

Date : 25.06.2020

O.A.No.239 of 2020

Shri P.R. Pawar & Ors.

...Applicants

Versus

The State of Maharashtra & Ors.

...Respondents

1. Heard Shri S.S. Dere, learned Advocate for the Applicants and Shri A.J. Chougule, learned Presenting Officer for the Respondents.

2. The matter is taken out up today for Speaking to Minutes.

3. The O.A. is disposed of by this Tribunal on 18.06.2020 in view of fair submission advanced by learned P.O. that the Applicants will be relieved within 15 days.

4. The matter is taken on today's Board for clarification and correction in Para No.5 of the order. Para No.5 of the order is as follows :-

“5. Today, Shri A.J. Chougule, learned P.O. on instructions from Smt. S.J. Hussien, Sr. Clerk, D.G.P. Office, Mumbai made a statement that Applicants will be relieved from their present post within 15 days so as to join the posting given to them by the Respondent No.1.”

5. Shri A.J. Chougule, learned P.O. submits that the Applicants were required to be relieved by Commissioner of Police, Mumbai, and therefore, reference that he received instructions from Smt. S.J. Hussien, Sr. Clerk, D.G.P. Office, Mumbai is to be corrected. He submits that he had instructions from Shri Sharad Mahabaleshwar Naik, A.C.P, Head Quarter, Police Welfare, Mumbai. He, therefore, requested to modify Para No.5 of the order.

6. In view of this submission, Para No.5 is substituted as follows :-

“5. Today, Shri A.J. Chougule, learned P.O. on instructions from Shri Sharad Mahabaleshwar Naik, A.C.P, Head Quarter, Police Welfare, Mumbai made a statement that Applicants will be relieved from their present post within 15 days so as to join the posting given to them by the Respondent No.1.”

7. Office to do the needful.

**Sd/-
(A.P. Kurhekar)
Member(J)**

skw

Date : 25.06.2020

O.A.No.799 of 2019

Mr. S.R. Sangle

...Applicant

Versus

The State of Maharashtra & Ors.

...Respondents

1. Heard Shri M.B. Kadam, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.
2. Today, the matter is taken on Board by circulation by the Applicant.
3. This O.A. has been filed for appointment on compassionate ground on 14.08.2019. However, no reply is filed by the Respondents though enough time is granted.
4. On 11.12.2019, this Tribunal has passed the specific order for listing the matter for hearing at the stage of admission without reply having found that no reply is filed though enough time is availed by the Respondents.
5. In view of above, the O.A. needs to be heard expeditiously.
6. However, in the meantime, due to Covid-19 pandemic situation, hearing could not be taken and ultimately, the matter is circulated and listed on today's Board.
7. Shri A.J. Chougule, learned P.O. submits that, as the matter is taken up for hearing by circulation today, short date be granted for hearing.
8. In view of above, I am inclined to grant one week time with specific direction that no further time will be granted.
9. S.O. to 2nd July, 2020.

**Sd/-
(A.P. Kurhekar)
Member(J)**

skw

Date : 25.06.2020

O.A.No.123 of 2020

Smt. S.C. Bodhekar

...Applicant

Versus

The State of Maharashtra & Ors.

...Respondents

1. Heard Shri U.V. Bhosale, learned Advocate for the Applicant and Shri A.J. Chougule holding for Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.
2. Today, the learned P.O. has filed Affidavit-in-sur-rejoinder. It is taken on record.
3. On request of learned P.O., one week time is granted for hearing at the state of admission.
4. `S.O. to 2nd July, 2020.

**Sd/-
(A.P. Kurhekar)
Member(J)**

skw

Date : 25.06.2020

O.A.No.985 of 2019

Mrs. Dr. Godbole

...Applicant

Versus

The State of Maharashtra & Ors.

...Respondents

1. Heard Shri K.R. Jagdale, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.
2. The Applicant has filed present O.A. seeking direction to the Respondents to transfer her on the post of Assistant Professor (Hindi) at Government College of Art and Science, Aurangabad considering her treatment of Kidney disease at Aurangabad.
3. Presently, the Applicant is working as Assistant Professor (Hindi) at Ismail Yusuf College, Mumbai where she was transferred by order dated 23.03.2017. Earlier, to transfer, she was posted at Government Science College, Aurangabad and by order dated 23.03.2017, she was transferred to Mumbai. She contends that after joining at Mumbai, she is suffering from serious chronic Kidney disease. According to her, her husband and parent in law reside at Aurangabad, and therefore, she is taking treatment frequently at Aurangabad. She, therefore, made representations to the Government to transfer her at Aurangabad to facilitate the treatment.
4. At one point of time, the then Hon'ble State Minister had also recommended for her transfer to Aurangabad (Page No.17 of P.B.), but thereafter, no formal orders were issued and the matter is kept in cold storage. Thereafter also, she made representation on 21.01.2019 along with Medical Certificates, but the same was not responded. On the contrary, the Government by order dated 17th June, 2019 transferred various other Professors on request, but she was left out (Page No.35 of P.B.). Again, she made representation on 16.07.2019 but in vain. With this pleading, the Applicant approached this Tribunal for direction to Respondents to transfer her to Aurangabad.
5. Respondent No.1 resisted the application by filing reply (Page No.47 of P.B.) *inter-alia* contending that the Applicant had not completed three years tenure at Mumbai, and therefore, she was not transferred. In

Para No.12, the Respondents admit about the mid-term transfer of 13 Assistant Professors on their request. In this behalf, the Respondent-State that those orders were passed by Hon'ble Minister.

6. In view of above, in my considered opinion, the O.A. can be disposed of with suitable direction.

7. True, at the time of representation, the Applicant had not completed 3 years tenure. The O.A. is resisted mainly on the ground that the Applicant had not completed 3 years tenure at the relevant time. However, as of now, the Applicant had already completed more than 3 years tenure at Mumbai in view of her transfer order dated 23.03.2017. As she has already completed 3 years tenure, her request ought to have been considered in general transfer of 2020. However, due to Covid-19 pandemic situation, the Government has decided to not make general transfer in 2020.

8. Indeed, as seen from Page No.17 of P.B. that the then Hon'ble Minister had accepted the request of the Applicant and recommended for transfer of the Applicant to Aurangabad. However, thereafter, no formal orders were issued and the matter was kept in cold storage. Thereafter, the Respondent No.1 had issued various transfer orders on request as seen from transfer order dated 17.06.2019 (page No.35 of P.B.). Thus, apparently, the Applicant is subjected to discrimination. The Respondent No.1 in reply admits mid-term transfer of Assistant Professors, as seen from order dated 17.06.2019. No explanation is forthcoming for not considering the representation of the Applicant and to give similar treatment to her.

9. The material placed on record reveals that the Applicant is suffering from End Stage Renal Disease and on automated peritoneal dialysis at home at Aurangabad.

10. In such situation, it would be appropriate to direct the Applicant to make fresh representation to Respondent No.1 for transfer as she has already completed 3 years tenure at Mumbai and Respondent No.1 shall consider it in appropriate manner having regard to Kidney ailment of the Applicant within reasonable period.

11. In view of above, the O.A. is disposed of with following direction.

(A) The Applicant shall make a fresh representation to Respondent No.1 for transfer on medical ground supported by Medical record within a month from today.

- (B) If any such representation is made by the Applicant, the Respondent No.1 shall pass further appropriate order within two months from the date of receipt of representation.
- (C) The Respondent No.1 may consider the request of the Applicant for transfer in view of hardship faced by her and shall pass appropriate order.
- (D) No order as to costs.

Sd/-
(A.P. Kurhekar)
Member(J)

skw

C.A. No.7 of 2020 in O.A. No.259 of 2019

D.R. Rathod ..Applicant
Vs.
Smt. Prajakta L. Varma
Commissioner, State Excise Dept. ..Respondent

Heard Shri M.B. Kadam, learned Advocate for the Applicant and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondent.

2. The applicant has filed this CA as the order dated 9.8.2019 passed by the Single Bench of the Tribunal in OA No.259 of 2019 giving directions that the applicant be posted in terms of GR dated 3.6.2011 are not complied with by the respondents.

3. Ld. Advocate for the applicant submits that he has served the notice on The Commissioner, State Excise Department.

4. Ld. CPO seeks two weeks time to verify and take instructions from the respondents regarding compliance.

5. S.O. to 9.7.2020.

Sd/-
(P.N. Dixit)
Vice-Chairman
25.6.2020

Sd/-
(Mridula R. Bhatkar, J.)
Chairperson
25.6.2020

(sgj)

O.A. No.286 of 2020

R.Y. Reddiyar

..Applicant

Vs.

The State of Maharashtra & Ors.

..Respondents

Heard Shri S.S. Dere, learned Advocate for the Applicant and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondent.

2. The applicant prays that the respondents be directed to call his service details and consider him for promotion to the post of Superintending Engineer in the Departmental Promotion Committee (DPC). The applicant is at present holding the post of Executive Engineer at Satara. The Ld. Advocate for the applicant submits that the applicant seeks relief from this Tribunal relying on the judgment and order dated 12.2.2020 passed by the Nagpur Bench of this Tribunal in OA No.953/2019 (DB) (Shri Bhagwan P. Kamble Vs. State of Maharashtra & Anr.). He also submits that on the basis of length of service also he seeks the appropriate relief. Ld. Advocate for the applicant states that the applicant has submitted a representation dated 11.3.2020. However, it is not replied by the State.

3. Issue notice returnable on 9.7.2020.

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

5. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Private service is allowed in view of this present COVID-19 Pandemic situation. Respondents are put to

notice that the case would be taken up for final disposal at the stage of admission hearing.

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

7. The service may be done by hand delivery/ speed post/courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week before returnable date or on the same date. Applicant is directed to file affidavit of compliance and notice.

8. However, notice is waived by the respondent no.1 as copy is served on Ld. CPO in the Court and to the officer Shri Abhijeet Dandekar, Clerk, Water Resources Department.

9. Ld. CPO to inform the Tribunal whether the representation dated 11.3.2020 of the applicant is considered and whether any reply is given to the applicant. Whether the DPC is constituted to consider the promotions to the post of Superintending Engineer.

Sd/-
(P.N. Dixit)
Vice-Chairman
25.6.2020

Sd/-
(Mridula R. Bhatkar, J.)
Chairperson
25.6.2020

(sgj)

O.A. No.284 of 2020

Shri A.B. Gadhave ..Applicant
Vs.
The State of Maharashtra & Ors. ..Respondents

Shri D.B. Khaire, learned Advocate for the Applicant
and Ms. S.P. Manchekar, learned Chief Presenting Officer
for the Respondents.

2. S.O. to 21.7.2020.

Sd/-
(P.N. Dixit)
Vice-Chairman
25.6.2020

Sd/-
(Mridula R. Bhatkar, J.)
Chairperson
25.6.2020

(sgj)

O.A. No.597 of 2018

V.B. Panari & Ors.

..Applicants

Vs.

The State of Maharashtra & Ors.

..Respondents

Shri P.J. Gavhane, learned Advocate for the Applicant and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondent.

2. S.O. to 23.7.2020.

Sd/-
(P.N. Dixit)
Vice-Chairman
25.6.2020

Sd/-
(Mridula R. Bhatkar, J.)
Chairperson
25.6.2020

(sgj)

O.A. No.1099 of 2019

P.D. Rupwate & Ors.

..Applicants

Vs.

The State of Maharashtra & Ors.

..Respondents

Shri A.V. Bandiwadekar, learned Advocate for the Applicants and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondent.

2. S.O. to 7.7.2020.

Sd/-
(P.N. Dixit)
Vice-Chairman
25.6.2020

Sd/-
(Mridula R. Bhatkar, J.)
Chairperson
25.6.2020

(sgj)

O.A. No.20 of 2020

N.S. Daud

..Applicant

Vs.

The State of Maharashtra & Ors.

..Respondents

Shri A.V. Bandiwadekar, learned Advocate for the Applicant and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondent.

2. S.O. to 7.7.2020.

Sd/-
(P.N. Dixit)
Vice-Chairman
25.6.2020

Sd/-
(Mridula R. Bhatkar, J.)
Chairperson
25.6.2020

(sgj)

O.A. No.29 of 2020

R.S. Snehekar

..Applicant

Vs.

The State of Maharashtra & Ors.

..Respondents

Shri A.V. Bandiwadekar, learned Advocate for the Applicant and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondent.

2. S.O. to 7.7.2020.

Sd/-
(P.N. Dixit)
Vice-Chairman
25.6.2020

Sd/-
(Mridula R. Bhatkar, J.)
Chairperson
25.6.2020

(sgj)

O.As. No.35 & 62 of 2020

Dr. Dudhabhate B. Tipanna & Ors.

Dr. V.D. Shinde

..Applicants

Vs.

The State of Maharashtra & Ors.

..Respondents

Shri M.D. Lonkar and Shri A.V. Sakolkar, learned Advocates for the Applicants and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.

2. S.O. to 9.7.2020.

Sd/-
(P.N. Dixit)
Vice-Chairman
25.6.2020

Sd/-
(Mridula R. Bhatkar, J.)
Chairperson
25.6.2020

(sgj)

O.As. No.74 & 48 of 2020

P.J. Jamdar & Ors.

S.H. Magdum

Vs.

The State of Maharashtra & Ors.

..Applicants

..Respondents

Shri A.V. Bandiwadekar, learned Advocate for the Applicants and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.

2. S.O. to 9.7.2020.

Sd/-
(P.N. Dixit)
Vice-Chairman
25.6.2020

Sd/-
(Mridula R. Bhatkar, J.)
Chairperson
25.6.2020

(sgj)

O.A. No.104 of 2020

Y.B. Salvi

..Applicant

Vs.

The State of Maharashtra & Ors.

..Respondents

Smt. Punam Majahan, learned Advocate for the Applicant and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondent.

2. S.O. to 23.7.2020.

Sd/-
(P.N. Dixit)
Vice-Chairman
25.6.2020

Sd/-
(Mridula R. Bhatkar, J.)
Chairperson
25.6.2020

(sgj)

O.A. No.178 of 2020

C.T. Chaudhari & Ors.

..Applicants

Vs.

The State of Maharashtra & Ors.

..Respondents

Shri A.V. Bandiwadekar, learned Advocate for the Applicants and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.

2. S.O. to 23.7.2020.

Sd/-
(P.N. Dixit)
Vice-Chairman
25.6.2020

Sd/-
(Mridula R. Bhatkar, J.)
Chairperson
25.6.2020

(sgj)

O.A. No.193 of 2020

S.D. Jaybhaye

..Applicant

Vs.

The State of Maharashtra & Ors.

..Respondents

Shri A.V. Bandiwadekar, learned Advocate for the Applicant and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.

2. S.O. to 23.7.2020.

Sd/-
(P.N. Dixit)
Vice-Chairman
25.6.2020

Sd/-
(Mridula R. Bhatkar, J.)
Chairperson
25.6.2020

(sgj)

O.A. No.276 of 2020

T.B. Gadekar

..Applicant

Vs.

The State of Maharashtra & Ors.

..Respondents

Heard Shri S.S. Dere, learned Advocate for the Applicant and Shri A.J. Chougule learned Presenting Officer for the Respondents.

2. This matter pertains to change in date of birth of the applicant. As per the applicant he was born on 25.6.1964 and the same date was informed by his parents at the time of taking admission in 1st standard. The said school was till 4th standard. While changing the school in 5th standard a mistake was committed and his date of birth was written as 25.6.1962 instead of 25.6.1964. He joined service as Head Master of School in District Latur on 3.4.1993. Thereafter, he made his first representation for correction in date of birth by sending letter to the authority on 27.3.1998 i.e. within five years from the date of entry in service. However, no action was taken on the representation. Therefore, he made further representations and lastly he made representation on 16.3.2020. He is retiring on 30.6.2020. He has moved this OA on 23.6.2020.

3. Ld. PO submits that he needs time to obtain instructions regarding the action taken by the Government or why action was not taken by the Respondent-State. Hence, the matter is now fixed by consent on 30.6.2020.

4. Ld. PO shall come with specific instructions or reply. Concerned officer from the department to remain present. Hamdast allowed. Parties to act on authenticated copy of this order.

5. S.O. to 30.6.2020.

Sd/-
(Mridula R. Bhatkar, J.)
Chairperson
25.6.2020

(sgj)

O.A. No.267 of 2020

Baliram S. Gore

..Applicant

Vs.

The State of Maharashtra & Ors.

..Respondents

Heard Shri K.R. Jagdale, learned Advocate for the Applicant and Miss S.P. Manchekar, learned Chief Presenting Officer for the Respondents.

2. The applicant who is working as Van Majoor in Sanjay Gandhi National Park (SGNP), Borivali, Mumbai has prayed that his true date of birth is 15.8.1969 and the said date is wrongly recorded in his service book as 15.8.1960. As per the pleadings he is illiterate person and therefore as per record he is going to retire on 30.8.2020. Thus, when the pension papers were sent to him he for the first time realized that his date of birth is wrongly recorded in his service book though according to him he is at present only 51 years old. He, therefore, made a representation on 4.12.2019 to the Respondent-The Chief Conservator of Forest and Director, SGNP, Borivali, Mumbai who has observed that due to oversight wrong date of birth i.e. 15.8.1960 is recorded instead of 15.8.1969. However, the representation of the applicant to correct the date of birth is rejected on 9.3.2020 on the ground that applicant's request for correction in date of birth was not made within five years from entry in service.

3. Ld. CPO seeks time to obtain instructions especially to verify the original birth register and communicate to the concerned respondents. Time granted.

4. The matter is fixed on 14.7.2020. The respondents to verify original birth register and take separate photograph of the birth register of village Kayari, Taluka Jawhar, District Palghar. It is further directed that the concerned authority to

compare and go through the said registers of 15.8.1960 & 15.8.1969.

5. Issue notice returnable on 14.7.2020.
6. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need not be issued.
7. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Private service is allowed in view of this present COVID-19 Pandemic situation. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
8. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.
9. The service may be done by hand delivery/ speed post/courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week before returnable date or on the same date. Applicant is directed to file affidavit of compliance and notice.
10. Ld. CPO waives service of notice.

Sd/-
(Mridula R. Bhatkar, J.)
Chairperson
25.6.2020

(sgj)

O.A. No.275 of 2020

V.C. Kumbhar

..Applicant

Vs.

The State of Maharashtra & Ors.

..Respondents

Heard Shri R.M. Kolge, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.

2. The applicant is a Awal Karkun who is suspended on 31.8.2019. It is submitted that his suspension is illegal especially in view of Rule 4(2)(a) of MCS (Discipline & Appeal) Rules, 1979 i.e. deemed to have been placed under suspension because of detention in custody for more than 48 hours.

3. Issue notice returnable on 21.7.2020.

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

5. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Private service is allowed in view of this present COVID-19 Pandemic situation. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

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

7. The service may be done by hand delivery/ speed post/courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week before returnable date or on the same date. Applicant is directed to file affidavit of compliance and notice. Ld. PO waives service of notice.

Sd/-

(Mridula R. Bhatkar, J.)

Chairperson

25.6.2020

(sgj)

O.A. No.285 of 2020

Dr. R.H. Patale

..Applicant

Vs.

The State of Maharashtra & Ors.

..Respondents

Heard Shri A.U. Pawar, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.

2. The applicant who is a Veterinary Doctor is transferred from Borgaon, Taluka Malshiras, District Solapur to Takve, Taluka Shirala, District Sangli on 4.7.2019 and thereafter the said order was reissued on 16.3.2020. As per pleadings the Civil Services Board has accepted the representation to give him posting at nearby place i.e. Akhuj in District Solapur. The said representation has to be accepted by the respondents. Ld. PO seeks time to take instructions. Time granted.

3. Issue notice returnable on 9.7.2020.

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

5. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Private service is allowed in view of this present COVID-19 Pandemic situation. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

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

7. The service may be done by hand delivery/ speed post/courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week before returnable date or on the same date. Applicant is directed to file affidavit of compliance and notice. Ld. PO waives service of notice.

Sd/-

(Mridula R. Bhatkar, J.)

Chairperson

25.6.2020

(sgj)

MA.166/2020 in RA.6/2020 in OA.563/2019

The State of Maharashtra & Ors. ..Applicants
Vs.
Mohd. Husein H. Kacchi ..Respondent

Heard Ms. S.P. Manchekar, learned Chief Presenting Officer for Applicants-original Respondents and Shri M.B. Kadam, learned Advocate for Respondent-original Applicant.

2. Issue notice returnable on 14.7.2020.
3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need not be issued.
4. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of M.A. Private service is allowed in view of this present COVID-19 Pandemic situation. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.
6. The service may be done by hand delivery/ speed post/courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week before returnable date or on the same date. Applicant is directed to file affidavit of compliance and notice.
7. In the meanwhile Ld. CPO mentions that copy of the same would be provided to the original applicant and Shri M.B. Kadam, learned Advocate for the applicant.

Sd/-
(P.N. Dixit)
Vice-Chairman
25.6.2020

(sgj)