

ORIGINAL APPLICATION NO. 203/2021
(Satish G. Dighe Vs. State of Maharashtra & Ors.)

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

DATE : 6.5.2021

ORAL ORDER :

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

2. The applicant is working as a District Administrative Officer at Jalgaon as per the earlier transfer order dated 22.12.2020 and since then he is working on the same post. By the impugned order dated 3.5.2021 (Annex. A. 4 paper book page 21 of O.A.) issued by the respondent no. 1 the applicant is now transferred from the post of District Administrative Officer, Jalgaon to the post of Chief Officer, Erandol Municipal Council, Dist. Jalgaon. It is the grievance of the applicant that the impugned order is mid-tenure transfer of the applicant causing hardship to him. According to the applicant, though the provisions of sections 4(4) & 4(5) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (for short the 'Transfer Act, 2005') is being mentioned in the said transfer order, only the provisions of section 4(5) at the most would be attracted, however, the impugned order does not speak about recording of any exceptional circumstances which

compels the concerned respondent to issue the impugned transfer of the applicant.

3. Learned Advocate for the applicant submits that the applicant has not been given even the benefit of joining period for joining on the newly transferred post. The impugned order, therefore, according to the learned Advocate for the applicant, has been issued by the respondent no. 1 in violation of the statutory provisions of law and therefore, the applicant is entitled for grant of interim relief.

4. Learned Presenting Officer for the respondents submits that in the impugned order it is specifically mentioned that the said transfer is made in accordance with the provisions of sections 4(4) & 4(5) of the Transfer Act, 2005 and even prior approval of the higher authority is being obtained and hence the impugned order does not suffer from any illegality or it cannot be said that it is in contravention of any of the provisions of the Transfer Act, 2005.

5. Facts on record would reveal that the applicant has challenged the impugned order dated 3.5.2021 immediately within the period of 7 days joining time as provided under rule 15 of the Maharashtra Civil Services (Joining Time, Foreign Service and Payments During Suspension,

Dismissal and Removal) Rules, 1981. The impugned order is a order of mid-tenure transfer of the applicant. The impugned order is passed on administrative grounds. Perusal of the impugned transfer order would show that the respondent no. 1 has not recorded any exceptional circumstances as to why the applicant was required to be transferred within the tenure of 4 months from the date of earlier transfer. In view of this, in my considered opinion, a debatable issue is involved in the present matter and it is to be decided after filing affidavit in reply by the respondents and till then it is just and proper to protect the applicant by granting interim stay to the impugned transfer order.

6. In the above circumstances, the execution and operation of the impugned transfer order dated 3.5.2021 issued by the respondent no. 1 whereby the applicant has been transferred from the post of District Administrative Officer, Jalgaon to the post of Chief Officer, Erandol Municipal Council, Dist. Jalgaon is hereby stayed till filing affidavit in reply by the respondents.

7. Issue notices to the respondents, returnable on 6.7.2021.

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

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9. 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.

10. 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.

11. 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.

12. S.O. to 6.7.2021.

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

MEMBER (J)

ORIGINAL APPLICATION ST. NO. 385/2021
(Devidas E. Baviskar Vs. State of Maharashtra & Ors.)

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

DATE : 6.5.2021

ORAL ORDER :

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

2. Record reveals that the Registry has raised office objection stating that O.A. is barred by limitation in view of applicant's first representation dated 13.8.2013.

3. Learned Advocate for the applicant submits that the applicant was pursuing the matter before the respondent nos. 1 & 2. Record would reveal that there are communications in this respect even until September, 2020. This O.A. is filed on 5th April, 2021. The prescribed period of limitation for filing O.A. before this Tribunal is of one year from the impugned communication. In view of the same, O.A. said to have been filed within the prescribed period of limitation.

4. In view of above, Registry is directed to register the O.A. in accordance with law.

5. Issue notices to the respondents, returnable on 6.7.2021.

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O.A. ST. NO. 385/2021

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

7. 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.

8. 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.

9. 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.

10. S.O. to 6.7.2021.

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

MEMBER (J)

ORIGINAL APPLICATION NO. 577/2020
(Kalidas B. Choudhari Vs. State of Maharashtra & Ors.)

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

DATE : 6.5.2021

ORAL ORDER :

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

2. Record reveals that pleadings in this O.A. are complete. Learned Advocate for the applicant submits that the concerned original record is necessary for adjudication of this case.

3. In the circumstances, S.O. to 28.6.2021 for hearing and disposal at the stage of admission itself. The interim relief granted earlier to continue.

4. Learned P.O. is directed to keep the concerned original record available for the perusal of the Tribunal, on the next date.

MEMBER (J)

M.A. 162/2020 IN O.A. ST. 522/2020
(Sandu Y. Dongre Vs. State of Maharashtra & Ors.)

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

DATE : 6.5.2021

ORAL ORDER :

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

2. **S.O. to 7.5.2021 for orders.**

MEMBER (J)

ORIGINAL APPLICATION NO.191/2021
(Sandip Khadse 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 : 06.05.2021

ORAL ORDER :

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

2. Issue notices to the respondents, returnable on 28.06.2021.

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.

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 28.06.2021.

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

MEMBER (J)

M.A.ST.NO.477/2021 IN O.A.ST.NO.478/2021
(D.B.Biradar & 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 : 06.05.2021

ORAL ORDER :

Heard Shri S.B.Solanke, learned Advocate for the applicants, Smt. M.S.Patni, learned Presenting Officer for the respondents.

2. By this application, the applicant nos.1 to 3 are seeking permission of this Tribunal to sue the respondents jointly contending that the applicants are similarly placed persons and are having the same grievance. Office objection is raised stating that the respondent no.3 Moses Sadashiv Bhosle is resident of District Sangli and he is not residing within the jurisdiction of this Tribunal.

3. Learned Advocate for the applicants strongly urged before me that in this case, the jurisdiction of this Tribunal will have to be decided as per Section 6 of the Administrative Tribunals Act, 1985. In this regard he has also placed reliance on the decision of the Hon'ble Bombay High Court Bench at Aurangabad in Writ Petition No.3228/2020 in the matter of Nilesh s/o. Raosaheb Tagad & 2 Ors. V/s. State of Maharashtra & Ors. In the cited case, applicant nos.2 and 3 were the residents of District

=2= M.A.ST.NO.477/2021 IN O.A.ST.NO.478/2021

Pune and Akola, respectively. In view of the same, this Tribunal rejected the M.A. as well as the O.A. in respect of the said applicant nos.2 and 3. The Hon'ble High Court by referring to Rule 5 & 6 of the Administrative Tribunals Act, 1985 and more particularly Rule 6 observed that the concept of cause of action has not been considered by the Tribunal. The posts are to be filled in by the State Government and the said posts could be filled in by the State Government at any place in the State of Maharashtra. The advertisement is not limited to fill in the posts at a particular place. In that view, it cannot be said that the cause of action has not arisen within the jurisdiction of the Tribunal at Aurangabad.

4. The facts of the said citation and case in hand are similar. In view of the ratio laid down in the said decision, the office objection would not sustain.

5. Considering the facts and circumstances of the case, it is evident that the applicants are similarly placed persons and are having the same grievance, in view thereof permission to sue the respondents jointly is granted to the applicants. M.A. stands disposed of accordingly with no order as to costs.

MEMBER (J)

ORIGINAL APPLICATION ST.NO.478/2021
(D.B.Biradar & 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 : 06.05.2021

ORAL ORDER :

Heard Shri S.B.Solanke, learned Advocate for the applicants, Smt. M.S.Patni, learned Presenting Officer for the respondents.

2. In view of the request made by the learned Advocate for the applicants, applicants are permitted to give detailed address in the cause title.

3. Issue notices to the respondents, returnable on 15.06.2021.

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

5. 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.

6. 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.

7. 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.

8. S.O. to 15.06.2021.

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

MEMBER (J)

**M.A.NO.108/2021 IN C.P.NO.01/2021 IN
O.A.NO.83/2018
(Vyankat More & 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 : 06.05.2021

ORAL ORDER :

Heard Shri K.M.Nagarkar, learned Advocate for the applicants, Shri S.K.Shirse, learned Presenting Officer for the respondents.

2. By this M.A.No.108/2021, the applicants are seeking substitution of the name of respondent no.6 and issuance of fresh notice.

3. It is submitted that original respondent no.6 Shri Anand Tanaji Sawant being transferred from the post of Deputy Engineer, Mechanical Sub-Division, Beed and in his place now Shri T.N.Hadule is working.

4. In view of the same, name of Shri Anand Tanaji Sawant is ordered to be deleted and substituted by the name of Shri T.N.Hadule. Accordingly M.A.No.108/2021 stands disposed of with no order as to costs.

MEMBER (J)

C.P.NO.01/2021 IN O.A.NO.83/2018
(Vyankat More & 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 : 06.05.2021

ORAL ORDER :

Heard Shri K.M.Nagarkar, learned Advocate for the applicants, Shri S.K.Shirse, learned Presenting Officer for the respondents.

2. Issue notices to substituted respondent no.6 in C.P., returnable on 06.07.2021.

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

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

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

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(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 06.07.2021.

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

MEMBER (J)

ORIGINAL APPLICATION NO.591/2019

(Dr. Babynanda Baliram Gaikwad Vs. State of Maharashtra & Ors.)

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

DATE : 06.05.2021

ORAL ORDER :

Heard Shri A.S.Deshmukh, learned Advocate for the applicant, Shri D.R.Patil, learned Presenting Officer for the respondent nos.1 to 3 and Shri R.J.Nirmal learned Advocate holding for Shri M.B.Kolpe learned Advocate for respondent no.4.

2. Learned Advocate for the applicant seeks permission to withdraw the O.A. stating that in view of the modified order dated 13-02-2021 issued by the respondent no.1, applicant has been given posting at Aurangabad and she has joined there. In view thereof nothing survives in the O.A.

3. Accordingly, O.A. stands disposed of as withdrawn with no order as to costs.

MEMBER (J)

ORIGINAL APPLICATION NO.201/2021
(Vasant Patil Vs. State of Maharashtra & Ors.)

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

DATE : 06.05.2021

ORAL ORDER :

Heard Shri Santosh S. Jadhavar, learned Advocate for the applicant, Shri M.S.Mahajan, learned Chief Presenting Officer for the respondents.

2. Issue notices to the respondents, returnable on 06.07.2021.

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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O.A.NO.201/2021

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 06.07.2021.

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

MEMBER (J)

ORIGINAL APPLICATION NO.202/2021
(Balaji Kshirsagar Vs. State of Maharashtra & Ors.)

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

DATE : 06.05.2021

ORAL ORDER :

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

2. Issue notices to the respondents, returnable on 29.06.2021.

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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O.A.NO.202/2021

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 29.06.2021.

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

MEMBER (J)

**ORIGINAL APPLICATION NO. 1089 OF 2019
(Dadasaheb T. Yadmaj (Joshi) Vs. State of Maharashtra
& Ors.)**

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

DATE : 6.5.2021

ORAL ORDER :

Heard Shri M.B. Bharaswadkar, learned Advocate for the applicant, Shri V.R. Bhumkar, learned Presenting Officer for the respondent Nos. 1 to 5 and Shri Amarnath S. Sakhare, learned Advocate holding for Shri Sandeep R. Sapkal, learned Advocate for respondent No. 6.

2. By consent of both the parties, S.O. to 18.05.2021 for hearing. Interim relief to continue till then.

MEMBER (J)

Date : 06.05.2021
ORIGINAL APPLICATION NO. 205 OF 2021
(Ramesh Y. Gunjal V/s State of Maha. & 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 14.06.2021. The case be listed for admission hearing on 14.06.2021.
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