

**O.A. 486/2024 (D.B.)**

**(Vipul B. Thakare Vs. State of Mah. & Ors. )**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Vice Chairman.**

**Dated : 22/05/2024.**

Heard Shri A.P. Thakare, learned counsel for the applicant and Smt. Aditi. Warjekar, learned P.O. for the State.

2. The learned counsel for the applicant has submitted that the applicant applied for the post of Talathi. In the advertisement for Amravati District, there was no reservation for OBC ex-serviceman category. Therefore, the applicant not applied in that category. The applicant applied in the Open category. The applicant is not selected whereas respondent no.5 is selected in OBC ex-serviceman category.

3. The learned counsel for the applicant has submitted that corrigendum dated 06/11/2023 was issued by respondent no.2 after the advertisement. He has submitted that as per the corrigendum dated 06/11/2023 two posts of ex-serviceman category are increased and one post was reserved for OBC ex-serviceman category. In the earlier advertisement, there was no such post for OBC ex-serviceman category, therefore, the applicant not applied in OBC ex-serviceman category. The learned counsel for applicant has submitted that respondent no.5 is having less marks than the applicant. Therefore, the applicant prayed to grant stay to the selection process of the post of Talathi.

4. As per the submission of learned counsel for the applicant, the examination of the post of Talathi was conducted on 06/09/2023 whereas the corrigendum was issued on 06/11/2023. By this corrigendum, 149 posts of Talathi in Maharashtra are increased but no opportunity was given to the candidates to fill / give option as per the corrigendum. The learned counsel for the applicant has pointed out the merit list. The respondent no.5 has secured 113 marks whereas the applicant has secured 131 marks. The respondent no.5 is selected in OBC ex-serviceman category whereas the name of applicant is shown in the waiting list at sr.no.17.

5. The learned counsel for applicant has submitted that as per the corrigendum, the applicant is entitled to get appointment in OBC ex-serviceman category.
6. Looking to the submission, **the respondent nos.1 to 4 are directed to keep one post vacant of the post of Talathi (OBC ex-serviceman category ) in Amravati District as per the advertisement dated 26/06/2023 until further orders.**
7. Issue notice to the respondents returnable on 19/06/2024. Learned P.O. waives notice for State. Hamdast allowed.
8. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
9. 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. Respondent is 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 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.
12. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

**S.O. 19/06/2024.**

**Steno copy is granted...**

**Vice Chairman**

dnk.

**O.A. 483/2024 (D.B.)**

(Dr. Pramod B. Khandate Vs. State of Mah. & ors.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Vice Chairman.**

**Dated : 22/05/2024.**

Heard Mrs. R.S. Sirpurkar, learned counsel for the applicant and Smt. Khobragade, learned P.O. for the State.

2. The learned counsel for the applicant submitted that the applicant is going to retire on 30/06/2024. As per the impugned order, in fact other similarly situated employees who are about to retire on 30/06/2024 are granted relief for extension of their retirement upto 30/06/2026. Therefore, the applicant is also entitled for the same relief.

3. Without hearing the respondents, it will not be proper to grant interim stay at this stage. As per the impugned order, the applicant is to be retired on 30/06/2024. The issue in respect of grant stay can be decided in the 2<sup>nd</sup> week of June, 2024.

4. Hence, issue notice to the respondents returnable on **11/06/2024**. Learned P.O. waives notice for State. Hamdast allowed.

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

6. 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. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

7. 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.

8. 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.

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

10. The respondents are directed to file reply positively on the next date.

**S.O. 11/06/2024.**

**Steno copy is granted...**

**Vice Chairman**

dnk.

**O.A. 338/2024 (S.B.)**

**(Suhas Uday Junjar Vs. State of Mah. & Ors. )**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Vice Chairman.**

**Dated : 22/05/2024.**

Heard Shri S.S. Deshpande, learned counsel for the applicant and Shri A.P. Potnis, learned P.O. for respondent no.1. Await service of R-2 to 4.

2. The learned counsel for the applicant has filed copy of order passed by the Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.3205/2024, dated 17/05/2024. The Hon'ble High Court has directed this Tribunal to hear the stay application before deciding the matter on merits within a period of one week. This O.A. was fixed before the Member (J) Shri M.A. Lovekar. The Member (J) Shri M.A. Lovekar has passed the order on 10/05/2024. The relevant order is reproduced below –

*“ (2) It is submitted that chronology of events will make it apparent that criminal case is filed against the applicant with ulterior motive. This has been stoutly disputed by learned P.O. Today learned P.O. has sought time to file reply. Considering contentions of the applicant it would be necessary to decide the O.A. finally at the earliest. Time is granted to the learned P.O. to file reply till 12/06/2024. In case no reply is filed on 12/06/2024, the O.A. shall be heard without reply finally on the same day. It is made clear that no further time will be granted to the learned P.O. to file reply.*

*(3) S.O. 12/06/2024.”*

3. It appears that the applicant approached to the Hon'ble High Court against the impugned order of deputation dated 27/03/2024. This Tribunal has specifically directed that if reply is not filed by the respondents on the next date, the O.A. will be heard finally. It appears that this Tribunal in order dated 10/05/2024 and in the earlier order dated 01/04/2024, no any stay was granted to the deputation order.

4. The learned counsel for the applicant has submitted that the applicant has made complaint against respondent no.4, therefore, he is transferred.

5. The learned P.O. has submitted that the applicant is arrogant employee. The applicant has threatened to Dr. Subhash Chavan, Civil Surgeon, Buldana (R/4). On the report of Civil Surgeon, Buldana, the FIR No.0292, dated 10/04/2024 is registered against the applicant in the Police Station, Buldhana City.

6. The learned P.O. has submitted that the departmental enquiry is initiated against the applicant. The applicant is transferred / deputed as per the order dated 27/03/2024 to Sangrampur from Buldhana during the pendency of departmental enquiry against him.

7. The learned counsel for the applicant has pointed out the Judgment of the Hon'ble Supreme Court in the case of **State of Punjab & Ors. Vs. Inder Singh & Ors. (1997) 8 SCC,372** and submitted that the deputation is not legal and proper. Hence, the learned counsel for applicant prayed to grant stay to the impugned order dated 27/03/2024. As per the submission of learned counsel for the applicant, the applicant has not joined at Sangrampur as per the impugned order.

8. The learned counsel for the applicant has pointed out the Judgment of this Tribunal in O.A.No.890/2022. This Judgment is passed after hearing both the sides and it is decided on merit. At this stage, it is clear that FIR is registered against the applicant on the report of the Civil Surgeon, Buldhana. He is transferred from Buldhana to Sangrampur. The applicant is facing departmental enquiry. At this stage, it will not be proper to grant stay to the impugned order dated 27/03/2024. Hence, prayer for grant of stay is rejected. The O.A. is already fixed on 12/06/2024 before the Bench of Member (J) Shri M.A. Lovekar. Hence, **it be kept on 12/06/2024 before the same Bench.**

**Steno copy is granted...**

**Vice Chairman**

dnk.

**O.A.No.484/2024 (S.B.)**

**(M.D.Kakkar Vs. State of Maharashtra and Others)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,**  
**Vice Chairman.**

**Dated : 22/05/2024.**

Heard Shri A.P.Sadavarte, ld. counsel for the applicant and Shri M.I.Khan, ld. P.O. for the State.

2. The applicant was working as Junior Clerk. Applicant retired from the post of Junior Clerk (Class-III), on 30.09.2018. The respondents have issued no due certificate on 25.08.2018. Thereafter, the respondents have issued impugned recovery notice dated 19.06.2023 to recover amount of Rs.04,28,455/- in respect of excess payment.

3. As per the submission of learned counsel for the applicant, applicant has deposited Rs.1,80,000/- by challan dated 07.08.2023. Thereafter, the respondents have started regular deduction of amount of Rs.5,000/-, Rs.8,129/-, Rs.5000/- and Rs.7,800/- in the month of April 2024.

4. The learned counsel for the applicant has pointed out the Judgment of the Hon'ble Supreme Court in the case of *State Of Punjab & Ors vs. Rafiq Masih (White Washer)* and submitted that recovery from retired Class-III employee and also from Class-IV employee is not permissible.

5. The Hon'ble Supreme Court in the case of *State Of Punjab & Ors vs. Rafiq Masih (White Washer)* has given guidelines. As per guideline nos.1, excess recovery is not permissible from Class-III and Class-IV employee. As per guideline no.2, recovery from retired employee or who are about to retired about to within one year, recovery is not permissible. **Hence, respondents are directed not to recover the excess amount paid to the applicant until further order.**

6. Issue notice to Respondents, returnable **on 04.07.2024**. Learned P.O. waives notice for State. Hamdast allowed.

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

8. 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. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

9. 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.

10. 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.

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

12. **S.O. 04.07.2024.**

13. **Steno copy is granted.**

**Vice Chairman**

rsm.



O.A.No.354/2024 (D.B.)

(S.D.Nagargoje Vs. the State of Maharashtra)

**Coram: Hon'bleShri Justice M.G. Giratkar,  
Vice Chairman.**

**Dated : 22/05/2024.**

**C.A.No.235/2024**

Heard Shri G.K.Bhusari, ld. counsel for the applicant and Shri , ld. P.O. for the respondents.

2. As per the order dated 08.04.2024, the learned P.O. was directed to get instruction about the representation made by the applicant dated 15.03.2024 and 20.03.2024. The applicant appeared in the examination of P.S.I. he has mentioned Question Booklet Series Number 'A' instead of 'B' in the answer sheet.

3. Today this Tribunal has directed the respondents to allow the applicant to correct the mistake in O.A.No.487/2024.

4. In O.A.No.473/2024 decided on 13.05.2024, the Hon'ble Chairperson, Principal Bench, M.A.T. Mumbai in para 14 directed the respondent- M.P.S.C. to allow the applicant to write 'D' in the column provided for writing Question Booklet Series and darken the circle provided for alphabet 'D' in the answer sheet and process the answer sheet. Para 14 of the order is reproduced below-

***14. In view of the aforesaid circumstances of the case, the Respondents-MPSC is directed to allow the applicant to write 'D' in the column provided for writing Question Booklet Series and darken the circle provided for alphabet 'D' in the answer sheet and process the answer sheet. The result is to be declared by 17.05.2024 and communicated to the applicant immediately. In case the applicant clears the Mains Examination, she may be allowed to appear for the physical test and interview. With these directions the O.A. and M.A. are disposed off by consent. No order as to costs.***

5. In view of order of the Hon'ble Chairperson, Principal Bench, M.A.T. Mumbai, respondent is directed to allow the applicant to correct the mistake in the answer sheet by inserting 'B' instead of 'A' and thereafter declare the result. C.A. is disposed of.

6. **S.O. 20.06.2024 for final hearing.**

7. **Steno copy is granted.**

**Vice Chairman**

rsm.

**O.A.No.482/2024 (D.B.)**

**(M. S/o Natthuji Ramteke Vs. State of Maharashtra and Others)**

**Coram: Hon'bleShri Justice M.G. Giratkar,  
Vice Chairman.**

**Dated : 22/05/2024.**

Heard Dr.R.S.Sirpurkar, ld. counsel for the applicant and Shri M.I.Khan, ld. P.O. for the State.

2. The learned counsel for the applicant has submitted that the charges levelled in the charge sheet in the departmental enquiry are not in respect of the duties of the applicant. The learned counsel for the applicant has submitted that the Enquiry Officer who is appointed for enquiry of Group-A and B Officer cannot conduct departmental enquiry in respect of Group – C employee. The applicant belongs to Group-C employee, therefore, prayed to quash the charge sheet issued against the applicant.

3. The learned P.O. submits that the applicant can raise all these grounds before the Enquiry Officer. At this stage, enquiry cannot be stayed. The respondents have issued charge sheet dated 22.03.2024 by Additional Commissioner, Tribal Development Department, Nagpur. The details of charge are given in the charge sheet. As per the submission of learned counsel for the applicant, the applicant is not concerned with the charges because those were not the duties of the applicant. The Enquiry Officer is also not authorised to conduct the enquiry against the applicant. All these grounds can be raised by the applicant before the Enquiry Officer and Enquiry Officer may decide the same. The Appointing Authority/ Disciplinary Authority is at liberty to find out the truth in respect of the allegation of the employee and therefore the departmental enquiry is to be initiated. Now, this Tribunal cannot interfere in the Administrative work of the respondents to find out the truth in the departmental enquiry. Hence. Interim relief in respect of the stay to the departmental enquiry cannot be granted. **Hence, interim relief is rejected.**

4. Issue notice to Respondents, returnable **on 04.07.2024**. Learned P.O. waives notice for State.Hamdast allowed.

5. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
6. 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. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.
7. 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.
8. 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.
9. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.
10. **S.O. 04.07.2024.**
11. **Steno copy is granted.**

**Vice Chairman**

rsm.

**O.A.No.485/2024 (D.B.)**

**Coram: Hon'bleShri Justice M.G. Giratkar,  
Vice Chairman.**

**Dated : 22/05/2024.**

Nonepresent for the applicant. Shri  
M.I.Khan, ld. P.O. for the respondents.

2. The learned P.O. has raised objection that  
the O.A. is not within limitation. Hence, the applicant  
is directed to satisfy this Tribunal as to how this O.A.  
is within limitation.

8. **S.O. 27.06.2024.**

**Vice Chairman**

rsm.

**O.A.No.487/2024 (D.B.)**

**(P.M.Marbate Vs. State of Maharashtra and two Others)**

**Coram: Hon'bleShri Justice M.G. Giratkar,  
Vice Chairman.**

**Dated : 22/05/2024.**

Heard Shri G.K.Bhusari, ld. counsel for the applicant and Shri M.I.Khan, ld. P.O. for the State.

2. As per the submission of learned counsel for the applicant, applicant appeared in the examination of P.S.I. which was held on 01.10.2023. The applicant has written Roll Number., Question Booklet Number correctly, but due to mistake the applicant has not mentioned Question Booklet Series Number. Therefore, his paper was not evaluated. The applicant approached to this Tribunal for direction to the respondent to allow him to write correct Question Booklet Series Number and if the applicant passed the examination, then he may be considered for further process of examination of P.S.I..

3. In O.A.No.473/2024 decided on 13.05.2024, the Hon'ble Chairperson, Principal Bench, M.A.T. Mumbai in para 14 directed the respondent- M.P.S.C. to allow the applicant to write 'D' in the column provided for writing Question Booklet Series and darken the circle provided for alphabet 'D' in the answer sheet and process the answer sheet. Para 14 of the order is reproduced below-

***14. In view of the aforesaid circumstances of the case, the Respondents-MPSC is directed to allow the applicant to write 'D' in the column provided for writing Question Booklet Series and darken the circle provided for alphabet 'D' in the answer sheet and process the answer sheet. The result is to be declared by 17.05.2024 and communicated to the applicant immediately. In case the applicant clears the Mains Examination, she may be allowed to appear for the physical test and interview. With these directions the O.A. and M.A. are disposed off by consent. No order as to costs.***

4. In view of the order of the Hon'ble Chairperson, Principal Bench, M.A.T. Mumbai, respondent MPSC is directed to allow the applicant to write Question Booklet Series Number in the answer sheet and evaluate the answer sheet, thereafter result be declared.
5. Issue notice to Respondents, returnable **on 19.06.2024**. Learned P.O. waives notice for State. Hamdast allowed.
6. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
7. 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. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.
8. 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.
9. 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.
10. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.
11. **S.O. 19.06.2024.**
12. **Steno copy is granted.**

**Vice Chairman**

rsm.

O.A.No.488/2024 (D.B.)

**Coram: Hon'bleShri Justice M.G. Giratkar,  
Vice Chairman.**

**Dated : 22/05/2024.**

Heard Ms.T.Agre, ld. counsel for the applicant and Smt.A.Warjekar, ld. P.O. for the State.

2. The applicant is suspended as per impugned order dated 13.05.2024. The learned counsel for the applicant prayed to grant stay to the suspension order. The suspension order cannot be stayed unless the chargesheet is not filed within 90 days. In view of Judgment of the Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291**, the department is at liberty to initiate the departmental enquiry and issue the charge sheet to the applicant. Hence, stay to the impugned suspension order cannot be granted. Hence, interim relief is rejected.

3. Issue notice to Respondents, returnable **on 26.06.2024**. Learned P.O. waives notice for State.Hamdast allowed.

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 O.A. Respondent is 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** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

9. **S.O. 26.06.2024.**

10. **Steno copy is granted.**

**Vice Chairman**

rsm.

O.A.No.489/2024 (D.B.)

**Coram: Hon'bleShri Justice M.G. Giratkar,  
Vice Chairman.**

**Dated : 22/05/2024.**

Heard Ms.T.Agre, ld. counsel for the applicant and Smt.S.Khobragade, ld. P.O. for the State.

2. As per the submission of learned counsel for the applicant, applicant is selected for the post of Police Constable (Driver). The applicant is selected in the quota of Sports (Karate). The certificate of Karate is invalidated by the Authority. Therefore, the impugned communication is issued by the Additional Superintendent of Police, Chandrapur. **Hence, the impugned order dated 16.04.2024 passed by Additional Superintendent of Police, Chandrapur is stayed until further order.**

3. Issue notice to Respondents, returnable **on 12.06.2024.** Learned P.O. waives notice for State.Hamdast allowed.

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 O.A. Respondent is 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** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

9. **S.O. 12.06.2024.**

10. **Steno copy is granted.**

**Vice Chairman**

rsm.