

ORIGINAL APPLICATION NO.262/2017
(Trimbak G. Phasle Vs. State of Maharashtra & Ors.)

CORAM : **Hon'ble Justice Shri P.R. Bora, Member (J)**
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : **29.11.2021**

ORAL ORDER :

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

2. It is a matter of record that the Divisional Commissioner, Aurangabad had passed order on 02-05-2016 with a direction to Collector, Beed to conclude enquiry and get the final order issued in respect of amount to be recovered from the applicant after taking into account the losses to be written off and for this purpose a time limit of 3 months from the date of order was given. It has been brought to the notice of this Tribunal that even after lapse of more than 5 years, order of Divisional Commissioner, Aurangabad has not been implemented and without getting order implemented the Divisional Commissioner, Aurangabad has closed the matter at his level.

3. After considering all the facts before us Collector, Beed is directed to comply the order dated 02-05-2016 passed by the Divisional Commissioner, Aurangabad within a period of 4 weeks and submit the report thereof to

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the Tribunal on the next date of hearing, failing which he may require to appear personally before the Tribunal to explain the constrain, if any, faced by him and further course of action he is proposing. During the process, the applicant's say also be considered on merit.

4. S.O. to 10-01-2022.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO.713/2017
(Venkat Mundhe Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 29.11.2021

ORAL ORDER :

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

2. Arguments of both sides are heard at length. Case is reserved for order.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.96/2018
(Arun Tike Vs. State of Maharashtra & Ors.)

CORAM : **Hon'ble Justice Shri P.R. Bora, Member (J)**
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : **29.11.2021**

ORAL ORDER :

Heard Shri K.G.Salunke, learned Advocate for the applicant and Shri I.S.Thorat, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant has cited Rule 4(2)(c) of the Maharashtra Civil Services (Regulation of Seniority) Rules, 1982 and argued that according to the Rules the seniority of the Government servant transferred from one range to another; in the instant case, Aurangabad to Nanded, is to be determined by the competent authority with regard to class and pay scale of the post, cadre of the service from which he is transferred, length of service and circumstances leading to his transfer. He emphasized that among so many factors to be considered by the competent authority, the length of service is the predominant factor.

3. Learned P.O. has, on the other hand, argued that transfer of the applicant from one range to another, has been done under the provisions of the Government Resolution issued by the General Administration Department (GAD) No.SRV-2010/File No. 210/10/12, Mantralaya, Mumbai dated 03-06-2011 (paper book page 51-53), which may be read with the provisions of the Police

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Manual Volume-I, 1959 (paper book page 55-56), guidance issued by the GAD vide letter No. संकिर्ण ४अ, मंत्रालय, मुंबई dated 21-01-1998 (paper book page 57). He further argued that the applicant had applied for transfer on specific ground of family problem and had furnished undertaking regarding seniority as stipulated in the G.R. dated 03-06-2011.

4. Learned Advocate for the applicant has argued that the provisions of G.Rs., Police Manual etc. cannot override the provisions of MCS (Regulation of Seniority) Rules, 1982. He has placed on record orders passed by the Tribunal and Hon'ble High Court in various cases as under:

- (a) O.A.No.785/2014, passed by the Nagpur Bench of the Tribunal on 13-02-2017.
- (b) O.A.No.629/2015 (Mumbai) @ O.A.No.09/2015 (Aurangabad), passed by the Principal Seat of the Tribunal at Mumbai on 01-12-2015.
- (c) O.A.Nos.05/2015 & 06/2015, passed by the Aurangabad Bench of the Tribunal on 16-08-2017.
- (d) O.A.No.749/2015, passed by the Nagpur Bench of the Tribunal on 10-03-2017.

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O.A.NO.96/2018

- (e) O.A.No.182/2009, passed by the Principal Seat of the Tribunal at Mumbai on 09-06-2009.
- (f) O.A.No.187/2009, passed by the Aurangabad Bench of the Tribunal on 18-02-2009.
- (g) O.A.No.904/2011, passed by the Aurangabad Bench of the Tribunal on 06-05-2016.
- (h) W.P.No.5059/2010, passed by the Hon'ble Bombay High Court on 29-09-2010.
- (i) O.A.No.189/2008, passed by the Principal Seat of the Tribunal at Mumbai on 10-12-2008.

5. Tribunal has considered provisions of Rule 4(2)(c) of the MCS (Regulation of Seniority) Rules, 1982 and it is concluded that in the interest of justice the circumstances leading to the transfer also needs to be brought on record to appreciate rationale of administrative orders, provisions of Government Resolutions and Police Manual in this regard. Accordingly, the learned Advocate for the applicant has been advised to bring on record a true copy of the application of the original applicant for inter-range transfer, true copy of the transfer order or acceptance of request transfer by competent authority, true copy of the undertaking, if any, submitted by the applicant so that circumstances leading to the transfer may be clear.

6. S.O. to 09-12-2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.223/2018
(Madhav Vishnupant Kale Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 29.11.2021

ORAL ORDER :

Heard Shri M. R. Deshmukh, learned Advocate for the applicant and Shri M.P.Gude, learned Presenting Officer for the respondents.

2. Today, when the present O.A. was taken up for final disposal, learned Advocate appearing for the applicant, at the outset, submitted that the applicant is restricting his present O.A. only to **prayer clause (B)**.

3. Learned P.O. sought time for filing his Say after the amendment has been carried out by the applicant. However, after having heard learned Advocate for the applicant for some time, it appears that no further reply is necessary when the applicant has restricted the present O.A. to **prayer clause (B)**.

4. Present applicant was promoted to the post of Naib Tahsildar on 16-09-2015. Vide order passed on 23-02-2018, the applicant was reverted to the post of Circle Officer on the ground that the candidates up to the

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O.A.NO.223/2018

Sr.No.1218 in the seniority list published were only eligible to be promoted as Naib Tahsildar and since the applicant was at Sr.No.1219 in the seniority list, reversion order came to be passed. As has been submitted by the learned Advocate for the applicant, seniority list has now been rectified by the Divisional Commissioner, Aurangabad vide order passed on 01-11-2021. In the corrected seniority list, the applicant is shown at Sr.No.664. In the circumstances, prayer has been made that he has become eligible to be promoted to the post of Naib Tahsildar, hence, order of reversion needs to be set aside.

5. We have gone through the documents filed on record. We are satisfied that after the seniority list has been corrected by the Divisional Commissioner, Aurangabad, present applicant has become eligible to be promoted on the post of Naib Tahsildar. In the circumstances, we have no hesitation in setting aside the order of reversion dated 23-02-2018. It is clarified that we have not gone to the issue of correctness of the seniority list as there is no challenge to the correctness of the seniority list by the applicant. For the reasons stated above, following order is passed:

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O.A.NO.223/2018

ORDER

(a) Order dated 23-02-2018 issued by the respondent no.2 i.e. Divisional Commissioner, Aurangabad is quashed and set aside.

(b) Divisional Commissioner, Aurangabad is directed to consider the request of the present applicant for his promotion to the post of Naib Tahsildar in the light of the correct seniority list published by Circular जा. क. २०२१/मशाका/२/आस्था/अरा-२/कावी-८७८, dated 01-11-2021 and other criteria on its own merit and grant promotion with effect from the date when the applicant becomes eligible for promotion had the correct seniority list been there before the concerned Departmental Promotion Committee. This process should be completed within 3 months of receipt of this order.

(c) O.A. stands disposed of accordingly with no order as to costs.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 414 OF 2018
(Vranda P. Sadgure Vs. State of Maharashtra & Ors.)

WITH

ORIGINAL APPLICATION NO. 613 OF 2018
(S.D. Pawar Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)

AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 29.11.2021

ORAL ORDER :

O.A.NO. 414 OF 2018

Heard Shri V.B. Wagh, learned Advocate for the applicant, Shri I.S. Thorat, learned Presenting Officer for respondent Nos. 1 to 3 and Ms. Tejal Mankar, learned Advocate holding for Ms. Preeti R. Wankhade, learned Advocate for respondent No. 4.

O.A.NO. 613 OF 2018

Heard Shri N.S. Kadarle, learned Advocate for the applicant, Smt. M.S. Patni, learned Presenting Officer for respondent Nos. 1 to 3. Shri A.S. Deshmukh, learned Advocate for respondent No. 4 has filed leave note.

2. Learned Presenting Officer has sought one week's time to inform the Tribunal about the position of vacancy as was directed by this Tribunal in the earlier order. Such information can be sought by the learned Presenting Officer on telephone or by sending email to the respondents.

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O.A.NOS. 414 & 613 Both of 2018

Learned Presenting Officer shall submit such information in any case on the next date of hearing.

3. S.O. to 2.12.2021. High on board.

MEMBER (A)

MEMBER (J)

ORAL ORDERS 29.11.2021-HDD

**ORIGINAL APPLICATION NO. 790 OF 2018
(Vaishali M. Patil Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 29.11.2021

ORAL ORDER :

Shri Dhananjay B. Thoke, learned Advocate for the applicant (**absent**). Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents, present.

2. Since nobody appears for the applicant, S.O. to 3.1.2022.

MEMBER (A)

MEMBER (J)

ORAL ORDERS 29.11.2021-HDD

**ORIGINAL APPLICATION NO. 293 OF 2019
(Babasaheb S. Pagare Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 29.11.2021

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. Smt. M.S. Patni, learned Presenting Officer submits that Shri D.R. Patil, learned Presenting Officer, who is assigned the present case is not available today and sought time to argue the present case. Her request is accepted.

3. S.O. to 23.12.2021.

MEMBER (A)

MEMBER (J)

**O.A.NOS. 626, 641 & 642 ALL OF 2019
(Sheshrao R. Giri & Ors. Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 29.11.2021

ORAL ORDER :

Heard Ms. Megha Y. Mali, learned Advocate holding for Shri S.K. Mathpati, learned Advocate for the applicants in all these cases and Shri V.R. Bhumkar, learned Presenting Officer for the respondents in all these cases.

2. At the request of learned Advocate for the applicants, S.O. to 5.1.2022.

MEMBER (A)

MEMBER (J)

ORAL ORDERS 29.11.2021-HDD

**ORIGINAL APPLICATION NO. 848 OF 2019
(Jitendra B. Bagul & Ors. Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 29.11.2021

ORAL ORDER :

Heard Shri A.D. Sugdare, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. At the request and by consent of both the parties, S.O. to 6.1.2022.

MEMBER (A)

MEMBER (J)

ORAL ORDERS 29.11.2021-HDD

**ORIGINAL APPLICATION NO. 870 OF 2019
(Dr. Devrao S. Dakhure Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 29.11.2021

ORAL ORDER :

Heard Shri Sujeet D. Joshi, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. At the request and by consent of both the parties, S.O. to 9.12.2021.

MEMBER (A)

MEMBER (J)

ORAL ORDERS 29.11.2021-HDD

**M.A. No. 585/2019 in O.A. St. No. 2261/2019
(Jayshri S. Bhokre & Ors. Vs. State of Maharashtra & Ors.)**

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

DATE : 29.11.2021.

ORDER

1. The present Misc. Application is made by the applicants seeking condonation of delay of about 1 year and 77 days in filing the accompanying Original Application under Section 19 of the Administrative Tribunals Act, 1985, seeking relief of differential amount of wages as per the Notification issued under Minimum Wages Act.

2. The applicants are working as part-time Sweepers with the respondent No. 4 since long. They have preferred the Original Application to quash and set aside the order dated 01.09.2017 (Page No. 46 of paper book of O.A.) passed by the respondent No. 4 and seeking direction against the respondent authorities to pay the arrears as per the Notifications dated 15.02.2003 and 28.09.2010 issued by the respondent No. 1.

3. According to the applicants, they made representation to the respondent authorities on 06.05.2016 to pay the arrears from the date of

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M.A. 585/2019 in
O.A. St. 2261/2019

Notification dated 15.02.2003 at the enhanced rate of wages. The Government has also issued G.R. dated 07.03.2018 (Annexure A-3 of O.A.) thereby clarifying that the labours (Part-time Sweeper) are entitled to get the wages as per the Notification dated 28.09.2010 issued by the Industry, Energy and Labour Department and at that point of time, the applicants approached this Tribunal by filing the O.A. No. 572/2016 & O.A. No. 765/2016 for seeking arrears of wages. This Tribunal disposed of the said Original Applications by giving directions to the respondent authorities to decide the representation filed by the applicants therein within a period of two months from the date of that order. The respondent No. 4 however, rejected the said representation made by the applicants regarding arrears of wages on 01.09.2017. The applicants want to challenge the said order dated 01.09.2017.

4. It is further contented that Section 5 and 12 of the Minimum Wages Act, 1948 clearly provide that the authority should not deduct any kind of wages fixed by such notification, which is issued by the Industry, Energy and Labour Department. Each and every

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M.A. 585/2019 in
O.A. St. 2261/2019

notification shall come into force on expiry of three months from the date of its issuance. It is the duty of the respondent authorities to help the labours like the applicants in such situation and to release benefits as per the rules. There is continuous cause of action, the applicants are still in service. The delay caused in filing the accompanying Original Application is not deliberate or intentional. The applicants have got good case on merit. Hence, this Misc. Application.

5. The affidavit in reply on behalf of respondent Nos. 1 to 4 is filed by one Shri Balasaheb Laxmanrao Deshmukh, Deputy Superintendent of Police, Nanded Rural, Dist. Nanded i.e. the respondent No. 4, thereby he was denied the adverse contentions raised by the applicants in the present Misc. Application. No sufficient cause has been shown for condonation of inordinate delay in filing the accompanying O.A. and hence, the Misc. Application is liable to be dismissed.

6. I have heard the arguments advanced by Shri P.V. Suryawanshi, learned Advocate for the applicants and Smt. M.S. Patni, learned Presenting Officer for the respondents.

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M.A. 585/2019 in
O.A. St. 2261/2019

7. Considering the facts on record, it is evident that the present matter is pertaining to minimum wages to be paid to the applicants and the arrears thereof. There is delay of about one year in filing the accompanying Original Application. The Original Application ought to have been filed on or before 30.08.2019. However, the O.A. along with the present Misc. Application for condonation of delay is filed on or about 19.11.2019. There is delay of about 1 year and 77 days.

8. It is a settled principle of law that the expression “sufficient cause” is to be construed liberally. As stated earlier, the matter is pertaining to arrears of wages to be paid to the applicants. The applicants are labours (Part-time Sweepers). In view of the same, their case is required to be considered sympathetically. In the facts and circumstances, the delay can be said to be marginal. By approaching the Tribunal belatedly the applicants had nothing to gain. Refusing to give indulgence in the matter is likely to defeat cause of justice at the threshold. In the circumstances, in my opinion, this is a fit case to condone the delay. In the result, I proceed to pass following order:-

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M.A. 585/2019 in
O.A. St. 2261/2019

ORDER

1. The Misc. Application No. 585/2019 is allowed.
2. The delay of 1 year and 77 days caused in filing the accompanying Original Application is hereby condoned.
3. Accordingly, the M.A. stands disposed of. The Registry is directed to register and number the accompanying O.A. in accordance with law by taking into account other office objection/s, if any.
4. No order as to costs.

MEMBER (J)

**M.A. No. 442/2019 in O.A. St. No. 1770/2019
(Sunil S. Pradhan Vs. State of Maharashtra & Ors.)**

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

DATE : 29.11.2021.

O R D E R

1. The present Misc. Application is made by the applicant seeking condonation of delay of about 8 months in filing the accompanying Original Application under Section 19 of the Administrative Tribunals Act, 1985, seeking relief of differential amount of wages as per the Notification issued under Minimum Wages Act.

2. The applicant is working as part-time Sweepers with the respondent No. 4 since long. He has preferred the Original Application to quash and set aside the order dated 18.12.2017 (Page No. 27 of paper book of O.A.) passed by the respondent No. 4 and seeking direction against the respondent authorities to pay the arrears as per the Notifications dated 15.02.2003 and 28.09.2010 issued by the respondent No. 1.

3. According to the applicant, he made representation to the respondent authorities on 11.04.2016 to pay the arrears from the date of Notification dated 15.02.2003 at the enhanced rate of

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M.A. 442/2019 in
O.A. St. 1770/2019

wages. The Government has also issued G.R. dated 07.03.2018 (Annexure A-3 of O.A.) thereby clarifying that the labours (Part-time Sweeper) are entitled to get the wages as per the Notification dated 28.09.2010 issued by the Industry, Energy and Labour Department and at that point of time, the applicant approached this Tribunal by filing the Original Application No. 572/2016 for seeking arrears of wages. This Tribunal disposed of the said Original Application by giving directions to the respondent authorities to decide the representation filed by the applicants therein within a period of two months from the date of that order. The respondent No. 4 however, rejected the said representation made by the applicant regarding arrears of wages on 18.12.2017. The applicant wants to challenge the said order dated 18.12.2017.

4. It is further contented that Section 5 and 12 of the Minimum Wages Act, 1948 clearly provide that the authority should not deduct any kind of wages fixed by such notification, which is issued by the Industry, Energy and Labour Department. Each and every notification shall come into force on expiry of three months from the date of its issuance. It is the duty of

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M.A. 442/2019 in
O.A. St. 1770/2019

the respondent authorities to help the labours like the applicant in such situation and to release benefits as per the rules. There is continuous cause of action, the applicant is still in service. The delay caused in filing the accompanying Original Application is not deliberate or intentional. The applicant has got good case on merit. Hence, this Misc. Application.

5. The affidavit in reply on behalf of respondent Nos. 1 to 4 is filed by one Shri Vivek Ramchandra Saraf, Deputy Superintendent of Police (HQ), in the office of the Superintendent of Police, Aurangabad i.e. the respondent No. 4, thereby he was denied the adverse contentions raised by the applicant in the present Misc. Application. No sufficient cause has been shown for condonation of inordinate delay in filing the accompanying O.A. and hence, the Misc. Application is liable to be dismissed.

6. I have heard the arguments advanced by Shri P.V. Suryawanshi, learned Advocate for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents.

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M.A. 442/2019 in
O.A. St. 1770/2019

7. Considering the facts on record, it is evident that the present matter is pertaining to minimum wages to be paid to the applicants and the arrears thereof. There is delay of about one year in filing the accompanying Original Application. The Original Application ought to have been filed on or before 30.08.2019. However, the O.A. along with the present Misc. Application for condonation of delay is filed on or about 11.09.2019. There is delay of about 8 months.

8. It is a settled principle of law that the expression “sufficient cause” is to be construed liberally. As stated earlier, the matter is pertaining to arrears of wages to be paid to the applicants. The applicant is labour (Part-time Sweeper). In view of the same, their case is required to be considered sympathetically. In the facts and circumstances, the delay can be said to be marginal. By approaching the Tribunal belatedly the applicants had nothing to gain. Refusing to give indulgence in the matter is likely to defeat cause of justice at the threshold. In the circumstances, in my opinion, this is a fit case to condone the delay. In the result, I proceed to pass following order :-

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M.A. 442/2019 in
O.A. St. 1770/2019

ORDER

1. The Misc. Application No. 442/2019 is allowed.
2. The delay of 8 months caused in filing the accompanying Original Application is hereby condoned.
3. Accordingly, the M.A. stands disposed of. The Registry is directed to register and number the accompanying O.A. in accordance with law by taking into account other office objection/s, if any.
4. No order as to costs.

MEMBER (J)

**M.A. No. 441/2019 in O.A. St. No. 1769/2019
(Shankar P. Dhupe & Anr. Vs. State of Maharashtra & Ors.)**

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

DATE : 29.11.2021.

O R D E R

1. The present Misc. Application is made by the applicants seeking condonation of delay of about one year in filing the accompanying Original Application under Section 19 of the Administrative Tribunals Act, 1985, seeking relief of differential amount of wages as per the Notification issued under Minimum Wages Act.

2. The applicants are working as part-time Sweepers with the respondent No. 3 since long. They have preferred the Original Application to quash and set aside the order dated 31.08.2017 (Page No. 36 of paper book of O.A.) passed by the respondent No. 3 and seeking direction against the respondent authorities to pay the arrears as per the Notifications dated 15.02.2003 and 28.09.2010 issued by the respondent No. 1.

3. According to the applicants, they made representation to the respondent authorities on 20.08.2016 to pay the arrears from the date of Notification dated 15.02.2003 at the enhanced rate of

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M.A. 441/2019 in
O.A. St. 1769/2019

wages. The Government has also issued G.R. dated 07.03.2018 (Annexure A-3 of O.A.) thereby clarifying that the labours (Part-time Sweeper) are entitled to get the wages as per the Notification dated 28.09.2010 issued by the Industry, Energy and Labour Department and at that point of time, the applicant approached this Tribunal by filing the Original Application No. 765/2016 for seeking arrears of wages. This Tribunal disposed of the said Original Application by giving directions to the respondent authorities to decide the representation filed by the applicants therein within a period of two months from the date of that order. The respondent No. 3 however, rejected the said representation made by the applicants regarding arrears of wages on 31.08.2017. The applicants want to challenge the said order dated 31.08.2017.

4. It is further contented that Section 5 and 12 of the Minimum Wages Act, 1948 clearly provide that the authority should not deduct any kind of wages fixed by such notification, which is issued by the Industry, Energy and Labour Department. Each and every notification shall come into force on expiry of three months from the date of its issuance. It is the duty of

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M.A. 441/2019 in
O.A. St. 1769/2019

the respondent authorities to help the labours like the applicants in such situation and to release benefits as per the rules. There is continuous cause of action, the applicants are still in service. The delay caused in filing the accompanying Original Application is not deliberate or intentional. The applicants have got good case on merit. Hence, this Misc. Application.

5. The affidavit in reply on behalf of respondent No. 3 is filed by one Shri Anil Parasram Ade, Senior Police Inspector, D.E. Branch in the office of Commissioner of Police, Aurangabad i.e. the respondent No. 3, thereby he was denied the adverse contentions raised by the applicants in the present Misc. Application. No sufficient cause has been shown for condonation of inordinate delay in filing the accompanying O.A. and hence, the Misc. Application is liable to be dismissed.

6. I have heard the arguments advanced by Shri P.V. Suryawanshi, learned Advocate for the applicants and Shri S.K. Shirse, learned Presenting Officer for the respondents.

7. Considering the facts on record, it is evident that the present matter is pertaining to minimum wages to

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M.A. 441/2019 in
O.A. St. 1769/2019

be paid to the applicants and the arrears thereof. There is delay of about one year in filing the accompanying Original Application. The Original Application ought to have been filed on or before 30.08.2019. However, the O.A. along with the present Misc. Application for condonation of delay is filed on or about 11.09.2019. There is delay of about one year.

8. It is a settled principle of law that the expression “sufficient cause” is to be construed liberally. As stated earlier, the matter is pertaining to arrears of wages to be paid to the applicants. The applicants are labours (Part-time Sweepers). In view of the same, their case is required to be considered sympathetically. In the facts and circumstances, the delay can be said to be marginal. By approaching the Tribunal belatedly the applicants had nothing to gain. Refusing to give indulgence in the matter is likely to defeat cause of justice at the threshold. In the circumstances, in my opinion, this is a fit case to condone the delay. In the result, I proceed to pass following order :-

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M.A. 441/2019 in
O.A. St. 1769/2019

ORDER

1. The Misc. Application No. 441/2019 is allowed.
2. The delay of 1 year caused in filing the accompanying Original Application is hereby condoned.
3. Accordingly, the M.A. stands disposed of. The Registry is directed to register and number the accompanying O.A. in accordance with law by taking into account other office objection/s, if any.
4. No order as to costs.

MEMBER (J)

M.A. No. 495/2019 in O.A. St. No. 1774/2019
(Pandurang K. Sarode & Ors. Vs. State of Maharashtra & Ors.)

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

DATE : 29.11.2021.

ORDER

1. The present Misc. Application is made by the applicants seeking condonation of delay of about 24 days in filing the accompanying Original Application under Section 19 of the Administrative Tribunals Act, 1985 seeking relief of differential amount of wages as per the Notifications dated 15.02.2003 and 28.09.2010 at the enhanced rate of wages.

2. The applicants are working as Labours (Part-time Sweepers) with the respondent No. 4 sincerely and honestly. It is the duty of the respondent authorities to pay the wages as per the Notification issued by the respondent No. 1 i.e. the Government of Maharashtra from time to time. However, the applicants were not paid wages as per the requisite Notifications. After various orders passed by this Tribunal, the respondent No. 4 started to pay the wages as per the Notification dated 28.09.2010. However, the differential amount / arrears were not paid to the applicants. The applicants made various representations to the respondent authorities seeking

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O.A. St. 1774/2019

payment of arrears from the date of Notification dated 15.02.2003.

3. After various orders passed by the Tribunal and the Hon'ble High Court, the Government of Maharashtra issued G.R. dated 07.03.2018 and clarified that the Notification dated 28.09.2010 issued by the Industry, Energy and Labour Department is applicable to all employees (Part time Sweepers) and they are entitled to get wages as per this Notification. In view of the same, limitation would start from 07.03.2018 for claiming arrears.

4. It is further contended that Section 5 and 12 of the Minimum Wages Act, 1948 clearly provide that the authority should not deduct any kind of wages, fixed by such notification, which is issued by the Industry, Energy and Labour Department. Each and every notification shall come into force on the expiry of three months from the date of its issuance. It is the duty of the respondent authorities to help the labours like the applicants in such situation and to release benefits as per the rules.

//3// M.A. 495/2019 in
O.A. St. 1774/2019

5. In the circumstances, there is delay of about 24 days in filing the accompanying Original Application. It is stated that the delay is not deliberate or intentional. The applicants have got good case on merit. Hence, this Misc. Application.

6. The separate affidavits in reply on behalf of respondent Nos. 3 and 4 respectively are filed. Thereby they have denied the adverse contentions raised by the applicants in the present Misc. Application. No sufficient cause has been shown for condonation of inordinate delay in filing the accompanying O.A. and hence, the Misc. Application is liable to be dismissed.

7. I have heard the arguments advanced by Shri P.V. Suryawanshi, learned Advocate for the applicants and Shri B.S. Deokar, learned Presenting Officer for the respondents.

8. The Original Application along with the Misc. Application is filed on 03.09.2019 seeking direction for payment of differential amount of wages as per Notifications dated 15.02.2003 and 28.09.2010. The limitation would start from the date of issuance of Notification dated 07.03.2018. Hence, there is delay of

//4// M.A. 495/2019 in
O.A. St. 1774/2019

one month in filing the accompanying Original Application. The said delay is marginal.

9. It is a settled principle of law that the expression “sufficient cause” is to be construed liberally. The applicants are part time Sweepers, who are agitating their right for getting arrears of wages under Minimum Wage Act. This case requires sympathetic consideration. In the facts and circumstances, the delay can be said to be marginal. By approaching the Tribunal belatedly the applicants had nothing to gain. Refusing to give indulgence in the matter is likely to defeat cause of justice at the threshold. In the circumstances, in my opinion, this is a fit case to condone the delay. In the result, I proceed to pass following order :-

ORDER

1. The Misc. Application No. 495/2019 is allowed.
2. The delay of 24 days caused in filing the accompanying Original Application is hereby condoned.

//5// M.A. 495/2019 in
O.A. St. 1774/2019

3. Accordingly, the M.A. stands disposed of. The Registry is directed to register and number the accompanying O.A. in accordance with law by taking into account other office objection/s if any.
4. No order as to costs.

MEMBER (J)

**M.A. No. 494/2019 in O.A. St. No. 1772/2019
(Vishwanath P. Amle & Ors. Vs. State of Maharashtra & Ors.)**

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

DATE : 29.11.2021.

O R D E R

1. The present Misc. Application is made by the applicants seeking condonation of delay of about 1 month in filing the accompanying Original Application under Section 19 of the Administrative Tribunals Act, 1985 seeking relief of differential amount of wages as per the Notifications dated 15.02.2003 and 28.09.2010 at the enhanced rate of wages.

2. The applicants are working as Labours (Part-time Sweepers) with the respondent No. 4 sincerely and honestly. It is the duty of the respondent authorities to pay the wages as per the Notification issued by the respondent No. 1 i.e. the Government of Maharashtra from time to time. However, the applicants were not paid wages as per the requisite Notifications. After various orders passed by this Tribunal, the respondent No. 4 started to pay the wages as per the Notification dated 28.09.2010. However, the differential amount / arrears were not paid to the applicants. The applicants made various representations to the respondent authorities seeking

//2// M.A. 494/2019 in
O.A. St. 1772/2019

payment of arrears from the date of Notification dated 15.02.2003.

3. After various orders passed by the Tribunal and the Hon'ble High Court, the Government of Maharashtra issued G.R. dated 07.03.2018 and clarified that the Notification dated 28.09.2010 issued by the Industry, Energy and Labour Department is applicable to all employees (Part time Sweepers) and they are entitled to get wages as per this Notification. In view of the same, limitation would start from 07.03.2018 for claiming arrears.

4. It is further contended that Section 5 and 12 of the Minimum Wages Act, 1948 clearly provide that the authority should not deduct any kind of wages, fixed by such notification, which is issued by the Industry, Energy and Labour Department. Each and every notification shall come into force on the expiry of three months from the date of its issuance. It is the duty of the respondent authorities to help the labours like the applicants in such situation and to release benefits as per the rules.

//3// M.A. 494/2019 in
O.A. St. 1772/2019

5. In the circumstances, there is delay of about one month in filing the accompanying Original Application. It is stated that the delay is not deliberate or intentional. The applicants have got good case on merit. Hence, this Misc. Application.

6. The affidavit in reply on behalf of respondent No. 1 to 4 is filed by one Shri Bhimashankar Manikrao Hirmukhe, Deputy Superintendent of Police (H.Q.), Latur, Dist. Latur, thereby he was denied the adverse contentions raised by the applicants in the present Misc. Application. No sufficient cause has been shown for condonation of inordinate delay in filing the accompanying O.A. and hence, the Misc. Application is liable to be dismissed.

7. I have heard the arguments advanced by Shri P.V. Suryawanshi, learned Advocate for the applicants and Smt. M.S. Patni, learned Presenting Officer for the respondents.

8. The Original Application along with the Misc. Application is filed on 03.09.2019 seeking direction for payment of differential amount of wages as per Notifications dated 15.02.2003 and 28.09.2010. The

//4// M.A. 494/2019 in
O.A. St. 1772/2019

limitation would start from the date of issuance of Notification dated 07.03.2018. Hence, there is delay of one month in filing the accompanying Original Application. The said delay is marginal.

9. It is a settled principle of law that the expression “sufficient cause” is to be construed liberally. The applicants are part time Sweepers, who are agitating their right for getting arrears of wages under Minimum Wage Act. This case requires sympathetic consideration. In the facts and circumstances, the delay can be said to be marginal. By approaching the Tribunal belatedly the applicants had nothing to gain. Refusing to give indulgence in the matter is likely to defeat cause of justice at the threshold. In the circumstances, in my opinion, this is a fit case to condone the delay. In the result, I proceed to pass following order :-

ORDER

1. The Misc. Application No. 494/2019 is allowed.
2. The delay of one month caused in filing the accompanying Original Application is hereby condoned.

//5// M.A. 494/2019 in
O.A. St. 1772/2019

3. Accordingly, the M.A. stands disposed of. The Registry is directed to register and number the accompanying O.A. in accordance with law by taking into account other office objection/s if any.
4. No order as to costs.

MEMBER (J)

ORIGINAL APPLICATION NO. 889 OF 2019
(Vijaykumar G. Birajdar Vs. State of Maharashtra & Ors.)

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

DATE : 29.11.2021

ORAL ORDER :

Shri U.E. Hude, learned Advocate for the applicant (**Absent**). Heard Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. As none present for the applicant, S.O. to 12.01.2022 for filing rejoinder affidavit as a last chance.

MEMBER (J)

KPB/ORAL ORDERS 29.11.2021

ORIGINAL APPLICATION NO. 333 OF 2020
(Arjun M. Pawar Vs. State of Maharashtra & Ors.)

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

DATE : 29.11.2021

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicant, Shri D.R. Patil, learned Presenting Officer for the respondent Nos. 1 and 3 and Shri Shamsunder B. Patil, learned Advocate for respondent No. 2.

2. Record shows that the present Original Application is amended as per the order dated 27.10.2021 passed in M.A. No. 350/2021.

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

4. S.O. to 07.01.2022.

MEMBER (J)

**ORIGINAL APPLICATION NO. 453 OF 2020
(Bhatu R. Mahale Vs. State of Maharashtra & Ors.)**

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

DATE : 29.11.2021

ORAL ORDER :

Heard Shri S.P. Dhoble, learned Advocate holding for Shri Vinod P. Patil, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents.

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

3. S.O. to 12.01.2022.

MEMBER (J)

KPB/ORAL ORDERS 29.11.2021

ORIGINAL APPLICATION NO. 328 OF 2021
(Vijaykumar G. Birajdar Vs. State of Maharashtra & Ors.)

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

DATE : 29.11.2021

ORAL ORDER :

Shri U.E. Hude, learned Advocate for the applicant (**Absent**). Heard Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. As none present for the applicant, S.O. to 12.01.2022 for filing rejoinder affidavit, if any.

MEMBER (J)

KPB/ORAL ORDERS 29.11.2021

ORIGINAL APPLICATION NO. 462 OF 2021

(Dr. Sagir Jamaliya Arifuddin Pathan Vs. State of Maharashtra & Ors.)

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

DATE : 29.11.2021

ORAL ORDER :

Shri S.D. Joshi, learned Advocate for the applicant (**Absent**). Heard Smt. M.S. Patni, learned Presenting Officer for the respondents.

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

3. S.O. to 07.01.2022.

MEMBER (J)

KPB/ORAL ORDERS 29.11.2021

ORIGINAL APPLICATION NO. 467 OF 2021
(Dr. Mohan P. Shinde Vs. State of Maharashtra & Ors.)

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

DATE : 29.11.2021

ORAL ORDER :

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

2. Learned Presenting Officer for the respondents seeks one more last chance for filing affidavit in reply.
3. Record shows that the interim relief is refused.
4. In the circumstances, one more last chance is granted to the respondents for filing affidavit in reply subject to payment of costs of Rs. 1,000/- (Rs. One Thousand Only). The amount of costs shall be deposited in the Registry of this Tribunal.
5. S.O. to 10.01.2022.

MEMBER (J)

ORIGINAL APPLICATION NO. 470 OF 2021
(Nanda K. Kshirsagar Vs. State of Maharashtra & Ors.)

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

DATE : 29.11.2021

ORAL ORDER :

Heard Shri M.B. Kolpe, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondent Nos. 1 to 5. Nobody is present on behalf of respondent No. 6, though she is duly served.

2. At the request of learned Presenting Officer for the respondent Nos. 1 to 5, last chance is granted for filing affidavit in reply.

3. S.O. to 10.01.2022.

MEMBER (J)

ORIGINAL APPLICATION NO. 517 OF 2021
(Manisha P. Paithane Vs. State of Maharashtra & Ors.)

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

DATE : 29.11.2021

ORAL ORDER :

Heard Shri Kakasaheb B. Jadhav, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. Pursuant to the direction given in Farad Sheet order dated 25.10.2021, the learned Presenting Officer placed on record a copy of communication dated 03.11.2021 addressed by the respondent No. 1 to the Dy. Inspector General of Registration and Stamp Controller, Aurangabad, whereby it is stated that no request application for transfer was received from the applicant. Copy of the said communication is taken on record and marked as document 'X' for the purpose of identification.

3. At the request of learned Presenting Officer for the respondents, time is granted for filing affidavit in reply.

4. S.O. to 07.01.2022. Interim relief granted earlier to continue till then.

MEMBER (J)

ORIGINAL APPLICATION NO. 551 OF 2021
(Ram D. Anerao & Ors. Vs. State of Maharashtra & Ors.)

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

DATE : 29.11.2021

ORAL ORDER :

Heard Shri R.P. Bhumkar, learned Advocate for the applicants and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. As per the Circular No. MAT/MUM/ESTT/732/2021, dated 25/28.05.2021 issued by the Hon'ble Chairperson of the Maharashtra Administrative Tribunal, Mumbai, the matters regarding time bound promotion and ACPS are to be dealt with by the Division Bench. The present matter is pertaining to implementation of G.R. / time bound promotion.

3. In view of the same, the present matter be placed before the Division Bench for further hearing.

4. S.O. to 12.01.2022.

MEMBER (J)

**M.A. No. 286/2020 in O.A. St. No. 1059/2020
(Prabhakar M. Kawathekar Vs. State of Maharashtra & Ors.)**

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

DATE : 29.11.2021

ORAL ORDER :

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

2. At the request of learned Chief Presenting Officer for the respondents, time is granted for filing affidavit in reply in M.A.

3. S.O. to 13.01.2022.

MEMBER (J)

KPB/ORAL ORDERS 29.11.2021

**M.A. No. 287/2020 in O.A. St. No. 1061/2020
(Bhalchandra P. Dharurkar Vs. State of Maharashtra & Ors.)**

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

DATE : 29.11.2021

ORAL ORDER :

Heard Shri G.J. Kore, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. Record shows that affidavit in reply on behalf of respondent No. 2 is filed on record.
3. S.O. to 13.01.2022.

MEMBER (J)

KPB/ORAL ORDERS 29.11.2021

**M.A. No. 288/2020 in O.A. St. No. 1063/2020
(Pratap S. Sontakke Vs. State of Maharashtra & Ors.)**

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

DATE : 29.11.2021

ORAL ORDER :

Heard Shri G.J. Kore, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicant, S.O. to 13.01.2022.

MEMBER (J)

KPB/ORAL ORDERS 29.11.2021

**M.A. No. 289/2020 in O.A. St. No. 1065/2020
(Pandharenath B. Dhorge Vs. State of Maharashtra & Ors.)**

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

DATE : 29.11.2021

ORAL ORDER :

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

2. At the request of learned Presenting Officer for the respondents, time is granted for filing affidavit in reply in M.A.

3. S.O. to 13.01.2022.

MEMBER (J)

KPB/ORAL ORDERS 29.11.2021

**M.A. No. 290/2020 in O.A. St. No. 1067/2020
(Vilas V. Sathe Vs. State of Maharashtra & Ors.)**

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

DATE : 29.11.2021

ORAL ORDER :

Heard Shri G.J. Kore, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. Record shows that affidavit in reply on behalf of respondent Nos. 1 and 2 is filed in M.A.
3. S.O. to 13.01.2022.

MEMBER (J)

KPB/ORAL ORDERS 29.11.2021

**M.A. No. 291/2020 in O.A. St. No. 1070/2020
(Jilani A. Shaikh Vs. State of Maharashtra & Ors.)**

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

DATE : 29.11.2021

ORAL ORDER :

Heard Shri G.J. Kore, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondent No. 1. Shri S.D. Dhongde, learned Advocate for respondent No. 2 (**Leave Note**).

2. At the request of learned Presenting Officer for the respondent No. 1, time is granted for filing affidavit in reply in M.A.

3. S.O. to 13.01.2022.

MEMBER (J)

KPB/ORAL ORDERS 29.11.2021

M.A. No. 292/2020 in O.A. St. No. 1072/2020
(Shaikh Rahim Shaikh Chand Vs. State of Maharashtra & Ors.)

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

DATE : 29.11.2021

ORAL ORDER :

Heard Shri G.J. Kore, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. Record shows that affidavit in reply on behalf of respondent Nos. 1 and 2 is filed in M.A.
3. S.O. to 13.01.2022.

MEMBER (J)

KPB/ORAL ORDERS 29.11.2021

**M.A. No. 312/2020 in O.A. St. No. 1351/2020
(Ajgar Ali Mohiddin Shaikh Vs. State of Maharashtra & Ors.)**

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

DATE : 29.11.2021

ORAL ORDER :

Heard Shri G.J. Kore, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. Record shows that affidavit in reply on behalf of respondent Nos. 1 and 2 is filed in M.A.
3. S.O. to 13.01.2022.

MEMBER (J)

KPB/ORAL ORDERS 29.11.2021

ORIGINAL APPLICATION NO. 738 OF 2021
(Sudhakar B. Waghmare Vs. State of Maharashtra & Ors.)

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

DATE : 29.11.2021

ORAL ORDER :

Heard Shri R.C. Bramhankar, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. Issue notices to the respondents, returnable on 14.01.2022.

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.

//2//

O.A. No. 738/2021

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 14.01.2022.

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

MEMBER (J)

KPB/ORAL ORDERS 29.11.2021

ORIGINAL APPLICATION NO. 580 OF 2020
(Dr. Sunita N. Pawar Vs. State of Maharashtra & Ors.)

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

DATE : 29.11.2021

ORAL ORDER :

Heard Shri Sanket P. Jadhav, learned Advocate holding for Shri Shamsunder B. Patil, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.

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

3. S.O. to 13.01.2022.

MEMBER (J)

ORIGINAL APPLICATION NO. 629 OF 2021
(Dr. Archana V. Bhosle Vs. State of Maharashtra & Ors.)

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

DATE : 29.11.2021

ORAL ORDER :

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

2. Record shows that though the order regarding deleting the respondent No. 2 is passed on 22.10.2021, the applicant has not carried out said amendment.

3. Learned Advocate for the applicant seeks further time for carrying out necessary amendment. Time granted.

4. At the request of learned Chief Presenting Officer for the respondents, time is granted for filing affidavit in reply.

5. S.O. to 10.12.2021.

MEMBER (J)

**O.A. Nos. 960, 961, 962, 963 & 964 All of 2019
(Govind N. Londhe & Ors. Vs. State of Maharashtra & Ors.)**

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

DATE : 29.11.2021

ORAL ORDER :

Heard Shri I.D. Maniyar, learned Advocate for the applicants in all these O.As. and S/shri V.R. Bhumkar, I.S. Thorat, D.R. Patil, M.P. Gude & Smt. M.S. Patni, learned Presenting Officers for the respective respondents in respective O.As.

2. Record shows that pleadings are complete. The present matters are pertaining to compassionate appointment as per Lad-Page committee. Hence, the O.As. are admitted and it be fixed for final hearing on 11.01.2022.

MEMBER (J)

KPB/ORAL ORDERS 29.11.2021

ORIGINAL APPLICATION NO. 442 OF 2021
(Nikhil Suryakant Kulkarni Vs. State of Maharashtra & Ors.)

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

DATE : 29.11.2021

ORAL ORDER :

Heard Shri Amol B. Chalak, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondent Nos. 1 & 2. None present on behalf of respondent Nos. 3 & 4.

2. On instructions, learned Advocate for the applicant seeks permission to withdraw the present Original Application stating that by subsequent order, the grievance of the applicant is redressed and the applicant has got transfer at Aurangabad.

3. In view of this, I have no difficulty in granting permission to the applicant to withdraw the present Original Application. Hence, the O.A. stands disposed of as withdrawn, as the grievance of the applicant has been redressed. There shall be no order as to costs.

MEMBER (J)

**M.A. 237/2021 in M.A. 174/2020 in O.A. St. 574/2020
(Ulka D. Jadhav Vs. State of Maharashtra & Ors.)**

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

DATE : 29.11.2021

ORAL ORDER :

Heard Shri Mayur Subhedar, learned Advocate holding for Shri C.V. Dharurkar, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. By the present Misc. Application No. 237/2021, the applicant is seeking setting aside the abetment and brining heir and legal representative of the original applicant on record by condoning delay of 58 days in M.A. No. 174/2020 in O.A. St. No. 574/2020. The M.A. No. 174/2020 is filed seeking condonation of delay of 2 years, 11 months and 10 days caused for filing the accompanying Original Application St. No. 574/2020.

3. The original applicant Shri Dnyanoba Wamanrao Jadhav died on 09.05.2021 during the pendency of the proceedings. The Original Application is filed seeking one notional annual grade pay increment on 01.07.2017 for the service rendered by him during the period from 01.07.2016 to 30.06.2017 and

//2// MA 237/21 in MA
174/20 in OA St. 574/20

consequently revised pension, as the applicant retired on superannuation on 30.06.2017.

4. It is stated that the original applicant died of Covid-19 infection on 09.05.2021. His death certificate is at Annexure A-1 to the present M.A. No. 237/2021. The date of registration of death is 24.05.2021. The present Misc. Application is filed on or about 05.08.2021. In the circumstances, as above it is evident that the original applicant died during the period of Covid-19 pandemic and as per the orders of the Hon'ble Apex Court from time to time, it is seen that the limitation is exempted, if the cause of action arose during the Covid-19 pandemic situation.

5. In the circumstances, in my considered opinion, it would be just and proper to condone the delay. Considering the reliefs sought for in the Original Application, it is prima-facie evident that, the widow of the original applicant would be entitled to carry out proceedings further as right to sue would survive in her favour. In view of the same, it would be just and proper to allow the present Misc. Application. Hence, I proceed to pass following order :-

//3// MA 237/21 in MA
174/20 in OA St. 574/20

ORDER

1. The Misc. Application No. 237/2021 is allowed.
2. The delay of 58 days caused in filing the present Misc. Application is hereby condoned.
3. The order of abetment is set aside and the name of the applicant is allowed to be brought on record in M.A. No. 174/2020 in O.A. St. No. 574/2020, as well as, O.A. St. No. 574/2020 as heir and legal representative of the original applicant.
4. The necessary amendment be carried out within a period of two weeks.
5. No order as to costs.

MEMBER (J)

**M.A. No. 174/2020 in O.A. St. No. 574/2020
(Ulka D. Jadhav Vs. State of Maharashtra & Ors.)**

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

DATE : 29.11.2021

ORAL ORDER :

Heard Shri Mayur Subhedar, learned Advocate holding for Shri C.V. Dharurkar, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. S.O. to 07.01.2022.

MEMBER (J)

KPB/ORAL ORDERS 29.11.2021

ORIGINAL APPLICATION NO. 766 OF 2016
(Rambahu T. Jadhav Vs. State of Maharashtra & Ors.)

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

DATE : 29.11.2021

ORAL ORDER :

Heard Shri Anant D. Sugdare, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondent No.1 and 4. Smt. Sunita D. Shelke, learned Advocate for the respondent Nos.2 and 3 is **absent**.

2. During the course of arguments, it transpires that there is ambiguity about the date of entry of the applicant in service as Technical Assistant as to whether 23.02.1982 or 17.03.1986.

3. It appears that the applicant has not filed rejoinder to the contention raised by respondents in their respective affidavits-in-reply.

4. In the facts and circumstances, learned Advocate for the applicant seeks liberty to file affidavit-in-rejoinder to explain the ambiguity. Liberty as prayed for is granted.

5. S.O. to 07.12.2021.

MEMBER (J)

O.A.NOS.862 TO 882 ALL OF 2017
(Tulshidas K. Patil & Ors. Vs. State of Maharashtra & Ors.)

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

DATE : 29.11.2021

ORAL ORDER :

Heard Shri Milind K. Deshpande, learned Advocate for the applicants in all the O.As. and Shri M.S. Mahajan, learned C.P.O., Shri I.S. Thorat, Shri V.R. Bhumkar, Smt. M.S. Patni, Smt. Deepali S. Deshpande, and Shri M.P. Gude, respective learned Presenting Officers for the respondents in respective O.As.

2. Affidavits-in-rejoinder filed by the applicants in all these cases are taken on record and copies thereof have been served on the other side.

3. Learned P.O. seeks time to go through the affidavits-in-rejoinder filed by the applicants. Time is granted.

4. S.O. to 17.01.2022.

MEMBER (J)

ORIGINAL APPLICATION NO.116 OF 2018
(Sanjay M. Deokate Vs. State of Maharashtra & Ors.)

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

DATE : 29.11.2021

ORAL ORDER :

Shri S.D. Joshi, learned Advocate for the applicant is **absent**. Heard Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. As per direction issued in farad sheet order dated 26.10.2021, the learned P.O. for the respondents places on record relevant portion of service book giving details of nine minor punishments including present punishment. It is taken on record and marked as document 'X' for the purpose of identification.

3. As none present on behalf of the applicant, S.O. to 10.12.2021.

MEMBER (J)

ORAL ORDERS 29.11.2021-SAS

ORIGINAL APPLICATION NO.583 OF 2019
(Bhaskar D. Baviskar Vs. State of Maharashtra & Ors.)

WITH

ORIGINAL APPLICATION NO.602 OF 2019
(Bhaskar D. Baviskar & Ors. Vs. State of Maharashtra & Ors.)

WITH

ORIGINAL APPLICATION NO.619 OF 2019
(Arjun R. Pawar Vs. State of Maharashtra & Ors.)

WITH

ORIGINAL APPLICATION NO.620 OF 2019
(Rajendra S. Mali Vs. State of Maharashtra & Ors.)

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

DATE : 29.11.2021

ORAL ORDER :

Heard Ms. Preeti R. Wankhade, learned Advocate for the applicants in all the O.As. and Shri I.S. Thorat, learned Presenting Officer for the respondents in all the O.As.

2. The present matters be treated as part heard.
3. S.O. to 03.12.2021.

MEMBER (J)

ORIGINAL APPLICATION NO.52 OF 2020
(Pramod P. Lokhande Vs. State of Maharashtra & Ors.)

WITH

ORIGINAL APPLICATION NO.53 OF 2020
(Kailas K. Sasane Vs. State of Maharashtra & Ors.)

WITH

ORIGINAL APPLICATION NO.155 OF 2020
(Vishal N. Kamble Vs. State of Maharashtra & Ors.)

WITH

ORIGINAL APPLICATION NO.283 OF 2021
(Gautam A. Jadhav Vs. State of Maharashtra & Ors.)

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

DATE : 29.11.2021

ORAL ORDER :

Heard Shri Harish S. Bali, learned Advocate for the applicants in all the O.As. and Shri V.R. Bhumkar, Shri I.S. Thorat, Smt. M.S. Patni and Shri M.P. Gude, respective learned Presenting Officers for the respondents in respective O.As.

2. Due to paucity of time, S.O.to 11.01.2022.

MEMBER (J)

ORAL ORDERS 29.11.2021-SAS

**ORIGINAL APPLICATION NO.97 OF 2020
(Tukaram V. Sanap Vs. State of Maharashtra & Ors.)**

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

DATE : 29.11.2021

ORAL ORDER :

Heard Shri M.R. Andhale, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. Due to paucity of time, S.O.to 12.01.2022.

MEMBER (J)

ORAL ORDERS 29.11.2021-SAS

Date :29.11.2021

**ORIGINAL APPLICATION NO.748 OF 2021
(Prakash Bhagwanrao Potewar V/s The State of
Maharashtra & Ors.)**

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

1. Shri Sudhir Patil, Id. Advocate for the applicant and Shri N.U. Yadav, Id. P.O. for the respondents, are present.
2. Circulation is granted. Issue notices to the respondents, returnable on 15.12.2021. The case be listed for admission hearing on 15.12.2021.
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

**ORIGINAL APPLICATION NO. 271/2020
(Siddharth M. Kadam Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 29.11.2021

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. Learned Presenting Officer sought short adjournment for filing affidavit in reply of the respondents. Time granted.

3. S.O. to 21.12.2021.

MEMBER (A)

MEMBER (J)

ARJ ORAL ORDERS 29.11.2021

**ORIGINAL APPLICATION NO. 539/2021
(Jagnath S. Patil Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 29.11.2021

ORAL ORDER :

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

2. Learned Advocate for the applicant submits that he has to file Misc. Application seeking certain amendment in the present O.A. He is permitted to do so. The said M.A. be filed by the next date.

3. Learned Presenting Officer also seeks time for filing affidavit in reply of the respondents in the present O.A. Time granted.

4. S.O. to 5.1.2022.

MEMBER (A)

MEMBER (J)

**M.A. 61/2021 IN O.A. 127/2020
(Resha P. Karhale Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 29.11.2021

ORAL ORDER :

Shri Avinash S. Deshmukh, learned Advocate for the applicant (**leave note**). Shri I.S. Thorat, learned Presenting Officer for the respondents, is present.

2. There is leave note of the learned Advocate for the applicant.

3. In the circumstances, S.O. to 22.12.2021.

MEMBER (A)

MEMBER (J)

ARJ ORAL ORDERS 29.11.2021

M.A. 154/2021 IN O.A. ST. 297/2021
(Baliram S. Sapkale & Ors. Vs. State of Maha. & Ors.)

CORAM : **Hon'ble Justice Shri P.R. Bora, Member (J)**
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : **29.11.2021**

ORAL ORDER :

Shri S.D. Dhongde, learned Advocate for the applicant (**leave note**). Smt. M.S. Patni, learned Presenting Officer for the respondents, is present.

2. In view of leave note of the learned Advocate for the applicant, S.O. to 21.12.2021.

MEMBER (A)

MEMBER (J)

ARJ ORAL ORDERS 29.11.2021

C.P. 19/2020 IN O.A. 704/2017
(Asman D. Garje & Ors. Vs. State of Maha. & Ors.)
WITH
C.P. 27/2020 IN O.A. 749/2017
(Mohammad Abdul Hai Mohammad Abdul Gani & Ors.
Vs. State of Maha. & Ors.)

CORAM : **Hon'ble Justice Shri P.R. Bora, Member (J)**
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : **29.11.2021**

ORAL ORDER :

Heard Shri Prafulla Bodade, learned Advocate holding for Shri J.B. Choudhary, learned Advocate for the applicants in both the cases and Shri V.R. Bhumkar, learned Presenting Officer for the respondents in both the cases.

2. It is informed by the learned Presenting Officer that in the writ petition is still pending before the Hon'ble High Court of Judicature at Bombay, Bench at Aurangabad and no specific returnable date has been given therein.

3. In the circumstances, S.O. to 3.1.2022.

MEMBER (A)

MEMBER (J)

**C.P. 19/2021 IN O.A. 890/2018
(Shaikh Hajrabee Shaikh Dadamiya & Ors. Vs. State of
Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 29.11.2021

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. Learned Presenting Officer seeks time for filing affidavit in reply of the respondents in the present C.P. Time granted.

3. In the circumstances, S.O. to 21.12.2021.

MEMBER (A)

MEMBER (J)

ARJ ORAL ORDERS 29.11.2021

**ORIGINAL APPLICATION NO. 639/2021
(Sanjay R. Kadam & Ors. Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 29.11.2021

ORAL ORDER :

Heard Shri Sanjay B. Bhosale, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. Learned Presenting Officer sought time for filing affidavit in reply of the respondents. The said request is strongly opposed by the learned Advocate for the applicant. However, in the interest of justice, two weeks' time for filing affidavit in reply is granted to the respondents as a last chance.

3. S.O. to 16.12.2021.

MEMBER (A)

MEMBER (J)

ARJ ORAL ORDERS 29.11.2021

**ORIGINAL APPLICATION NO. 736/2021
(Pandit S. Tiparse Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 29.11.2021

ORAL ORDER :

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

2. Learned Advocate for the applicant is suggested to first satisfy this Tribunal regarding exhausting of alternative remedy by the applicant

3. S.O. to 10.12.2021.

MEMBER (A)

MEMBER (J)

ARJ ORAL ORDERS 29.11.2021

**M.A. 373/2021 IN O.A. ST. 1637/2021
(Ashwini A. Wavhale & Ors. Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 29.11.2021

ORAL ORDER :

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

2. This is an application preferred by the applicants seeking leave to sue jointly.

3. For the reasons stated in the application, and since the cause and the prayers are identical and since the applicants have prayed for same relief, and to avoid the multiplicity, leave to sue jointly granted, subject to payment of court fee stamps, if not paid.

4. Accompanying O.A. be registered and numbered, after removal of office objections, if any. The present M.A. stands disposed of accordingly without any order as to costs.

MEMBER (A)

MEMBER (J)

O.A. ST. 1637/2021

(Ashwini A. Wavhale & Ors. Vs. State of Maha. & Ors.)

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 29.11.2021

ORAL ORDER :

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

2. Issue notices to the respondents, returnable on 10.1.2022.

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. 1637/2021

(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 10.1.2022.

8. Registry is directed that on the next date the present case be placed along with one similar matter filed recently by one applicant agitating his grievance regarding appointment by limited Departmental Examination as Agriculture Supervisor.

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

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 80/2020
(Dr. Md. Ashfaque Md. Ashraf Tinmaswala Vs. State of
Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 29.11.2021

ORAL ORDER :

Heard Shri Shamsundar B. Patil, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant has filed rejoinder affidavit of the applicant. It is taken on record and copy thereof has been supplied to the learned Presenting Officer for the respondents.

3. With the consent of both the sides, S.O. to 4.1.2022 for hearing at the stage of admission.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 449/2020
(Yogesh M. Panchwatkar Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 29.11.2021

ORAL ORDER :

Heard Shri N.E. Deshmukh, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant submits that since the charges in the Departmental Enquiry are similar to the charges, which the accused is facing in the criminal case and, therefore, it is necessary to grant Interim Stay to Departmental Enquiry. He further submits that, if the Departmental Enquiry proceeds ahead the accused will be constrained to open his defense which may cause serious prejudice to him while defending the criminal case pending against him.

3. Learned Presenting Officer in reply to above submissions of the learned Advocate for the applicant submits that, the Department is thinking of reviewing the charge and may restrict the Departmental Enquiry

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O.A. NO. 449/2020

only to the extent of holding of Karyashala by the accused at his house.

4. In the above circumstances, the present matter is adjourned to 5.1.2022.

5. We need to state that till the next returnable date the Department shall not proceed further in the Departmental Enquiry.

MEMBER (A)

MEMBER (J)

**M.A. 222/2019 IN O.A. ST. 851/2019
(Namdeo M. Bawiskar Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 29.11.2021

ORAL ORDER :

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

2. At the request of learned Advocate for the applicant, S.O. to 2.12.2021.

MEMBER (A)

MEMBER (J)

ARJ ORAL ORDERS 29.11.2021

**M.A. 168/2021 IN O.A. 566/2017
(Rajendra G. Mane Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 29.11.2021

ORAL ORDER :

Heard Shri S.G. Kulkarni, learned Advocate holding for Shri S.D. Joshi, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. Shri Kulkarni, learned Advocate submits that Shri Joshi, learned Advocate for the applicant is out of headquarters. He, therefore, seeks adjournment. Adjournment as sought for is granted.

3. S.O. to 15.12.2021.

MEMBER (A)

MEMBER (J)

ARJ ORAL ORDERS 29.11.2021

**ORIGINAL APPLICATION NO. 22/2021
(Muktyarsing R. Theng Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 29.11.2021

ORAL ORDER :

Heard Smt. Vidya Taksal, learned Advocate holding for Shri Avinash S. Deshmukh, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. Smt. Taksal, learned Advocate submits that Shri Deshmukh, learned Advocate for the applicant has filed leave note.

3. In the circumstances, in view of leave note of learned Advocate for the applicant, S.O. to 6.1.2022. The interim relief granted earlier to continue till.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 464/2019
(Dayanand F. Gange Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 29.11.2021

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate holding for Shri Ashish Rajkar, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. At the request of Shri Jadhav, learned Advocate holding for Shri Rajkar, learned Advocate for the applicant, S.O. to 23.12.2021.

MEMBER (A)

MEMBER (J)

ARJ ORAL ORDERS 29.11.2021

**M.A. 141/2021 IN M.A. 121/2021 IN O.A. 295/2019
WITH C.P. 3/2021
(State of Maha. & Ors. Vs. Maharashtra Rajya Hangami
Hivtap Prayogshala Karmachari Sanghathana through
its President)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 29.11.2021

ORAL ORDER :

Heard Shri M.S. Mahajan, learned Chief Presenting Officer for the applicants in M.A. 141/2021 / respondents in O.A., Ms. Preeti R. Wankhade, learned Advocate for respondent in M.A. No. 141/2021 / applicant in O.A. / C.P. and Shri Vinod Patil, learned Advocate for applicants in M.A. No. 121/2021.

2. Ms. Wankhade, learned Advocate has tendered rejoinder affidavit of the applicant in C.P. It is taken on record and copy thereof has been served on other side.

3. S.O. to 10.12.2021.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 24/2021
(Dr. Vaishali S. Garjewar Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 29.11.2021

ORAL ORDER :

Heard Shri Shamsundar B. Patil, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. Learned Presenting Officer seeks time for filing affidavit in reply. Time granted. Learned P.O. shall positively file the affidavit in reply on the next date and supply copy thereof to the learned Advocate for the applicant in advance.

3. S.O. to 4.1.2022.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 191/2021
(Shri Sandip W. Khadse Vs. State of Maha. & Ors.)**

**CORAM : Hon'ble Justice Shri P.R. Bora, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 29.11.2021

ORAL ORDER :

Heard Shri R.J. Nirmal, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. We have perused the present Original Application and the affidavit in reply filed to it by the respondents. We have also perused the documents placed on record by the parties.

3. The applicant is working on the post of Assistant R.T.O. It is the case of the applicant that, though he is entitled and eligible to be promoted to the post of Deputy R.T.O., he has not been given the said promotion and the person junior to him namely Shri Nandakishore N. Patil (respondent no. 4) has been given promotion to the said post. The applicant has challenged the said order in the present O.A. and further prayed for issuance of directions to the

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O.A. NO. 191/2021

respondents to grant him promotion to the post of Deputy R.T.O.

4. The respondents have not disputed the eligibility of the applicant for his promotion to the post of Deputy R.T.O. In the meeting of the Departmental Promotion Committee (for short D.P.C.) held on 20.11.2020 the said Committee has recorded that considering the performance of the applicant graded in his Confidential Reports, he is entitled and eligible for the promotion to the post of Deputy R.T.O. However, the D.P.C. has kept its decision in that regard in the sealed envelope for two reasons, first that though the period of probation has been successfully completed by the applicant, the permanency benefit certificate (स्थायित्व लाभ प्रमाणपत्र) has not been issued in his favour, and other that the proposal has been forwarded to the Government for initiation of the Departmental Enquiry against him.

5. It is the contention of the applicant that both the reasons given by the respondents are unsustainable. It is his contention that the permanency benefit certificate has been issued in his favour on 23.12.2021 and he has been given permanency w.e.f. 27.4.2016.

It is his further contention that on the date of meeting of the D.P.C. i.e. on 20.11.2020 no D.E. was initiated against him nor any communication in that regard was made till the said date. Learned Advocate for the applicant has relied on the G.R. dated 1.8.2019 and more particularly clause (1.11) thereof. Reliance is also placed by the learned Advocate for the applicant on the G.R. dated 30.8.2018 and more particularly clause (1-B) thereof.

6. Learned P.O. has opposed the submissions advanced on behalf of the applicant. It is his contention that there are serious charges against the applicant and the proposal has been forwarded to the higher authority seeking its approval for initiation of D.E. against the applicant. In the circumstances, according to the learned P.O., the authorities are well within their right to keep the decision in sealed envelope in regard to the promotion of the applicant.

7. Our attention was invited by the learned P.O. appearing for the respondents to the fact that 2 criminal cases were pending against the applicant, first at Narpoli Police Station in C.R. No. 20/2018 for

the offences U/ss 465, 467, 468, 474 r/w 34 of I.P.C. and other in the Police Station at Bhokardan in C.R. No. 147/2018 for the offences U/ss 465, 468, 470, 471, 420 & 406 of I.P.C.

8. We have carefully considered the submissions advanced by the learned Advocate for the applicant and the learned Presenting Officer for the respondents.

9. Meeting of the D.P.C. was undisputedly held on 20.11.2020. The documents on record show that memorandum of charges was issued to the applicant on 4.12.2020 and according to the contention of the applicant, the same was served on him on 21.12.2020.

10. Even if the date of issuance of charge sheet is taken into account, it is quite clear that the meeting of the D.P.C. was held prior to the said date. It is thus evident that till the date of meeting of D.P.C., there was absolutely no communication nor the charge sheet was issued to the applicant.

11. Clause 1.11 of the G.R. dated 1.8.2019 provides that, it is impermissible to deprive any candidate from getting promotion on the ground that on some aspects

having the nexus regarding eligibility of said candidate for getting promotion, the D.E. is proposed, if the said candidate is otherwise eligible for the promotion. In the present case also the D.P.C. has recorded that the applicant is otherwise eligible for getting the promotion. However, the decision in that regard is kept in a sealed envelope on the ground that the proposal has been moved with the higher authority seeking approval for initiating D.E. against the applicant and the said approval is awaited. In the circumstances, it will be unjust to deny the promotion to the applicant and to keep the decision in regard to his promotion in a sealed envelope.

12. Our attention was invited by the learned P.O. to the G.R. dated 30.8.2018 and more particularly clause 1-C thereof. Clause 1-C of the G.R. dated 30.8.2018 states that if any criminal case is pending against the Government employee, the decision in regard to his promotion has to be kept in a sealed envelope until the decision of the said criminal case and if the employee concerned is punished in the said criminal case by considering the nature of punishment. According to

the learned P.O., since 2 criminal cases as mentioned hereinabove are pending against the applicant, the decision as about promotion of the applicant has rightly been kept in a sealed envelope.

13. As against the submissions made by the learned Presenting Officer, it is specific contention of the applicant that no case, as has been pointed out by the learned P.O., is pending against him. Learned Advocate for the applicant, on instructions, submitted that, no such cases are pending against the applicant and even in the F.I.R. in the said offences the name of the applicant was not there.

14. The respondents have not placed on record any document evidencing that the aforesaid criminal cases are pending against the applicant neither any other evidence is filed by the respondents corroborating the said fact. When assertion is made by the applicant that no criminal case is pending against him, it has to be presumed that, he has made the said statement with responsibility and if the statement made so is ultimately found to be false or contrary to the facts, he will be liable for subsequent actions and serious

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O.A. NO. 191/2021

consequence thereof. As per the said G.R. the decision in regard to promotion of the candidate is required to be kept in sealed envelope :-

- (a) if the employee is under suspension,*
- (b) If the D.E. has been initiated against the said employee by serving of the charge sheet on the said employee.*

15. Admittedly, the applicant is not under suspension. As discussed hereinabove, the charge sheet was not served upon the applicant till the date of meeting of the D.P.C. Further, at present, in absence of any contrary evidence, it has to be held, as submitted by the applicant, that, no criminal cases are pending against him as alleged by the respondents.

16. In the above circumstances, according to us, there appears no rational in the action of the D.P.C. of keeping the decision in regard to the promotion of the applicant to the post of Deputy R.T.O. in a sealed envelope. The said decision, therefore, has to be set aside and it is accordingly set aside.

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O.A. NO. 191/2021

17. In the above circumstances, the respondents are directed to consider the present applicant for his promotion to the post of Deputy R.T.O., if he is otherwise eligible to be promoted on the said post. The present O.A. thus stands allowed in the aforesaid terms and disposed of with no order as to costs.

MEMBER (A)

MEMBER (J)

ARJ ORAL ORDERS 29.11.2021