

M.A.NO.46/2021 IN O.A.ST.NO.168/2021
(Dr. Pandit R. Rathod & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 02.06.2021

ORAL ORDER :

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

2. By this application, the applicants are seeking to sue the respondents jointly.

3. Applicants are working as Medical Officer Group (B) under the establishment of respondent no.1 at various Primary Health Centers, Ayurvedic Dispensaries, Primary Health Units in various districts of the State of Maharashtra since last 10 to 15 years till all the Medical Officers Group (B) came to be absorbed as per the Government Notification dated 11-01-2019. The applicants herein are working in the jurisdiction of this Tribunal at various places. They are seeking directions against the respondent authorities to extend the service benefits i.e. annual increments and arrears of annual increments and leave from their initial appointment as Medical Officer Group (B) prior to their absorption as per the Government Notification dated 11-01-2019.

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4. They are seeking the said relief in the light of law laid down by this Tribunal as well as the Hon'ble High Court. The relief sought by all the applicants is of similar nature. M.A. for sue jointly is allowed. In view of the same permission to sue jointly the respondents is granted.

5. M.A. stands disposed of accordingly with no order as to costs.

MEMBER (A)

MEMBER (J)

O.A.ST.NO.168/2021

(Dr. Pandit R. Rathod & Ors. Vs. State of Maharashtra & Ors.)

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

AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 02.06.2021

ORAL ORDER :

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

2. Issue notices to the respondents, returnable on 02.07.2021.

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

4. Applicants are 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

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O.A.ST.NO.168/2021

(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. Applicants are directed to file affidavit of compliance and notice.

7. S.O. to 02.07.2021.

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

MEMBER (A)

MEMBER (J)

M.A.NO.282/2020 IN O.A.ST.NO.1105/2020
(Dr. Swapnil Ajabe & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 02.06.2021

ORAL ORDER :

Heard Shri Jayant S. Deshmukh, learned Advocate for the applicants and Smt. Deepali Deshpande, learned Presenting Officer for the respondents.

2. By this application, the applicants are seeking to sue the respondents jointly.

3. Applicants are working as Medical Officer Group (B) under the establishment of respondent no.1 at various Primary Health Centers, Ayurvedic Dispensaries, Primary Health Units in various districts all over the State of Maharashtra since last 10 to 15 years till all the Medical Officers Group (B) came to be absorbed as per the Government Notification dated 11-01-2019. However, as per Circular dated 21-05-2020 issued by the Hon'ble Chairperson it was notified that in view of the precautionary measures to contain spread of COVID-19 infection the Government of Maharashtra has extended the lockdown upto 31-09-2020 and hence there are no services of transportation like air, rail or bus. Therefore, it was notified that all the Advocates and litigants could file the

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M.A.NO.282/2020 IN O.A.ST.NO.1105/2020

O.As. irrespective of territorial jurisdiction at any of the Maharashtra Administrative Tribunal, benches i.e. Mumbai and its benches at Nagpur and Aurangabad as per their convenience. The applicants herein are working at various places all over the State of Maharashtra. Hence, as per the Circular dated 21-05-2020 they have filed the O.A. before this Tribunal.

4. They are seeking directions against the respondent authorities to extend the service benefits i.e. annual increments and arrears of annual increments and leave from their initial appointment as Medical Officer Group (B) prior to their absorption as per the Government Notification dated 11-01-2019.

5. They are seeking the said relief in the light of law laid down by this Tribunal as well as the Hon'ble High Court. The relief sought by all the applicants is of similar nature. M.A. for sue jointly is allowed. In view of the same permission to sue jointly the respondents is granted.

6. M.A. stands disposed of accordingly with no order as to costs.

MEMBER (A)

MEMBER (J)

O.A.ST.NO.1105/2020

(Dr. Swapnil Ajabe & Ors. Vs. State of Maharashtra & Ors.)

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

AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 02.06.2021

ORAL ORDER :

Heard Shri Jayant S. Deshmukh, learned Advocate for the applicants and Smt. Deepali Deshpande, learned Presenting Officer for the respondents.

2. Issue notices to the respondents, returnable on 02.07.2021.

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

4. Applicants are 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. Applicants are directed to file affidavit of compliance and notice.

7. S.O. to 02.07.2021.

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

MEMBER (A)

MEMBER (J)

C.P.NO.20/2020 IN O.A.NO.326/2019
(Prakash Shinde Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 02.06.2021

ORAL ORDER :

Heard Shri K.G.Salunke, learned Advocate for the applicant and Shri M.S.Mahajan, learned Chief Presenting Officer for the respondent nos.1 & 2.

2. Affidavit in reply filed on behalf of respondent no.2 is taken on record. Copy thereof has been served on the other side.

3. In view of the facts and circumstances of the case, Contempt Petition is kept for hearing at the stage of admission.

4. S.O. to 30.06.2021.

MEMBER (A)

MEMBER (J)

C.P.NO.28/2020 IN O.A.NO.113/2012
(Prakash Shinde Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 02.06.2021

ORAL ORDER :

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

2. Affidavit in reply is already on record. Pleadings are complete.
3. In view of the same petition is fixed for hearing at the stage of admission.
4. S.O. to 01.07.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.223/2020
(Divya Nandi & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 02.06.2021

ORAL ORDER :

Heard Shri S.S.Jadhavar, learned Advocate for the applicant and Shri S.K.Shirse, learned Presenting Officer for the respondents.

2. Record shows that the O.A. is filed on or about June, 2020. Almost one year is passed but no affidavit in reply is filed on behalf of the respondents yet.

3. Learned P.O. requests for final chance to file reply. In the facts and circumstances of the case, time is granted for filing reply till next date without fail.

4. S.O. to 30.06.2021.

MEMBER (A)

MEMBER (J)

**M.A.NO. 587/2019 IN O.A.ST.NO. 1259/2018
(Shaikh Nabi Shaikh Muqbul Vs. State of Maha. & Ors.)**

WITH

**M.A.NO. 595/2019 IN O.A.ST.NO. 1261/2018
(Datta D. Wagmare & Anr. Vs. State of Mah. & Ors.)**

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

DATE : 02.06.2021

ORAL ORDER :

The respective applicants in these two MAs are seeking condonation of delay for filing accompanying OAs. Accompanying OAs are filed challenging the order dated 22.05.2008 granting pay scale w.e.f. 18.03.2008 instead of in terms of Government Resolution dated 29.09.2003.

2. Applicant in O.A. St. No. 1259/2018 came to be appointed on daily wages on 01.08.1982. Applicant Nos. 1 & 2 came to be appointed on daily wages on 22.07.1985 & 14.09.1986 respectively. Thereafter, the applicants were brought on Converted Regular Temporary Establishment i.e. C.R.T.E. as wireless operators in the 1987, 1988 & 1990 respectively. Though the applicants were brought on C.R.T.E., the applicants were paid the salary of original post. Therefore, the question of grant of pay scale according to allotment of work arose. The State Government issued Government Resolution dated 29.09.2003 thereby granting pay scale according to

:: - 2 - :: M.A. No. 587/2019 WITH
M.A. No. 595/2019

allotment of work. The said G.R. contemplates grant of benefits to the employees such as present applicants who are working on higher posts but getting pay scale of their original posts.

3. Applicants state that after the orders passed by this Tribunal in O.A. Nos. 818/2009, 64, 65, 66 & 194 of 2011 which were confirmed up to the Hon'ble Apex Court, the applicants were anticipating that the respondents being a welfare State will take policy decision in favour of other employees like the present applicants and fix and pay the arrears w.e.f. 23.03.2003. The respondents, however, have not done so. The respondent Nos. 1 & 2 in O.A. No. 615/2016 filed reply stating that they will consider such cases for fixation and pay arrears w.e.f. 23.03.2003. The respondents however, have not done so.

4. The applicants are seeking relief belatedly. The delay is not deliberate & intentional. Hence, these MAs for condonation of delay for filing accompanying OAs.

5. Heard Shri V.S. Kadam, learned Advocate for the applicants in both these matters, Smt. Deepali S. Deshpande, learned Presenting Officer for respondents in M.A. No. 587/2019 & Smt. M.S. Patni, learned Presenting Officers for respondent No. 1 and Shri N.U. Yadav, learned Advocate for respondent Nos. 2 & 3 in M.A. No. 595/2019.

6. Considering facts and circumstances, it is evident that applicants in both the matters are seeking relief of fixation of pay and arrears w.e.f. 23.03.2003 as per Government Resolution dated 29.09.2003 and are challenging their pay fixation granting relief prospectively i.e. w.e.f. 22.05.2008. The present OAs are filed on or about 24.07.2018.

7. If the commencement of limitation is taken from 22.05.2008, the delay would be more than 10 years. However, record shows that orders passed by this Tribunal in O.A. Nos. 818/2009, 64, 65, 66 & 194 of 2011 were confirmed by the Hon'ble Apex Court in S.L.P. No. 13623/2012 passed on 24.04.2012. From that date the delay can be said to be of about 7 years. Affidavit in reply of the respondents in O.A. No. 615/2016 would show that the respondents were considering similarly placed cases as that of applicants by putting the proposal before the Cabinet. In view of the same, it appears that the applicants were hopeful and were waiting for favourable result. However, no relief was granted to them. Therefore, they approached this Tribunal belatedly.

8. It is settled principle of law that the expression "sufficient case" is to be construed liberally. From the facts and circumstances of both the cases, it cannot be said that delay caused by the applicants in approaching the Tribunal

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M.A. No. 595/2019

is intentional. Thereby the applicants had nothing to gain. The applicants were hopeful of favourable result. In view of the same in my opinion both these cases are fit to condone the delay by considering the reasons liberally. By condoning the delay, both these matters would be decided on merits. If delay is condoned no irretrievable prejudice would be caused to the respondents. Hence, these are fit cases for condonation of delay. Hence, I proceed to pass the following order: -

ORDER

Both M.A. Nos. 587/2019 & 595/2019 are allowed. Delay caused in filing accompanying OAs is hereby condoned. The office is directed to register both the OAs in accordance with law by taking into consideration other office objections, if any.

There shall be no order as to costs.

MEMBER (J)

**ORIGINAL APPLICATION NO. 252 OF 2020
(Harikishan D. Jadhav Vs. State of Maha. & Ors.)**

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

DATE : 02.06.2021

ORAL ORDER :

Heard Ms. Preeti Wankhade, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for respondent No. 4. Shri Shamsundar B. Patil, learned Advocate for respondent Nos. 1 to 3 (**absent**).

2. Learned Presenting Officer for respondent No. 4 submits that interim order dated 16.02.2021 passed by this Tribunal in this case regarding payment of amount of GPF is complied with. He has placed on record acquaintance roll in that regard. It is taken on record and marked as document 'X' for the purpose of identification. He also placed on record acquaintance roll showing payment of D.A. difference for the period from January, 2019 to June, 2019 paid to the applicant. It is also taken on record and marked as document 'X-1' for the purpose of identification.

3. Learned Advocate for the applicant submits that in spite of order dated 16.02.2021 passed by this Tribunal directing the respondent No. 3 to ensure payment of

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regular pension to the applicant, no compliance of the said order is still made.

4. In view of the above, respondent No. 3 is directed to place on record the status report in respect of compliance of the said order of payment of regular pension by the next date.

5. S.O. to 18.06.2021.

MEMBER (J)

ORAL ORDERS 2.6.2021-HDD

**ORIGINAL APPLICATION NO. 813 OF 2018
(Robinson R. Masih Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 02.06.2021

ORAL ORDER :

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

2. By consent of both the parties, S.O. to 05.07.2021.

MEMBER (A)

MEMBER (J)

**M.A.NO. 116/21 WITH M.A. 237/19 IN O.A.42/14
(State of Maha. & Ors. Vs. Surekha B. Andhale & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 02.06.2021

ORAL ORDER :

Heard Shri M.S. Mahajan, learned Chief Presenting Officer for the applicants in M.A. 116/2021 and Shri S.S. Jadhavar, learned Advocate for the respondents in M.A. 116/2021 (original applicants).

2. Part heard.
3. S.O. to 10.06.2021.

MEMBER (A)

MEMBER (J)

ORAL ORDERS 2.6.2021-HDD

**M.A.ST. 560/21 IN M.A. 121/21 IN C.P. 3/21 IN
O.A. 295/19
(State of Maha. & Ors. Vs. Mah. Rajya Hangami Hivtap
Prayogashala Karmachari Sangathana)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 02.06.2021

ORAL ORDER :

Heard Shri M.S. Mahajan, learned Chief Presenting Officer for the applicants in M.A. St. 560/2021 and Ms. Preeti Wankhade, learned Advocate for the respondents in M.A. St. 560/2021 (original applicant). Shri Vinod Patil, learned Advocate for the intervenor (**absent**).

2. Learned Advocate Ms. Preeti Wankhade for the respondents in M.A. St. 560/21 waives service of notice in this M.A. Learned C.P.O. for the applicant in M.A. St. No. 560/2021 submits that he would serve the copy of this application on the applicant in M.A. No. 121/2021, which is made for joining the applicants therein as intervenors.

3. S.O. to 18.06.2021.

MEMBER (A)

MEMBER (J)

Date : 02.06.2021
M.A. 139/2021 IN O.A. ST. 556/2021
(Namdeo V. Agashe & Another V/s State of
Maharashtra & Ors.)

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

1. Shri Vivek G. Pingle, 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 in M.A., returnable on 6.7.2021. The case be listed for admission hearing on 6.7.2021.
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 : 02.06.2021

**ORIGINAL APPLICATION ST. NO. 529 OF 2021
(Sunil S. Pawar V/s State of Maha. and Ors.)**

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

1. Shri Vithalrao G. Salgare, learned Advocate for the applicant and Shri B.S. Devkar, learned Presenting Officer for respondents, are present.
2. Circulation is granted. Issue notice to the respondents, returnable on 7.7.2021. The case be listed for admission hearing on 7.7.2021.
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