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

DATE : 23/8/16

CORAM :

~~Hon'ble Justice Shri A. H. Joshi (Chairman)~~

Hon'ble Shri ~~K. Rameshkumar~~ (Member) R.B. Malik

APPEARANCE :

Shri/Smt. R.M. Kolge

Advocate for the Applicant

Shri /Smt. K.S. Gaikwad

C.P.O / P.O. for the Respondent/s

Adj. To 20/9/16

O.A.862/2016

Shri S.S. Shinde ... Applicant
Vs.
The State of Mah. & ors. ... Respondents

Heard Shri R.M. Kolge, the learned Advocate for the Applicants and Smt. K.S. Gaikwad holding for Shri N.K. Rajpurohit, the learned Chief Presenting Officer for the Respondents.

Issue notice returnable on 20.09.2016.

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

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.

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 four weeks. Applicant is directed to file Affidavit of compliance and notice.

S.O. to 20th September, 2016. The learned P.O. do waive service.

Sd/-

(R.B. Malik)
Member (J)
23.08.2016

(skw)

(G.C.P.) J 2260 (A) (50,000—2-2015) [Spl.- MAT-F-2 E.

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

Original Application No. of 20 DISTRICT

..... Applicant/s

(Advocate .....)

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

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

M.A.329/2016 in O.A.862/2016

Shri S.S. Shinde ... Applicant
Vs.
The State of Mah. & ors. ... Respondents

Heard Shri R.M. Kolge, the learned Advocate for the Applicants and Smt. K.S. Gaikwad holding for Shri N.K. Rajpurohit, the learned Chief Presenting Officer for the Respondents.

This MA has been filed to sue jointly. As all the Applicants are seeking similar relief, the MA to sue jointly is allowed, subject to payment of Court Fees, if not already paid.

Sd/-
(R.B. ~~Malik~~) 23.8.16
Member (J)
23.08.2016

(skw)

DATE : 23/8/16
CORAM :
~~Hon'ble Shri ... (Chairman)~~
Hon'ble Shri ... (Member) A
APPLICANT : R.B. Malik
Shri/Smt. : R.M. Kolge
Advocate for Applicant
Shri/Smt. K.S. Gaikwad
C.P.O. for the Respondent/s

Adj. To 20/9/16

[P.T.O.

(G.C.P.) J 2260 (A) (50,000—2-2015) [Spl.- MAT-F-2 E.

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

Original Application No. of 20 DISTRICT

..... Applicant/s

(Advocate .....)

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

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

O.A.315/2016

Shri S.J. Waychal ... Applicant
Vs.
The State of Mah. & ors. ... Respondents

Heard Shri S.S. Dere, the learned Advocate for the Applicant and Smt. A.B. Kololgi, the learned Presenting Officer for the Respondents.

Shri Dere, the learned Advocate seeks permission to amend his OA in view of the recitals in Para 9.2 of the Affidavit-in-reply of the 3rd Respondent – M.P.S.C. Normally, the MA should be taken out, however, in as much as the need to implead the third party arises on account of contents of the Affidavit-in-reply, the oral application for amendment is allowed. Shri Abhinav S. Pawar be impleaded as party Respondent No.4 by an amendment to be effected within two days. A consolidated copy of the OA after amendment be filed and copies be furnished to the existing Respondents and the newly Respondent be served in accordance with the Rules. If necessary, the consequential amendments are also allowed.

S.O. to 30 (~~13~~) th August, 2016.

Sd/-
(R.B. Malik)
Member (J)
23.08.2016

(skw)

DATE : 23/8/16
CORAM :
~~Hon'ble Justice Shri A. H. Joshi (Chairman)~~
Hon'ble Shri ~~M. Ramesh kumar~~ (Member) R.B. Malik
APPEARANCE :
Shri/Smt. : ~~A.B. kololgi~~ S.S. Dere
Advocate for the Applicant
Shri /Smt. : A.B. kololgi
C.P.O / P.O. for the Respondent/s

A.t. To..... 30/8/16

[P.T.O.

(G.C.P.) J 2260 (A) (50,000—2-2015) [Spl.- MAT-F-2 E.

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

Original Application No. of 20 DISTRICT

..... Applicant/s

(Advocate .....)

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

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

O.A.817/2016

Shri A.F. Kamble ... Applicant
Vs.
The State of Mah. & ors. ... Respondents

Applicant and Advocate absent. Smt. A.B. Kololgi, the learned Presenting Officer for the Respondents.

Applicant to complete the service and file the Affidavit of service within two weeks.

S.O. to 6th September, 2016.

Sd/-
(R.B. Malik)
Member (J)
23.08.2016

(skw)

DATE : 23/8/16
CORAM :
~~Hon'ble Justice Shri A. H. Joshi (Chairman)~~
Hon'ble Shri ~~M. Ramakrishnan~~ (Member) (J)
APPEARANCE : R.B. Malik
Shri/Smt. : Applicant & Adv. are absent
Advocate for the Applicant
Shri /Smt. : Archana B.K.
C.P.O / P.O. for the Respondent/s
Adj. To 6/9/16

[P.T.O.

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

DATE: 23/8/16
CORAM:
~~Hon'ble Justice Shri A. H. Joshi (Chairman)~~
Hon'ble Shri ~~K. Kanchalkanar (Member)~~ R.B. Malik
APPEARANCE:
Shri/Smt. : K. D. Jagdale
Advocate for the Applicant
Shri /Smt. : S. Suryawanshi
C.P.O / P.O. for the Respondent/s

Adj. To 20/9/16

O.A.701/2016

Shri D.R. Dighole ... Applicant
Vs.
The State of Mah. & ors. ... Respondents

Heard Shri K.R. Jagdale, the learned Advocate for the Applicant and Smt. Savita Suryawanshi, the learned Presenting Officer for the Respondents.

Issue notice returnable on 20.09.2016.

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

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.

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 four weeks. Applicant is directed to file Affidavit of compliance and notice.

S.O. to 20th September, 2016. The learned P.O. do waive service.

Sd/-
(R.B. Malik) 23-8-16
Member (J)
23.08.2016

(skw)

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

O.A.307/2016

Shri B.R. Khedkar ... Applicant
Vs.
The State of Mah. & ors. ... Respondents

Heard Shri Pathak holding for Shri B.R. Deshmukh, the learned Advocate for the Applicant and Smt. A.B. Kololgi, the learned Presenting Officer for the Respondents.

Affidavit-in-rejoinder is taken on record. Admit. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need not be issued.

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.

This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988. The questions such as limitation and alternate remedy are kept open.

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 four weeks. Applicant is directed to file Affidavit of compliance and notice.

Sd/-
(R.B. Malik)
Member (J)
23.08.2016

(skw)

DATE: 23/8/16
CORAM:
~~Hon'ble Justice Shri A. H. Joshi (Chairman)~~
Hon'ble Shri ~~M. Ramakrishnan~~ (Member) R.B. Malik
APPEARANCE:
Shri/Smt.: B.R. Deshmukh
Advocate for the Applicant
Shri /Smt.: Archana B.K.
C.P.O / P.O. for the Respondent/s
Shri S.A. Mosal R.7
Adj. To.... Order/Passed in Tribunal Column

O.A.301/2016

Shri J.A.M.H. Momin & Ors.... Applicants
Vs.
The State of Mah. & Ors. ... Respondents

Heard Shri A.V. Bandiwadekar, the learned Advocate for the Applicants and Smt. K.S. Gaikwad holding for Ms. N.G. Gohad, the learned Presenting Officer for the Respondents.

Shri B. Ras Jadhav, Naib Tahsildar from the Office of Collector, Solapur is present. We are informed that the then RDC Shri Ramesh Chavan has now been promoted as Additional Municipal Commissioner, Navi Mumbai and is no more RDC at Solapur. After some debate at the Bar, we direct that the present incumbent to the post of RDC, Solapur should remain present in accordance with our order of 9.8.2016 on the last occasion. He should get himself fully acquainted with the facts so that no further adjournment occasions. The OA stands adjourned to 7th September, 2016.

Sd/-

(R.B. Malik)
Member (J)
23.08.2016

Sd/-

(Rajiv Agarwal)
Vice-Chairman
23.08.2016

(skw)

(G.C.P.) J 2260 (A) (50,000—2-2015)

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

Original Application No. of 20 District

..... Applicant/s

(Advocate .....)

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

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

M.A.254/2016 in O.A.614/2016

Shri S.K. Manthalkar ... Applicant
Vs.
The State of Mah. & ors. ... Respondents

Heard Shri B.A. Bandiwadekar, the learned Advocate for the Applicant and Smt. A.B. Kololgi, the learned Presenting Officer for the Respondents.

This is an application for condonation of delay in bringing the OA.

The Applicant is an Ex-Police Naik who came to be terminated under the provisions of Article 311(2) of the Constitution of India. The gravamen of charge against him was that he allegedly accepted illegal gratification of Rs.500/-. The order herein impugned was made on 29th December, 2011 which is there at Exh. 'A' (Page 22 of the Paper Book of the OA). On the same set of allegations, a criminal case under the provisions of the Prevention of Corruption Act bearing Special Case (ACB) No.12/2012 (The State of Maharashtra Vs. Sanjay K. Manthalkar) under the provisions of Section 7 read with Section 13 of the Prevention of Corruption Act and Section 384 of the Indian Penal Code was pending before the learned Special Judge, Solapur. He was registered on 23rd October, 2012 and disposed of by an order of 17.10.2015. He came to be acquitted.

The sum and substance of the case of the Applicant is in fact what has been summarized hereinabove. Mr. Bandiwadekar, the learned Advocate told me that the order of termination is extremely susceptible because it was reasonably possible to hold the D.E. In deciding this MA, it is not necessary for me to closely examine this aspect of the matter.

Now, it does appear to be the case of the Applicant that pending criminal trial, he did not immediately bring this OA. Even according to the Respondents, except for pointing out the fact component of the delay itself, there is no cause assigned as to why the delay should not be condoned. In the matters of condonation of delay, the delay itself cannot be cited to defeat the application unless it could be shown that the case for condonation is not made out. As a matter of fact, in every matter, where delay occurs, there has to be some lack of diligence or negligence so to say. However, in such circumstances, the Court has to examine as to whether the conduct of the party is so contumacious as to disentitle him from being

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

heard before the competent judicial forum. The Applicant after-all has lost his job and it is really an event of disaster in his life. This is not a matter which should be allowed to be sacrificed at the alter of procedure and substantive justice demands that the delay should be condoned. Therefore, rejecting all the arguments to the contrary, the delay is hereby condoned. The MA is allowed with no order as to costs. The Applicant and the Office of this Tribunal shall now process the matter further for getting the OA listed before the appropriate Bench.

(R.B. Malik)
Member (J)
23.08.2016

(skw)

DATE : 23/8/16

CORAM :

~~Hon'ble Justice Shri A. H. Joshi (Chairman)~~

Hon'ble Shri ~~M. Ramakrishnan~~ (Member) R.B. Malik

APPEARANCE :

Shri/Smt. : S.A. Bandiwadekar

Advocate for the Applicant

Shri /Smt. : Archana B.K.

C.P.O / P.O. for the Respondent/s

Adj. To Order Passed in Tribunal Column

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION 871 OF 2016

DISTRICT : NASIK

Mr Nitinkumar B. Mundaware,)...**Applicant**

Versus

The State of Maharashtra & Others)...**Respondents**

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

Shri N.K. Rajpurohit, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

DATE : 23.08.2016

O R D E R

1. Heard Shri M.R Patil, learned advocate for the Applicant and Shri N.K. Rajpurohit, learned Presenting Officer for the Respondents.

2. This Original Application has been filed challenging the order dated 20.8.2016 transferring the Applicant from the post of Deputy Collector (Administration), Nasik to the post of Deputy Collector (Resettlement), Jalgaon. Learned Advocate Shri Patil argued that the Applicant was posted to the present post by order dated 14.9.2015 and he has not completed one year in that post. His transfer order is, therefore, issued mid-term and mid-tenure.

The only ground for transferring the Applicant appears to be the letter dated 1.2.2016 issued by the State Election Commission in view of the election to Zilla Parishad and Municipal Committees which are scheduled in the month of February, 2017. Learned Advocate Shri Patil argued that the aforesaid order of the State Election Commission has given directions, inter alia, that the officers who belong to same District where elections are scheduled to be held, may be transferred out of that the District in the general transfers which were scheduled in the month of April-May, 2016. However, no steps were taken by the State Government during that period to transfer the Applicant, who belongs to Satana Taluka in Nasik District. Learned Advocate Shri Patil stated that even the validity of the aforesaid letter dated 1.2.2016 issued by State Election Commission has been challenged before the Hon'ble High Court in various Writ Petitions. Hon'ble High Court in such cases have granted interim stay to the transfer of Officers apprehending transfer on the basis of the aforesaid letter.

3. This Tribunal, (Aurangabad Bench) by order dated 22.8.2016 in O.A nos 658, 659 & 660/2016 has also granted interim relief to the Applicants therein on the basis of orders issued by the Hon. High Court. Learned Advocate Shri Patil stated that the Applicant is ready to work in any post in Nasik district, which may not have any connection with conduct of elections. He is praying that he may be kept in Nasik in view of the fact that he has to look after his old mother suffering from paralysis who is 68 years old . Learned Advocate Shri Patil, prayed that interim relief of staying the impugned transfer order dated 20.8.2016 may be granted.

4. Learned Chief Presenting Officer argued on behalf of the Respondent nos 1 to 4 that the order of transfer of the

Applicant has been approved by the Civil Services Board and also been approved by the Hon. Chief Minister. There are exceptional circumstances to transfer the Applicant and the approval of the Competent Authority under Section 4(4)(ii) and 4(5) of the Maharashtra Government Servants Regulation of Transfer and Prevention of Delay in Discharge of Official Duties Act, 2005 (the Transfer Act) have also been taken. As such the transfer order meets the requirement of the aforesaid Act.

5. Learned Chief Presenting Officer further stated that facts in the present case are slightly different from the facts in Writ Petition before Hon. High Court. In the petitions before the Hon. High Court, the Petitioners were not actually transferred and they were only apprehending transfer and in such cases transfer order has been stayed by the Hon. High Court, while in the present case the Applicant has already been transferred and the Respondent no. 5 has joined in his place. The Applicant is not the only one transferred by the Respondents, in fact more than 30 officers have been transferred on similar grounds. He, therefore, strongly opposed grant of any interim relief.

6. The contention of the learned Chief Presenting Officer that the requirement of the transfer Act has been met fully in this case appears to be prima facie correct, in case the validity of letter of State Election Commission dated 1.2.2016 is upheld by Hon'ble High Court. However, that matter is pending adjudication before Hon. High Court and it does appears that at least in four petitions, Bombay and Aurangabad Bench of the Hon. High Court has granted stay to the proposed transfers based on the aforesaid letter from the State Election Commission. The Applicant is claiming similar ad interim relief, though he has actually been relieved after transfer order was issued in his case. In my opinion, the Applicant

is entitled to the relief which has been granted to similarly situated persons by the Hon. High Court.

7. Considering these facts, interim relief by way of staying the order dated 20.8.2016 qua the Applicant is granted. In case the interim relief granted in the writ petitions by the Hon. High Court is vacated, the Respondents will be at liberty to mention the matter before this Tribunal for vacating the interim relief.

8. This order of the Tribunal will not come in the way of the Respondents, if they decide to give an alternate posting to the Applicant in Nasik district not connected with the work of elections. Learned Advocate Shri Patil on instructions from the Applicant who is present in this Tribunal stated that the Applicant is willing to work in any post in Nasik.

9. Issue notice before admission made returnable on 20.9.2016.

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

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

12. 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.

3. 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.

14. S.O 20.9.2016. Hamdast.

(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai
Date : 23.08.2016
Dictation taken by : A.K. Nair.

H:\Anil Nair\Judgments\2016\1st Aug 2016\O.A 871.16 Transfer order challenged, fr. order SB.0816.doc

O.A.211/2014

Mah. Mantralaya Officers' Asso.
& 3 Ors. ... Applicants

Vs.

The State of Mah. & Ors. ... Respondents

Heard Shri Siddheshwar Biradar holding for Shri R.K. Adsule, the learned Advocate for the Applicant, Shri K.B. Bhise holding for Shri N.K. Rajpurohit, the learned Chief Presenting Officer for the Respondents 1 to 6, Shri B.A. Bandiwadekar, the learned Advocate for the Resopndents 7 to 11 and Shri M.D. Lonkar, the learned Advocate for Respondents 12 to 14.

Shri Biradar, the learned Advocate seeks an adjournment on the ground that Mr. Adsulc is unable to attend the Court today. In view of the order dated 1st December, 2014 made by the Hon'ble High Court in Writ Petition No.4313/2014, it is made clear that on the next date, this OA shall be heard positively and continuously till the arguments are over. The next date is being appointed taking all these aspects into consideration on and from 22nd September, 2016.

Sd/-
(R.B. Malik)
Member (J)
23.08.2016

Sd/-
(Rajiv Agarwal)
Vice-Chairman
23.08.2016

(skw)