above, learned Advocate for the applicant relies upon the case law of the Hon'ble Supreme Court i.e. the decision dated 18-12-2014 passed in Civil Appeal No.11527/2014 in the matter of **State of Punjab & Ors. V/s. Rafiq Masih (White Washer) etc.** In paragraph 12 of the said judgment, it is laid down as under:

*“12. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarize the following few situations, wherein recoveries by the employers, would be impermissible in law:*

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

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

*(iii) Recovery from the employees when the excess payment has been made for a period*

*in excess of five years, before the order of recovery is issued.*

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

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

6. Considering the facts and circumstances of the case, it is evident that prima facie case of the applicant falls under Clause-I of paragraph-12 of the abovesaid case law. In view of the same, this is a fit case to grant ad-interim stay to the execution and implementation of the impugned order. Hence, ad-interim stay to the execution and implementation of the impugned order is granted till filing of reply.

7. Issue notices to the respondents, returnable on 21.06.2021.

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

9. 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.

10. 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.

11. 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.

12. S.O. to 21.06.2021.

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

**MEMBER (J)**

**ORIGINAL APPLICATION NO.356/2020**  
**(Kiran Kolpe Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)**  
**DATE : 21.05.2021**  
**ORAL ORDER :**

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

2. Record reveals that the notice was issued to the respondents vide order dated 05-10-2020, returnable on 02-11-2020. Since 02-11-2020 this case is pending for filing reply.

3. Learned C.P.O. for the respondents submits that the he would file reply in a short period.

4. S.O. to 07-06-2021.

**MEMBER (J)**

**ORIGINAL APPLICATION NO.357/2020**  
**(Vinod Borge Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)**  
**DATE : 21.05.2021**  
**ORAL ORDER :**

Heard Shri N.B.Narwade, learned Advocate for the applicant, Shri V.R.Bhumkar, learned Presenting Officer for the respondents.

2. Record reveals that the notice was issued to the respondents vide order dated 05-10-2020, returnable on 02-11-2020. Since 02-11-2020 this case is pending for filing reply.

3. Learned C.P.O. for the respondents submits that the he would file reply in a short period.

4. S.O. to 07-06-2021.

**MEMBER (J)**

**ORIGINAL APPLICATION NO.513/2020**  
**(Uttam Varpade Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)**  
**DATE : 21.05.2021**  
**ORAL ORDER :**

Heard Shri P.B.Rakhunde, learned Advocate for the applicant, Shri D.R.Patil, learned Presenting Officer for the respondents.

2. Learned P.O. files affidavit in reply on behalf of the respondent nos.1 to 4. It is taken on record. Copy thereof has been served on the other side.

3. In view of above, O.A. is fixed for hearing at the stage of admission. In the meanwhile applicant may file affidavit in rejoinder, if any.

4. S.O. to 06-07-2021.

**MEMBER (J)**

**ORIGINAL APPLICATION NO.47/2021**  
**(Bhanudas Gavit Vs. State of Maharashtra & Ors.)**

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

**DATE : 21.05.2021**

**ORAL ORDER :**

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

2. On the request of learned P.O. for the respondents, **S.O. to 28-05-2021** for filing affidavit in reply on behalf of the respondents.

**MEMBER (J)**



**Date : 21.5.2021**

**O.A. 228/2021**

**(Mukesh K. Ghuge V/s State of Maharashtra & Ors.)**

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

1. Shri Sandeep G. Kulkarni, learned Advocate for the applicant and Shri M.S. Mahajan, learned C.P.O. for respondents, are present.
2. Circulation is granted. Issue notice to the respondents, returnable on 17.6.2021. The case be listed for admission hearing on 17.6.2021.
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 : 21.5.2021**

**O.A. 346/2020**

**(Babu R. Adbalwar V/s State of Maharashtra & Ors.)**

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

1. Shri Pravin B. Rakhunde, learned Advocate for the applicant and Shri M.S. Mahajan, learned C.P.O. for respondents, are present.
2. Circulation is granted. Issue notice to the respondents, returnable on 17.6.2021. The case be listed for admission hearing on 17.6.2021.
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**