

ORIGINAL APPLICATION NO.188/2021
(Jayashree Rangnathrao Dixit Vs. State of Maharashtra & Ors.)

CORAM : **Hon'ble Justice Shri P.R. Bora, Member (J)**
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : **23.02.2022**

ORAL ORDER :

Heard Shri J.S.Deshmukh, learned Advocate for the applicant and Shri D.R.Patil, learned Presenting Officer for the respondents.

2. As is revealing from the pleadings, the applicant was appointed as Muster Assistant on consolidated payment under Employment Guarantee Scheme w.e.f. 28-03-1986 under the Public Works Department. Applicant worked on the said post till 20-10-2003. As per the contentions in the O.A., the applicant worked on said post without any break. The appointment order dated 28-03-1986 is placed on record at Annexure A-1. As further contended by the applicant, she came to be appointed on the post of Junior Clerk in the office of Joint District Registrar Class-1 at

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Latur on the vacant post w.e.f. 17-10-2003. The appointment order dated 17-10-2003 is on record at Annexure A-2. During the course of her service, applicant was promoted to the post of Senior Clerk.

3. On 22-05-2020, the applicant submitted an application with respondent no.2 seeking voluntary retirement. The request so made by the applicant came to be allowed by respondent no.2 vide order dated 17-08-2020 passed by the said respondent. As per the said order, applicant was relieved from her post on 21-08-2020. The office of Accountant General, Nagpur, however, did not approve the order dated 17-08-2020 whereby the request for voluntary retirement was allowed by respondent no.2. In the aforesaid letter the A.G. Nagpur office has explained that, the request of voluntary retirement made by the applicant could not have been accepted for want of 30 years qualifying service since the qualifying service of the applicant began from 21-03-2003 and as per G.R. dated

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25-06-2004, service as Muster Assistant cannot be counted as qualifying service. The Accountant General, Nagpur has also questioned as to how notice of voluntary retirement was accepted by the respondent no.2 and the applicant was allowed to retire before completion of 20 years' regular service.

4. In the present O.A., it is the contention of the applicant that the period of her service as Muster Assistant deserves to be counted for the purpose of computing the pension and pensionary benefits payable to the applicant. It is the further contention of the applicant that in the application dated 22-05-2020, she had specifically averred that she had worked on the post of Muster Assistant during the period between 13-06-1986 to 20-10-2003 and thereafter she was in continuous service of respondent no.2 from 21-10-2003. It is the further contention of the applicant that respondent no.2 after being satisfied that the applicant had completed 30 years' qualifying service,

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permitted her to voluntarily retire w.e.f. 21-08-2020. It is the further contention of the applicant that, apprehending that the period of service rendered by her on the post of Muster Assistant if is not taken into account, her qualifying service may not be of 30 years, and as such, she may not be held entitled for voluntary retirement, had preferred an application with respondent no.2 on 15-12-2020 with a request to cancel the order dated 17-08-2020 and to reinstate her in service. It is the further contention of the applicant that after receiving letter dated 21-01-2021 from A.G. Nagpur office, the applicant had again applied with respondent no.2 requesting for her reinstatement. It is the further contention of the applicant that because of the errors committed by respondent nos.2 to 4 she has been deprived from her continuation in service till the age of superannuation.

5. The applicant has, therefore, prayed for her reinstatement in service till 30-04-2021 i.e. till the date of

her retirement on superannuation. The applicant has also prayed for wages for the period w.e.f. 22-08-2020 to 30-04-2021. The applicant has also prayed for grant of pension to her as per Rule 110 of the Maharashtra Civil Services (Pension) Rules, 1982 [“M.C.S. (Pension) Rules, 1982” for short]. A prayer has also been made for considering her 17 years of service rendered on the post of Muster Assistant in addition to her regular service on the post of Clerk and then on the post of Senior Clerk for the purpose of pensionary benefits.

6. The contentions raised and the prayers made in the O.A. are resisted by the respondents. A joint affidavit in reply is filed on behalf of the respondent nos.1 to 4, which is sworn by the Joint District Registrar and Collector of Stamps, Latur, District Latur. Respondent no.5 has filed a separate affidavit in reply which is sworn by its Assistant Accounts Officer in the A.G. Office at Nagpur. In the affidavit in reply filed on behalf of the respondent nos.1 to

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4, the contentions raised in the O.A. are denied in a very vague manner. These respondents have failed in justifying their own action of permitting the applicant to voluntarily retire. In the affidavit in reply filed on behalf of the respondent no.5, it has been explained as to how the request for voluntary retirement was not liable to be accepted.

7. We have carefully considered the submissions advanced by the learned Counsel for the applicant and the learned P.O. appearing for the respondents. The first question which falls for our consideration is whether the request made by the applicant vide her application dated 22-05-2020 seeking voluntary retirement was liable to be accepted by the respondent no.2 ? We deem it appropriate to reproduce the entire contents of the said application, which reads thus:

“जा.क्र.२०२०/श्रीमती दिक्षीत स्वे.निवृत्ती/५९४/२०२०

दि.२२.०५.२०२०

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प्रति,
मा.नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक,
महाराष्ट्र राज्य पुणे.

विषय: - विनंतीनुसार स्वेच्छा निवृत्ती मंजूर होणेबाबत.
संदर्भ:- श्रीमती जे.आर.दिक्षीत वरिष्ठ लिपीक यांचा अर्ज दिनांक
२२.०५.२०२०

महोदय,

विषयांकीत प्रकरणी सदर्भीय पत्रान्वये या कार्यालयातील श्रीमती जे. आर.दिक्षीत, वरिष्ठ लिपीक यांनी त्यांचे कौटुंबीक अडचणीमुळे स्वेच्छा निवृत्ती मंजूर करणे बाबतचा अर्ज कार्यालयास दिलेला आहे.

श्रीमती जे.आर.दिक्षीत यांचे सेवापुस्तकाचे अवलोकन केले असता त्यांची प्रथम नेमणूक सार्वजनिक बांधकाम विभागात हजेरी सहाय्यक या पदावर दिनांक १३.०६.१९८६ ते २०.१०.२००३ पर्यंत कार्यरत होत्या. त्यानंतर या विभागात लिपिक या पदावर दिनांक - २१.१०.२००३ ते ३१.०७.२०१७ पर्यंत कार्यरत आहेत. तर ०१.०८.२०१७ पासून आजतागायत वरिष्ठ लिपीक या पदावर कार्यरत आहेत तरी संबंधीताचा आपणास उद्देशुन लिहलेला मूळ अर्ज त्यांचे सेवापुस्तकाच्या छायाप्रतीसह यासोबत पुढील कार्यवाहीस्तव सविनय सादर करण्यात येत आहे.

आपला विश्वासू,

स्वाक्षरी/—

(जी.डी.कराड)

नोंदणी उपमहानिरीक्षक व मुद्रांक उपनियंत्रक कार्यालय
लातूर विभाग लातूर”

8. It is not in dispute that the request made by the applicant vide her aforesaid letter, was accepted by respondent no.3 vide his order dated 17-08-2020. We find

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it expedient to reproduce the said order also, which reads

thus:

“क्र.का.९/आस्था-५/स्वे.नि./श्रीम.दिक्षीत/१२३२/२०
नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक
महाराष्ट्र राज्य, पुणे यांचे कार्यालय, पुणे
दिनांक - १७/०८/२०२०.

आदेश:-

नोंदणी उपमहानिरीक्षक व मुद्रांक उपनियंत्रक कार्यालय, लातूर विभाग, लातूर या कार्यालयाचे आस्थापनेवरील श्रीम. जयश्री रं. दिक्षीत, वरीष्ठ लिपीक यांच्या दि.२२/०५/२०२० रोजीच्या स्वेच्छासेवानिवृत्तीच्या विनंती अर्जानुसार व महाराष्ट्र नागरी सेवा (निवृत्ती वेतन) नियम १९८२ मधील नियम क्र.६५(१) नुसार श्रीम. जयश्री रं. दिक्षीत, वरीष्ठ लिपीक यांची स्वेच्छासेवानिवृत्ती स्विकारण्यात येत असून दि.२१/०८/२०२० रोजी (मध्यान्हपूर्व) स्वेच्छेने सेवानिवृत्त होण्यास मंजूरी देण्यात येत आहे.

नोंदणी उपमहानिरीक्षक व मुद्रांक उपनियंत्रक कार्यालय, लातूर विभाग, लातूर यांची स्थानिक व्यवस्था करून श्रीम. जयश्री रं. दिक्षीत, वरीष्ठ लिपीक यांना दि.२१/०८/२०२० रोजी मध्यान्हपूर्व शासकीय सेवेतून कार्यमुक्त करावे.

सही/-

(ओमप्रकाश देशमुख)

नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक
महाराष्ट्र राज्य, पुणे.”

9. As mentioned in the aforesaid order, respondent no.3 permitted the applicant to voluntarily retire under Rule 65(1) of the M.C.S. (Pension) Rules, 1982. Rule 65 reads thus:

“65. Retirement on completion of 30 years qualifying service.

(1) At any time after a Government servant has completed thirty year’s qualifying service, he may retire from service, or he may be required by the appointing authority to retire in the public interest:

Provided that-

(a) a Government servant shall give a notice in writing to the appointing authority three months before the date on which he wishes to retire; or

(b) the appointing authority shall give a notice in writing [in Form 32] to a Government servant three months before the date on which he is required to retire in the public interest, or three months pay and allowances in lieu of such notice;

[Provided further that where the Government servant who gives notice under clause (a) of the preceding proviso is under suspension, it shall be open to the appointing authority to withhold permission to such Government servant to retire under this rule:

Provided also that where a Government servant giving notice under clause (a) of the first proviso to this rule is placed under suspension after he has given notice of retirement as above, it shall be open to the appointing authority to withdraw permission, if already granted or, as the case may be, to withhold permission to such Government servant to retire voluntarily under this rule.]

[2(a) A Government servant referred to in clause (a) of the proviso to sub-rule (1) may make a request in writing to the appointing authority to accept notice of voluntary retirement of less than three months giving reasons therefor;

(b) on receipt of a request under clause (a), the appointing authority may consider such request for the curtailment of the period of notice of three months on merits and if it is satisfied that the curtailment of the period of notice will not cause any administrative inconvenience, the appointing authority, may relax the requirement of notice of three months on the condition that the Government servant shall not apply, for commutation of a part of his pension before the expiry of the period of notice of three months.]

(3) A Government servant, who has elected to retire under this rule and has given the necessary intimation to that effect to the appointing authority, shall be precluded from withdrawing his election subsequently except with the specific approval of such authority:

Provided that the request for withdrawal shall be before the intended date of his retirement.”

10. In view of the fact that respondent no.2 permitted the applicant to voluntarily retire under Rule 65(1) of the M.C.S. (Pension) Rules, 1982, it is obvious that respondent no.2 has held the applicant to have completed 30 years qualifying service. It is only after the letter dated

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21-01-2021 received from the office of the A.G. Nagpur, the defence has been raised that there was some misrepresentation by the applicant. However, no further particulars are provided by the said respondents as to in what way and in what manner the applicant misrepresented. On the contrary, in the application dated 22-05-2020, the applicant had clearly mentioned that before joining in the office of the respondent no.4 i.e. the Deputy Inspector General of Registration and Deputy Controller of Stamps, Latur, she had worked as Muster Assistant during the period between 13-06-1986 to 20-10-2003. It was the duty cast upon the respondent nos.2 to 4 to take into account all relevant legal provisions before accepting request of voluntary retirement made by the applicant.

11. As mentioned hereinabove, when the request of the voluntary retirement was accepted under the provision of Rule 65(1) of the M.C.S. (Pension) Rules, 1982, it has to be

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presumed that respondent no.2, who was competent authority for accepting the request of the applicant, was satisfied that the applicant has completed 30 years of qualifying service or else he would have declined the request so made by the applicant. The respondent nos.2 to 4 are thus now estopped from raising any plea that the applicant had made any misrepresentation.

12. From the facts, circumstances and the documents which have come on record, unhesitatingly, it can be said that it was a gross error on the part of the respondent no.2 in accepting the request of voluntary retirement made by the applicant, and accordingly, to relieve her from the service w.e.f. 21-08-2020. It was well within the knowledge of the respondent nos.2 to 4 that the applicant had joined w.e.f. 21-10-2003 in the office of respondent no.4. As mentioned in the letter dated 22-05-2020, the applicant was at the relevant time working in the office of respondent no.4 on the post of Senior Clerk. It is not in dispute that

the respondent no.2 is the superior and competent authority over the respondent no.4. The application dated 22-05-2020 filed by the applicant was forwarded to respondent no.2 through the respondent no.4. In the covering letter dated 22-05-2020 written by respondent no.4 to respondent no.2 he had specifically mentioned that as per the entries in the service book of the applicant she had worked on the post of Muster Assistant in Public Works Department from the period between 13-06-1986 to 20-10-2003 and thereafter joined on the post Junior Clerk in the office of respondent no.4.

13. We reiterate that, in premise of the facts as aforesaid, respondent nos.2 to 4 may not have any right or authority to raise the plea that there was misrepresentation by the applicant in regard to her period of continuous service.

14. We, however, find that respondent no.5 has appropriately explained how the request for voluntary retirement made by the applicant was not liable to be

granted by respondent no.2. In the letter dated 21-01-2021, the A.G. office has referred to G.R. dated 25-06-2004, according to which service as Muster Assistant is not counted as qualifying service for the purpose of pension. For this reason, the A.G. office has returned the pension proposal and the service book of the applicant to respondent no.4 for resubmitting the same after making due compliances. In absence of any contrary material, it has to be held that the A.G. office has rightly declined to approve the decision of respondent no.3 allowing the applicant to voluntarily retire under Rule 65(1) of the MCS (Pension) Rules 1982.

15. The applicant has filed the present O.A. for holding the respondent nos.2 to 4 responsible for wrongly accepting her request for voluntary retirement when legally the same could not have been accepted and has therefore claimed the wages of the period from 21-08-2020 to 30-04-2021 from the said respondents.

16. As mentioned earlier, even before receiving letter dated 21-01-2021 from A.G. Nagpur office, the applicant had requested for cancelling the order permitting her to voluntarily retire and to take her back in service. The record shows that after receiving the letter from A.G. Nagpur office also such request was made by the applicant. It, however, appears that the said requests were not considered.

17. From the facts which have come on record, we have no doubt in our mind that the respondent nos.2 to 4 could not have accepted the request of the applicant seeking voluntary retirement for want of 30 years' qualifying service at her credit. Though it is the contention of the applicant that the period of service rendered by her on the post of Muster Assistant was liable to be counted alongwith the period of service rendered with respondent nos.2 to 4 and as such she shall be held to have completed 30 years of qualifying service, nothing has been produced by her in support of her said contention.

18. In the letter dated 21-01-2021 the A.G. office has mentioned that as per the G.R. dated 25-06-2004, service of the applicant as Muster Assistant cannot be counted as qualifying service for the purpose of pension. The applicant has not denied or disputed the aforesaid contention. She has not produced any contrary material on record and in absence of any such material, we have to hold that the applicant has not completed 30 years qualifying service so as to make her entitled to take voluntary retirement under Rule 65(1) of the MCS (Pension) Rules, 1982.

19. Now, the only issue remains whether the prayer made by the applicant that she shall be deemed to be in the employment till 30-04-2021 i.e. the date of her superannuation and shall be paid the wages of the period from 21-08-2020 to said date i.e. 30-04-2021 deserve any consideration ?

20. Though the applicant has cast the entire blame on the respondent nos.2 to 4, the applicant also will have to be held not diligent in ascertaining the relevant provisions before filing an application seeking voluntary retirement. She shall not have presumed that services rendered by her on the post of Muster Assistant are liable to be counted in her total service period without any specific decision in that regard.

21. In the circumstances, we are not inclined to allow the request of the applicant for wages of the period between 21-08-2020 to 30-04-2021. We, however, find it appropriate to direct the respondent nos.2 to 4 to deem the applicant to be in service during the said period i.e. up to the age of her superannuation and to count the same as service period for the purpose of determining the pension payable to her. Applicant, thus, shall be held to have retired after attaining age of superannuation. We direct the respondent nos.2 to 4 to accordingly process the pension

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papers of the applicant expeditiously and within the time stipulated for it. With the observations as above, the O.A. stands disposed of with no order as to costs.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 87 OF 2020
(Rajendra B. Kamble Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Heard Ms. Preeti R. Wankhade, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. At the request of the learned P.O., time is granted for filing affidavit-in-reply on behalf of the respondents.
3. S.O. to 14.03.2022.

MEMBER (J)

ORIGINAL APPLICATION NO. 117 OF 2020
(Shivaji V. Kale Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Shri V.P. Kadam, learned Advocate for the applicant is **absent**. Heard Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. At the request of the learned P.O., time is granted for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 22.03.2022.

MEMBER (J)

ORIGINAL APPLICATION NO. 587 OF 2020
(Kumudini R. Sable Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Shri Vijay C. Suradkar, learned Advocate for the applicant is **absent**. Heard Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. At the request of the learned P.O., most last chance is granted for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 14.03.2022.

MEMBER (J)

ORIGINAL APPLICATION NO. 133 OF 2021
(Balasaheb A. Chivate Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Heard Smt. Suchita A. Dhongde, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. At the request of the learned P.O., time is granted for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 23.03.2022.

MEMBER (J)

ORIGINAL APPLICATION NO. 166 OF 2021
(Suryakant V. Tatode Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Shri Sanjay A. Wakure, learned Advocate for the applicant is **absent**. Heard Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents.

2. Record shows that the affidavit-in-reply is filed on behalf of the respondent Nos.2 to 5.
3. S.O. to 28.03.2022 for filing affidavit-in-rejoinder, if any.

MEMBER (J)

**ORIGINAL APPLICATION NO. 374 OF 2021
(Pradeep K. Puri Vs. State of Maharashtra & Ors.)**

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri Saket Joshi, learned Advocate holding for Shri A.S. Deshmukh, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. Record shows that the affidavit-in-reply is filed on behalf of the respondent No.1.
3. At the request of learned P.O., time is granted for filing affidavit-in-reply on behalf of the respondent No.2.
4. S.O. to 23.03.2022.

MEMBER (J)

ORIGINAL APPLICATION NO. 379 OF 2021
(Ravindra B. Rathod Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri Suresh S. Pidgewar, learned Advocate holding for Shri N.L. Chaudhari, learned Advocate for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents.

2. At the request of the learned P.O., time is granted for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 28.03.2022.

MEMBER (J)

SAS ORAL ORDERS 23.02.2022

ORIGINAL APPLICATION NO. 399 OF 2021
(Dr. Shivaji J. Rathod Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri S.D. Joshi, learned Advocate for the applicant, Shri N.U. Yadav, learned Presenting Officer for the respondent Nos.1 to 3 and Shri Rakesh N. Jain, learned Advocate for the respondent No.4.

2. Learned Advocate for the applicant submits that the applicant does not wish to file affidavit-in-rejoinder.

3. S.O. to 31.03.2022 for admission. Interim relief granted earlier to continue till then.

MEMBER (J)

SAS ORAL ORDERS 23.02.2022

**ORIGINAL APPLICATION NO. 409 OF 2021
(Govind R. More Vs. State of Maharashtra & Ors.)**

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri R.N. Bharaswadkar, learned Advocate holding for Smt. Priya R. Bharaswadkar, 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 31.03.2022 for filing service affidavit.

MEMBER (J)

SAS ORAL ORDERS 23.02.2022

ORIGINAL APPLICATION NO. 426 OF 2021
(Dr. Abhishek A. Pendharkar Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri S.D. Joshi, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. At the request of the learned P.O., one more last chance is granted for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 31.03.2022. Interim relief granted earlier to continue till then.

MEMBER (J)

ORIGINAL APPLICATION NO. 632 OF 2021
(Harishchandra G. Lohkare Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Shri Prashant D. Suryawanshi, learned Advocate for the applicant is **absent**. Heard Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. At the request of the learned P.O., time is granted for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 30.03.2022.

MEMBER (J)

**ORIGINAL APPLICATION NO. 656 OF 2021
(Shrikisan M. Choure Vs. State of Maharashtra & Ors.)**

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

DATE : 23.02.2022

ORAL ORDER :

Heard Smt. Suchita A. Dhongde, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. At the request of the learned P.O., time is granted for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 28.03.2022.

MEMBER (J)

ORIGINAL APPLICATION NO. 712 OF 2021
(Dr. Subhash G. Kabade Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

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

2. Await service of notice on the respondents.
3. At the request of learned Advocate for the applicant, S.O. to 04.03.2022 for filing service affidavit.

MEMBER (J)

ORIGINAL APPLICATION NO. 739 OF 2021
(Vilas M. Yadav & Ors. Vs. State of Maharashtra & Ors.)
WITH
ORIGINAL APPLICATION NO. 740 OF 2021
(Indrakumar S. Auti Vs. State of Maharashtra & Ors.)
WITH
ORIGINAL APPLICATION NO. 741 OF 2021
(Rahul V. Manjare & Ors. Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri S.B. Solanke, learned Advocate for the applicants all these matters and Shri B.S. Deokar, learned Presenting Officer for the respondents in all these matters.

2. Record shows that the affidavit-in-reply is filed only on behalf of the respondent No.4 in all these matters.

3. At the request of the learned P.O., time is granted for filing affidavit-in-reply on behalf of the respondent Nos.1 to 3 in all these matters.

4. S.O. to 30.03.2022.

MEMBER (J)

ORIGINAL APPLICATION NO. 749 OF 2021
(Rajendra B. Bachate Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri R.N. Bharaswadkar, learned Advocate holding for Smt. Priya R. Bharaswadkar, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. At the request of the learned Advocate for the applicant, S.O. to 21.03.2022 for filing service affidavit.

MEMBER (J)

**ORIGINAL APPLICATION NO. 789 OF 2021
(Ganesh Y. Pawar Vs. State of Maharashtra & Ors.)**

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri A.K. Sable, learned Advocate holding for Shri Ramesh Wakde, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. At the request of the learned P.O., time is granted for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 23.03.2022.

MEMBER (J)

ORIGINAL APPLICATION NO. 796 OF 2021
(Dinesh A. Chavan Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Shri Amol S. Gandhi, learned Advocate for the applicant is **absent**. Heard Shri M.P. Gude, learned Presenting Officer for the respondents.

2. Await service of notice on the respondents.
3. As none present on behalf of the applicant, S.O. to 30.03.2022 for taking necessary steps.

MEMBER (J)

ORIGINAL APPLICATION NO. 806 OF 2021
(Pralhad S. Sonune Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri P.B. Salunke, learned Advocate holding for Shri V.G. Salgare, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. At the request of the learned P.O., time is granted for filing affidavit-in-reply on behalf of the respondents.
3. S.O. to 28.03.2022.

MEMBER (J)

ORIGINAL APPLICATION NO. 811 OF 2021
(Milind B. Gaikwad Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri S.B. Solanke, learned Advocate for the applicant, Smt. Deepali S. Deshapande, learned Presenting Officer for the respondent Nos.1 to 6 and Shri S.B. Jadhav, learned Advocate for the respondent No.7.

2. Await service of notice on the respondents.
3. At the request of the learned Advocate for the applicant, S.O. to 29.03.2022 for taking necessary steps.

MEMBER (J)

**ORIGINAL APPLICATION NO. 832 OF 2021
(Suraj B. Solunke Vs. State of Maharashtra & Ors.)**

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri Amol Kokad, learned Advocate holding for Shri S.P. Dhobale, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. Record shows that the affidavit-in-reply is filed only on behalf of the respondent No.4.
3. At the request of the learned P.O., time is granted for filing affidavit-in-reply on behalf of the respondent Nos.1 to 3 and 5.
4. S.O. to 01.04.2022.

MEMBER (J)

ORIGINAL APPLICATION NO. 20 OF 2022
(Dnyaneshwar B. Sanap Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri S.D. Dhongde, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. At the request of the learned P.O., time is granted for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 17.03.2022.

MEMBER (J)

**M.A.NO.591 OF 2019 IN M.A.NO.308 OF 2018 IN
O.A.ST.NO.1257/2018
(Bapurao D. Pattwale Vs. State of Maharashtra & Ors.)**

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri S.B. Solanke, learned Advocate holding for Shri R.D. Khadap, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. At the request of the learned P.O., time is granted as a last chance for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 15.03.2022.

MEMBER (J)

**M.A.NO.299 OF 2020 IN O.A.ST.NO.1286 OF 2020
(Ram S. Bajulge Vs. State of Maharashtra & Ors.)**

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri Amol A. Kokad, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. Await service of notice on the respondents.

3. At the request of the learned Advocate for the applicant, S.O. to 16.03.2022 for taking necessary steps.

MEMBER (J)

SAS ORAL ORDERS 23.02.2022

**M.A.NO.228 OF 2021 IN O.A.ST.NO.775 OF 2021
(Jagannath F. Mundhe Vs. State of Maharashtra & Ors.)**

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

DATE : 23.02.2022

ORAL ORDER :

None present on behalf of the applicant.

Heard Shri M.P. Gude, learned Presenting Officer
for the respondents.

2. Record shows that no service affidavit in respect of Respondent Nos.1 and 2 is filed.
3. The applicant to take necessary steps.
4. S.O. to 28.03.2022.

MEMBER (J)

**M.A.NO.282 OF 2021 IN O.A.ST.NO.1101 OF 2021
(Shivram N. Dhapate Vs. State of Maharashtra & Ors.)**

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri P.M. Jadhav, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. At the request of the learned P.O., time is granted for filing affidavit-in-reply on behalf of the respondents.

3. S.O. to 14.03.2022.

MEMBER (J)

SAS ORAL ORDERS 23.02.2022

M.A.NO.49 OF 2022 IN O.A.ST.NO.37 OF 2022
(Dipak S. Sherkhane Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Shri G.J. Kore, learned Advocate for the applicant is **absent**. Heard Shri M.P. Gude, learned Presenting Officer for the respondents.

2. Await service of notice on the respondents.
3. As none present on behalf of the applicant, S.O. to 14.03.2022 for taking necessary steps.

MEMBER (J)

**M.A.NO.625 OF 2019 IN O.A.ST.NO.2441 OF 2019
(Pranita R. Sarode & Ors. Vs. State of Maharashtra & Ors.)**

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

DATE : 23.02.2022

ORAL ORDER :

Shri Pralhad D. Bachate, learned Advocate for the applicants is **absent**. Heard Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. As none present on behalf of the applicants, S.O. to 04.04.2022 for passing necessary order.

MEMBER (J)

SAS ORAL ORDERS 23.02.2022

**M.A.NO.267 OF 2021 IN M.A.NO.567 OF 2019 IN
O.A.ST.NO.2091 OF 2019
(Baburao K. Kamble Vs. State of Maharashtra & Ors.)**

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

DATE : 23.02.2022

ORAL ORDER :

None present on behalf of the applicant.

Heard Smt. Deepali S. Deshpande, learned
Presenting Officer for the respondents.

2. As none present on behalf of the applicant, S.O.
to 05.04.2022 for passing necessary order.

MEMBER (J)

SAS ORAL ORDERS 23.02.2022

**M.A.NO.83 OF 2022 IN O.A.ST.NO.1621 OF 2021
(Sopan P. Chavan Vs. State of Maharashtra & Ors.)**

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

DATE : 23.02.2022

ORAL ORDER :

Shri S.G. Kulkarni, learned Advocate for the applicant is **absent**. Heard Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. As none present on behalf of the applicant, S.O. to 21.03.2022 for passing necessary order.

MEMBER (J)

SAS ORAL ORDERS 23.02.2022

ORIGINAL APPLICATION NO.138 OF 2022
(Rajaram C. Sevalikar Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri A.S. Deshmukh, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. Issue notice to the respondents, returnable on 24.03.2022

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.

//2// O.A.No.138/22

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. Applicant is directed to file affidavit of compliance and notice.

7. S.O. to 24.03.2022.

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

MEMBER (J)

**M.A.ST.NO.2092/2019 IN O.A.ST.NO.2093/2019
(Rameshwar N. Gupta Vs. State of Maharashtra & Ors.)**

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

DATE : 23.02.2022

ORAL ORDER :

None present on behalf of the applicant.

Heard Shri D.R. Patil, learned Presenting Officer
for the respondents.

2. As none present on behalf of the applicant, S.O.
to 05.04.2022 for passing necessary order.

MEMBER (J)

SAS ORAL ORDERS 23.02.2022

**ORIGINAL APPLICATION ST.NO.74 OF 2022
(Gopichand B. Wadil Vs. State of Maharashtra & Ors.)**

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri S.P. Koli, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. At the request of the learned Advocate for the applicant, S.O. to 16.03.2022 for removal of office objection.

MEMBER (J)

ORIGINAL APPLICATION NO.230 OF 2020
(Ashvini D. Jadhav Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri S.B. Solanke, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondent Nos.1 to 3. Nobody is present on behalf of the respondent No.4, though duly served.

2. Learned Advocate for the applicant submits that as per order passed on 25.11.2021, the applicant has made representation to the respondent Nos.2 and 3 seeking accommodation at Latur. The said representation is still not decided by the respondents.

3. In view of above, S.O. to 14.03.2022.

MEMBER (J)

ORIGINAL APPLICATION NO.534 OF 2020
(Rajesh N. Bade Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. At the request of the learned Advocate for the applicant, time is granted for filing affidavit-in-rejoinder, if any.

3. S.O. to 17.03.2022.

MEMBER (J)

ORIGINAL APPLICATION NO.566 OF 2020
(Nathu N. Khadtare & Ors. Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

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

2. Record shows that pleadings upto affidavit-in-rejoinder are complete.
3. The matter is pertaining to increment and other benefits. It is admitted and fixed for final hearing on 24.03.2022.

MEMBER (J)

**ORIGINAL APPLICATION NO.503 OF 2021
(Vilas V. Bari Vs. State of Maharashtra & Ors.)**

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents.

2. The Original Application is filed challenging the impugned transfer order of the applicant dated 05.08.2021 (Annex. 'A-4') issued by the respondent No.2 i.e. the Divisional Joint Director of Agriculture, Nashik Division which is the competent transferring authority of the applicant. Affidavit-in-reply is already filed on behalf of all the respondents which is at page nos.57 to 63 of paper book.

3. By the impugned transfer order dated 05.08.2021 (Annex. 'A-4') the applicant has been transferred from the post of Agriculture Assistant from the office of Taluka Agriculture Office, Yawal, Circle Kingaon, Head Quarter Chunchale to Taluka Agriculture Office, Dharangaon, Head Quarter Rotvad.

4. During pendency of this Original Application, the applicant has filed short affidavit which is at page no.73 of paper book. Thereby it is contended that the applicant has come across with the information that seven posts of the post of Agriculture Officer under the office of the respondent No.2 are laying vacant and those are not filled in.
5. The Applicant has made representation dated 03.01.2022 (Annex. 'R-1') which is at page no.76 of paper book seeking to accommodate him at any of the seven vacant posts modifying the impugned transfer order.
6. Learned Advocate for the applicant submits that the Original Application can be disposed of by giving suitable directions to the respondent No.2 to consider the representation in accordance with law.
7. Learned P.O. for the respondents submits that the direction can be given to the respondent No.2 to decide the said representation on it's own merit and in accordance with law.
8. In view of the submissions as above, in my opinion, it would be just and proper to dispose of the

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O.A.503/2021

Original Application by giving suitable directions to the respondent No.2. Therefore, I proceed to pass following order:-

ORDER

The Original Application is disposed of in following terms.

- (a) The respondent No.2 is directed to consider the representation dated 03.01.2022 (page no.76 of paper book) made by the applicant seeking accommodation on any of the seven vacant posts by modifying the impugned transfer order dated 05.08.2021 (Annex. 'A-4') on it's own merit and in accordance with law within a period of two months from the date of this order.
- (b) No order as to costs.

MEMBER (J)

**M.A.NO.247 OF 2020 IN O.A.ST.NO.339 OF 2020
(Pandit K. Pawar Vs. State of Maharashtra & Ors.)**

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri B.R. Kedar, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. At the request of the learned Advocate for the applicant, S.O. to 10.03.2022 for hearing.

MEMBER (J)

SAS ORAL ORDERS 23.02.2022

ORIGINAL APPLICATION NO.918 OF 2019
(Ashok M. Gaikwad Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Heard Smt. Suchita A. Dhongde, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. During the course of arguments it transpires that this Original Application is filed challenging the impugned communication dated 19/21-09-2018 (Annex. 'A-8') issued by the Administrative Officer of Aurangabad Central Prison, Aurangabad informing that Medical Leave sought for the period of 229 days for his absence in the year 2014 and 2015 for certain period was rejected as there was no evidence to substantiate the ground of Medical Leave.

3. The applicant earlier challenged the said impugned communication by filing the Original Application No.159/2019. The said Original Application was disposed of vide order dated 28.02.2019 observing that it was premature and the

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O.A.No.918/2019

liberty was given to the applicant to make suitable representation with the concerned authority.

4. The applicant thereafter made representation dated 25.03.2019 (Annex. 'A-10') to the Additional Director General of Police and Inspector General of Prisons, Pune. The applicant did not receive any communication in respect of the said representation. Thereafter the present Original Application is filed by the applicant. By the said representation the applicant has sought earned leave for his absence of 229 days.

5. In the circumstances as above, it would be just and proper to find out as to whether the said representation dated 25.03.2019 (Annex. 'A-10') is received by the said authority and it's progress.

6. Learned P.O. for the respondents is directed to seek information regarding the same and place on record present status.

7. S.O. to 16.03.2022.

MEMBER (J)

ORIGINAL APPLICATION NO.507 OF 2021
(Sunil N. Khamitakar Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri A.S. Deshmukh, learned Advocate for the applicant, Shri M.P. Gude, learned Presenting Officer for the respondent Nos.1 and 2, Shri V.B. Wagh, learned Advocate holding for Shri U.B. Bondar, learned Advocate for the respondent No.3 and Shri Satish S. Manale, learned Advocate for the respondent No.4.

2. During the course of arguments it transpires that the learned Advocate for the applicant on the last date in alternate arguments pointed out that the representation dated 20.08.201 (Annex. 'A-5(i)') page no.32 of paper book is made by the applicant to the respondent No.1 seeking to retain him at Latur as his daughter is studying in 12th standard science. It is further stated that his son at that time was studying in 7th standard at Latur.

//2// O.A.No.507/2021

3. In affidavit-in-reply filed on behalf of the respondent No.4 at page no.41 of paper book it is stated that as per his knowledge the daughter of the applicant is taking education in 12th standard at Solapur and the wife of the applicant is serving as Teacher at Solapur.

4. In this regard Hall Ticket of the daughter of the applicant has been placed on record by the learned Advocate for the applicant which is taken on record and marked as 'X' for identification. The place of examination is shown as Lok Mangal Jr. College, Wadala (2409118). The said center falls in Taluka North Solapur, District Solapur.

5. Learned Advocate for the applicant on instructions submits that the daughter of the applicant is studying in 12th standard at Solapur and she is attending the private classes at Latur. He further submits that wife of the applicant is also serving at Solapur and she is on leave as her daughter is studying in 12th standard and all of them are living at Latur.

6. The present matter is reserved for order.

MEMBER (J)

ORIGINAL APPLICATION NO.561 OF 2020
(Namdeo D. Pawar Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. The present matter is closed for order.

MEMBER (J)

ORIGINAL APPLICATION NO.531 OF 2021
(Maruti M. Kakad Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri A.S. Deshpande, 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 the respondent No.4.

2. The present matter is closed for order.

MEMBER (J)

ORIGINAL APPLICATION NO.862 OF 2018
(Kiran S. Pawar Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri S.D. Dhongde, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. At the request of the learned Advocate for the applicant, S.O. to 24.03.2022.

MEMBER (J)

ORIGINAL APPLICATION NO.193 OF 2021
(Dr. Govardhan S. Doifode Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate holding for Shri U.B. Bondar, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. By consent of both the parties, S.O. to 24.03.2022.

MEMBER (J)

ORIGINAL APPLICATION NO.317 OF 2021
(Vishwanbhar V. Tikde Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri S.R. Sapkal, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. At the request of the learned Advocate for the applicant, S.O. to 24.03.2022.

MEMBER (J)

ORIGINAL APPLICATION NO.617 OF 2021
(Kiran P. Chaudhari Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondent Nos.1 to 3. Shri Kiran Nagarkar, learned Advocate for the respondent No.4 has filed **leave note**.

2. In view of leave note of learned Advocate for the respondent No.4, S.O. to 08.03.2022.

MEMBER (J)

ORIGINAL APPLICATION NO.629 OF 2021
(Dr. Archana V. Bhosle Vs. State of Maharashtra & Ors.)

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

DATE : 23.02.2022

ORAL ORDER :

Heard Shri V.G. Pingle, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. By consent of both the sides, S.O. to 04.03.2022.

MEMBER (J)

**ORIGINAL APPLICATION NO.496/2021
(Prathamesh S. Vaidhya & Ors. Vs. State of Maharashtra &
Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 23.02.2022

ORAL ORDER :

Heard Shri R.K.Ashtekar, learned Advocate for the applicants, Shri M.P.Gude, learned Presenting Officer for the respondent authorities and Shri K.G.Salunke, learned Advocate for respondent no.10.

2. When the present matter was taken up for consideration, learned Counsel appearing for the respondent no.10 submitted that copy of the affidavit in rejoinder filed by the applicant is provided to him just now and he wants to go through the contents of the said affidavit in rejoinder.

3. O.A. therefore stands adjourned. S.O. to 15-03-2022.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.69/2021
(Jayshree Ravan Sonkavade Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 23.02.2022

ORAL ORDER :

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

2. The present O.A. has been filed by the applicant seeking direction against the respondents to delete her name from the joint Enquiry initiated against some of the employees. It is the contention of the applicant that since the transaction which has been alleged to have been done by the applicant, in fact is not done by the applicant. In the circumstance, according to the applicant no chargesheet could have been issued against her. Applicant has therefore filed the present O.A., seeking quashment of the chargesheet against her.

=2=

O.A.NO.69/2011

3. When today the matter is taken up for consideration, it is brought to our notice that the departmental enquiry has already been commenced and evidence has also been recorded. In the circumstances, it appears to us that the present O.A. can be disposed of by directing the respondents to complete the said departmental enquiry in all respects within 4 months from the date of this order.

4. O.A. stands disposed of accordingly with no order as to costs.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO.439/2013
(Sakharam Choughule Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 23.02.2022

ORAL ORDER :

Shri R.D.Khadap, learned Advocate for the applicant
and Shri M.P.Gude, learned Presenting Officer for the
respondents, are present.

2. S.O. to 01-04-2022.

MEMBER (A)

MEMBER (J)

O.A.NO.11/2019, 30/2019 & 81/2019
(Bapuraog Dongar & Ors. Vs. State of Maharashtra & Ors.)

CORAM : **Hon'ble Justice Shri P.R. Bora, Member (J)**
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : **23.02.2022**

ORAL ORDER :

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

2. S.O. to 01-04-2022.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.922/2017
(Pandurang Chinchale Vs. State of Maharashtra & Ors.)

CORAM : **Hon'ble Justice Shri P.R. Bora, Member (J)**
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : **23.02.2022**

ORAL ORDER :

Shri A.S.Deshmukh, learned Advocate for the applicant, Shri D.R.Patil, learned Presenting Officer for the respondent no.1 and Shri D.T.Devane learned Advocate for respondent nos.2 and 3, are present.

2. S.O. to 01-04-2022.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.946/2017
(Namdeo More Vs. State of Maharashtra & Ors.)

CORAM : **Hon'ble Justice Shri P.R. Bora, Member (J)**
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : **23.02.2022**

ORAL ORDER :

Shri Kakasaheb B. Jadhav, learned Advocate for the applicant and Shri D.R.Patil, learned Presenting Officer for the respondents, are present.

2. S.O. to 01-04-2022.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO.410/2019
(Santosh Jagdale Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 23.02.2022

ORAL ORDER :

Shri S.G.Kulkarni learned Advocate holding for Shri Ajay Deshpande, learned Advocate for the applicant, Shri B.S.Deokar, learned Presenting Officer for the respondent no.1 and Shri M.R.Kulkarni, learned Advocate for respondent no.2, are present.

2. S.O. to 08-03-2022.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 804/2017
(Shri Prakash D. Patil Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)
DATE : 23.2.2022**

ORAL ORDER :

Heard Shri S.D. Joshi, learned Counsel for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. Today when the present matter is taken up for consideration, the learned Presenting Officer has tendered the copy of the communication dated 22.2.2022 received to him from the Additional Commissioner, Tribal Development, Nashik Division, Nashik, thereby requesting the learned P.O. to seek one month's extension for making the compliance of the order passed by the Tribunal in the present O.A. on 17.12.2021. Though 4 weeks' time has been sought, it appears us that, due time has been already provided by the Tribunal.

3. In the circumstances, we are inclined to grant further 2 weeks time to the respondents. The respondents shall act as per the order of this Tribunal and take a decision within 2 weeks from the date of this order.

3. S.O. to 17.3.2022.

MEMBER (A)

MEMBER (J)

**M.A. NO. 621/2019 IN C.P. 47/2019 IN O.A. 364/2016
(Shri Rudrappa L. Lungare & Ors. Vs. State of Maharashtra &
Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND**

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 23.2.2022

ORAL ORDER :

Heard Shri R.P. Bhumkar, learned Counsel for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. The order passed by the Tribunal on 7.11.2019 in C.P. No. 47/2019 in O.A. No. 364/2016 is sought to be recalled. The learned Counsel for the applicants invited our attention to para no. 3 of the said order. Reading out the said para, the learned Counsel submitted that while passing the said order and making such observations, it was assumed by the Tribunal that a common Contempt Petition has been filed on behalf of all the applicants and that it was not maintainable. The learned Counsel brought to our notice that though O.A. No. 364/2016 was decided by the Tribunal along with other Original Applications and a common order was passed, except the applicants in O.A. No. 364/2016, none other

applicants in other Original Applications have filed the Contempt Petition. The learned Counsel for the applicants submits that, in fact, it was the Contempt Petition filed by the applicants in O.A. No. 364/2016 only, as per the prescribed procedure. The learned Counsel, therefore, prayed for recalling of the said order.

3. The learned Chief Presenting Officer has submitted for passing appropriate order in the matter.

4. It is true that the common order was passed by the Tribunal in O.A. No. 709/2015 with certain other Original Applications including O.A. No. 364/2016. In O.A. No. 364/2016 there were 12 applicants, who have filed Contempt Petition No. 47/2019. It is not the case that it is a common Contempt Petition filed by the applicants in different Original Applications. In the circumstances, the said Contempt Petition was quite maintainable. It appears that, assuming that Contempt Petition has been filed commonly by the applicants in more than one Original Applications, the impugned order came to be passed. We are, therefore, inclined to revoke the said order and it is accordingly

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MA 621/2019 IN CP 47/2019
IN OA 364/16

revoked. Contempt Petition No. 47/2019 stands restored to its original file.

5. Misc. Application No. 621/2019 thus stands disposed of with no order as to costs.

6. List Contempt Petition No. 47/2019 for further consideration on 31.3.2022.

MEMBER (A)

ARJ ORAL ORDERS 23.2.2022

MEMBER (J)

**ORIGINAL APPLICATION NO. 798/2021
(Bharat Z. Patil Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND**

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 23.2.2022

ORAL ORDER :

Shri K.B. Jadhav, learned Counsel for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents, are present.

2. The learned Counsel for the applicant has sought time for filing rejoinder affidavit. Time granted.

3. S.O. to 17.3.2022.

MEMBER (A)

ARJ ORAL ORDERS 23.2.2022

MEMBER (J)

**M.A.NO. 210/2015 IN O.A.ST. NO. 439/2015 WITH
M.A.NO. 212/2015 IN O.A.ST. NO. 441/2015 WITH
M.A.NO. 213/2015 IN O.A.ST. NO. 432/2015 WITH
M.A.NO. 214/2015 IN O.A.ST. NO. 451/2015 WITH
M.A.NO. 215/2015 IN O.A.ST. NO. 443/2015 WITH
M.A.NO. 216/2015 IN O.A.ST. NO. 435/2015 WITH
M.A.NO. 217/2015 IN O.A.ST. NO. 437/2015 WITH
M.A.NO. 227/2015 IN O.A.ST. NO. 455/2015 WITH
M.A.NO. 228/2015 IN O.A.ST. NO. 453/2015 WITH
M.A.NO. 240/2015 IN O.A.ST. NO. 957/2015 WITH
M.A.NO. 241/2015 IN O.A.ST. NO. 955/2015 WITH
M.A.NO. 242/2015 IN O.A.ST. NO. 960/2015 WITH
M.A.NO. 202/2014 IN M.A.ST. NO. 447/2014 IN
O.A.ST.NO. 449/2014
(Syed Sarfaraz Ahmed & Ors. Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND**

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 23.2.2022

ORAL ORDER :

Smt. Suchita A. Dhongde, learned Advocate for the applicants in all these cases, Shri B.S. Deokar, learned Presenting Officer for the respondent No. 1 in all these cases and Shri Sham Patil, learned Counsel for himself and holding for Shri G.N. Patil, learned Counsel for respondent Nos. 2 to 4 in M.A. Nos. 240/15, 241/15, 242/15 and respondent Nos. 2 to 5 in M.A. Nos. 210, 213, 215, 217, 227, 228 all of 2015 & 202/2014 respectively, are present.

2. At the request of Shri Sham Patil, learned Counsel holding for Shri G.N. Patil, learned Counsel for respondent nos. 2 to 5 in respective cases, S.O. to 7.3.2022 for hearing.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 768/2018
(Vijaykumar V. Giri & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 23.2.2022

ORAL ORDER :

Shri A.V. Thombre, learned Counsel holding for Shri S.S. Thombre, learned Counsel for the applicants and Shri N.U. Yadav, learned Presenting Officer for the respondents, are present.

2. The learned Counsel for the applicants has sought time for filing rejoinder affidavit. Time granted.

3. S.O. to 1.4.2022.

MEMBER (A)

ARJ ORAL ORDERS 23.2.2022

MEMBER (J)

**ORIGINAL APPLICATION NO. 791/2021
(Prabhakar B. Bush Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND**

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 23.2.2022

ORAL ORDER :

Shri A.B. Rajkar, learned Counsel for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents, are present.

2. The learned Presenting Officer sought time for filing affidavit in reply of the respondents. Time granted.

3. S.O. to 5.4.2022.

MEMBER (A)

ARJ ORAL ORDERS 23.2.2022

MEMBER (J)

ORIGINAL APPLICATION NO. 574/2021
(Latabai B. Savant Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 23.2.2022

ORAL ORDER :

Shri V.G. Pingle, learned Counsel for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents, are present.

2. The learned Chief Presenting Officer has sought time for filing affidavit in reply of the respondents. Time granted.

3. S.O. to 5.4.2022.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 956/2019
(Rajendra M. Chaudhari Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 23.2.2022

ORAL ORDER :

Shri A.S. Mirajgaonkar, learned Counsel holding for Shri C.V. Dharurkar, learned Counsel for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents, are present.

2. The learned Counsel for the applicant sought time for filing rejoinder affidavit to the affidavit in reply of respondent nos. 2 & 3. Time granted.

3. S.O. to 5.4.2022.

MEMBER (A)

ARJ ORAL ORDERS 23.2.2022

MEMBER (J)

ORIGINAL APPLICATION NO. 942/2019

**(Shaikh Hameed Shaikh Dadamiyan Vs. State of Maharashtra
& Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND**

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 23.2.2022

ORAL ORDER :

Shri Suresh D. Dhongde, learned Counsel for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents, are present.

2. The learned Presenting Officer sought time for filing affidavit in reply of the respondents. Time granted.

3. S.O. to 1.4.2022.

MEMBER (A)

ARJ ORAL ORDERS 23.2.2022

MEMBER (J)

ORIGINAL APPLICATION NO. 843/2019
(Kailas V. Aghav Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 23.2.2022

ORAL ORDER :

Shri I.G. Durrani, learned Counsel for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents, are present.

2. It appears that vide order dated 3.3.2020 last chance was granted to the applicant to take steps to serve notices on res. nos. 4 to 7. The learned Counsel submits that due to COVID-19 pandemic situation the Court was not functioning regularly and therefore the present matter is listed on board after about 2 years. He therefore seeks time to take instructions from the applicant in regard to service of notices on res. nos. 4 to 7. Time granted.

3. S.O. to 4.4.2022.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 161/2019
(Laxman N. Dhakane Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 23.2.2022

ORAL ORDER :

Shri Mohit R. Deshmukh, learned Counsel for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents, are present.

2. The learned Presenting Officer sought time for filing affidavit in reply of the respondents. Time granted.

3. S.O. to 4.4.2022.

MEMBER (A)

MEMBER (J)

M.A. 394/2019 IN O.A. ST. 1674/2019
(Bhaskar K. Shinde Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 23.2.2022

ORAL ORDER :

Shri Joslyn Menezes, learned Counsel holding for Smt. Amruta Paranjape, learned Counsel for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents, are present.

2. The learned Presenting Officer sought time for filing affidavit in reply of the respondents in M.A. Time granted.

3. S.O. to 4.4.2022.

MEMBER (A)

ARJ ORAL ORDERS 23.2.2022

MEMBER (J)

M.A. 103/2020 IN O.A. ST. 146/2020
(Ramchandra N. Palmate Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 23.2.2022

ORAL ORDER :

Shri V.P. Golewar, learned Counsel for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents, are present.

2. The learned Presenting Officer sought time for filing affidavit in reply of the respondents in M.A. Time granted as a last chance.

3. S.O. to 5.4.2022.

MEMBER (A)

MEMBER (J)

M.A. 32/2021 IN O.A. ST. 138/2021
(Gopal D. Ghuge Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 23.2.2022

ORAL ORDER :

Shri Sandeep D. Munde, learned Counsel for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents, are present.

2. The learned Presenting Officer sought time for filing affidavit in reply of the respondents in M.A. Time granted as a last chance.

3. S.O. to 6.4.2022.

MEMBER (A)

MEMBER (J)

M.A. 60/2021 IN O.A. 85/2021
(Dr. Balaji M. Shinde Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 23.2.2022

ORAL ORDER :

Shri V.B. Wagh, learned Counsel for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents, are present.

2. The learned Presenting Officer sought time for filing affidavit in reply of the respondents in M.A. Time granted as a last chance.

3. S.O. to 6.4.2022.

MEMBER (A)

MEMBER (J)

M.A.68/2022 IN O.A. 692/2021
(Sachin S. Kamble Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 23.2.2022

ORAL ORDER :

Shri A.S. Mirajgaonkar, learned Counsel holding for Shri C.V. Dharurkar, learned Counsel for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents, are present.

2. The learned Presenting Officer sought time for filing affidavit in reply of the respondents in M.A. Time granted.

3. S.O. to 6.4.2022.

MEMBER (A)

ARJ ORAL ORDERS 23.2.2022

MEMBER (J)

ORIGINAL APPLICATION NO. 123/2020
(Manaji V. Surose & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 23.2.2022

ORAL ORDER :

Shri K.B. Jadhav, learned Counsel for the applicants, Shri B.S. Deokar, learned Presenting Officer for the respondent authorities and Shri S.B. Mene, learned Counsel for respondent no. 3, are present.

2. Affidavit in reply is already filed by res. no. 4. The learned Presenting Officer as well as learned Counsel for respondent no. 3 seek time for filing affidavit in reply of respective respondents in M.A. Time granted.

3. S.O. to 6.4.2022.

MEMBER (A)

MEMBER (J)

M.A. NO. 44/2022 WITH O.A. NO. 51/2019
(Shri Parmeshwar Gangaram Sangle Vs. State of Maharashtra
& Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 23.2.2022

ORAL ORDER :

Heard Shri A.D. Gadekar, learned Counsel for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. When the present Misc. Application, as well as, the Original Application were taken up for consideration it is brought to our notice that the applicant, during the pendency of the Original Application, has been promoted to the post of Office Superintendent. It is, thus, evident that the very prayer made in the Original Application stands satisfied. It was the contention of the applicant in the Original Application that he has been wrongly denied the promotion to the said post and the persons junior to him have been wrongly promoted. In view of the fact that now the applicant has been promoted to the post of Office Superintendent, the present Misc. Application is filed seeking consequential amendment

for bringing on record the said fact and claiming consequential relief that the applicant shall be deemed to have been promoted from the same date, the persons, junior to him were promoted. As submitted by the learned Counsel for the applicant, the applicant has preferred a representation dated 1.7.2021 in that regard to the respondent authorities.

3. Considering the aforementioned facts, it is evident that the purpose of filing the Original Application has been served. For another prayer, which the applicant intends to make by way of amendment, he has preferred the representation dated 1.7.2021 and the same has not yet been decided. In the circumstances, appropriate course for the applicant would be to pursue the said representation. It would be open for the applicant to challenge the decision on his representation, if it is adverse to his interest.

4. For the aforesaid reasons, we deem it appropriate to dispose of the present Original Application, as well as, Misc. Application with liberty to the applicant to file fresh Original Application depending upon the decision on the representation

::-3-: **MA 44/2022 WITH OA 51/2019**

dated 1.7.2021 submitted by the applicant with the respondents. There shall be no order as to costs.

MEMBER (A)

ARJ ORAL ORDERS 23.2.2022

MEMBER (J)

**C.P.NO. 26/2019 IN O.A.NO. 793/1996
(Chokhoba S. Kharat Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 23.2.2022

ORAL ORDER :

Heard Shri V.B. Wagh, learned counsel for the applicant, Smt. Sanjivani Deshmukh-Ghatae, learned Presenting Officer for the respondent No. 1 and Shri S.B. Mene, learned counsel for respondent Nos. 2 & 3.

2. The applicant had filed O.A. No. 793/1996 for correction in his date of birth, which was recorded in the service book. In the service book the date of birth of the present applicant was recorded as 1.7.1937. According to the applicant, his correct date of birth was 26.5.1951. We need not go into the details of what actions were taken by the applicant for correcting his date of birth during period of his service and why he approached this Tribunal so late, in view of the fact that all those aspect are considered while passing order by this Tribunal and lastly the following order was passed by this Tribunal : -

“4. In view of the satisfactory evidence regarding correct birth date produced by the present applicant and the fact that earlier entry was not made on the basis of any other satisfactory documentary evidence like original hososcope or extract of birth register, I hold that

the present application will have to be allowed. Accordingly, I allow the same. I direct the respondents to enter his birth date as 26.5.1951. They should take such action within three months from today and intimate the present applicant in writing of having done so. Rule is made absolute in the above terms. Petition is disposed of.”

Against the aforesaid order passed by this Tribunal the respondent No. 3 preferred W.P. No. 2952/2001. On 10.9.2004 in Civil Application No. 2439/2003 and Civil Application No. 6004/2004 common order was passed by the Division Bench of the Hon’ble High Court as under: -

“8. Shri. Lakhkar, learned Advocate, submitted that as the petitioner stood retired, his retirement benefit etc. are protected by the order dated 19th June, 2002 and as such, it was incumbent on the petitioner to pay or release the provident, gratuity, encashment of leave amount which is to the credit of the petitioner. There is no difficulty in giving such a direction to the respondents. Accordingly we find no difficulty in directing the petitioners to complete the process of releasing the amount of provident fund, gratuity, encashment of leave etc. in respect of the petitioner. To that extent the Civil Application No. 6004/2004 is allowed in terms of prayer clause “B”. We therefore, direct the Executive Engineer, Purna Irrigation Division, Basmathnagar, Dist. Hingoli to complete the formalities of releasing the payment of provident fund, gratuity, encashment of leave amount etc. as early as possible, preferably within two months from today.”

3. The W.P. No. 2952/2001 ultimately came to be disposed of by the Hon'ble Division Bench of High Court vide order dated 22.8.2014 holding the said petition to have become infructuous. While passing the final order, the Hon'ble High Court has allowed the C.A. filed by the present applicant bearing No. 11256/2005 thereby allowing the request of the present applicant for retiral benefits in terms of prayer clause (A) in his civil application. In view of the fact that the W.P. filed by the respondent No. 3 came to be disposed of being infructuous, the order passed by this Tribunal in O.A. No. 793/1996 remained undisturbed. The applicant was therefore, trying hard to get executed the said order. In the petition it is the complaint of the applicant that despite the order passed by this Tribunal the department i.e. respondent No. 3 did not act upon the said order and hence, the contempt has been committed of the order passed by this Tribunal in O.A. No. 793/2016.

4. Learned counsel appearing for respondent Nos. 2 & 3 submitted that no contempt has been committed of the order passed by this Tribunal. It is his contention that the Hon'ble Division Bench of the High Court had granted interim stay in W.P. No. 2952/2001 on 14.9.2001 and since in the final order, the interim order has not been vacated or modified, the respondents were not liable for making any payment as has been prayed by the applicant. It is further

submitted that as per the date of birth recorded in the service book the applicant though in fact was to retire on 30.6.1997, remained in service up to 19.6.2001. Learned counsel further submitted that till the said date the salary, as well as, other payments are duly made to the applicant and nothing more is required now to be paid by the respondent No. 3. In the circumstances, according to the learned counsel, no contempt would lie against any of the respondents. Learned Presenting Officer has adopted the arguments advanced on behalf of the respondent No. 3.

5. During the course of the arguments, learned counsel appearing for the applicant, on instructions, submitted that the applicant is not claiming any monetary benefit of the period from 19.6.2001 till 26.5.2011, which is the date of superannuation, according to his correct date of birth as held in the order passed by this Tribunal in O.A. No. 793/1996. It is his further contention that though the applicant is not claiming any monetary benefits of the said period, so far as the pensionary benefits are concerned, he shall be deemed to be in services till the said date i.e. 26.5.2011 and he shall be notionally held entitled for all such benefits like increment etc. of the said period and accordingly his last drawn pay shall be determined and on the basis of that his pension shall be fixed.

6. After having considered the facts and circumstances of the present matter we find that fair proposal has been

given by the applicant. We do find any substance in the argument advanced on behalf of respondent No. 3 that the order passed by this Tribunal in O.A. No. 793/1996 was stayed by the Hon'ble High Court vide its order dated 14.9.2001 and though the W.P. finally came to be disposed of being infructuous, since the interim order was not vacated in the said order, the stay granted by the Hon'ble High Court has attained the finality. Such argument is unconscionable. We need not to state that all interim orders passed in any petition ultimately stand merged in the final order. As such, after W.P. No. 2952/2001 was disposed of being infructuous by the Hon'ble High Court, the interim orders passed in the said W.P. stood merged in the final order. Further, since the W.P. came to be disposed of without disturbing or setting aside the order passed by this Tribunal, the order passed by this Tribunal in O.A. No. 793/1996 has attained the finality.

7. In view of the facts as above, the respondents and more particularly respondent No. 3 was under an obligation to record the date of birth of the applicant as 26.5.1951 in his service book. Consequently, the applicant was entitled to be in service till 26.5.2011. However, as has come on record the applicant worked with respondent No. 3 only up to 19.6.2001. In the W.P. filed by the respondents the Hon'ble High Court had granted *ad interim* relief on 14.9.2001 thereby staying implementation of the order

dated 6.2.2001 passed by this Tribunal in O.A. No. 793/1996. The applicant though attempted to get vacated the said order by filing C.A. No. 1483/2002 in W.P. No. 2952/2001, his said request was turned down and the interim order passed on 14.9.2001 came to be confirmed. Since the stay was in operation till disposal of W.P. No. 2952/2001 i.e. 22.8.2014, the applicant was admittedly not reinstated in service and did not work in the said period. In the meanwhile, even his date of superannuation, according to his correct date of birth, also had passed.

8. Having regard to the circumstances as aforesaid, a fair proposal has been given by the learned counsel for the applicant on instructions, that the applicant is not pressing the claim for any monetary benefit of the period during 19.6.2001 till date of his superannuation i.e. 26.5.2011. Further request has however, been made on behalf of the applicant that the applicant shall be held notionally entitled for the increments which fell due in the aforesaid period and accordingly his last drawn pay on the date of his retirement i.e. 26.5.2011 be determined and based on the said pay his pension may be fixed. We find substance in the submissions made on behalf of the applicant. This Tribunal in the order dated 6.2.2001 passed in O.A. No. 793/1996 directed the respondents to correct date of birth of the applicant in his service book. This Tribunal had held

that 26.5.1951 was the correct date of birth of the applicant. As because the order passed by this Tribunal was challenged before the Hon'ble High Court and stay to the implementation of the said order was obtained by the respondents, the applicant was not reinstated in service. Obviously, therefore, he did not work during the period between 19.6.2001 till his date of superannuation i.e. 26.5.2011. As noted hereinabove in all fairness the applicant has relinquished his right to receive the wages of the said period. However, in view of the order passed by this Tribunal the applicant has to be held in employment of respondent No. 3 up to 26.5.2011 i.e. up to the date of superannuation. As such, the applicant has to be further held entitled for notional increments, which fell due during the said period and accordingly, his last drawn pay has to be fixed. The amount of payable pension would thus be determined on the basis of the said last drawn pay. The respondents are bound to carry out the aforesaid exercise.

9. Now the question remains whether the respondents can be held guilty for committing contempt of the order passed by this Tribunal in O.A. No. 793/1996 on 6.2.2001. Apparently it does not appear so. As has been submitted by the learned counsel appearing for the respondent No. 3, the respondents were under an impression that the interim order still operates in their favour since the same has not been expressly vacated by the Hon'ble High Court. It, therefore, cannot be said that there is willful disobedience

:: - 8 - :: C.P. 26/19 IN O.A. 793/96

of the order of this Tribunal by the respondents. As such, though no action for contempt would lie against the respondents, we hope and trust that within four months from the date of this order the respondents and more particularly respondent No. 3 would determine the last drawn pay of the present applicant notionally holding him in service till 26.5.2011 and by notionally extending the increments, as well as, other benefits, which fell due during the said period in favour of the applicant and shall accordingly fix the amount of pension payable to him. We reiterate that the entire aforesaid exercise has to be carried out by the respondents within four months from the date of this order.

10. The C.P. stands disposed of in the aforesaid terms without any order as to costs.

MEMBER (A)

MEMBER (J)

**O.A.NOS. 966 TO 972 & 974 TO 979 ALL OF 2019 AND
O.A. N. 537 OF 2020
(Prakash V. Deshpande & Ors. Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 23.2.2022

ORAL ORDER :

Shri V.G. Pingle, learned counsel for the applicants in all these cases and Mrs. Deepali S. Deshpande, learned Presenting Officer for the respondents in all these cases, are present.

2. Learned counsel appearing for the applicants has brought to our notice that despite availing due opportunities, the respondents have not yet filed the affidavit in reply in all these cases.

3. Learned Presenting Officer submits that the Corporation is the main contestant in the present matters. She further submits that if affidavit in reply is not filed by the Corporation on the next date, the State will file its affidavit in reply without fail. Four weeks' time is sought by the learned Presenting Officer for the said purpose. Time as prayed for is granted by way of last chance.

4. S.O. to 1.4.2022.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 80 OF 2022
(Nilesh Suresh Arke Vs. State of Maha. & Ors.)**

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 23.2.2022

ORAL ORDER :

Shri A.S. Mirajgaonkar, learned counsel holding for Shri C.V. Dharurkar, learned counsel for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondent Nos. 1 to 3, are present.

2. Shri Amarsinha S. Kakade, learned counsel appeared and he has tendered VAKALATNAMA on behalf of respondent No. 4 and has sought time for filing affidavit in reply on behalf of the said respondent.

3. Learned Presenting Officer has also sought time for filing affidavit in reply on behalf of respondent Nos. 1 to 3. Time granted.

4. S.O. to 1.4.2022.

MEMBER (A)

ORAL ORDERS 23.2.2022-HDD

MEMBER (J)

**O.A.NO. 698/2021 WITH O.A.NO. 140/2022
(Jitesh P. Wagh & Anr. Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND**

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 23.2.2022

ORAL ORDER :

Shri Sandeep D. Munde, learned counsel for the applicants in both these cases and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents in both these cases, are present.

2. Learned Chief Presenting Officer has sought time. Time granted.

3. The present cases be kept along with O.A. No. 13/2022 on the next date. S.O. to 2.3.2022.

MEMBER (A)

ORAL ORDERS 23.2.2022-HDD

MEMBER (J)

**ORIGINAL APPLICATION NO. 547 OF 2019
(Dr. Dinkar N. Joshi Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 23.2.2022

ORAL ORDER :

Heard Shri J.S. Deshmukh, learned counsel for the applicant, Shri N.U. Yadav, learned Presenting Officer for the respondent Nos. 1 to 3. Shri S.V. Deshmukh, learned counsel for respondent No. 4 (**absent**).

2. When the present O.A. is taken up for consideration, the learned counsel appearing for the applicant submits that in present O.A. the prayer of the applicant was in respect of enhancement of his retirement age from 58 years to 60 years on the basis of the G.R., which was holding field at the relevant time. Learned counsel submits that the said G.R. has now been set aside by the Hon'ble High Court and in the circumstances the present O.A. has become redundant. He has, therefore, prayed to dispose of the present O.A.

3. Learned Presenting Officer has submitted for passing appropriate order.

4. In view of the aforesaid submissions made on behalf of both the parties, the O.A. stands disposed of with no order as to costs.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 573 OF 2019
(Dr. Eknath D. Male Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND**

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 23.2.2022

ORAL ORDER :

Shri Shamsunder B. Patil, learned counsel for the applicant, Shri V.R. Bhumkar, learned Presenting Officer for the respondent Nos. 1 & 2 and Shri Avinash S. Deshmukh, learned counsel for respondent No. 3, are present.

2. Learned Presenting Officer has tendered across the bar affidavit in reply on behalf of respondent No. 1 and the same is taken on record and copy thereof has been served on the other side.

3. List the matter for hearing on 31.3.2022.

MEMBER (A)

ORAL ORDERS 23.2.2022-HDD

MEMBER (J)

**ORIGINAL APPLICATION NO. 397 OF 2021
(Abhijeet M. Bhise & Ors. Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND**

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 23.2.2022

ORAL ORDER :

Shri Avinash S. Deshmukh, learned counsel for the applicants and Mrs. Deepali S. Deshpande, learned Presenting Officer for the respondents, are present.

2. Learned Presenting Officer has sought two weeks' time for filing affidavit in reply. Time granted by way of last chance. If the affidavit in reply is not filed on or before the next date, the present O.A. shall be heard without affidavit in reply.

3. S.O. to 14.3.2022.

MEMBER (A)

MEMBER (J)

**C.P.NO. 5/2022 IN O.A.NO. 69/2020
(Suresh G. Tandale Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 23.2.2022

ORAL ORDER :

Heard Shri S.S. Tandale, learned counsel holding for Shri B.R. Kedar, learned counsel for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. Issue notice to respondents, returnable on 31.3.2022.
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 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 31.3.2022.
8. Steno copy and Hamdast is allowed to both parties.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 511 OF 2019
(Sambhaji I. Bhandare Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND**

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 23.2.2022

ORAL ORDER :

Shri Amol A. Kokad, learned counsel for the applicant and Mrs. Deepali S. Deshpande, learned Presenting Officer for the respondents, are present.

2. Learned counsel for the applicant has sought time for filing rejoinder affidavit. Time granted.

3. S.O. to 4.4.2022.

MEMBER (A)

ORAL ORDERS 23.2.2022-HDD

MEMBER (J)

**ORIGINAL APPLICATION NO. 818 OF 2019
(Sonali S. Pansare Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 23.2.2022

ORAL ORDER :

Shri A.V. Thombre, learned counsel holding for Shri S.S. Thombre, learned counsel for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents, are present.

2. Learned counsel for the applicant has sought time to furnish correct address of the respondent Nos. 3 to 47. Time is granted as a most last chance.

3. S.O. to 1.4.2022.

MEMBER (A)
ORAL ORDERS 23.2.2022-HDD

MEMBER (J)

**ORIGINAL APPLICATION NO. 646 OF 2019
(Manoj N. Pande Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND**

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 23.2.2022

ORAL ORDER :

Shri Abhay R. Rathod, learned counsel for the applicant has filed leave note. Mrs. Deepali S. Deshpande, learned Presenting Officer for the respondent Nos. 1 to 3 and Shri K.G. Salunke, learned counsel for himself and holding for Shri V.M. Mane, learned counsel for respondent Nos. 4 to 7, are present.

2. In view of leave note filed by the learned counsel for the applicant, S.O. to 4.4.2022.

MEMBER (A)

ORAL ORDERS 23.2.2022-HDD

MEMBER (J)

Date : 23.2.2022

O.A. 156/2022

**(Dr. Megha D. Deshmukh V/s State of Maharashtra
& Ors.)**

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

1. Shri Avinash S. Deshmukh, 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 17.3.2022. The case be listed for admission hearing on 17.3.2022.
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 : 23.2.2022

O.A. 173/2022

**(Ajay G. Gawane & Anr. V/s State of Maharashtra
& Ors.)**

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

1. Shri V.P. Kadam, learned Advocate for the applicants and Shri S.K. Shirse, learned P.O. for respondents, are present.
2. Circulation is granted. Issue notice to the respondents, returnable on 17.3.2022. The case be listed for admission hearing on 17.3.2022.
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