

**ORIGINAL APPLICATION NO. 477 OF 2024
(Parvatabai V. Shinde Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Smt. Archana Therokar, learned counsel holding for Shri V.B. Wagh, learned counsel for the applicant and Shri A.P. Basarkar, learned Presenting Officer for the respondent authorities, are present.

2. S.O. to 19.06.2024 for hearing.

MEMBER (J)

SAS ORAL ORDER 25.04.2024

ORIGINAL APPLICATION NO. 481 OF 2024
(Ranjana K. Phulari Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Shri P.D. Suryawanshi, learned counsel for the applicant and Shri D.M. Hange, learned Presenting Officer for the respondent authorities, are present.

2. At the request of learned counsel for the applicant, S.O. to 29.04.2024.

MEMBER (J)

SAS ORAL ORDER 25.04.2024

**ORIGINAL APPLICATION ST.NO. 1010 OF 2024
(Pawan Kisanrao Shelar Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Heard Shri V.B. Wagh, learned counsel for the applicant and Smt. R.S. Deshmukh, learned Presenting Officer for the respondent authorities.

2. The office has raised an objection that the applicant has filed an appeal before the Appellate Authority challenging the suspension order dated 26.03.2024 and the said appeal is pending. Hence, the present Original Application is premature and not maintainable.

3. Learned counsel for the applicant submits that the appeal has been preferred before the Departmental Appellate Authority i.e. the respondent No.2 herein on 09.04.2024 (Annexure 'A-5') and the said appeal is still pending. Learned counsel for the applicant submits that the directions may be given to the Departmental Appellate Authority to decide the said appeal as expeditiously as possible.

//2// O.A.St.1010/2024

4. In view of above, the respondent No.2 is hereby directed to decide the departmental appeal if preferred by the applicant on its own merits as expeditiously as possible preferably within the period of two months from the date of this order. Needless to say that in the event any adverse order is passed in the departmental appeal, the applicant is at liberty to approach this Tribunal by filing the Original Application afresh.

5. The Original Application is accordingly disposed of. No order as to costs.

MEMBER (J)

**ORIGINAL APPLICATION NO. 672 OF 2023
(Ganpat U. Radkar Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Shri A.A. Khande, learned counsel for the applicant and Shri D.M. Hange, learned Presenting Officer for the respondent authorities, are present.

2. At the request of learned P.O., S.O. to 29.04.2024 as a last chance for hearing in **urgent admission category**.

MEMBER (J)

SAS ORAL ORDER 25.04.2024

ORIGINAL APPLICATION NO. 185 OF 2020
(Baliram B. Mahale Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Shri Saket Joshi, learned counsel holding for Shri A.S. Deshmukh, learned counsel for the applicant and Shri A.P. Basarkar, learned Presenting Officer for the respondent authorities, are present.

2. This is a part heard matter.

3. Learned Presenting Officer submits that due to old record, the issue of deemed date of promotion of the applicant could not be decided forthwith and it is still under consideration. Learned P.O. seeks time as a last chance.

4. Learned counsel for the applicant submits that the short adjournment be granted.

5. However, considering the summer vacation and ensuing election, S.O. to 13.06.2024 for further hearing.

MEMBER (J)

ORIGINAL APPLICATION NO. 273 OF 2023
(Savita U. Gaikwad @ Sangita S. Wagh Vs. State of
Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Shri V.G. Salgare, learned counsel for the applicant and Smt. R.S. Deshmukh, learned Presenting Officer for the respondent authorities, are present.

2. This is a part heard matter.

3. At the request of learned counsel for the applicant, S.O. to 06.05.2024 as a last chance for further hearing.

MEMBER (J)

**ORIGINAL APPLICATION NO. 827 OF 2023
(Shashikant N. Deulgaonkar Vs. State of Maharashtra &
Ors.)**

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Shri G.R. Bhumkar, learned counsel holding for Shri R.P. Bhumkar, learned counsel for the applicant and Smt. R.S. Deshmukh, learned Presenting Officer for the respondent authorities, are present.

Shri S.B. Parnere, learned counsel for respondent No.4, is **absent**.

2. At the request of learned counsel for the applicant, S.O. to 01.07.2024 for filing affidavit in rejoinder, if any/for hearing.

MEMBER (J)

**ORIGINAL APPLICATION NO. 931 OF 2023
(Dasrao T. Deshpande Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Shri G.R. Bhumkar, learned counsel holding for Shri R.K. Ashtekar, learned counsel for the applicant and Smt. R.S. Deshmukh, learned Presenting Officer for the respondent authorities, are present.

2. At the request of learned Presenting Officer, time granted for filing affidavit in reply on behalf of respondents.

3. S.O. to 28.06.2024.

MEMBER (J)

ORIGINAL APPLICATION NO. 131 OF 2024
(Sangeeta G. Rathod Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Shri G.V. Mohekar, learned counsel for the applicant and Shri D.M. Hange, learned Presenting Officer for the respondent authorities, are present.

2. At the request of learned P.O., S.O. to 10.05.2024 for filing affidavit in reply on behalf of respondents. The date is suggested by learned P.O.

3. The interim relief granted earlier to continue till then.

MEMBER (J)

**ORIGINAL APPLICATION NO. 376 OF 2024
(Vidya U. Gaikwad Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Shri Saket Joshi, learned counsel holding for Shri A.S. Deshmukh, learned counsel for the applicant and Shri M.B. Bharaswadkar, learned Chief Presenting Officer for the respondent authorities, are present.

2. At the request of learned C.P.O., S.O. to 06.05.2024 for filing affidavit in reply on behalf of respondents. The date is suggested by learned C.P.O.

3. Status quo granted earlier to continue till then.

MEMBER (J)

**ORIGINAL APPLICATION NO. 348 OF 2024
(Shubham W. RamasaneVs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

None present for the applicant. Smt. R.S. Deshmukh, learned Presenting Officer for the respondent authorities and Shri Avinash A. Khande, learned counsel for respondent No.4, are present.

2. At the request of learned P.O. so also learned counsel for respondent No.4, time granted for filing affidavit in reply.

3. S.O. to 09.05.2024.

MEMBER (J)

Later On:-

Shri P.G. Suryawanshi, learned counsel holding for Shri S.B. Talekar, learned counsel for the applicant submits short affidavit of the applicant. The same is taken on record along with spare copy for the respondent No.4 and copy thereof is given to learned P.O. today itself

2. S.O. to 09.05.2024.

MEMBER (J)

ORIGINAL APPLICATION NO. 152 OF 2024
(Sushila R. Mulay & Anr. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Shri D.S. Mutalik, learned counsel for the applicants and Shri A.P. Basarkar, learned Presenting Officer for the respondent authorities, are present.

2. Learned P.O. submits affidavit in reply on behalf of respondent Nos. 1 to 3. The same is taken on record and copy thereof is given to other side.

3. S.O. to 02.07.2024 for filing affidavit in rejoinder, if any and for admission hearing.

MEMBER (J)

**M.A.NO. 604 OF 2019 IN O.A.ST.NO. 2158 OF 2019
(Venkat S. Mundhe Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Shri K.B. Jadhav, learned counsel for the applicant and Shri A.P. Basarkar, learned Presenting Officer for the respondent authorities, are present.

2. At the request of learned Presenting Officer, S.O. to 18.06.2024 for hearing.

MEMBER (J)

SAS ORAL ORDER 25.04.2024

**M.A.NO. 312 OF 2022 IN O.A.ST.NO. 1121 OF 2022
(Dr. Balasaheb M. Kalegore & Ors. Vs. State of Maharashtra
& Ors.)**

WITH

**M.A.NO. 238 OF 2023 IN O.A.NO. 438 OF 2023
(Dr. Dilip C. Godse & Ors. Vs. State of Maharashtra & Ors.)**

WITH

**M.A. 473/2023 IN M.A. 474/2023 IN O.A.ST. 2140/ 2022
(Dr. Gajanan G. Mohalle & Ors. Vs. State of Maharashtra &
Ors.)**

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Shri P.R. Tandale, learned counsel for the applicants in all these cases and Shri D.M. Hange, learned Presenting Officer for the respondent authorities in all these cases, are present.

2. By consent of both the sides, S.O. to 01.07.2024 for hearing.

MEMBER (J)

SAS ORAL ORDER 25.04.2024

**M.A.NO. 119 OF 2024 IN O.A.NO. 219 OF 2022
(Dattu G. Tarate Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Shri Kunal Kale, learned counsel holding for Shri Sandeep Late, learned counsel for the applicant and Shri A.P. Basarkar, learned Presenting Officer for the respondent authorities, are present.

2. At the request of learned counsel for the applicant, S.O. to 02.07.2024 for hearing.

MEMBER (J)

SAS ORAL ORDER 25.04.2024

**1. M.A.NO. 168 OF 2024 IN O.A.NO. 23 OF 2024
(Sachin V. Ingalkar & Ors. Vs. State of Maharashtra & Ors.)**

**2. M.A.NO. 169 OF 2024 IN O.A.NO. 1021 OF 2023
(Priyanka S. Sanap Vs. State of Maharashtra & Ors.)**

**3. M.A.NO. 170 OF 2024 IN O.A.NO. 24 OF 2024
(Vasundhara N. Wahtule & Ors. Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Heard Shri K.B. Jadhav, learned counsel holding for Smt. Suchita Dhongde, learned counsel for the applicants in all these matters and S/Shri D.M. Hange, A.P. Basarkar and Smt. R.S. Deshmukh, respective learned Presenting Officers for the respondent authorities in respective matters.

2. Learned counsel for the applicants in all these matters submits that all the applicants are working in the Water Resources Department from their initial appointments and they never relieved for joining Soil & Water Conservation Department for which the applicants have exercised the options way back in the year 2018.

3. Learned counsel for the applicants submits that the applicants have an apprehension that their

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names may not be included in the seniority list in case if all the applicants are relieved now.

4. In all these matters, the respondents have neither filed any affidavit in reply to the Original Applications nor any say to these Misc. Applications.

5. Learned Presenting Officers appearing in respective matters seek time till 07.05.2024 to file affidavit in reply. Till filing of the reply by the respondents in all the Original Applications and also to these Misc. Applications, the **Status quo as on today shall be maintained.**

6. S.O. to 07.05.2024.

MEMBER (J)

SAS ORAL ORDER 25.04.2024

ORIGINAL APPLICATION NO. 187 OF 2024
(Tushar S. Bhor & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Heard Shri S.B. Solanke, learned counsel for the applicants and Shri A.P. Basarkar, learned Presenting Officer for the respondent authorities.

2. The present Original Application is disposed of finally with the consent of both the parties at the admission stage itself.

3. By way of filing this Original Application, the applicants are seeking directions to the respondent authorities to declare that New Pension Scheme is not applicable to the applicants and they are entitled to get the benefits of Old Pension Scheme, since the applicants are recruited before 01.11.2005.

4. Learned counsel for the applicants submits that in response to the advertisement dated 09.03.2005, both the applicants have submitted application and accordingly, the applicant No. 1 came to be appointed by appointment order dated 30.01.2006 and applicant No. 2 came to be appointed by order dated 29.07.2005, however he was not allowed to join and thereafter by order dated 03.12.2005 he was allowed to join.

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O.A. No. 187/2024

5. Learned counsel for the applicants submits that in view of the recent G.R. dated 02.02.2024 issue by the Finance Department, State of Maharashtra in this regard, the applicants are entitled for the benefits of Old Pension Scheme, if the option is exercised by them for availing the benefits as per Old Pension Scheme. Learned counsel has pointed out that both the applicants have exercised options for benefits of Old Pension Scheme.

6. Learned Presenting Officer submits that the said G.R. dated 02.02.2024 is about exercising the options by the State Government employees either to obtain the Old Pension Scheme or New Pension Scheme, if the advertisement of their recruitment was published prior to 01.11.2005 and they have been recruited on 01.11.2005 and thereafter in response to the said advertisement.

7. Thus in view of issuance of the aforesaid G.R. dated 02.02.2024, the cases of both the applicants are squarely converted and as such, nothing survives for further consideration in this Original Application.

8. The Original Application is accordingly disposed of. No order as to costs.

MEMBER (J)

O.A. Nos. 670, 671, 672 & 673 all of 2021
(Gokul D. Patil & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Shri V.B. Wagh, learned counsel for the applicants in all these O.As. and Shri D.M. Hange, learned Presenting Officer for the respondent authorities in all these O.As., are present.

2. Learned Presenting Officer submits that in all these Original Applications instructions are awaited for filing reply to the short affidavit filed by the applicants.

3. S.O. to 03.07.2024 for filing reply, if any, as a last chance and for hearing.

MEMBER (J)

KPB ORAL ORDER 25.04.2024

ORIGINAL APPLICATION NO. 596 OF 2022
(Kantabai B. Phad Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Shri M.U. Shelke, learned counsel for the applicant and M.A. Golegaonkar, learned counsel for respondent No. 5, are **absent**.

Shri D.M. Hange, learned Presenting Officer for the respondent authorities, is present.

2. As none present for the applicant, S.O. to 04.07.2024 for hearing.

MEMBER (J)

ORIGINAL APPLICATION NO. 987 OF 2022
(Fatema Rahim Beg & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Shri T.K. Rathod, learned counsel for the applicant and Shri A.P. Basarkar, learned Presenting Officer for the respondent authorities, are present.

2. At the request of learned counsel for the applicant, S.O. to 07.05.2024 for hearing.

MEMBER (J)

ORIGINAL APPLICATION NO. 04 OF 2023
(Sunil L. Jadhav Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Shri K.B. Jadhav, learned counsel for the applicant, Shri D.M. Hange, learned Presenting Officer for the respondent authorities and Shri D.T. Devane, learned counsel for respondent No. 4, are present.

2. At the request of learned Presenting Officer, so also learned counsel for respondent No. 4, S.O. to 04.07.2024 for hearing.

MEMBER (J)

KPB ORAL ORDER 25.04.2024

ORIGINAL APPLICATION NO. 170 OF 2023
(Balkrushna M. Joshi Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Shri R.A. Joshi, learned counsel for the applicant and Shri A.P. Basarkar, learned Presenting Officer for the respondent authorities, are present.

2. By consent, S.O. to 04.07.2024 for hearing.

MEMBER (J)

KPB ORAL ORDER 25.04.2024

ORIGINAL APPLICATION NO. 451 OF 2023
(Dr. Vidhya B. Sarpe Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Heard Shri Vishal Rathod, learned counsel holding for Shri Shamsunder B. Patil, learned counsel for the applicant and Shri D.M. Hange, learned Presenting Officer for the respondent authorities.

2. Learned Presenting Officer has placed on record a copy of order dated 27.12.2023. On perusal of the same, it appears that the transfer order of the applicant has been modified and she was retained at District Hospital, Parbhani. Learned P.O. submits that nothing survives for further consideration in the present Original Application, since the grievance raised by the applicant has been redressed to her satisfaction. Copy of the said order is taken on record and marked as document 'X' for identification.

3. Learned counsel for the applicant also accepted the same.

4. In view of above, Original Application is disposed of. No order as to costs.

MEMBER (J)

ORIGINAL APPLICATION NO. 495 OF 2023
(Raziabee Shaikh Mohammed Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Heard Shri Sudhir Patil, learned counsel for the applicant and Shri D.M. Hange, learned Presenting Officer for the respondent authorities for some time.

2. Learned counsel for the applicant seeks time to file short affidavit of the applicant to explain as to whether the first wife of deceased Government employee is survived by any legal heirs and on her death, whether those legal heirs are eligible for family pension to the extent of the share of their mother. Time granted.

3. Part heard.

4. S.O. to 01.07.2024 for further hearing.

MEMBER (J)

ORIGINAL APPLICATION NO. 527 OF 2023
(Vidya A. Mohite Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Heard Shri K.G. Salunke, learned counsel for the applicant and Shri D.M. Hange, learned Presenting Officer for the respondent authorities. Shri U.A. Khekale, learned counsel for respondent Nos. 3 & 4, is **absent**.

2. The present matter is reserved for orders.

MEMBER (J)

KPB ORAL ORDER 25.04.2024

ORIGINAL APPLICATION NO. 596 OF 2023
(Dattu R. Sonawane Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Shri K.B. Jadhav, learned counsel for the applicant and Smt. Resha Deshmukh, learned Presenting Officer for the respondent authorities, are present.

2. Learned counsel for the applicant submits rejoinder affidavit. Same is taken on record and copy thereof is given to learned Presenting Officer today itself.

3. S.O. to 04.07.2024 for hearing.

MEMBER (J)

ORIGINAL APPLICATION NO. 709 OF 2023
(Deepak R. Chavan Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Shri K.B. Jadhav, learned counsel for the applicant, Shri A.P. Basarkar, learned Presenting Officer for the respondent authorities and Shri Saket Joshi, learned counsel holding for Shri Avinash Deshmukh, learned counsel for respondent No. 6, are present.

2. Learned counsel for the applicant submits rejoinder affidavit. Same is taken on record and copy thereof is given to learned Presenting Officer, so also, learned counsel appearing for respondent No. 6.

3. S.O. to 08.05.2024 for hearing.

MEMBER (J)

ORIGINAL APPLICATION NO. 834 OF 2023
(Dr. Balasaheb S. Nagargoje Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Heard Shri A.V. Thombre, learned counsel holding for Shri S.S. Thombre, learned counsel for the applicant and Shri D.M. Hange, learned Presenting Officer for the respondent authorities.

2. By communication dated 12.02.2024, the respondent Government sought two weeks' time to consider the proposal submitted for revocation of suspension of the applicant. However, surprisingly today also learned P.O. is coming with another communication, wherein three/four weeks' time is sought for considering the said proposal. Even affidavit in reply to the Original Application is also not filed.

3. S.O. to 02.05.2024 for hearing.

MEMBER (J)

ORIGINAL APPLICATION NO. 82 OF 2024
(Madhukar R. More Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Shri Sachin Deshmukh, learned counsel for the applicant and Shri D.M. Hange, learned Presenting Officer for the respondent authorities, are present.

2. Learned Presenting Officer submits affidavit in reply on behalf of respondent Nos. 2 and 3 and submits that respondent No. 1 is adopting the affidavit in reply filed on behalf of respondent Nos. 2 & 3. Same is taken on record and copy thereof is given to learned counsel for the applicant today itself.

3. S.O. to 30.04.2024 for hearing.

MEMBER (J)

ORIGINAL APPLICATION NO. 248 OF 2022
(Mogra G. Thakre Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Shri S.S. Kurundkar, learned counsel holding for Shri Ajinkya Mirajgaonkar, learned counsel for the applicant and Shri D.M. Hange, learned Presenting Officer for the respondent authorities, are present. Shri Amit Savale, learned counsel for respondent No. 2, is **absent**.

2. Learned Presenting Officer submits that the original record is received.

3. Learned P.O. is requested to keep original record with him.

4. At the request of learned counsel for the applicant, S.O. to 06.05.2024 for final hearing.

MEMBER (J)

ORIGINAL APPLICATION NO. 231 OF 2023
(Vishwanath A. Diwate Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Shri A.D. Sugdare, learned counsel for the applicant (**Leave Note**). Shri A.P. Basarkar, learned Presenting Officer for the respondent authorities, is present.

2. In view of leave note filed by learned counsel for the applicant, S.O. to 04.07.2024 for final hearing.

MEMBER (J)

KPB ORAL ORDER 25.04.2024

ORIGINAL APPLICATION NO. 278 OF 2023
(Dattatraya V. Gawande Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Shri A.D. Sugdare, learned counsel for the applicant (**Leave Note**). Smt. Resha Deshmukh, learned Presenting Officer for the respondent authorities, is present.

2. In view of leave note filed by learned counsel for the applicant, S.O. to 04.07.2024 for final hearing.

MEMBER (J)

O.A. Nos. 319, 320, 321, 322, 323, 340, 341 & 342 all of 2024

(Shital S. Shinde & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Smt. Archana Therokar, learned counsel holding for Shri V.B. Wagh, learned counsel for the applicants in all these O.As. and Shri D.M. Hange, learned Presenting Officer for the respondent authorities in all these O.As., are present.

2. Learned counsel for the applicants submits rejoinder affidavit in all these Original Applications. Same is taken on record and copy thereof is given to learned Presenting Officer today itself.

3. Learned Presenting Officer submits that today only he has received copy of the rejoinder in all these O.As. and thus seeks time. Time granted.

4. S.O. to 06.05.2024. Interim relief, if any to continue till then.

MEMBER (J)

ORIGINAL APPLICATION NO. 332 OF 2024
(Somnath B. Shinde Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Shri S.S. Kurundkar, learned counsel for the applicant and Shri D.M. Hange, learned Presenting Officer for the respondent authorities, are present.

2. At the request of learned counsel for the applicant, time is granted for filing rejoinder affidavit.

3. S.O. to 06.05.2024. Interim relief, if any to continue till then.

MEMBER (J)

KPB ORAL ORDER 25.04.2024

M.A. No. 31/2023 in O.A. St. No. 89/2023
(Dr. Bhagwan V. Kendre Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Shri Vishal Rathod, learned counsel holding for Shri Shamsunder B. Patil, learned counsel for the applicant and Shri D.M. Hange, learned Presenting Officer for the respondent authorities, are present.

2. Even though the last chance is granted, no affidavit in reply has been filed.

3. List the matter for hearing on 04.07.2024 with liberty to the other side to file affidavit in reply, if any till then.

MEMBER (J)

KPB ORAL ORDER 25.04.2024

ORIGINAL APPLICATION NO. 948 OF 2022
(Vilas B. Patil Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Smt. Vijaya Adkine, learned counsel holding for Shri V.B. Wagh, learned counsel for the applicant and Smt. Resha Deshmukh, learned Presenting Officer for the respondent authorities, are present.

2. Learned counsel for the applicant submits that the applicant has submitted representations on 30.11.2022 and 08.04.2024 and the said representations are still pending before the respondent authorities. Learned counsel submits that purpose of filing of the present Original Application will be served if the directions are given to the respondent authorities to decide the said representations as expeditiously as possible. Those representations submitted during pendency of the present Original Application.

4. Learned Presenting Officer is directed to take specific instructions in this regard.

5. S.O. to 07.05.2024.

MEMBER (J)

ORIGINAL APPLICATION NO. 748 OF 2021
(Prakash B. Potewar Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 25.04.2024

ORAL ORDER :

Heard Shri Sudhir Patil, learned counsel for the applicant and Smt. Resha Deshmukh, learned Presenting Officer for the respondent authorities.

2. Learned counsel for the applicant submits that despite the order passed by this Tribunal on 31.01.2022 directing respondents to continue to pay the applicant provisional pension, which may be payable on the basis of the revised pay fixation, subject to final outcome of the present Original Application, the applicant has not been paid the provisional pension from January 2021.

3. Learned Presenting Officer is directed to take specific instructions in this regard and make appropriate submissions on the next date of hearing.

4. S.O. to 02.05.2024 for final hearing.

MEMBER (J)

M.A.ST.NO. 723/2023 IN O.A.ST.NO. 724/2023
(Pratibha Ashok Atnerkar vs. the State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 25.04.2024

ORAL ORDER :

Shri M.M. Bhokarikar, learned counsel for the applicant (**absent**). Shri V.G. Pingle, learned Presenting Officer for the respondent authorities, is present.

2. Since nobody appears for the applicant, S.O. to 08.07.2024.

MEMBER (A)

VICE CHAIRMAN

ORAL ORDER 25.04.2024-HDD

**M.A.ST. NO 1958/2022 IN M.A.ST. NO. 1611/2022 IN
O.A.ST.NO. 1612/2022
(Fakirchand S. Thorat & Ors. vs. the State of Maharashtra & Ors.)**

**CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)**

DATE : 25.04.2024

ORAL ORDER :

Smt. M.A. Kulkarni, learned counsel for the applicant (**absent**). Shri V.G. Pingle, learned Presenting Officer for the respondent authorities, is present.

2. Since nobody appears for the applicant, S.O. to 08.07.2024.

MEMBER (A)

VICE CHAIRMAN

ORAL ORDER 25.04.2024-HDD

C.P.NO. 33/2024 IN O.A.NO. 677/2022
(Ambrish Kashinath Bhusane vs. the State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 25.04.2024

ORAL ORDER :

Heard Shri Kiran G. Salunke, learned counsel for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondent authorities.

2. Issue simple notice to the respondents, returnable on 02.07.2024.
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 02.07.2024.
8. Steno copy and Hamdast is allowed to both parties.

MEMBER (A)

VICE CHAIRMAN

ORIGINAL APPLICATION NO. 147 OF 2023
(Ajit Anantrao Giri vs. the State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 25.04.2024

ORAL ORDER :

Shri R.V. Sundale, learned counsel for the applicant (**absent**). Shri Mahesh B. Bharaswadkar, learned Chief Presenting Officer for the respondent authorities, is present.

2. Learned Chief Presenting Officer has tendered across the bar affidavit in reply on behalf of respondent Nos. 1 & 2 and the same is taken on record.

3. Since nobody appears for the applicant, S.O. to 08.07.2024.

MEMBER (A)

VICE CHAIRMAN

ORIGINAL APPLICATION NO. 308 OF 2024
(Swamidas Vishwanth Chobe vs. the State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 25.04.2024

ORAL ORDER :

Shri V.B. Wagh, learned counsel for the applicant and Shri M.B. Bharaswadkar, learned Presenting Officer for the respondent authorities, are present.

2. Learned Chief Presenting Officer seeks time to file affidavit in reply. Time granted.
3. S.O. to 24.06.2024.

MEMBER (A)

VICE CHAIRMAN

ORAL ORDER 25.04.2024-HDD

ORIGINAL APPLICATION NO. 293 OF 2024
(Anil Trimbakrao Vangujare vs. the State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 25.04.2024

ORAL ORDER :

Heard Shri V.B. Wagh, learned counsel for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondent authorities.

2. Learned counsel appearing for the applicant has insisted for interim relief. After having gone through the pleadings of the parties and the order impugned in the present O.A. it appears to us that it may not be just and proper to pass any interim relief without hearing and without giving an opportunity to the respondents to file affidavit in reply.

3. Learned counsel appearing for the applicant has invited our attention to the order passed by the Hon'ble High Court in W.P. No. 1672/2022 decided on 05.10.2023 and more particularly paragraph 24 thereof. We have perused the observations made by the Hon'ble High Court. However, the said decision was arrived at by the Hon'ble High Court in the final hearing of the matter. The same procedure needs to be adopted in the present

matter also. The respondents are however, directed to file affidavit in reply without taking any further adjournment on or before the next date.

4. Learned counsel seeks leave of this Tribunal to place on record minutes of the DPC meeting held in the year 2023. Leave granted as prayed for. The copy of the same be given to the learned Presenting Officer.

5. Issue notice to the respondents, returnable on 25.06.2024.

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

7. 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.

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 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.

10. S.O. to 25.06.2024.

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

MEMBER (A)

VICE CHAIRMAN

ORIGINAL APPLICATION NO. 377 OF 2024
(Vasudev Saitan Mahajan vs. the State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 25.04.2024

ORAL ORDER :

Heard Shri Vinod P. Patil, learned counsel for the applicant and Shri M.B. Bharaswadkar, learned Presenting Officer for the respondent authorities.

2. The applicant had applied for the post of Senior Research Officer, Group-A (Grade-2) in pursuance of the advertisement issued on 11.08.2020 by the Maharashtra Public Service Commission i.e. respondent No. 2. The candidature of the applicant has been rejected on the ground that he does not possess the requisite qualification as prescribed in the advertisement. In the advertisement the following educational qualification is prescribed:-

“४.४ शैक्षणिक अर्हता - The candidates must Possess Post – Graduate degree in Social Science or Anthropology.”

3. The applicant is having qualification of M.A. (Marathi). Learned counsel for the applicant has submitted that M.A. (Marathi) is also requisite qualification as prescribed in the advertisement, since it is related to Linguistics and that is very much part of the qualification prescribed in the advertisement. We are unable to accept the submission made on behalf of the applicant. The qualification of M.A. (Marathi) cannot be in any way stated to be qualification prescribed in the advertisement not even the equivalent qualification.

4. In the circumstances, it appears to us that the present is the matter where we need not even to issue notice to the respondents. Hence, the following order: -

ORDER

The Original Application stands summarily rejected. There shall be no order as to costs.

MEMBER (A)

VICE CHAIRMAN

ORIGINAL APPLICATION NO. 378 OF 2024
(Chandrakant Vasanta Belkhede vs. the State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 25.04.2024

ORAL ORDER :

Heard Shri Vinod P. Patil, learned counsel for the applicant and Shri M.B. Bharaswadkar, learned Presenting Officer for the respondent authorities.

2. The applicant had applied for the post of Senior Research Officer, Group-A (Grade-2) in pursuance of the advertisement issued on 11.08.2020 by the Maharashtra Public Service Commission i.e. respondent No. 2. He has been declared ineligible on the ground of not having required or requisite experience as prescribed in the advertisement. It is the contention of the applicant that since he is working on the post of Inspector in the office of Deputy Charity Commissioner at Jalgaon and having regard to the nature of work, which he is performing, his experience deserves to be counted as requisite experience.

3. Learned counsel for the applicant has invited our attention to the certificate dated 30.08.2021 issued in favour of the applicant by the learned Deputy Charity Commissioner, Jalgaon. We have gone through the certificate issued, as well as, the nature of duties, which are annexed along with the said Circular, we deem it appropriate to reproduce the nature of duties as are prescribed for the said post, which read thus: -

“निरीक्षक कर्तव्य सुची (Nature of duties)

१. कार्यालयात दाखल होणा-या तक्रारींची महाराष्ट्र सार्वजनिक विश्वस्त व्यवस्था अधिनियम, १९५० च्या तरतुदीनुसार चौकशी करून संबंधित अधिका-यांकडे चौकशी अहवाल सादर करणे.
२. न्यासांचे निरीक्षण करून अहवाल सादर करणे.
३. शासन संदर्भाचा त्वरीत निपटारा करणे.
४. माननीय जिल्हा न्यायालयात प्रलंबित असणा-या न्यासांच्या प्रकरणांची अदयावत माहिती प्रतिनिधी म्हणून देणे.
५. माननीय उच्च न्यायालय व माननीय जिल्हा न्यायालय यांच्याकडील प्रकरणांबाबत सदयस्थितीची माहिती माननीय धर्मादाय आयुक्त कार्यालय यांच्याकडे सादर करणे.
६. माननीय जिल्हा न्यायालयाशी संबंधित सर्व कामकाज तत्परतेने पार पाडणे.

७. सार्वजनिक न्यासांच्या विरोधात दाखल होणा-या अर्जाची चौकशी करून वरिष्ठांसमोर अहवाल सादर करणे.
८. माननीय धर्मादाय आयुक्त, महाराष्ट्र राज्य, मुंबई व शासनाकडून प्राप्त होणा-या तक्रार अर्जावर कार्यवाही करून त्याबाबतचा अहवाल वरिष्ठांना सादर करणे.
९. धर्मादाय रुग्णालयावर देखरेख व नियंत्रण ठेवणे.
१०. आर्थिक दृष्ट्या दुर्बल घटकांना वैद्यकीय उपचारासाठी मदत करणे.
११. सार्वजनिक न्यासांच्या प्रशासकिय व आर्थिक कामकाजावर नियंत्रण ठेवणे.
१२. सार्वजनिक न्यासांचे वेळोवेळी निरीक्षण करणे.”

4. Having regard to the nature of duties it is difficult to agree with the submissions made on behalf of the applicant that the experience of the applicant working on the aforesaid post is requisite experience as prescribed in the advertisement. Only because some social duties are also being performed by the particular officer, he cannot be said to be having requisite experience as prescribed in the advertisement. The candidate is expected to have experience in the field of tribal, social welfare or tribal research. Work being performed by the applicant in the office of Deputy Charity Commissioner cannot be in any way equated with

the said work. It appears to us that the applicant has not made out any case and his experience has rightly not been considered by the respondents. According to us, present is the case where we need not to even issue notice to the respondents. Hence, the following order: -

ORDER

The Original Application stands summarily rejected. There shall be no order as to costs.

MEMBER (A)

VICE CHAIRMAN

ORIGINAL APPLICATION NO. 379 OF 2024
(Vinod Bhimrao Ghewande vs. the State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND
Shri Vinay Kargaonkar, Member (A)

DATE : 25.04.2024

ORAL ORDER :

Heard Shri Amol B. Chalak, learned counsel for the applicant and Shri M.B. Bharaswadkar, learned Presenting Officer for the respondent authorities.

2. The applicant had applied for the post of Senior Research Officer, Group-A (Grade-2) in pursuance of the advertisement issued on 11.08.2020 by the Maharashtra Public Service Commission i.e. respondent No. 2. He is held ineligible on the ground that he is not possessing the prescribed experience after securing the degree of post-graduation. Admittedly, the applicant has secured the post-graduation degree in the month of March, 2020. Thus, there is no dispute that the applicant is not having the experience as prescribed in the advertisement of the period of 03 years after

securing degree of post-graduation. In the circumstances, the prayer made by the applicant seeking interim relief thereby directing the respondents to call the present applicant also for interview subject to outcome of the present Original Application, is difficult to be accepted. Learned counsel for the applicant thereafter invited our attention to further clauses in Rule 3 and also the provisions under Rule 4. We deem it appropriate to reproduce herein-below the entire rule 3 as well as rule 4, which read thus: -

“3. Appointment to the post of Senior Research Officer shall be made either,-

(a) by promotion of a suitable person from the Commissionerate of Tribal Development, on the basis of Seniority subject to fitness from amongst the persons holding the post of Assistant Project Officer, Research Officer, Administrative Officer and Lecturer, Group-B, having not less than three years regular service in that post, or

(b) by nomination from amongst the candidates who,-

(i) are not more than 35 years of age:

provided that the age limit may be relaxed upto 5 years in case of candidates who are already working in Government service.

(ii) possess a Post-Graduate degree in Social Sciences or Anthropology:

provided that preference may be given to candidate who possess M.Phil. or Ph.D. in Social Science or Anthropology, and

(iii) possess practical experience for a period of not less than three years in any field of tribal, social welfare or tribal research, gained after acquiring the qualifications mentioned in sub-clause (ii).

(iv) have adequate knowledge of Marathi:

provided further that, the upper age limit and required experience may be relaxed by Government on the recommendation of the Commission in favour of candidates having exceptional qualifications.

4. Notwithstanding anything contained in these Rules, if at any stage of selection, the Commission is of the opinion that sufficient number of candidates possessing the requisite higher basic academic qualification and experience are not available to fill up the vacancies reserved for candidates belonging to Backward Class, then the Commission may in the matter of such selection relax the period of experience set out therein and select suitable candidates belonging to such castes or tribes.”

3. Learned counsel for the applicant submits that the applicant belongs to SC category. Learned counsel further submitted that 07 posts are to be filled in for which only 11 candidates have been called for interview.

4. Learned Chief Presenting Officer at this juncture pointed out that in the list of 11 candidates there may be some more candidates, who are likely to be interviewed under the order passed by this Bench as well as Principal Bench at Mumbai and Nagpur Bench of this Tribunal, so the number may be more than 11. The learned counsel emphasized that though the applicant secured degree of post-graduation in the year 2020, prior to that for sufficient number of years he was working in the Tribal Development Department and such experience also needs to be considered while considering the case of the applicant. It is his further contention that according to the instructions received to him from the applicant the SC candidates may not be available in requisite number. It is his contention that in such circumstances, the case of the applicant can be considered. Learned counsel in the circumstances again prayed for giving directions to the respondents to call the present applicant also for interview.

5. Even after having read the aforesaid provisions, we are not inclined to accept the request of the applicant for the reason that the decision in regard to the provision as are read out is to be taken by the MPSC or the recruiting body. We cannot give any mandate. If any such request is made by the applicant, the respondents may consider

the case of the applicant on its own merits, if any such contingency arises.

6. With the above observations, the Original Application stands disposed of however, without any order as to costs.

MEMBER (A)

VICE CHAIRMAN

ORIGINAL APPLICATION NO. 472 OF 2024
(Narhari Uttamrao Nagargoje vs. the State of Mah. & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND

Shri Vinay Kargaonkar, Member (A)

DATE : 25.04.2024

ORAL ORDER :

Heard Shri Ramesh R. Imale, learned counsel for the applicant and Shri V.G. Pingle, learned Presenting Officer for the respondent authorities.

2. It is the grievance of the applicant that though he is entitled to be promoted to the next higher post in the Police Department and though his juniors have been promoted he has not been promoted. Learned counsel pointed out that only prayer made in the present O.A. is that the representation, which the applicant has submitted on 1.11.2023 and which has not yet been decided by the authority concerned, shall be decided.

3. After having gone through the pleadings, it appears to us that on applicant's request he was transferred from Aurangabad District to Beed District and at the relevant time he seems to have been accepted the condition that he will join in the

District of Beed on the post of Police Shipai. Thereafter, no promotion has been given to the applicant. Having regard to the fact that the applicant has submitted representation to the respondents and according to the applicant that representation has not yet been decided, we deem it appropriate to dispose of the present Original Application, without going into the merits of the contentions raised by the applicant, by giving directions to the officer concerned to decide the said representation submitted by the applicant on its own merits. Hence, the following order is passed:-

ORDER

- (i) Respondent No. 4 shall decide the representation submitted by the applicant on 1.11.2023 received in his office on 1.12.2023 on its own merit, if not decided earlier.
- (ii) The Original Application stands disposed of in the above term. There shall be no order as to costs.

MEMBER (A)

VICE CHAIRMAN

ORIGINAL APPLICATION ST. NO. 993 OF 2024
(Emam Najir Mirza vs. the State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman
AND

Shri Vinay Kargaonkar, Member (A)

DATE : 25.04.2024

ORAL ORDER :

Heard Shri R.R. Bangar, learned counsel holding for Shri I.D. Maniyar, learned counsel for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondent authorities.

2. Learned counsel for the applicant on instructions seeks leave to delete prayer clause (D). Leave granted as prayed for. Necessary amendment be carried out forthwith. The objection as has been raised by the Registry thus stands removed.

3. Against the present applicant the disciplinary authority had imposed the following punishment, which we reproduced below as it is in vernacular :-

जा.क्र. आशिका/२०२३/विचौ/मिर्जा/आस्था-अ २०५/ ६२५९ दिनांक : ११ OCT २०२३

वाचा : शासन निर्णय क्र. संकीर्ण २०१४/प्र.क्र.४३/१४/प्रशा-५. दि. ०५.०९.२०१४

आदेश

ज्याअर्थी, श्री. मिर्जा इमाम नजीर, अधिव्याख्याता जिल्हा शिक्षण व प्रशिक्षण संस्था, मुरुड, जि. लातूर या पदावर कार्यरत आहेत. श्री.

मिर्झा यांनी अनधिकृतरित्या एल.एल.बो. पदवी अभ्यासक्रम नियमितपणे पूर्ण केल्यावाचत, त्याच काळात शासनाचे वेतन घेतलेबाबत तसेच त्यांचेविरुद्ध फौजदारी गुन्हे दाखल असलेबाबत तक्रारी प्राप्त झाल्या होत्या.

ज्याअर्थी, श्री. मिर्झा यांचेविरुद्ध प्राप्त सर्व तक्रारींची चौकशी करणोचत राज्य शैक्षणिक संशोधन व प्रशिक्षण परिषद, महाराष्ट्र पुणे यांना निर्देश दिले.

ज्याअर्थी, संचालक, राज्य शैक्षणिक संशोधन व प्रशिक्षण परिषद, महाराष्ट्र पुणे यांनी पत्र क्र ९७२, दि.२४.०२.२०२३ अन्वये या प्रकरणातील प्राथमिक चौकशी अहवाल शिक्षण आयुक्तालयास सादर केला.

ज्याअर्थी, शिक्षण आयुक्तालयाचे ज्ञापन क्र. आशिका/तकार/मिर्झा/२३/आस्था-अ/१०५/३३६२, दि.०२.०६.२०२३ अन्वये श्री. मिर्झा इमाम यांचेविरुद्ध महाराष्ट्र नागरी सेवा (शिस्त व अपील ८ नियम १९७९ च्या नियम १० अन्वये दोषारोपपत्रांचे ज्ञापन बजावून विभागीय चौकशी सुरु करण्यात आली

ज्याअर्थी, श्री. मिर्झा यांनी दि.२१.०६.२०२३ रोजी त्यांचे बचावाचे अभिवेदन प्राचार्य, जिल्हा शिक्षण व प्रशिक्षण संस्था, मुरुड, जि.लातूर यांचेमार्फत शिक्षण आयुक्तालयास सादर केले.

ज्याअर्थी, श्री. मिर्झा यांनी सादर केलेले अभिवेदन हे त्यांचेविरुद्ध बजावण्यात आलेल्या दोषारोपाचे खंडन करण्यास असमर्थनीय आहे.

ज्याअर्थी, म.ना.से. (रजा) नियम १९७९ मधील नियम ८० अन्वये उच्च शिक्षण घेणेसाठी अध्ययन रजेची तरतूद आहे, तसेच शासन निर्णय क्र. टीआरएन-१४८८/१०५३/८३/१२-अ, मंत्रालय, मुंबई-३२ २ नोव्हेंबर १९८८ अन्वये कोणत्याही अभ्यासक्रमास प्रवेश घेण्यापूर्वी शासनाची पूर्वसंमती घेतली पाहिजे अशी तरतूद आहे. यानुसार श्री. मिर्झा यांनी रितसर शासनाची पूर्व परवानगी घेणे, अध्ययन रजा मंजूर करून घेणे आवश्यक होते.

ज्याअर्थी, श्री. मिर्झा यांनी उच्च शिक्षणासाठी शासनाची पूर्व परवानगी न घेता, नियमानुसार सक्षम प्राधिकारी यांचेकडून अध्ययन रजा मंजूर करून न घेता सन २१०८-१९, सन २०१९-२० व सन २०२०-२१ या कालावधीत नियमित तीन वर्षांचे एल.एल.बी. पदवी अभ्यासक्रमास शिवाजी विधी महाविद्यालय, कंधार, नांदेड येथे प्रवेश घेऊन पदवी प्राप्त केली.

ज्याअर्थी, श्री. मिर्झा यांनी त्यांचे दि.२१.०६.२०२३ च्या अभिवेदनानुसार नियमित तीन वर्षांचे एल.एल.बी. पदवी अभ्यासक्रमास प्रवेश घेताना महाविद्यालयास दि.१९.०९.२०१८ रोजी सादर केलेल्या आवेदनामध्ये शासकीय अधिकारी नसल्याचे व त्यांचे उत्पन्न कमी असल्याची खोटी माहिती दिल्याचं कबूल केले आहे.

ज्याअर्थी, श्री. मिर्झा यांनी एल.एल. बी. पदवी अभ्यासक्रमास प्रवेश घेऊन महाविद्यालयात प्रत्यक्ष वर्गास अनुपस्थित असूनही उपस्थित असल्याचे अभिलेख/ खोटी माहिती सादर केली.

ज्याअर्थी, श्री.मिर्झा यांनी त्यांचे दि.२१.०६.२०२३ चे अभिवेदनामध्ये एल.एल.बी. पदवी अभ्यासक्रमाचे सत्र-५ व सत्र-६ ची परीक्षा ऑनलाईन स्वरूपात दिल्याचे नमूद केले आहे. यावरून श्री. मिर्झा यांनी कार्यालयीन कामकाज न करता कार्यालयीन वेळेत परीक्षा दिल्याचे सिध्द होते.

ज्याअर्थी, श्री मिर्झा यांची उक्त संपूर्ण वर्तणूक, विशेषतः खोटी माहिती देऊन उच्च शिक्षणास प्रवेश घेणे, परिक्षेस बसणे, प्रत्यक्ष वर्गास अनुपस्थित असूनही अभिलेख्यांवर उपस्थित दर्शविणे, नियमांचा गैरअर्थ लावणे या सर्व बाबी नैतिक अधःपतन या सदरात मोडतात.

ज्याअर्थी, श्री. मिर्झा यांचेविरुद्धचे दोषारोपांचे स्वरूप व त्याबाबत त्यांनी सादर केलेला खुलासा समर्थनीय नसल्याची बाब विचारात घेऊन संदर्भीय शासन निर्णय व महाराष्ट्र नागरी सेवा (शिस्त व अपोल) नियम नियम १९७९ मधील नियम ६ अन्वये प्राप्त अधिकारानुसार श्री. मिर्झा इमाम नजीर, अधिव्याख्याता, जिल्हा शिक्षण व प्रशिक्षण संस्था, मुरुड, जि. लातूर यांचेवर महाराष्ट्र नागरी सेवा (शिस्त व अपील) नियम १९७९ मधील नियम ५ (१) (दोन) नुसार त्यांचो पदोन्नती, ते जेव्हा

पदोन्नतीस पात्र ठरतील तेंव्हापासून पुढील १० (दहा) वर्षे रोखण्याची, महाराष्ट्र नागरी सेवा (शिस्त व अपील) नियम १९७९ मधील नियम ५ (१) (तीन) नुसार श्री. मिर्झा यांचे उक्त कालावधीत मूळ कामाकडे झालेले दुर्लक्ष विचारात घेता त्या कालावधीचे वेतन शासनाची महसूल हानी म्हणून वसूल करण्याची व महाराष्ट्र नागरी सेवा (शिस्त व अपील) नियम १९७९ मधील नियम ५ (१) (चार) नुसार त्यांची पुढील एक वेतनवाढ त्यापुढील वेतनावाढीवर परिणाम न करता ३ (तीन) वर्षासाठी रोखून धरण्याची शिक्षा आदेशित करण्याचा आयुक्त (शिक्षण), महाराष्ट्र राज्य पुणे यांनी निर्णय घेतला आहे.

त्याअर्थी, आयुक्त (शिक्षण), शिक्षण आयुक्तालय, महाराष्ट्र राज्य, पुणे यांना महाराष्ट्र नागरी सेवा (शिस्त व अपोल) नियम १९७९ मधील नियम ६ अन्वये प्रदान करण्यात आलेल्या शक्तीचा वापर करून या आदेशान्वये श्री. मिर्झा इमाम नजीर, अधिव्याख्याता, जिल्हा शिक्षण व प्रशिक्षण संस्था, मुरुड जि. लातूर यांचेवर महाराष्ट्र नागरी सेवा (शिस्त व अपोल) नियम १९७९ मधील नियम ५ (१) (दोन) नुसार त्यांची पदोन्नती, ते जेंव्हा पदान्तरतीस पात्र ठरतील तेंव्हापासून पुढील १० (दहा) वर्षे रोखण्याची, महाराष्ट्र नागरी सेवा (शिस्त व अपील) नियम १९७९ मधील नियम ५ (१) (तीन) नुसार श्री. मिर्झा यांचे एल.एल.बी अभ्यासक्रमाचा कालावधी सन २०१८-१९, २०१९-२० व २०२०-२१ या कालावधीत मुळ कामाकडे झालेले दुर्लक्ष विचारात घेता त्या कालावधीचे वेतन शासनाची महसूल हानी म्हणून वसूल करण्याची व महाराष्ट्र नागरी सेवा (शिस्त व अपील) नियम १९७९ मधील नियम ५ (१) (चार) नुसार त्याची पुढील एक वेतनवाढ त्यापुढील वेतनावाढीवर परिणाम न करता ३ (तीन) वर्षासाठी रोखून धरण्याची शिक्षा आदेशित करण्यात येत आहे.

सही/-
(सूरज मांडरे, भा.प्र.से.)
आयुक्त, शिक्षण”

4. Against the order of the disciplinary authority the applicant preferred an appeal before the res. no. 01.

Respondent no. 01 while deciding the appeal, though modified the punishment imposed upon the applicant by the disciplinary authority, also made certain observations in the order, thereby observing that the Degree obtained of L.L.B. by the applicant being illegally obtained, the concerned officer shall take further necessary actions against the applicant of getting cancelled his L.L.B. degree by writing to the University or College of which degree is obtained by the applicant.

5. Learned counsel for the applicant pointed out that in view of the observations made as aforesaid the disciplinary authority may initiate a criminal prosecution against the applicant. Learned counsel submitted that there are several other objections raised by the applicant in respect of the orders, which are impugned by the applicant in the present Original Application and the applicant is seeking interim relief, thereby restraining the respondents from initiating criminal prosecution against the applicant till the decision of the present O.A.

6. Shri V.R. Bhumkar, learned Presenting Officer at the first instance has sought time to file affidavit in reply. Learned P.O. submits that for want of instructions from the concerned respondents, it may not be possible for him to make any submission on the facts. Learned P.O., however, further submitted that the objection, which has

been raised by the applicant that the appellate authority passed such an order by which he has enhanced the punishment is however, not revealing from the record. Learned Presenting Officer submitted that in the order passed by the appellate authority he has made certain observations, but has not given any mandate in that regard and in the circumstances, only on apprehension no relief can be granted in faour of the applicant. Learned P.O., therefore, opposed for grant of any interim relief as sought by the applicant.

7. We have duly considered the submissions made on behalf of the applicant and the State authorities. We have also gone through the documents placed on record. The punishment imposed by the disciplinary authority is already reproduced by us hereinabove. As stated above, against the said order an appeal was preferred by the applicant to respondent no. 01 and while deciding it the respondent no. 01 has passed an order of which last 2 paragraphs are material, which read thus:-

“तथापि, आयुक्त (शिक्षण) यांच्याकडील नस्तीमधील उपलब्ध कागदपत्रे शासन प्रचलित नियमामधील तरतुदी विचारात घेता, श्री. मिर्झा यांनी श्री. शिवाजी विधी महाविद्यालय, कंधार, जि. नांदेड व शासनाची दिशाभूल/फसवणूक करून शैक्षणिक सेवाखंड शपथपत्रामध्ये आणि प्रवेश अर्जांमध्ये खोटी/चुकीची माहिती देवून एल.एल.बी. या अभ्यासक्रमाची

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O.A. ST. NO. 993 OF 2024

नियमित पदवी प्राप्त केली असल्याने, महाविद्यालयाकडून सदरची पदवी रद्द करून त्यांच्याविरुद्ध आवश्यक फौजदारी कारवाई करण्याबाबत आयुक्त (शिक्षण), पुणे यांच्यास्तरावरून संबंधिताना सुचना देण्याबाबत कळविणे आवश्यक आहे.

सबब, श्री. मिर्झा यांनी सुनावणीअंती प्रधान सचिव (शालेय शिक्षण व क्रीडा विभाग) यांचेकडे सादर केलेला लेखी व तोंडी युक्तीवाद अंशतः स्विकारार्ह करून, आयुक्त (शिक्षण), पुणे यांनी दि. ११.१०.२०२३ अन्वये दिलेली शिद्दोमध्ये अंशतः बदल करून, “श्री. मिर्झा यांच्या ०३ (तीन) वेतनवाढी त्यापुढील वेतनवाढीवर परिणाम न करता ०३ (तीन) वर्षाकरीता रोखून ठेवण्यात याव्यात”, अशी शिक्षा देण्यात येत आहे.”

8. There cannot be a dispute that the aforesaid order has been passed by respondent no. 01 in an appeal preferred by the applicant. Outwardly, though it appears that respondent no. 01 has not given any such mandate for initiating criminal prosecution against the applicant, the manner in which the observations are made leads to an interference that the subordinate authority shall take the steps as observed in the said paragraph. The question to be considered at this stage is whether in an appeal the respondent no. 01 could have made such observations and have given such directions. Prima-facie, it appears to us that in an appeal the appellate authority i.e. respondent no. 01 could not have enhanced the punishment or awarded the punishment which was not awarded by the disciplinary authority. Had respondent no. 1 independently issued such direction, the matter could have been different. Such an

order passed in the appeal that too without giving an opportunity of hearing to the applicant on the issue of such enhanced punishment, appears not in accordance with law. In the circumstances, we deem it appropriate to pass the following order:-

ORDER

(i) Issue notice to the respondents, returnable on 14.06.2024. **Till then no criminal action shall be initiated against the applicant based on the observations made in the order of appellate authority and if already some steps are taken, no further steps be taken in that regard till filing of affidavit in reply by the respondents and the respondents shall explain why the ad interim order as aforesaid shall not be made absolute.**

(ii) Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

(iii) 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.

(iv) 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.

(v) 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.

(vi) S.O. to 14.06.2024.

(vii) Steno copy and Hamdast is allowed to both parties.

MEMBER (A)

VICE CHAIRMAN

ORIGINAL APPLICATION NO. 485 OF 2024

(Sakaram Gopinath Khandagale vs. the State of Maharashtra & Ors.)

CORAM : Justice Shri P.R. Bora, Vice Chairman

AND

Shri Vinay Kargaonkar, Member (A)

DATE : 25.04.2024

ORAL ORDER :

Heard Shri R.C. Bramhankar, learned counsel for the applicant and Shri Mahesh B. Bharaswadkar, learned Chief Presenting Officer for the respondent authorities.

2. Issue notice to the respondents, returnable on 16.06.2024.

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 16.06.2024.

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

MEMBER (A)

VICE CHAIRMAN