

M.A. NO. 100/2021 IN O.A. ST. 431/2021
(Umesh A. Bavare & Ors. Vs. State of Maharashtra & Ors.)

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

[This matter is placed before the Single Bench due to non-availability of Division Bench.]

DATE : 4.5.2021

ORAL ORDER :

Heard Shri S.D. Munde, learned Advocate for the applicants and Shri M.S. Mahajajn, 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 (J)

ORIGINAL APPLICATION ST. NO. 431/2021
(Umesh A. Bavare & Ors. Vs. State of Maharashtra & Ors.)

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

[This matter is placed before the Single Bench due to non-availability of Division Bench.]

DATE : 4.5.2021

ORAL ORDER :

Heard Shri S.D. Munde, learned Advocate for the applicants and Shri M.S. Mahajajn, learned Chief Presenting Officer for the respondents.

2. Issue notices to the respondents, returnable on 15.6.2021.

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

4. Applicants are authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal

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(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 15.6.2021.

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

MEMBER (J)

ORIGINAL APPLICATION NO. 252/2018
(Shri Sunil Vithal Surse Vs. State of Maharashtra & Ors.)

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

[This matter is placed before the Single Bench due to non-availability of Division Bench.]

DATE : 4.5.2021

ORAL ORDER :

Heard Shri Sandip R. Andhale, learned Advocate for the applicant, Shri D.R. Patil, learned Presenting Officer for the respondent nos. 1 to 3 and Smt. Nima Suryawanshi, learned Advocate for respondent nos. 4 to 6.

2. Applicant is present in person before this Tribunal. Learned Advocate for the applicant has placed on record application of the applicant dated 3.5.2021 seeking withdrawal of this O.A. unconditionally by stating that he has been recently appointed on the post of Talathi. The said application of the applicant is taken on record and marked as document 'X' for the purpose of identification.

3. In the above facts and circumstances of the present case, the applicant is allowed to withdraw the present O.A.

4. Accordingly, the present O.A. stands disposed of as withdrawn with no order as to costs.

MEMBER (J)

ORIGINAL APPLICATION ST. NO. 459/2021
(Shri Vidyullata R. Gaikwad Vs. State of Maharashtra & Ors.)

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

DATE : 4.5.2021

ORAL ORDER :

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

2. Issue notices to the respondents, returnable on 14.6.2021.

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 (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

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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 14.6.2021.

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

MEMBER (J)

ORIGINAL APPLICATION NO. 85/2020
(Satwa N. Sangle Vs. State of Maharashtra & Ors.)

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

DATE : 4.5.2021

ORAL ORDER :

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

2. The applicant has already filed rejoinder affidavit. Learned C.P.O. submits that he will call the concerned original record.

3. In the circumstances, S.O. to 12.5.2021. The interim relief granted by the Tribunal vide order dtd. 13.2.2020 to continue till then.

MEMBER (J)

ORIGINAL APPLICATION NO. 187/2021
(Shri Ramrao K. Pallewad Vs. State of Maharashtra & Ors.)

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

DATE : 4.5.2021

ORAL ORDER :

1. By this Original Application the applicant is seeking relief of quashing and setting aside the impugned order dated 12.4.2021 (Annex. A.14 paper book page 141 of O.A.) passed by the respondent No. 2 – the Director, Government Printing Stationary & Publication, Mumbai. By the said order the applicant, who was working as a Head Clerk in Government Stationary Stores & Book Depot, Aurangabad to the post of Head Clerk, Central Jail Press, Nagpur.

2. It is the contention of the applicant that certain complaints were made by the lady staff against him. The Women Complaints Redressal Committee, Aurangabad enquired into the said complaints and submitted report on 5.1.2018 holding that the allegations against the applicant were not proved.

3. The respondent no. 2, however, appointed Second Committee on 14.3.2018 to enquire into the said allegations. According to the applicant, the said

act of the respondent no. 2 is illegal. The said Second Committee submitted the report dated 18.4.2018 and exonerated the applicant, but recommended the transfer of the applicant. The respondent no. 2 being dissatisfied with the said report again remanded the matter to the Second Committee. The Second Committee submitted its report dated 7.9.2018, however, according to the applicant he has not received the copy of the said report dated 7.9.2018. The applicant by letter dated 9.2.2019 (paper book page 42 of O.A.) wrote a letter to the President of the Women Complaints Redressal Committee, Mumbai seeking copy of the final report. The said authority, however, by the letter dated 20.2.2019 asked the applicant to approach the respondent no. 2 to obtain the copy of the final report. The applicant states that still he has not received the copy of the report dated 7.9.2018.

4. It is an admitted position that as per the order dated 5.11.2018 the respondent no. 2 suspended the applicant. Thereafter the respondent no. 2 issued the charge sheet on 15.11.2018 levelling in all 8 charges against the applicant. Having found reference to the Second Internal Committee's report dated 7.9.2018, as

stated earlier, the applicant demanded copy of report by letter dated 9.2.2019. The applicant participated in the departmental enquiry held against him. The Enquiry Officer submitted the report to the Disciplinary Authority on 10.6.2019 exonerating the applicant of 7 charges including the charge of harassment, but he was held guilty of 1 charge i.e. charge No. 4. As per the said charge the applicant said to have proceeded on leave from 4.7.2018 without handing over the charge of his post.

5. The applicant thereafter submitted his say to the enquiry report on 24.9.2019. The respondent no. 2, however, failed to take necessary action on the enquiry report submitted by the Enquiry Officer within the reasonable time. Therefore the applicant filed O.A. No. 18/2021 before this Tribunal. This Tribunal disposed of the said O.A. No. 18/2021 by the order dated 17.2.2021 and directed the respondent no. 2 to take final decision in departmental enquiry in accordance to law within 2 months from the date of said order without fail and a decision as the case may be, shall be communicated to the applicant within a week thereafter. Thereafter as per the order dated 12.4.2021 (Annex. A.13 paper book page 139 of O.A.)

the respondent no. 2 accepted the report of the Enquiry Officer and passed the punishment order of 'Census' against the applicant. At the same time, on the same day, the respondent no. 2 by the separate order dated 12.4.2021 (Annex. A. 14 paper book page 141 of O.A.) transferred the applicant from the post of Head Clerk, Government Stationary Stores & Book Depot, Aurangabad to the post of Head Clerk, Central Jail Press, Nagpur. It is the contention of the applicant that the said impugned order is punitive in nature and it is passed on the basis of report submitted by the Women Complaints Redressal Committee, Mumbai, which in fact, exonerated the applicant from all the charges leveled against him.

6. Heard Shri A.S. Shelke, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

7. Learned Advocate for the applicant has submitted that the applicant has been transferred by the impugned order dated 12.4.2021 from one establishment to altogether different establishment. Though the suspension order of the applicant is revoked by the order dated 12.4.2021 on the same day,

by the separate order the applicant has been transferred without allowing him to join on the same establishment and has been asked to join on altogether different establishment. He further submitted that the applicant's wife, who is working as a Teacher at Aurangabad, would be left alone as their daughter is studying in 12th standard and due to this midterm transfer the applicant is going to suffer hardship. Hence, the applicant seeks interim stay to the impugned transfer order.

8. Learned C.P.O. strenuously urged before me that the suspension order of the applicant is revoked and the applicant is being transferred in accordance with law and there is nothing on record to infer that the said order is punitive in nature. Hence he objected for grant of interim stay in favour of the applicant.

9. As narrated in the facts, it is evident that this matter has some checkered history. The applicant earlier had approached this Tribunal by filing O.A. No. 18/2021 for seeking final decision on the enquiry report. Learned Advocate for the applicant by taking instructions from the applicant submitted that the applicant received the impugned transfer order dated

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12.4.2021 only on 19.4.2021 and thereafter he has filed the present O.A. on 23.4.2021. According to him, the applicant has sought the available remedy within a period of 7 days from the date of receipt of said order as 7 days' period for joining was available to the applicant. It is for the applicant to take his own care so far as implementation of the impugned order.

10. Considering the fact that the applicant has approached this Tribunal immediately after passing the impugned transfer order to seek interim protection and considering the peculiar facts and circumstances of the case leading to pass the impugned order by the respondent no. 2, in my opinion, at this stage, in order to avoid the multiplicity of the litigation, it is just and proper to grant interim stay to the implementation & operation of the impugned transfer order dated 12.4.2021, till next date. Moreover, in my considered opinion, debatable issue as regards transfer of the applicant is involved and is requires to be resolved.

11. In view of above, implementation & operation of the impugned transfer order dated 12.4.2021 passed by the respondent no. 2 is stayed till next date i.e. till 9.6.2021.

12. Issue notices to the respondents, returnable on 9.6.2021.

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

14. 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.

15. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

16. 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.

17. S.O. to 9.6.2021.

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

MEMBER (J)

ORIGINAL APPLICATION NO. 539 OF 2020
(Sagar Digambar Kamble Vs. State of Maharashtra & Ors.)

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

DATE : 04.05.2021

ORAL ORDER :

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

2. Learned Advocate for the applicant has placed on record circulation note stating that during pendency of the present O.A., the applicant has received the appointment on compassionate ground. He has placed on record appointment letter dated 17.03.2021. The O.A. was made for appointment of the applicant on compassionate ground after the death of his father viz. Digambar Maruti Kamble, who was working as Jr. Clerk in the Sub-Treasury Office at Ausa.

3. In view of the above, nothing remains to be decided in the present O.A. Hence, the O.A. stands disposed of with no order as to costs.

MEMBER (J)

ORIGINAL APPLICATION NO. 531 OF 2020
(Manik D. Chavan Vs. State of Maharashtra & Ors.)

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

DATE : 04.05.2021

ORAL ORDER :

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

2. Learned Presenting Officer has filed affidavit in reply on behalf of respondent No. 4. Same is taken on record and copy thereof has been served on the other side.

3. Learned Advocate for the applicant submits that this matter pertaining to correction in date of birth of the applicant. The applicant however is retired from service on 30.04.2021. He further placed on record a copy of order dated 19.04.2021 passed by the respondent No. 1 rejecting the representation of the applicant dated 10.08.1988.

4. In view of this, learned Advocate for the applicant submits that the applicant has to amend the O.A. accordingly and seek appropriate relief.

5. Leave as prayed for by the applicant is granted.

6. S.O. to 15.06.2021.

MEMBER (J)

ORIGINAL APPLICATION NO. 592 OF 2020
(Dr. Sanjay B. Dhage Vs. State of Maharashtra & Ors.)

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

DATE : 04.05.2021

ORAL ORDER :

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

2. Learned Advocate for the applicant has submitted that the applicant has not received his salary as per the order dated 17.02.2021 passed by this Tribunal.

3. Learned P.O. submits that he will take necessary instructions from the concerned respondents in that regard by the next date. Till then, the interim relief granted to the applicant is continued.

4. S.O. to 12.05.2021.

MEMBER (J)

M.A. No. 71/2021 in O.A. No. 80/2021
(State of Maharashtra & Ors. Vs. Bhimrao N. Kokate)

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

DATE : 04.05.2021

ORAL ORDER :

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

2. By this M.A., the applicants who are respondents in O.A. No. 80/2021 are seeking to vacate the order of stay granted by this Tribunal on 16.02.2021.

3. Learned Advocate for the respondent (applicant in O.A.) seeks time for filing affidavit in reply. Time granted.

4. S.O. to 10.06.2021.

MEMBER (J)

**M.A. 77/2021 with M.A. 78/2021 in O.A. 101/2020
with Caveat 02/2021
(Milind V. Nakade Vs. State of Maharashtra & Ors.)**

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

DATE : 04.05.2021

ORAL ORDER :

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

2. Issue fresh notices to the respondents in M.A. 77/2021, returnable on 10.06.2021.

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 (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

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M.A. 77/21 with M.A.
78/21 in O.A. 101/20
with Caveat 02/21

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 10.06.2021.
8. Steno copy and Hamdast is allowed to both parties.

MEMBER (J)

Date : 04.05.2021
ORIGINAL APPLICATION NO. 195 OF 2021
(Gopal S. Patil V/s State of Maharashtra & Ors.)

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

1. Shri V.B. Wagh, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for respondents, are present.
2. Circulation is granted. Issue notices to the respondents, returnable on 16.06.2021. The case be listed for admission hearing on 16.06.2021.
3. Tribunal may take the case for final disposal at this stage and a separate notice for final disposal shall not be issued.
4. Applicant is authorized and directed to serve on Respondent intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
5. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 and the questions such as limitation and alternate remedy are kept open.
6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with Affidavit of compliance in the Registry as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

REGISTRAR

Date : 04.05.2021

ORIGINAL APPLICATION NO. 194 OF 2021

(Vinod B. Ghewande V/s State of Maharashtra & Others)

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

1. Shri V.B. Wagh, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for respondents, are present.
2. Circulation is granted. Issue notices to the respondents, returnable on 16.06.2021. The case be listed for admission hearing on 16.06.2021.
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