

**ORIGINAL APPLICATION NO.108/2021
(Ashok Jujgar Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Shri Bijay Kumar, Member (A)

DATE : 29.07.2021

ORAL ORDER :

Heard Shri Mujahed Hussain, learned Advocate for the applicant and Shri I.S.Thorat, learned Presenting Officer for the respondents.

2. On going through the record it seems that there is delay in filing the O.A. and the Registry has also taken objection on that point.

3. Learned Advocate for the applicant has been advised to file formal M.A. for delay condonation. While doing so, he may like to address discrepancy in respect of dates in annexure A-1 (page 11 of the paper book) and also produce copy of application dated 04-02-2010 along with acknowledgement of office of Executive Engineer, Majalgaon Irrigation Division as claimed by him in Annexure A-4 (page 16 of the paper book).

4. S.O. to 27-08-2021.

MEMBER (A)

ORIGINAL APPLICATION ST. NO.318/2021
(Bhagaji Raut Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Bijay Kumar, Member (A)

DATE : 29.07.2021

ORAL ORDER :

Heard Shri S.D.Dhongde, learned Advocate for the applicant and Shri M.S.Mahajan, learned Chief Presenting Officer for the respondents.

2. Prayer clause is limited to quashing and setting aside the impugned suspension order dated 14-01-2021. It is evident that alternate remedy of appeal available to the applicant under relevant rules has not been exhausted.

3. During the course of arguments learned Advocate for the applicant has submitted that even if the applicant may be making representation to the Registrar of Co-operative Societies by way of exhausting remedy available to him prior to approaching the Tribunal but the Tribunal may take cognizance of the fact that no subsistence allowance is being paid to the applicant and the Tribunal may be pleased to direct the concerned respondent i.e. Divisional Joint-Registrar, Co-operative Societies, Aurangabad to pay subsistence allowance and issue chargesheet in departmental enquiry within prescribed time which has not been done and review suspension as per the rules and G.Rs. However, these points are not appearing in prayer clauses. Therefore, no formal order is being passed on these oral submissions.

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O.A.ST.No.318/2021

4. Learned C.P.O. present during the hearing has stated that he will advise the concerned respondents to take appropriate action in the matter.

5. As the alternate remedy of appeal available to the applicant is not exhausted, the case is not maintainable under Section 20(1) of the Administrative Tribunals Act, 1985. In view of the same, the O.A. deserves to be dismissed. Hence, the O.A. stands dismissed in limine. No order as to costs.

MEMBER (A)

ORIGINAL APPLICATION NO.98/2019
(Pandurang Chandanshiv Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Bijay Kumar, Member (A)

DATE : 29.07.2021

ORAL ORDER :

Heard Shri S.D.Dhongde learned Advocate holding for Shri V.B.Wagh, learned Advocate for the applicant, Smt. M.S.Patni, learned Presenting Officer for the respondent authorities and Shri V.M.Chate learned Advocate for respondent nos.2 and 3.

2. Learned Advocate for the applicant is said to be pre-occupied in hearing before another court.

3. The applicant has prayed through this O.A. for directing respondent nos.2 and 4 to calculate the difference of salary in respect of IV, V, VI pay commission and A.C.P. Scheme/ time bound promotion from the relevant dates like 01-08-2001 till 31-12-2012 and it be paid to the applicant with interest.

4. It has been noted that in O.A.No.719/2016 the Applicant had prayed for following reliefs, in addition to other reliefs:

“(B) It may please be held and declared that the order dated 17-05-2016 (Exhibit A-7) passed by the

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O.A.No.98/2019

respondent no.4 may please be quashed and set aside.

(C) The respondent no.2 may please be directed to disburse the regular pension of the applicant as granted earlier by letter dated 07-07-2015 (Exhibit A-5).

(D) The respondent no.2 and 4 may kindly be directed to pay/release the gratuity amount of Rs.6,22,380/- which is withhold (withheld) by the respondent No.4 with interest to the applicant within stipulated time.

5. This Tribunal was pleased to pass order in O.A.No.719/2016 on 2nd February, 2016 allowing the O.A. in following terms:

“(i) Applicant’s pension be released forthwith and in any case within 15 days from today, and be paid regularly until it is revoked etc. in accordance to provisions of law.

(ii) Fixation of liability to pay interest be done by the respondent No.4 or concerned competent authority laid down/designated and as prescribed as per rules.

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O.A.No.98/2019

(iii) Applicant as well as the learned P.O. should cause service of this order on the concerned respondents.

(iv) Parties are directed to bear own costs.”

6. Above order of the Tribunal were challenged by Respondent No.4 to O.A.No.719/2016 and Respondent No.3 to the present O.A.No.98/2019 by filing a Writ Petition No.9164/2018 before the Hon'ble High Court of Judicature at Bombay, Bench at Aurangabad. The Hon'ble High Court was pleased to pass order on 19th November, 2018, quashing and setting aside the impugned order passed by the Tribunal in O.A.No.719/2016 to the extent clause no.2 thereof. The parties were relegated before the Maharashtra Administrative Tribunal. The parties were directed to appear before the Tribunal on 5th December, 2018 and it was also directed that the Tribunal shall decide the O.A.No.719/2016 afresh on its merits expeditiously.

7. In the background of above facts, it is necessary to first examine rationale of filing O.A.No.98/2019 leaving O.A.No.719/2016 unattended. Parties were advised accordingly.

8. S.O. to 23-08-2021.

MEMBER (A)

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

CORAM : Hon'ble Shri Bijay Kumar, Member (A)

DATE : 29.07.2021

ORAL ORDER :

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

2. Learned P.O. seeks time to file affidavit in reply on behalf of the respondents. Time is granted.
3. S.O. to 24-08-2021.

MEMBER (A)

ORIGINAL APPLICATION NO.83/2021
(Ashok Tonde & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Bijay Kumar, Member (A)

DATE : 29.07.2021

ORAL ORDER :

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

2. Learned P.O. files affidavit in reply on behalf of respondent nos.1 to 5. It is taken on record. Copy thereof has been served on the other side.
3. S.O. to 20-08-2021 for filing rejoinder, if any.

MEMBER (A)

**M.A. 197/2021 in M.A. 198/2021 in O.A. 385/2020
(DilawarKaur R. Singh &Anr.Vs. State of Maharashtra &Ors.)**

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

AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 29.07.2021

ORAL ORDER :

1. The present Misc. Application No. 197/2021 is filed for setting aside the abetment by condoning delay in view of death of original applicant during pendency of the Original Application.

2. The original applicant filed O.A. No. 385/2020 for quashing and setting aside the order dated 30.03.2019 passed by the respondent No. 3 and order dated 28.07.2020 passed by the respondent No. 2. The order dated 30.03.2019 (annexure A-2) is the final order whereby the applicant was compulsorily retired after holding Departmental Enquiry and the order dated 28.07.2020 (Annexure A-4) passed by the respondent No. 2 is the dismissal of administrative appeal, prepared against order dated 30.03.2019.

3. It is the contention of these applicants that they are the heirs and legal representatives of the deceased original applicant, who died on 23.03.2021 during pendency of the O.A. No. 385/2020. However, due to

//2// MA 197/21 in MA 198/21
in OA 385/20

Covid-19 pandemic situation, the applicants could not approach this Tribunal for taking necessary action in this regard. Hence, there is delay of 110 days for making application for setting aside abetment and bringing heirs and legal representatives on record.

4. Heard Shri R.D. Khadap, learned Advocate for the applicants and Shri I.S. Thorat, learned Presenting Officer for the respondents.

5. Death certificate produced on record at Annexure A-1 of M.A. No. 198/2021 shows that original applicant viz. Rajinder Singh Shobha Singh Kolhapure died on 23.03.2021. As per Rule 19 of the Maharashtra Administrative Tribunals (Procedure) Rules, 1988, limitation period for bringing legal representative on record is of 30 days from the date of death. However, there is an order of Hon'ble Apex Court in *sue-motupetition* that limitation period is extended, if the cause of action is arisen during the period from 15.03.2020 to 14.03.2021 and 90 days thereafter. The applicants claim to be heirs and legal representative of the deceased original applicant. Considering nature of the O.A. and the cause of action

//3// MA 197/21 in MA 198/21
in OA 385/20

being arose during pandemic, this is a fit case to condone the delay and set aside the abetment. In the result, we pass following order :-

O R D E R

1. M.A. No. 197/2021 is allowed.
2. The delay in filing the application for setting aside abetment is condoned and the abetment order is quashed and set aside.
3. No order as to costs.

MEMBER (A)

MEMBER (J)

M.A. No. 198/2021 in O.A. No. 385/2020
(DilawarKaur R. Singh &Ors.Vs. State of Maharashtra &Ors.)

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

DATE : 29.07.2021

ORAL ORDER :

Heard Shri R.D. Khadap, learned Advocate for the applicants and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. The present Misc. Application is made by the applicants for bringing themselves on record as heirs and legal representatives of the original applicant, who died during pendency of the O.A. No. 385/2020.

3. By today's order dated 29.07.2021 passed by us in M.A. No. 197/2021 in O.A. No. 385/2020, the delay in filing the application for setting aside abetment order is condoned and the abetment order is quashed and set aside. Considering nature of reliefs sought for in Original Application, right to sue survive in the applicants.

4. In view of the same, it would be just and proper to bring the names of the present Applicants as heirs and legal representatives of the deceased applicant on record in O.A. Accordingly following order:-

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MA 198/21 in
OA 385/20

ORDER

- (1) M.A. No. 198/2021 is allowed.
- (2) The Applicants are permitted to bring their names on record as heirs and legal representatives of the Original Applicant in O.A. No. 385/2020.
- (3) The applicants shall carry out the necessary amendment in the O.A. within a period of two weeks and supply amended copy of the O.A. to other side.
- (4) No order as to costs.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 385 OF 2020
(DilawarKaur R. Singh &Ors.Vs. State of Maharashtra &Ors.)

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

DATE : 29.07.2021

ORAL ORDER :

Heard Shri R.D. Khadap, learned Advocate for the applicants and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. S.O. to 02.09.2021.

MEMBER (A)

MEMBER (J)

KPB ORAL ORDERS 29.07.2021

ORIGINAL APPLICATION NO. 334 OF 2021
(Madhuri B. PanzadeVs. State of Maharashtra &Ors.)

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

DATE : 29.07.2021

ORAL ORDER :

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

2. Issue notices to the respondents, returnable on 27.08.2021.

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

//2// O.A. No. 334/2021

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

7. S.O. to 27.08.2021.

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

9. The present matter be placed on separate board.

MEMBER (A)

MEMBER (J)

M.A. St. No. 843/2021 in O.A. St. No. 844/2021
(Vivekanand V. Auti&Anr.Vs. State of Maharashtra &Ors.)

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

DATE : 29.07.2021

ORAL ORDER :

Heard Shri S.S. Dambe, learned Advocate for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. Learned Advocate for the applicant seeks ad-interim relief in terms of prayer clause 11 (G).

3. In view of the same, matter is kept on 03.08.2021 for passing necessary orders.

MEMBER (A)

MEMBER (J)

C.P. No. 15/2014 in O.A. No. 1128/1999
(Revannath R. LandgeVs. State of Maharashtra &Ors.)

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

DATE : 29.07.2021

ORAL ORDER :

Heard Shri IndranilGodse, learned Advocate holding for Shri Avinash S. Deshmukh, learned Advocate for the applicants and Shri S.B. Bedwal, learned Advocate holding for Shri S.V. Adwant, learned Special Counsel for the respondents.

2. At the request of learned Advocate for the applicant, S.O. to 20.09.2021.

MEMBER (A)

MEMBER (J)

C.P. No. 09/2021 in O.A. No. 527/2012
(Anantrao V. Saudagar Vs. State of Maharashtra &Ors.)

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

DATE : 29.07.2021

ORAL ORDER :

Heard Shri MujahedHussain, learned Advocate for the applicant, Smt. M.S. Patni, learnedPresenting Officer for the respondent No. 1 and Shri D.T. Devane, learned Advocate for respondent No. 2.

2. Learned Advocate for the applicant submits that he has received copy of sur-rejoinder filed on behalf of respondent No. 1.

3. S.O. to 27.08.2021 for hearing.

MEMBER (A)

MEMBER (J)

C.P. No. 02/2020 in O.A. No. 10/2019
(Shridevi M. MahanwarVs. State of Maharashtra &Ors.)

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

DATE : 29.07.2021

ORAL ORDER :

Heard Shri H.P. Jadhav, learned Advocate for the applicants and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant submits that the respondents have not complied with the directions given by this Tribunal on 18.02.2020. Thereafter, the present matter was kept on 17.03.2020 for reporting compliance. However, due to Covid-19 pandemic situation, the matter is remained dormant since more than one year. It was listed before this Bench on 01.07.2021 and on that day, the matter was adjourned at the request of learned Advocate for the applicant.

3. Learned Presenting Officer has placed on record a copy of communication dated 13.03.2020 received from the Assistant Director of Vocational Education and Training Regional Office, Aurangabad, whereby it is stated that the name of the applicant is taken in the waiting list for giving appointment on compassionate

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C.P. 2/2020 in
O.A. 10/2019

ground. Copy of the said communication is taken on record and marked as document 'X' for the purpose of identification. He seeks time for taking instructions from the concerned respondents for further progress in the matter and keeping status report. Time is granted.

4. S.O. to 24.08.20201.

MEMBER (A)

MEMBER (J)

KPB ORAL ORDERS 29.07.2021

ORIGINAL APPLICATION NO. 189 OF 2018
(Dhiraj A. Salve &Anr.Vs. State of Maharashtra &Ors.)

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

DATE : 29.07.2021

ORAL ORDER :

Heard Shri R.O. Awsarmol, learned Advocate for the applicants, Shri N.U. Yadav, learned Presenting Officer for the respondent Nos. 1 to 3 and Shri V.B. Wagh, learned Advocate for respondent Nos. 4 to 8.

2. Record shows that affidavit in reply is filed by the respondent Nos. 1 to 3 and 4 to 8.
3. Learned Advocate for the applicants seeks time for filing rejoinder affidavit. Time granted.
4. S.O. to 02.09.2021.
5. The present matter be placed on separate board.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 278 OF 2021
(Dr. Udaykumar D. Padhye Vs. State of Maharashtra &Ors.)

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

DATE : 29.07.2021

ORAL ORDER :

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

2. Learned Presenting Officer placed on record a copy of communication dated 28.07.2021 received from the respondent No. 1 and sought two weeks' time for filing affidavit in reply. Copy of the said communication is taken on record and marked as document 'X-1' for the purpose of identification.

3. Learned Advocate for the applicant objected the contentions of the learned Presenting Officer and stated that the respondents are deliberately not filing the affidavit in reply and depriving the applicant from ad-interim relief in terms of prayer clause 17 (C), which he is pressing since filing of the present Original Application. The applicant has also placed on record additional short affidavit. Prayer clause 17(C) of the Original Application is as follows:-

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O.A. No. 278/2021

“(C) Pending hearing of final disposal of this application, the respondents may kindly be directed not to proceed with the process of promotion from the cadre of Office Superintendent to the cadre of Administrative Officer pursuant to the information sought for the purpose vide Annexure ‘A-5’ dated 15.06.2021.”

4. In the communication dated 28.07.2021, the respondents have stated that the applicant has taken benefit of disability certificate at the time of his promotion from the post of Senior Clerk to Senior Assistant and in W.P. No. 13136/2017 filed by the applicant in respect of disability certificate, the Hon’ble High Court has been pleased to order not to do further act in the matter.

5. Learned Advocate for the applicant submits that the contentions raised in the communication dated 28.07.2021 are false. He has placed on record a copy of the order passed by the Hon’ble High Court in W.P. No. 13136/2017 on 13.11.2017, whereby ad-interim relief in terms of prayer clause-C of the W.P. is granted. The said prayer clause 19(C) is as follows:-

“(C) Pending hearing and final disposal of this petition, the respondent Nos. 1, 2 & 5 kindly be directed not to take any adverse action against the petitioner, on the basis of

the so-called disability certificate claimed to have been issued by R-4 on 12.04.2017.”

6. During earlier hearing of the present matter, it is transpired that the respondents have followed sealed cover procedure. Learned Advocate for the applicant submits that the said sealed cover procedure is not applicable in this case, as it does not fulfill the criteria laid down in the G.R. dated 30.08.2008, which is already marked as 'X'.

7. In the circumstances as above, in our considered opinion, the affidavit in reply of the respondents was desirable at the earliest. The respondents however, are seeking further time for filing affidavit in reply. In the circumstances, if we do not consider the ad-interim relief prayer as sought by the applicant, it is likely to affect the interest of the applicant adversely. Hence, prayer clause 17 (C) is granted till filing of the affidavit in reply by the respondents.

8. S.O. to 18.08.2021 for filing affidavit in reply of the respondents.

9. The present matter be placed on separate board.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.262 OF 2017

(Shri Trimbak G. PhasleVs. State of Maharashtra & Ors.)

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

AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 29.07.2021

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the Applicantand Shri M.P. Gude,learned Presenting Officer for the Respondents.

2. Record shows that pleadings are completed long back.
3. The matter is already admitted and fixed for final hearing.
4. S.O. to 06.09.2021.

MEMBER (A)

MEMBER (J)

ORAL ORDERS 29.07.2021-SAS

ORIGINAL APPLICATION NO.813 OF 2018

(Shri Robinson R. Masih Vs. State of Maharashtra & Ors.)

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

AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 29.07.2021

ORAL ORDER :

Heard Shri N.B. Narwade, learned Advocate for the Applicant and Shri D.R. Patil, learned Presenting Officer for the Respondents.

2. S.O. to 10.08.2021 for final hearing. The matter be treated as part heard.

MEMBER (A)

MEMBER (J)

ORAL ORDERS 29.07.2021-SAS

ORIGINAL APPLICATION NO.372 OF 2018

(Shri Shankar J. Khedkar Vs. State of Maharashtra & Ors.)

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

AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 29.07.2021

ORAL ORDER :

Heard Shri S.D. Munde, learned Advocate for the Applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the Respondent Nos.1 to 3. None present on behalf of the Respondent Nos.4 to 6 though duly served.

2. Learned Advocate for the Applicant submits that Hon'ble Division Bench presided over by Hon'ble Chairperson by order dated 12.02.2021 directed the Respondents to consider the case of all the Applicants after taking into account the ratio laid down by Hon'ble Supreme Court in the matter of **SauravYadav&Ors. Vs. State of Uttar Pradesh & Ors, (2019) 14 SCC 692** decided on 18.12.2020.

3. The Hon'ble bench also invited attention of the Respondents to the decision taken by the principal bench in **T.A.No.01/2016 (W.P.115/2016) Shri A.G. SanapVs. State of Maharashtra & Others** decided on 12.02.2021.

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O.A.372/2018

4. After receiving the original record, the matter is being circulated and it is before us today.
5. Learned C.P.O. for the Respondents submits that he would take instructions from the Respondents as regards the progress in respect of the directions issued by this Tribunal in order dated 12.02.2021 and would place status report by next date.
6. Learned C.P.O. further seeks leave of this Tribunal to file requisite additional affidavit. Time is granted.
7. S.O. to 07.09.2021.

MEMBER (A)

MEMBER (J)

ORAL ORDERS 29.07.2021-SAS

ORIGINAL APPLICATION NO.47 OF 2019

(Shri Suresh M. JaybhayeVs. State of Maharashtra & Ors.)

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

AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 29.07.2021

ORAL ORDER :

Heard Shri S.D. Munde, learned Advocate for the Applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the Respondent Nos.1 &2. Shri S.C. Arora, learned Advocate for the Respondent No.4 is **absent**. None appears for respondent Nos.3 and 5.

2. Learned Advocate for the Applicant submits that Hon'ble Division Bench presided over by Hon'ble Chairperson by order dated 12.02.2021 directed the Respondents to consider the case of all the Applicants after taking into account the ratio laid down by Hon'ble Supreme Court in the matter of **SauravYadav&Ors. Vs. State of Uttar Pradesh & Ors, (2019) 14 SCC 692** decided on 18.12.2020.

3. The Hon'ble bench also invited attention of the Respondents to the decision taken by the principal bench in **T.A.No.01/2016 (W.P.115/2016) Shri A.G. SanapVs. State of Maharashtra & Others** decided on 12.02.2021.

4. After receiving the original record, the matter is being circulated and it is before us today.
5. Learned P.O. for the Respondents submits that he would take instructions from the Respondents as regards the progress in respect of the directions issued by this Tribunal in order dated 12.02.2021 and would place status report by next date.
6. Learned P.O. further seeks leave of this Tribunal to file requisite additional affidavit. Time is granted.
7. S.O. to 07.09.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.517 OF 2018

(Pooja B. PansareVs. State of Maharashtra & Ors.)

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

AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 29.07.2021

ORAL ORDER :

Heard Shri S.D. Munde, learned Advocate for the Applicant, Shri I.S. Thorat, learned Presenting Officer for the Respondent Nos.1 to 3 and Shri IndranilGodse, learned Advocate holding for Shri Avinash S. Deshmukh, learned Advocate for the Respondent Nos.4 to 7.

2. Learned Advocate for the Applicant submits that Hon'ble Division Bench presided over by Hon'ble Chairperson by order dated 12.02.2021 directed the Respondents to consider the case of all the Applicants after taking into account the ratio laid down by Hon'ble Supreme Court in the matter of **SauravYadav&Ors. Vs. State of Uttar Pradesh & Ors, (2019) 14 SCC 692** decided on 18.12.2020.

3. The Hon'ble bench invited attention of the Respondents to the decision taken by the principal bench in **T.A.No.01/2016 (W.P.115/2016) Shri A.G. SanapVs. State of Maharashtra & Others** decided on 12.02.2021.

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O.A.517/2018

4. After receiving the original record, the matter is being circulated and it is before us today.
5. Learned P.O. for the Respondents submits that he would take instructions from the Respondents as regards the status in respect of the directions issued by this Tribunal in order dated 12.02.2021.
6. Learned P.O. further seeks leave of this Tribunal to file requisite additional affidavit. Time is granted.
7. S.O. to 07.09.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.569 OF 2018

(Shri Prashant A. Borge Vs. State of Maharashtra & Ors.)

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

AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 29.07.2021

ORAL ORDER :

Heard Shri S.S. Ware, learned Advocate for the Applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the Respondents.

2. Learned P.O. for the Respondents submits that she would file short affidavit as per earlier direction during the course of the day.

3. S.O. to 01.09.2021.

MEMBER (A)

MEMBER (J)

T.A.NO.01/2018 (W.P.NO.15249/2017)

(Chanda R. HingoleVs. State of Maharashtra & Ors.)

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

AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 29.07.2021

ORAL ORDER :

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

2. It is submitted by both the parties that on the website the next date of this matter was wrongly shown as 29.08.2021 instead of 29.07.2021.

3. Learned P.O. submits that the he has communicated the said date of 29.08.2021 to the Respondents and hence, today, the affidavit-in-sur-rejoinder is not ready.

4. In the circumstances, now the matter is fixed on 17.08.2021 for filing affidavit-in-sur-rejoinder, if any by the Respondents.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.204 OF 2021

(Shri Ganesh G. Jaybhaye&Ors.Vs. State of Maharashtra & Ors.)

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

AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 29.07.2021

ORAL ORDER :

Heard Shri S.D. Dhongde, learned Advocate for the Applicants and Shri B.S. Deokar, learned Presenting Officer for the Respondents.

2. S.O. to 10.08.2021 for hearing.

MEMBER (A)

MEMBER (J)

ORAL ORDERS 29.07.2021-SAS

**M.A.NO.201/2021 IN M.A.NO.159 OF 2021 IN
O.A.NO.115 OF 2018**

**(Shri Nagnath G. Savant &Anr.Vs. State of Maharashtra &
Ors.)**

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

DATE : 29.07.2021

ORAL ORDER :

Heard Shri S.D. Joshi, learned Advocate for the Applicants and Shri D.R. Patil, learned Presenting Officer for the Respondent Nos.1 & 2. Shri Ajay S. Deshpande, learned Advocate for the Respondent No.3 is **absent**.

2. By consent of both the parties the matter is adjourned to 05.08.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.299 OF 2021

(Shri Nagorao W. BhaleraoVs. State of Maharashtra & Ors.)

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

AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 29.07.2021

ORAL ORDER :

Heard Shri M.B. Sandanshiv, learned Advocate for the Applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the Respondent Nos.1 to 4.

2. Shri S.S. Ware, learned Advocate has filed VAKALATNAMA on behalf of Respondent Nos.5 & 6. The same is taken on record.

3. At the request made on behalf of the Respondents, time is granted for filing affidavit-in-reply.

4. S.O. to 06.09.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.307 OF 2021

(Smt. Vaishali K. KordeVs. State of Maharashtra & Ors.)

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

AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 29.07.2021

ORAL ORDER :

Heard Shri Jayant S. Deshmukh, learned Advocate for the Applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the Respondents.

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

3. S.O. to 02.09.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.208 OF 2021

**(Shri Dnyaneshwar B. Biradar&Ors.Vs. State of Maharashtra
& Ors.)**

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

AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 29.07.2021

ORAL ORDER :

Heard Shri S.B. Solanke, learned Advocate for the Applicants and Smt. Deepali S. Deshpande, learned Presenting Officer for the Respondents.

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

3. S.O. to 24.08.2021.

MEMBER (A)

MEMBER (J)

C.P.NO.13 OF 2021 IN O.A.NO.797 OF 2019

**(Maharashtra
RajyaRekhachitraShakhaKarmachariSanghatana,
MaharashtraRajyaVs. State of Maharashtra & Ors.)**

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

AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 29.07.2021

ORAL ORDER :

Heard Shri Avinash S. Khedkar, learned Advocate for the Applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the Respondent No.4.

2. Record shows that as on today the Respondent Nos.1 &6 are unserved.

3. Learned Advocate for the Applicant submits that the Respondent No.6 namely Shri Venugopal Reddy in the petition is transferred.

4. In view of the same, he seeks leave of this Tribunal to bring on record the name of new person holding the post of Respondent No.6. Leave as prayed for is granted.

5. Learned C.P.O. for the Respondent No.4 submits that his part of the order in question is complied with by the Respondent No.4 by issuing the G.R. dated 22.07.2021. He places said G.R. on record. It is marked as document 'X' for the purpose of identification. He now seeks direction of

//2//

C.P.No.13/2021 IN O.A.No.797/2019

this Tribunal for deletion of name of Respondent No.4 from the array of respondents in C.P.

6. Learned Advocate for the Applicant has no objection.
7. In view of the same the name of Respondent No.4 is deleted.
8. Learned Advocate for the Applicant seeks fresh notice to Respondent No.1.
9. Learned C.P.O. appearing on behalf of Respondent No.1 submits that the Respondent No.1 is in the process of complying the order in question of which Contempt Application is alleged. He places on record communication dated 12.07.2021 received from the Respondent No.1. It is marked as document 'X-1' for the purpose of identification.
10. In view of the same, the learned C.P.O. submits that no fresh notice is required to be issued against the Respondent No.1.
11. Learned Advocate for the Applicant concedes for the same.
12. Learned C.P.O. submits that he would take necessary instructions from other Respondents.
13. S.O. to 01.09.2021.

MEMBER (A)

ORAL ORDERS 29.07.2021-SAS

MEMBER (J)

C.P.NO.22 OF 2020 IN O.A.NO.237 OF 2020
(Shri Datta A. ChekeVs. State of Maharashtra & Ors.)

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

DATE : 29.07.2021

ORAL ORDER :

Shri Panditrao S. Anerao, learned Advocate for the Applicant is **absent**.

Heard Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the Respondents.

2. As none present on behalf of the Applicant, S.O. to 08.09.2021.

MEMBER (A)

MEMBER (J)

ORAL ORDERS 29.07.2021-SAS

C.P.NO.21 OF 2020 IN O.A.NO.236 OF 2020

(Shri Prakash U. HasnbadeVs. State of Maharashtra & Ors.)

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

AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 29.07.2021

ORAL ORDER :

Shri Panditrao S. Anerao, learned Advocate for the Applicant is **absent**.

Heard Shri N.U.Yadav, learned Presenting Officer for the Respondents.

2. As none present on behalf of the Applicant, S.O. to 08.09.2021.

MEMBER (A)

MEMBER (J)

ORAL ORDERS 29.07.2021-SAS

ORIGINAL APPLICATION NO.445 OF 2019

(Mangal P. Musande&Ors.Vs. State of Maharashtra & Ors.)

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

AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 29.07.2021

ORAL ORDER :

Shri Vishnu Dhoble,learned Advocate for the Applicantsand Shri SachinDeshmukh, learned Advocate for the Respondent Nos.3&4 are **absent**.

Heard Shri V.R. Bhumkar, learned Presenting Officer for the Respondent Nos.1 to 2.

2. Record shows that affidavit-in-reply is filed on behalf of Respondent Nos.3 & 4.
3. Today the matter was fixed for filing affidavit-in-reply on behalf of the Respondent Nos.1 & 2.
4. Learned P.O. on instruction submits that the contesting Respondent Nos.3 & 4 have filed their affidavit-in-reply and hence the affidavit-in-reply of Respondent Nos.1 & 2 is not necessary.
5. In view of above, S.O. to 07.09.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.446 OF 2019

(Shridevi G. Dama&Ors.Vs. State of Maharashtra & Ors.)

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

AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 29.07.2021

ORAL ORDER :

Shri Vishnu Dhoble, learned Advocate for the Applicants and Shri SachinDeshmukh, learned Advocate for the Respondent Nos.4 & 5 are **absent**.

Heard Shri S.K. Shirse, learned Presenting Officer for the Respondent Nos.1 to 3.

2. Record shows that affidavit-in-reply is filed on behalf of the Respondent Nos.4&5.
3. Today the matter was fixed for filing affidavit-in-reply on behalf of the Respondent Nos.1 to 3.
4. Learned P.O. on instruction submits that the contesting Respondent Nos.4&5have filed their affidavit-in-reply and hence the affidavit-in-reply of Respondent Nos.1 to3 is not necessary.
5. In view of above, S.O. to 07.09.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.67 OF 2018

(Dr. Mohd. FerozIqbalVs. State of Maharashtra & Ors.)

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

AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 29.07.2021

ORAL ORDER :

Shri K.G. Salunke, learned Advocate for the Applicant is **absent**.

Heard Shri B.S. Deokar, learned Presenting Officer for the Respondents.

2. Today the matter was fixed for filing affidavit-in-reply on behalf of the Respondent No.1.

3. Learned P.O. on telephonic instruction submits that the affidavit-in-reply is filed by contesting Respondents i.e. Respondent Nos. 2 & 3 and hence, the affidavit-in-reply of Respondent No.1 is not necessary.

4. In view of above, S.O. to 06.09.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 319/2021
(NetajiGorobaShindeVs. the State of Maharashtra &Ors.)

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

DATE : 29.7.2021

ORAL ORDER :

Heard Ms. MadhaviAyyappan, learned Advocate holding for Shri S.B. Talekar, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. Learned Presenting Officer has filed affidavit in reply on behalf of the respondents and the same is taken on record and copy thereof has been served on the learned Advocate for the applicant.

3. At the request of learned Advocate for the applicant, S.O. to 26.8.2021 for filing rejoinder affidavit, if any.

MEMBER (J)

ORAL ORDERS 29.7.2021-HDD

**M.A.NO. 201/2020 IN O.A.ST.NO. 464/2020
(Satish S. GugaleVs. the State of Maharashtra &Ors.)**

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

DATE : 29.7.2021

ORAL ORDER :

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

2. At the request of learned Advocate for the applicant, S.O. to 23.8.2021.

MEMBER (J)

ORAL ORDERS 29.7.2021-HDD

ORIGINAL APPLICATION NO. 103/2021
(Dr. Harishandra T. KokaniVs. the State of Maha. &Ors.)

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

DATE : 29.7.2021

ORAL ORDER :

Heard Shri S.D. Joshi, learned Advocate for the applicant, Shri S.K. Shirse, learned Presenting Officer for the respondent Nos. 1 & 2 and Shri Rakesh N. Jain, learned Advocate for respondent No. 3.

2. Learned Advocate for the respondent No. 3 has filed affidavit in reply on his behalf and the same is taken on record and copy thereof has been served on the other side.

3. Learned Presenting Officer seeks time for filing affidavit in reply on behalf of respondent Nos. 1 & 2.

4. Learned Advocate for the applicant has taken objection for granting time to the respondent Nos. 1 & 2 for filing affidavit in reply.

5. In view of above, time is granted as a last chance to the respondent Nos. 1 & 2 for filing affidavit in reply.

6. S.O. to 12.8.2021.

MEMBER (J)

ORIGINAL APPLICATION NO. 66 OF 2021
(Gajendra T. PatilVs. the State of Maha. &Ors.)

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

DATE : 29.7.2021

ORAL ORDER :

Heard Shri S.R. Patil, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. Learned Chief Presenting Officer has filed affidavit in reply on behalf of respondent Nos. 1 to 4 and the same is taken on record and the copy thereof has been served on the learned Advocate for the applicant.

3. S.O. to 02.09.2021.

MEMBER (J)

ORAL ORDERS 29.7.2021-HDD

M.A.NO. 71/2021 IN O.A.NO. 80/2021
(The State of Maha.&Ors. Vs. Bhimrao N. Kokate)

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

DATE : 29.7.2021

ORAL ORDER :

Heard Shri V.R. Bhumkar, learned Presenting Officer for the applicants in the present M.A. (Respondents in O.A.) and Shri Shamsundar B. Patil, learned Advocate for the respondent in the present M.A. (applicant in O.A.).

2. The present case has already been part heard.
3. Today, learned Presenting Officer has filed on record bunch of citations and the same are taken on record.
4. At the request and by consent of both the parties, S.O. to 4.8.2021.

MEMBER (J)

ORAL ORDERS 29.7.2021-HDD

ORIGINAL APPLICATION NO. 146 OF 2021
(Chandrashekhar S. KultheVs. the State of Maha. &Ors.)

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

DATE : 29.7.2021

ORAL ORDER :

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

2. The present case is already part heard.

3. Learned Advocate for the applicant has filed short affidavit and the same is taken on record and copy thereof has been served on the other side.

4. S.O. to 3.8.2021 for further hearing.

MEMBER (J)

ORAL ORDERS 29.7.2021-HDD

ORIGINAL APPLICATION NO. 388 OF 2021
(Navnath L. Dhande Vs. the State of Maha. &Ors.)

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

DATE : 29.7.2021

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. The present Original Application is filed challenging the impugned order dated 21.6.2021 (Annexure 'A-4', page 18 of paper book) issued by the respondent No. 3 to the extent of directing the recovery from the applicant.

3. The applicant retired from the Government service w.e.f. 31.3.2020 from the post of Assistant Police Sub-Inspector on attaining the age of superannuation, as per order dated 3.3.2020 issued by respondent No. 3 (Annexure 'A-1', page-11 of paper book). Regular pension is granted to the applicant vide PPO No. 1120010270138 dated 27.11.2020 (Annexure 'A-1' Colly., page-13 of paper book). However, recovery is directed against the applicant as per order dated 21.6.2021 (Annexure 'A-4') issued by the respondent No. 3.

4. Learned Advocate for the applicant submits that the applicant belongs to Group 'C' category and, therefore, he is entitled for exemption from the recovery of amount

arising at the instance of the respondents on account of wrong pay fixation. He relies upon the judgment of the Hon'ble Apex Court in the case of **STATE OF PUNJAB AND OTHERS VS. RAFIQ MASIH (WHITE WASHER) AND OTHERS [CIVIL APPEAL NO. 11527 OF 2014]**. The Hon'ble Apex Court in paragraph No. 12 of the said judgment has laid down as follows: -

“12. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarize the following few situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).

(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from the employees when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge

duties of a higher post and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employees, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."

5. In the background of the aforesaid citation and the ratio laid down therein, if the facts of the present case are considered, *prima facie*, it is apparent that recovery is ordered due to wrong pay fixation at the behest of the respondents. The applicant belongs to Group 'C' category. In view of the same, this is a fit case to grant *ad interim* stay to the impugned order of recovery dated 21.6.2021 (Annexure 'A-4') till filing of the affidavit in reply by the respondents. Order accordingly.

6. Issue notices to the respondents, returnable on 02.09.2021.

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

8. 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.

9. 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.

10. 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.

11. S.O. to 02.09.2021.

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

MEMBER (J)

ORIGINAL APPLICATION NO. 314 OF 2021
(Govind A. Jadhav&Ors.Vs. the State of Maha.&Ors.)

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

DATE : 29.7.2021

ORAL ORDER :

Heard Ms. MadhaviAyyappan, learned Advocate holding for Shri S.B. Talekar, learned Advocate for the applicants and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. The learned Advocate for the applicants seeks interim stay to the operation, execution and implementation to the impugned orders of recovery in respect of the applicant Nos. 1 to 5. The applicants retired from the class-III post of Civil Engineering Assistant, Public Works Department, Division Bhokar, Dist. Nanded on 31.03.2018, 31.07.2019, 30.06.2018, 31.05.2016, 30.06.2019 and 31.05.2018 respectively. After their retirement proposal of grant of retiral benefits was forwarded to the respondent No. 5, Accountant General, Nagpur, by the respondent No. 4. The respondent No. 4 while submitting proposal for grant of retiral benefits, mentioned an amount of recovery from the respective applicants. The proposal submitted by the respondent No. 4 for grant of retiral benefits with recovery of excess pay and allowances paid to the applicants from their gratuity and other retiral benefits was confirmed by the respondent No. 5 and the respondent No. 5 deducted

the said amount from the gratuity of the applicants that was in respect of excess payment made as per pay fixation of 6th Pay Commission.

3. It is the contention of the applicants that now respondent Nos. 4 & 5 are intending to deduct further excess amount from the arrears to be paid to them as per pay fixation in 7th Pay Commission. It is the contention of the applicants that the excess payment is based on wrong pay fixation by the respondent authorities and not because of any misrepresentation by the applicants.

4. Learned Advocate for the applicants submits that the applicants are entitled for stay to the said further recovery in view of the ratio laid down by the Hon'ble Apex Court in the case of **STATE OF PUNJAB AND OTHERS VS. RAFIQ MASIH (WHITE WASHER) AND OTHERS** reported in **(2015) 4 SUPREME COURT CASES PAGE-334**, wherein it is observed as follows : -

“18. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarize the following few situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).

(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from the employees when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employees, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."

Learned Advocate for the applicants also places reliance on the communication dated 13th July, 2021 issued by the respondent No. 1, Principal Secretary, Public Works Department, Mantralaya, Mumbai to the various authorities working under it in whole of Maharashtra, whereby it is directed not to recover the excess amount.

5. The case of the applicants falls within the parameters laid down in the above citation of the Hon'ble Apex Court and above-said communication dated 13.7.2021 and hence, it would be just and proper to grant *ad interim* stay in terms of prayer clause 16 (B) till filing of affidavit in reply by the respondents. Ordered accordingly.

6. S.O. to 03.09.2021 for filing affidavit in reply by the respondents.

MEMBER (J)

Date : 29.07.2021
O.A. 386/2021
(Chandrashekhkar R. Chopdar V/s State of
Maharashtra & Ors.)

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

1. Shri Harish S. Bali, learned Advocate for the applicant and Shri M.S. Mahajan, learned C.P.O. for respondents, are present.
2. Circulation is granted. Issue notice to the respondents, returnable on 27.8.2021. The case be listed for admission hearing on 27.8.2021.
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