

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

Original Application No.

of 20

DISTRICT

..... Applicant/s

(Advocate

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p align="center">Date: 28.05.2024</p> <p align="center">O.A. No.664 of 2024</p> <p>S.S. JadhavApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <p>1. Heard Smt. Punam Mahajan, learned Advocate for Applicant and Shri A.J. Chougule, learned Presenting Officer for Respondents.</p> <p>2. Learned Advocate for Applicant stated that Applicant who was serving on post of Police Inspector; Saswad Police Station, Pune has been placed under suspension on 24.02.2024 by 'Spl IGP, Kolhapur Range; Kolhapur' based only on directions in Election Commission of India by letter dated 23.02.2024 to 'Chief Secretary Government of Maharashtra'.</p> <p>3. Learned Advocate for Applicant drew attention to contents of Election Commission of India letter dated 23.02.2024 which refers to 'Enquiry Report' jointly submitted by 'Divisional Commissioner, Pune' and 'Special IGP, Kolhapur Range, Kolhapur' on 14.02.2024 about the incidence of 'Theft of Control Unit of EVM' from 'Strong Room' in Pune District.</p> <p>4. Learned Advocate for Applicant mentioned that Applicant who was serving as Police Inspector Saswad Police Station Pune had been held accountable on grounds of gross negligence in not ensuring deployment of adequate security personnel and lack of direct supervision on security arrangements at 'Strong Room</p>

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for EVM' in Pune District but alongwith (i) SDO Purandar (ii) Tahsildar Saswad and (iii) SDPO Bhor who had been suspended earlier on 09.02.2024 and 08.02.2024 based on directions given by Election Commission of India letter dated 06.02.2024 to 'Chief Secretary Government of Maharashtra'.

5. Learned Advocate for Applicant drew attention to the fact that on the day of 'Theft of Control Unit of EVM' from 'Strong Room' in Pune District which occurred on intervening night of 03.04.2024 & 04.04.2024; the Applicant was not even on duty but on sanctioned 'Casual Leave' alongwith permission to suffix 'Public Holiday' on 04.02.2024. Applicant was thus to resume duty as Police Inspector, Saswad Police Station, Pune only on 05.02.2024.

6. Learned Advocate for Applicant contended that Applicant be given immediate relief based on Judgment dated 02.04.2024 in O.A. No. 205/2024 & Ors. by which (i)SDO Purandar; (ii)Tahsildar Saswad, (iii)SDPO Bhor have been reinstated and posted back on their original posts by emphasizing that keeping Applicant under suspension for any longer period will amount to invidious discrimination as recommendations made in 'Enquiry Report' submitted on 14.02.2014 including about Applicant; has already been examined at length in Judgment dated 02.04.2024 in O.A. No. 205/2024 & Ors.

7. Learned PO states that order of suspension of Applicant passed by 'Special IGP, Kolhapur Range Kolhapur' on 24.02.2024 was against the backdrop of directions given by Election Commission of India letter dated 23.02.2024 to 'Chief Secretary Government of Maharashtra' and then mentions that post of Police Inspector Saswad Police Station where the Applicant was serving has since been filled up Order dated 15.03.2024 of 'SP Pune (Rural)'.

8. The suspension of Applicant who was serving on post of Police Inspector, Saswad Police Station, Pune cannot now be allowed to sustain though separately ordered on 24.02.2024 by 'Spl IGP, Kolhapur Range,

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Kolhapur' based on subsequent directions given by Election Commission of India letter dated 23.02.2024 which had principally relied upon 'Enquiry Report' submitted by 'Divisional Commissioner, Pune' and 'Spl IGP, Kolhapur Range, Kolhapur' on 14.02.2024. The 'Enquiry Report' has been examined at length in Judgment dated 02.04.2024 in O.A. No. 205/2024 & Ors. passed by 'Co-ordinate Bench' in which no separate observations have been recorded about culpability of present Applicant in O.A. No. 664/2024. The Applicants in O.A. No. 205/2024 & Ors. have been reinstated and posted back on their earlier posts of (i)SDO Purandar; (ii)Tahsildar Saswad and (iii)SDPO Bhore by Judgment dated 02.04.2024 in O.A. No. 205/2024 & Ors. Hence it would be travesty of justice if suspension order dated 24.02.2024 of Applicant was not to be immediately revoked under 'Rule 3(1)(iii)' of 'Maharashtra Police (Punishment and Appeal) Rules 1956'.

9. The 'Special IGP, Kolhapur Range, Kolhapur' is thus directed to forthwith revoke order of suspension of Applicant dated 24.02.2024 by relying on the applicable findings in Judgment dated 02.04.2024 in O.A. No. 205/2024 & Ors. and its acquiescence by Election Commission of India letter dated 22.04.2024 as recorded in Judgment dated 26.04.2024 of Hon'ble Bombay High Court in WP No. 5768/2024 & Ors.

10. The issue about Applicant being posted back as Police Inspector Saswad Police Station, Pune is however kept upon as appropriate directions can given only on next date by when it can be expected that 'Special IGP Kolhapur Range, Kolhapur' would have taken decision as per above directions to revoke suspension order dated 24.02.2024 of Applicant by invoking provisions of 'Rule 3(1)(iii)' of 'Maharashtra Police (Punishments & Appeals) Rules 1956'.

11. The 'SP Pune (Rural)' nonetheless to convey by next date whether Applicant upon reinstatement by 'Spl IGP, Kolhapur Range, Kolhapur' can be posted back as 'Police Inspector Saswad Police Station' against back drop of temporary posting given to 'Respondent No.6'

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	<p>by Order dated 15.03.2024 as it is without reference to any decision taken by 'PEB' under 'Section 22 J2(a)' of 'Maharashtra Police Act 1951'.</p> <p>12. The office objections, if any, are to be removed and court fees to be paid, if not already paid.</p> <p>13. Issue notice before admission returnable on 07.06.2024.</p> <p>14. Applicant is authorized and directed to serve on Respondent intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Private service is allowed. Respondents are put to notice that the case may be taken up for final disposal at the stage of admission hearing.</p> <p>15. 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.</p> <p>16. By Hand delivery, speed post, courier notice to be served and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.</p> <p>17. In case notice is not collected within seven days or service report on affidavit is not filed three days before returnable date, the Original / Miscellaneous Applications shall be placed on board before the concerned Benches under the caption "for Dismissal" and thereafter on the subsequent date the Original / Miscellaneous Applications shall stand dismissed.</p> <p>18. S.O. to 07.06.2024.</p> <p style="text-align: right;">sd/- (Debashish Chakrabarty) Member (A)</p> <p>AGR</p>

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	<p align="center">O.A. No.659 of 2024</p> <p>S. M. MundheApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <p>1. Heard Shri K.R. Jagdale, learned Advocate for Applicant and Shri A.J. Chougule, learned Presenting Officer for Respondents.</p> <p>2. Learned Advocate for Applicant states that Applicant is now seeking 'Deemed Date' of promotion in cadre of 'Naib Tahsildar' with effect from 22.07.2009; as Applicant has been given 'Deemed Date' of promotion in cadre of 'Circle Officer' with effect from 09.08.2004 to which he was promoted on 01.06.2010.</p> <p>3. Learned Advocate for Applicant further states that Applicant had earlier filed O.A. No. 250/2022 to seek directions for appropriate decision to be taken on his representation dated 06.04.2022. The O.A. No. 250/2022 came to be disposed off on 11.04.2022 with directions to take appropriate decision within 3 Months regarding 'Deemed Date' of promotion to be given to Applicant in cadre of 'Naib Tahsildar'.</p> <p>4. Learned Advocate for Applicant thereupon states that accordingly 'District Collector, Solapur' had communicated to 'Divisional Commissioner, Pune' on 28.04.2023 that claim of Applicant to be granted 'Deemed Date' of promotion in cadre of 'Naib Tahsildar' had been rejected but nonetheless Applicant had subsequently submitted fresh representation in this regard to 'District Collector, Solapur' on 08.09.2023.</p>

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5. Learned Advocate for Applicant then drew attention to proposal which has now been submitted by 'District Collector, Solapur' to 'Divisional Commissioner, Pune' on 26.12.2023 upon examination of the fresh representation of Applicant dated 08.09.2023. The 'District Collector, Solapur' has accordingly submitted to 'Divisional Commissioner, Pune' that Applicant be given 27.06.2011 as 'Deemed Date' of promotion in cadre of 'Naib Tahsildar'.

6. Learned Advocate for Applicant thereupon mentioned that 'Additional Information' has been sought from 'District Collector, Solapur' by 'Divisional Commissioner, Pune' letter dated 08.02.2024 and thus against this back ground seeks expeditious decision about 'Deemed Date' of promotion be given Applicant in cadre of 'Naib Tahsildar'.

7. Learned PO states that there no information is available from office of 'District Collector, Solapur' whether 'Additional Information' has since been submitted with reference to 'Divisional Commissioner, Pune' letter dated 08.02.2024.

8. The 'District Collector, Solapur' has already recommended on 26.12.2023 that Applicant can be granted of 'Deemed Date' of promotion with effect on 27.06.2011 in cadre of 'Naib Tahsildar'.

9. The 'Divisional Commissioner, Pune' is thus directed to expeditiously obtain 'Additional Information' from 'District Collector, Solapur' which has been sought on 08.02.2024. Thereafter; 'Divisional Commissioner, Pune' to diligently re-examine the issue about grant of 'Deemed Date' of promotion to Applicant in cadre of 'Naib Tahsildar' as it has been sought with effect from 22.07.2009 by Applicant but 'District Collector, Solapur' has recommended on 26.12.2023 that it be granted to Applicant with effect from 27.06.2011.

10. The office objections, if any, are to be removed and court fees to be paid, if not already paid.

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	<p>11. Issue notice before admission returnable on 12.06.2024.</p> <p>12. Applicant is authorized and directed to serve on Respondent intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Private service is allowed. Respondents are put to notice that the case may be taken up for final disposal at the stage of admission hearing.</p> <p>13. 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.</p> <p>14. By Hand delivery, speed post, courier notice to be served and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.</p> <p>15. In case notice is not collected within <u>seven</u> days or service report on affidavit is not filed <u>three</u> days before returnable date, the Original / Miscellaneous Applications shall be placed on board before the concerned Benches under the caption "<u>for Dismissal</u>" and thereafter on the subsequent date the Original / Miscellaneous Applications shall stand dismissed.</p> <p>16. S.O. to 12.06.2024.</p> <p style="text-align: right;">sd/- (Debashish Chakrabarty) Member (A)</p> <p>AGR</p>

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	<p>4. The learned Counsel for Applicant then drew attention to contents of Under Secretary, GAD letter dated 15.05.2024 addressed to 'Joint Secretaries/Deputy Secretaries (Establishment)' of all 'Administrative Departments' of Mantralaya inviting Applications to fill up the post of 'Deputy Secretary' in office of 'State Commissioner for Right to Service; Konkan Region'.</p> <p>5. The learned PO states that Applicant was reverted back by GAD Government Order dated 07.05.2024 and accordingly has reported to Rural Development Department on 09.05.2024. Therefore; no 'Interim Relief' should be granted to Applicant on grounds of parity based on Order dated 24.05.2024 in OA No.658/2024.</p> <p>6. The Applicant in OA 658/2024 who was also serving on 'Deputation Post' of 'Deputy Secretary' in office of 'State Chief Commissioner for Right to Service, Mumbai' and had been unilaterally relieved; was granted 'Interim Relief' on 24.05.2024 with directions to join back by setting aside GAD Government Order dated 07.05.2024. The Applicant in present OA No.666/2024 being similarly placed is therefore granted 'Interim Relief' based on 'Principles of Parity' in 'Service Jurisprudence' and permitted to immediately join back on post of 'Joint Secretary' in office of 'State Commissioner for Right to Service, Konkan Region'.</p> <p>7. The case of Applicant also highlights the fact that Under Secretary, GAD letter dated 15.05.2024 addressed to 'Joint Secretaries/Deputy Secretaries (Establishment)' of all 'Administrative Departments' of Mantralaya has been issued by sidestepping provisions of 'Deputy Secretary, Group-A and Section Officer, Group-B (Gazetted) in the office of the Maharashtra State Right to Service Commission, (Recruitment) Rules, 2018' framed under 'Article 309' of 'Constitution of India' especially 'Rule 3' which mentions that <i>"Appointment of Deputy Secretary in office of the Commission by deputation of a suitable person holding the post of Deputy Secretary in any department in Mantralaya or post equivalent to the post of Deputy Secretary in any office under the State Government."</i></p> <p>8. The Under Secretary, GAD letter dated 15.05.2024 invites Applications only from those who are holding posts of 'Deputy Secretary' in 'Administrative Departments' of Mantralaya. Therefore, if such appointment was to be made to 'Deputation Post' of 'Deputy Secretary' in office of 'State Commissioner for Right to Service, Konkan</p>

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	<p>Region' it will be in contravention to provisions of 'Rule 3' which requires equal opportunity to be concurrently accorded to other officers who are serving on "post equivalent to the post of Deputy Secretary in any office of under the State Government".</p> <p>9. The grounds which have now been invoked to relieve Applicant in present O. A. No.666/2024 by GAD Government Order dated 07.05.2024 are identical to grounds on which he had been appointed to 'Deputation Post.' of Deputy Secretary in office of 'State Commissioner for Rights to Service, Konkan Region' by GAD Government Order dated 13.07.2021, as they have not only remained unchanged but have been in conformity with provisions of 'Rule 3' of 'Deputy Secretary, Group-A and Section Officer, Group-B (Gazetted) in the office of the Maharashtra State Right to Service Commission, (Recruitment) Rules, 2018'.</p> <p>10. The guidelines of GAD GR dated 08.06.2023 which are principally about approval of 'Revised Staffing Pattern' and options of 'Methods & Procedures' to fill up posts under establishment of 'State Chief Commissioner for Right to Service, Mumbai' are no doubt to be observed, but while doing so it is imperative that 'Statutory Rules' such as "Deputy Secretary, Group-A and Section Officer, Group-B (Gazetted) in the office of the Maharashtra State Right to Service Commission, (Recruitment) Rules, 2018" and (ii) Maharashtra Civil Servies (Joining Time, Foreign Service and Payments during Suspension, Dismissal and Removal), Rules, 1981' are stringently observed as they have been framed under 'Article 309' of 'Constitution of India'.</p>

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	<p>11. The office objection, if any, are to be removed and court fees to be paid, if not already paid.</p> <p>12. Issue notice before admission returnable on 18.06.2024.</p> <p>13. Applicant is authorized and directed to serve on Respondent intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Private service is allowed. Respondents are put to notice that the case may be taken up for final disposal at the stage of admission hearing.</p> <p>14. 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.</p> <p>15. By Hand delivery, speed post, courier notice to be served and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.</p> <p>16. In case notice is not collected within <u>seven</u> days or service report on affidavit is not filed <u>three</u> days before returnable date, the Original/Miscellaneous Application shall be placed on board before the concerned Benches under the caption "<u>for Dismissal</u>" and thereafter on the subsequent date the Original / Miscellaneous Application shall stand dismissed.</p> <p>17. S.O. to 18.06.2024.</p> <p style="text-align: center;">sd/- (Debashish Chakrabarty) Member (A)</p>

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	<p>Date : 28.05.2024</p> <p>O.A.No.661 of 2024 (DB)</p> <p>Vikram B. JadhwarApplicant Versus The State of Maharashtra & Ors. ...Respondents.</p> <ol style="list-style-type: none"> 1. Heard Shri M. L. Wankhade, learned Counsel for the Applicant through video conference and Shri A. J. Chougule, learned Presenting Officer for the Respondents. 2. The office objection, if any, are to be removed and court fees to be paid, if not already paid. 3. Issue notice before admission returnable on 12.06.2024. 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 O.A. Private service is allowed. Respondents are put to notice that the case may 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. By Hand delivery, speed post, courier notice to be served and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice. 7. In case notice is not collected within <u>seven</u> days or service report on affidavit is not filed <u>three</u> days before returnable date, the Original/Miscellaneous Application shall be placed on board before the concerned Benches under the caption "<u>for Dismissal</u>" and thereafter on the subsequent date the Original / Miscellaneous Application shall stand dismissed. 8. S.O. to 12.06.2024. <p style="text-align: center;">Sd/- (Debashish Chakrabarty) Member (A)</p>

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Date : 28.05.2024

O.A.No.665 of 2024

Dr. Bhagwan A. PawarApplicant

Versus

The State of Maharashtra & Ors. ...Respondents.

1. Heard Smt. Punam Mahajan, learned Counsel for the Applicant and Shri A. J. Chougule, learned Presenting Officer for the Respondents.

2. The office objection, if any, are to be removed and court fees to be paid, if not already paid.

3. Issue notice before admission returnable on 10.06.2024.

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 O.A. Private service is allowed. Respondents are put to notice that the case may 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. By Hand delivery, speed post, courier notice to be served and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

7. In case notice is not collected within seven days or service report on affidavit is not filed three days before returnable date, the Original/ ~~Miscellaneous~~ Application shall be placed on board before the concerned Benches under the caption "for Dismissal" and thereafter on the subsequent date the Original / ~~Miscellaneous~~ Application shall stand dismissed.

8. S.O. to 10.06.2024.

Sd/-
(Debashish Chakrabarty)
Member (A)