ORIGINAL APPLICATION NO 445 OF 2018

DISTRICT: MUMBAI Shri Jitendra Baburao Patil Regional Transport Office, Thane. R/at Jivdani Darshan Society, Arunoday Nagar, Mulund [E], Mumbai 400 081 ..Applicant Versus 1. The State of Maharashtra Through the Chief Secretary, General Administration Department, Mantralaya, Mumbai 400 032. 2. The Principal Secretary, Home Department, [Transport],) Mantralaya, Mumbai 400 032. 3. The Commissioner of Transport, Administrative Bldg, 4th floor, Government Colony, Bandra [E], Mumbai 400 051.)...Respondents

Shri M.R Patil, learned advocate for the Applicant.

Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents.

CORAM : Shri Justice A.H Joshi (Chairman)

Shri P.N Dixit (Member) (A)

DATE : 23.05.2018

PER : Shri Justice A.H Joshi (Chairman)

ORDER

1. Heard Shri M.R Patil, learned advocate for the applicant and Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents.



2. Applicant has approached this Tribunal by present O.A with the relief as follows:-

"11(a) to restrain the Respondents from finalizing and declaring the recommendations for appointment by selection to IAS for the Select List 2017." (Quoted from page 16 of O.A)

- 3. Applicant's grievance is that his candidature is declined erroneously and illegally.
- 4. According to the applicant the information as has emerged from Exh. A-5, page 39 is based on erroneous background, namely:-
- (i) Applicant's A.C.Rs have been wrongly taken into account.
- (ii) That though as per Government Notification at Exh. A-10 dated 24.12.2004 all Group-A posts, previously class-I are declared equivalent to Deputy Collector in Civil Service, Applicant's candidature is wrongly rejected.
- 5. The case was heard on day to day basis.
- 6. G.A.D has shown openness to examine applicant's objections as to error in recognizing ACRs. Applicant's claim as to his A.C.Rs being 'A+' is accepted.
- 7. Applicant's case now stuck at second point. According to G.A.D, the applicant has not served for required period in the post 'equivalent to Deputy Collector in Civil Services'..
- 8. To assail the ground of declinement, the Applicant has relied upon the notification dated 24.12.2004. Relevant text reads as follows:-
 - "2. In fulfillment of the requirements of the above provisions and also in order to meet the eligibility conditions with regards to the recommendations made in respect of the Non SCS

officers, in exercise of power conferred by Sub Regulations (iii) of Regulation 4(1) of Indian Administrative Service (Appointment by Selection) Regulations, 1997, the Government is pleased to order that, barring three services, viz. (1) State Police Service (2) State Forest Service and (3) Judicial Service, all Group 'A' posts (previously class I posts) in all the Departments under the Government of Maharashtra are declared equivalent to the post of Deputy Collector in the State Civil Service, for the limited purpose specified in Regulation ibid."

(Quoted from page 54, Exh. A-10 of O.A)

- 9. Plain reading of the notification reveals that any distinction based on scale of pay of various cadres/posts is not made and all Group-A officers are declared by the Government to be equivalent to Deputy Collector in civil services.
- 10. The case was adjourned to find out as to whether Government would reconsider applicant's candidature.
- 11. In the afternoon learned C.P.O has appeared and on instructions from Mrs Savita Rishi Bandekar-Deshmukh, Deputy Secretary, G.A.D, Mantralaya, Mumbai, and has made statement as follows:-
 - (i) Government may consider to reexamine the position as declared through the notification dated 24.12.2004, Exh. A-10, including to widen the scope or remove the ambiguity.
 - (ii) However, it would not be possible to make a concession allowing the applicant to appear for the examination.
- 12. It has to be borne in mind that what the officers or the bureaucrats feel is not the law. Had the notification carved out, the pay scale which being equal, the office be treated equally to Deputy Collector, is not the scheme or intendment of the notification. On the other hand, notification presupposes variety of pay scales and



different posts, however, broader classification as Group-A, and hence omits to make any differentiation based on scales of pay.

- 13 Notification further presupposes that for the purpose of nomination to IAS all cadres in Civil Services in Group-A are treated equal to Deputy Collector.
- 14. Introduction of one's notion as a rule is thus improper and an act of legislation while doing a Ministerial act and an executive business.
- 15. After considering rival submissions, we are of the considered view that the objection of the Respondents to the effect that the applicant does not fall in the category of "posts equivalent to the post of Deputy Collector" is based on applying or employing a yardstick which is based on 'notion' than an existing rule or stipulation, because any such prescription does not find place in the notification where distinction based on pay scale is permitted or laid down.
- 16. Considering that the examinations are due to be held on 25.5.2018, we think it proper to allow the applicant to appear for the examination and keep the issue open.
- 17. We hold that in these premises, the Applicant cannot be refused to appear for the test. However, the question as to whether applicant is eligible is kept open and result of test of applicant shall be subject to outcome of the fresh decision on applicant's representation by the Government.
- 18. We, therefore, direct that the applicant should be permitted to appear for the test. The result of the performance of the applicant be declared, and it shall be subject to outcome of Government's decision.

- 19. If Government decides adverse to the applicant either in the matter of examination or in the matter of eligibility, applicant shall be free to challenge the same.
- In the matter of deciding applicant's representation, it shall be 20. highly appreciated if applicant is given a personal hearing so that the point relied upon by him could be properly examined.
- Applicant is directed to furnish his email id to G.A.D so that 21. decision as may be reached by the Government could be communicated to him.
- 22. Original Application is disposed of with above directions.

Member (A)

Place: Mumbai Date: 23.05.2018

Dictation taken by: A.K. Nair.

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Tribunal's orders

Date: 23.05.2018.

O.A.No.453 of 2018

Smt. Pradnya S. Walke

...Applicant.

Versus

The State of Maharashtra & Ors.

.....Respondents.

- 1. Heard Shri A.V. Bandiwadekar, the learned Advocate for the Applicant and Shri A.J. Chougule, the learned Presenting Officer for the Respondent.
- 2. Issue notice before admission returnable on 25.06.2018.
- 3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
- 4. 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.
- 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 dellvery, 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.
- 7. In case notice is not collected within three days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.
- 8. Hamdast and Steno copy is allowed to learned P.O.. Learned P.O. is directed to communicate this order to the Respondents.

9. S.O. to 25.06.2018.

Sd/-

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(P.N. Dixit) Member(A)

(A.H. Joshi, J.) Chairman

23/5/18 Hon Justice Shai B'H.
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Shai P.N. Dioir CM-12)

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Tribunal's orders

Date : 23.05.2018.

O.A.No.454 of 2018

S.T. Channe

...Applicant.

Versus

The State of Maharashtra & Ors.

....Respondents.

- 1. Heard Shri A.V. Bandiwadekar, the learned Advocate for the Applicant and Ms. S. Suryawanshi, the learned Presenting Officer for the Respondents.
- Issue notice before admission returnable on 25.06.2018.
- 3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be Issued.
- 4. 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.. 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 within one week. Applicant is directed to file Affidavit of compliance and notice.
- 7. In case notice is not collected within three days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.
- 8. While answering O.A. averments contained in paragraph nos.6.16, 6.17 and 6.23 be specifically attended to. Promotion, if any ordered, shall be subject to outcome of O.A.. The Respondents shall be free to consider applicant's candidature in view of the judgments relied on by applicant.
- 9. Hamdast and Steno copy is allowed to learned P.O.. Learned P.O. is directed to communicate this order to the Respondents.

10. S.O. to 25.06.2018.

Sd/-

(P.N. Dixit) Member(A) (A.H. Josh), Jan Chairman

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The State of Maharashtra & Ors... Respondents

- 1. Heard Shri A.V Bandiwadekar, learned advocate for applicant and Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents.
- 2. Liberty to circulate after removing objection.

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(P.N Dixit) Member (A) Sd/-

(A.H. Joshi J.) Chairman

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(P.N Dixit) Member (A)

(A.H. Joshi, J.) Chairman

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Tribunal's orders

Date: 23.05.2018.

O.A.No.436 of 2018

C.R. Jadhav & Ors.

...Applicants.

Versus

The State of Maharashtra & Ors.

.....Respondents.

- 1. Heard Smt. Punam Mahajan, the learned Advocate for the Applicants and Shri A.J. Chougule, the learned Presenting Officer for the Respondents.
- 2. Issue notice before admission returnable on 16.07.2018.
- 3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
- 4. Applicants are 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.. 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 within one week. Applicants are directed to file Affidavit of compliance and notice.
- 7. In case notice is not collected within seven days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.
- 8. State should ensure that Inability of Respondent No.4 to relieve applicants should not operate to the detriment of Interest in applicants, and for that purpose suitable orders shall be issued without being adversely affected by pendency of present O.A..
- 9. Steno copy and Hamdast is allowed to learned P.O.. Learned P.O. is directed to communicate this order to the Respondents.
- 10. S.O. to 16.07.2018.

(P.N. Dixit) Member(A) (A.H. Joshi, J.) Chairman

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Tribunal's orders

Date: 23.05.2018.

O.A.No.436 of 2018

C.R. Jadhav & Ors.

...Applicants.

Versus

The State of Maharashtra & Ors.

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- 2. Issue notice before admission returnable on 16.07.2018.
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(P.N. Dixit) Member(A) (A.H. Joshi, J.) Chairman

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Date: 23.05.2018.

O.A.No.443 of 2018

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...Applicant.

Versus

The State of Maharashtra & Ors.

.....Respondents.

- Heard Smt. Punam Mahajan, the learned Advocate holding for Shri C.T. Chandratre, the learned Advocate for the Applicant and Ms. S.P. Manchekar, the learned Chief Presenting Officer for the Respondents.
- 2. Issue notice before admission returnable on 12.06.2018.
- Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
- 4. 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.. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
- 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.
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8. ∩ to 12.06.2018.

> (P.N. Dixit) Member(A)

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Tribunal's orders

Date: 23.05.2018.

O.A.No.443 of 2018

U.S. Dhekale

...Applicant.

Versus

The State of Maharashtra & Ors.

.....Respondents,

- 1. Heard Smt. Punam Mahajan, the learned Advocate holding for Shri C.T. Chandratre, the learned Advocate for the Applicant and Ms. S.P. Manchekar, the learned Chief Presenting Officer for the Respondents.
- 2. Issue notice before admission returnable on 12.06.2018.
- Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
- 4. 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.. 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.
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> (P.N. Dixit) Member(A)

(A.H. Joshi, J.) Chairman

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Tribunal's orders

Date: 23.05.2018.

O.A.No.456 of 2018

K.M. Thorat & Ors.

...Applicants.

Versus

The State of Maharashtra & Ors.

.....Respondents.

- Heard Smt. Punam Mahajan, the learned Advocate for the Applicants and Ms. S.P. Manchekar, the learned Chief Presenting Officer for the Respondents.
- issue notice before admission returnable on 15.06.2018. 2.
- 3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
- Applicants are authorized and directed to serve on 4. Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A.. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
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- 7. In case notice is not collected within three days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.
- 8. S.O. to 15.06.2018.

(P.N. Dixit) Member(A)

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Tribunal's orders

Date: 23.05.2018.

O.A.No.456 of 2018

K.M. Thorat & Ors.

...Applicants.

Versus

The State of Maharashtra & Ors.

.....Respondents.

- Heard Smt. Punam Mahajan, the learned Advocate for the Applicants and Ms. S.P. Manchekar, the learned Chief Presenting Officer for the Respondents.
- 2. Issue notice before admission returnable on 15.06.2018.
- 3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
- 4. Applicants are 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.. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
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(P.N) Dixit) Member(A)

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Tribunal's orders

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p. H. Jashi Chairman)

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Date: 23.05.2018.

M.A.No.257 of 2018 in O.A.No.436 of 2018

C.R. Jadhav & Ors.

... Applicants.

Versus

The State of Maharashtra & Ors.

.....Respondents.

- Heard Smt. Punam Mahajan, the learned Advocate for the Applicants and Shri A.J. Chougule, the learned Presenting Officer for the Respondents.
- 2. This is an application for leave to sue jointly.
- Considering the cause of action pursued by the Applicants is common, concurrent and usual, the cases are not required to be decided separately.
- In this view of the matter, the present Misc. Application is allowed subject to Applicants paying requisite court fees, if not already paid.
- M.A. is allowed.



(P.N. Dixit) Member(A) (A.H. Joshi, . Chairman

M.A./R.A./C.A. No.

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Date: 23.05.2018.

M.A.No.257 of 2018 in O.A.No.436 of 2018

C.R. Jadhav & Ors.

...Applicants.

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Date: 23.05.2018.

M.A.No.263 of 2018 in O.A.No.456 of 2018

K.M. Thorat & Ors.

... Applicants.

Versus

The State of Maharashtra & Ors.

.....Respondents.

- Heard Smt. Punam Mahajan, the learned Advocate for the Applicants and Ms. S.P. Manchekar, the learned Chief Presenting Officer for the Respondents.
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(P.N. Dixit)

Member(A)

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(P.N. Dixit)

Member(A)

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23.05.2018

O.A No 463/2018

Ms Karande V. Ganpat

... Applicant

Vs.

The State of Maharashtra & Ors... Respondents

- 1. Heard Shri P.S Pathak, learned advocate for applicant and Shri A.J Chougule, learned Presenting Officer for the Respondents.
- Learned Advocate for applicant prays for leave to amend for adding annexures and make some averments.
- He prays for leave to substitute the O.A.
- 4. Leave as prayed is granted.
- 5. Liberty to circulate.

(P.N Dixit) Member (A)

Chairma

MA/RA/CA, No.

of 20

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· Original Application No.

of 20

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribanat's orders or directions and Registrar's orders

2/5/18

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Shir P.S. Pathak Adr for the Darlicane. Shi DJ chougule for for the festadents. Heard Liberty to chrulete.

23.05.2018

O.A No 463/2018

Ms Karande V. Ganpat

... Applicant

Vs.

The State of Maharashtra & Ors... Respondents

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(P.N Dixit) Member (A) Chairma

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