

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
AURANGABAD BENCH, AURANGABAD**

**ORIGINAL APPLICATION NOS. 257, 269, 270, 287 & 290  
ALL OF 2012**

**1) ORIGINAL APPLICATION NO 257 OF 2012**

**DISTRICT : AHMEDNAGAR**

Jayaprada d/o Marutirao Danve,  
Age : 34 years, Occ. Profession,  
R/o. Laxmi Nagar, near Court Building,  
Shevgaon, Tq. Shevgaon, Dist. Ahmednagar

-- **Applicant**

**Versus**

1. The State of Maharashtra
2. The Maharashtra Public Service Commission,  
Bank of India Building, M.G. Road, Fort Mumbai,  
Through its Secretary,

(copy to be served on C.P.O. MAT  
Bench at Aurangabad)

-- **Respondents**

**W I T H**

**2) ORIGINAL APPLICATION NO 269 OF 2012**

**DISTRICT : NANDED**

1. Shaikh Abdul Kalam s/o Abdul Karim,  
Age : 36 years, Occ. Spl. Asst. P.P.,  
R/o. Mastanpura, Nanded,  
Tal & Dist. Nanded.
2. Anuradha d/o Govindrao Satpute,  
Age : 40 years, Occ. Spl. Asst. P.P.,  
R/o. Holi Road, Nanded,  
Tal & Dist. Nanded.

3. Rekha d/o Vaijinathrao Tornekar,  
Age : 37 years, Occ. Spl. Asst. P.P.,  
R/o. New Mondha, Nanded,  
Tal & Dist. Nanded.
4. Datta s/o Shankarrao Paikrao,  
Age : 38 years, Occ. Spl. Asst. P.P.,  
R/o. Taroda Naka, Nanded,  
Tal & Dist. Nanded.
5. Ashish s/o Shrikantrao Deshpande,  
Age : 35 years, Occ. Spl. Asst. P.P.,  
R/o. Taroda Naka, Nanded,  
Tal & Dist. Nanded.
6. Vinayak s/o Balajirao Bhosle,  
Age : 33 years, Occ. Spl. Asst. P.P.,  
R/o. Vijayanagar, Nanded,  
Tal & Dist. Nanded.
7. Mukundrao s/o Nivruttirao Kasbe,  
Age : 49 years, Occ. Spl. Asst. P.P.,  
R/o. Shrikrishna Nagar, Nanded,  
Tal & Dist. Nanded.
8. Usha Nivruttirao Shinge,  
Age : 41 years, Occ. Spl. Asst. P.P.,  
R/o. Labour Colony, Nanded,  
Tal & Dist. Nanded.
9. Rajendra s/o Vaijinathrao Tate,  
Age : 45 years, Occ. Spl. Asst. P.P.,  
R/o. 63, Varma Nagar, Parbhani,  
Tal & Dist. Parbhani.
10. Anil s/o Motiram Ingale,  
Age : 42 years, Occ. Spl. Asst. P.P.,  
R/o. Shivaji Nagar, Hingoli,  
Tal & Dist. Hingoli.
11. Sau. Sharda w/o Ravikumar Bhatt,  
Age : 43 years, Occ. Spl. Asst. P.P.,  
R/o. Bhatt Colony, Post Office Road, Hingoli,  
Tal & Dist. Hingoli.

12. Prabhawati w/o Mukund Mali,  
Age : 43 years, Occ. Spl. Asst. P.P.,  
R/o. 1/B, Satsang Colony,  
Behind I.T.I. Deopur, Dhule,  
Tal & Dist. Dhule.
13. Sudhir s/o Arjunrao Bansode,  
Age : 38 years, Occ. Spl. Asst. P.P.,  
R/o. Osmanpura, Nagsen Nagar,  
Aurangabad, Tal & Dist. Hingoli.
14. Sunilkumar s/o Motiram Jondhale,  
Age : 38 years, Occ. Spl. Asst. P.P.,  
R/o. Eknath Nagar, Aurangabad,  
Tal & Dist. Aurangabad.
15. Zareena d/o Yusufkhan Durrani,  
Age : 34 years, Occ. Spl. Asst. P.P.,  
R/o. N-13, Hudco, Aurangabad,  
Tal & Dist. Aurangabad.
16. Pramod s/o Ramrao Kurlekar,  
Age : 35 years, Occ. Spl. Asst. P.P.,  
R/o. Flat No. 2, Girjadevi Society,  
Sarvadnya Apartment, Garkheda,  
Aurangabad, Tal & Dist. Aurangabad.

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**Applicants****Versus**

1. The State of Maharashtra  
Through its Secretary,  
Home Department,  
Mantralaya, Mumbai -32.
2. The Maharashtra Public Service Commission,  
Bank of India Building, M.G. Road,  
Fort, Mumbai-01,  
Through its Secretary,

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**Respondents****W I T H**

**3) ORIGINAL APPLICATION NO 270 OF 2012****DISTRICT : LATUR, OSMANABAD  
& JALNA**

1. Shivkumar Dattoba Jadhav,  
Age : 36 years, Occ. Service  
As Special Public Prosecutor,  
R/o Laxmi Colony, Latur.
2. Shrishailya Dhuulappa Revshette,  
Age : 36 years, Occ. Service  
As Special Public Prosecutor,  
R/o Karanje Galli, Ausa, Tq. Ausa,  
Dist. Latur.
3. Mahibub Bashir Pathan,  
Age : 37 years, Occ. Service  
As Special Public Prosecutor,  
R/o Sham Nagar, Latur.
4. Anita Pundalikrao Mekhale,  
Age : 36 years, Occ. Service  
As Special Public Prosecutor,  
R/o Prakash Nagar, Latur.
5. Sudhir Murlidhar Shete,  
Age : 35 years, Occ. Service  
As Special Public Prosecutor,  
R/o Ramegaon Via Borgaon(Kale)  
Tq. & Dist. Latur.
6. Pratibha Subhashrao Kulkarni,  
Age : 34 years, Occ. Service  
As Special Public Prosecutor,  
R/o Shri Nagar, Udgir,  
Tq. Udgir & Dist. Latur.
7. Sanjay Kantrao Sardeshmukh,  
Age : 38 years, Occ. Advocate,  
R/Datta Nagar, Nilanga, Tq. Nilanga  
& Dist. Latur.
8. Ravi Laxman Shinde,  
Age : 33 years, Occ. Service

- As Special Public Prosecutor,  
R/o Deshpande Galli, Latur.
9. Jameer Rehman Shaikh,  
Age : 33 years, Occ. Service  
As Special Public Prosecutor,  
R/o Pangaon Tq. Renapur,  
Dist. Latur.
  10. Pawankumar Umashankar Palne,  
Age : 33 years, Occ. Service  
As Special Public Prosecutor,  
R/o Latur Dist. Latur.
  11. Amol Ashok Vyas,  
Age : 33 years, Occ. Service  
As Special Public Prosecutor,  
R/o Latur, Latur.
  12. Santosh Sudam Kamble,  
Age : 38 years, Occ. Service  
As Special Public Prosecutor,  
R/o Hawarge, Tq. Jalkot  
Dist. Latur.
  13. Ujwala Gorakh Ingale,  
Age : 33 years, Occ. Service  
As Special Public Prosecutor,  
R/o Osmanabad.
  14. Chaya Anandrao Ghadge,  
Age : 41 years, Occ. Service  
As Special Public Prosecutor,  
R/o Jalna.
  15. Dhananjay Uddhavrao Patil,  
Age : 34 years, Occ. Service  
As Special Public Prosecutor,  
R/o Osmanabad.
  16. Ajeet Kalyanrao Mote,  
Age : 35 years, Occ. Service  
As Special Public Prosecutor,  
R/o Osmanabad.

17. Balaji Shivdas Jagtap,  
Age : 34 years, Occ. Service  
As Special Public Prosecutor,  
R/o Osmanabad.
18. Pratap Balbhimrao Kavade,  
Age : 35 years, Occ. Service  
As Special Public Prosecutor,  
R/o Osmanabad.
19. Shaikh Yasmeen Firdose,  
Age : 40 years, Occ. Service  
As Special Public Prosecutor,  
R/o Amin Colony, Parbhani.

-- **Applicants**

**Versus**

1. The State of Maharashtra  
Through the Secretary,  
Home Department,  
Mantralaya, Mumbai -400 032.
2. The Maharashtra Public Service Commission(M.P.S.C.),  
Bank of India Building, Hutatma Chowk,  
Mumbai, Mumbai -400 001.

-- **Respondents**

**W I T H**

**4) ORIGINAL APPLICATION NO 287 OF 2012**

**DISTRICT : BEED**

1. Kalpana Dnyaneshwarrao Deshpande,  
Age : 37 years, Occ. Service  
As Special Public Prosecutor,  
R/o Kranti Nagar, Nagar Road,  
Beed.
2. Pushpa Rameshrao Pansambal,  
Age : 39 years, Occ. Service  
As Special Public Prosecutor,  
R/o Ram Road, Beed.

3. Madhukar Sonajirao Pandav  
Age : 38 years, Occ. Service  
As Special Public Prosecutor,  
R/o Dnyaneshwar Nagar, Beed.

-- **Applicants**

**Versus**

1. The State of Maharashtra  
Through the Secretary,  
Home Department,  
Mantralaya, Mumbai -400 032.
2. The Maharashtra Public Service Commission(M.P.S.C.),  
Bank of India Building, Hutatma Chowk,  
Mumbai, Mumbai -400 001.

-- **Respondents**

**W I T H**

**5) ORIGINAL APPLICATION NO 290 OF 2012**

**DISTRICT : JALGAON**

1. Shaikh Nawab s/o Ahmed,  
Age : 43 years, Occ. Spl. Asst. P.P.,  
R/o Nemade Colony, Near Patil Nursery,  
Khadka Road, Bhusawal,  
Dist. Jalgaon.
2. Smt. Seema w/o Vasant Kukawalkar  
Age : 43 years, Occ. Spl. Asst. P.P.,  
R/o 21, Prabhat Colony, Jalgaon,  
Dist. Jalgaon.
3. Nitin s/o Sudhakar Jagtap,  
Age : 44 years, Occ. Spl. Asst. P.P.,  
R/o Samarth Colony, Jalgaon,  
Tq. & Dist. Jalgaon.
4. Ravindra s/o Padmakar Suradkar,  
Age : 43 years, Occ. Spl. Asst. P.P.,  
R/o Bhoite Nagar, Jalgaon,  
Tal. & Dist. Jalgaon.

5. Milind Suresh Yeole,  
Age : 38 years, Occ. Spl. Asst. P.P.,  
R/o Umbar Wada, College Road,  
Bhadgaon, Tq. Bhadgaon,  
Dist. Jalgaon.
6. Bhagwat s/o Pundlik Patil,  
Age : 43 years, Occ. Spl. Asst. P.P.,  
R/o 9, Vishwadeep Apartment,  
Near, Tryambala Nagar,  
Tal. & Dist. Jalgaon.
7. Sk. Farid s/o Abdul Majid,  
Age : 34 years, Occ. Spl. Asst. P.P.,  
R/o Opp. Traffic Garden, Shahu Nagar,  
Bhisti Mohalla, Jalgaon,  
Tal. & Dist. Jalgaon.
8. Rajesh s/o Sahebrao Gawai,  
Age : 42 years, Occ. Spl. Asst. P.P.,  
R/o Plot No. 9, Gut. No. 161/A1,  
Girja Pamping Road,  
Sham Nagar, Jalgaon,  
Tal. & Dist. Jalgaon.
9. Dineshchandra s/o Arjun Kshatriya,  
Age : 51 years, Occ. Spl. Asst. P.P.,  
R/o Hindu Housing Society,  
Near K. Narkhede Open Vidyalaya,  
Bhusawal, Tq. Bhusawal,  
Dist. Jalgaon.
10. Santoshkumar s/o Maniklal Kalantri,  
Age : 42 years, Occ. Spl. Asst. P.P.,  
R/o 13, Godavari Nagar, Muktainagar,  
Tq. Muktainagar, Dist. Jalgaon.

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**Applicants****Versus**

1. The State of Maharashtra  
Through the Secretary,  
Home Department,  
Mantralaya, Mumbai -32.



2. The Maharashtra Public Service Commission(M.P.S.C.),  
Bank of India Building, M.G. Road,  
Fort, Mumbai-01.  
Through its Secretary.

-- **Respondents**

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- APPEARANCE** : Shri R.P. Adgaonkar, learned Advocate  
holding for Shri N.B. Narwade, learned  
Advocate for the Applicant in O.A. No.  
257/2012
- : Shri R.P. Adgaonkar, learned Advocate for  
the Applicants in O.A. No. 270/12 & 287/12
- : Shri H.I. Pathan, Learned Advocate for the  
applicants in O.A. No. 269/12 & 290/12.
- : S/Shri M.S. Mahajan, I.S. Thorat, Smt. Priya  
R. Bharaswadkar, Smt. Sanjivani K.  
Deshmukh-Ghate, Smt. Deepali S.  
Deshpande, leaned Chief Presenting Officer  
and Presenting Officer for the respondents in  
respective matters.

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**CORAM: HON'BLE SHRI RAJIV AGARWAL, VICE CHAIRMAN (A)**  
**AND**  
**HON'BLE SHRI J.D. KULKARNI, MEMBER (J)**

**DATE : 21.10.2016**

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**COMMON ORDER**

**(Per: Shri Rajiv Agarwal (Vice-Chairman))**

1. Heard Learned Advocate Shri R.P. Adgaonkar,  
holding for Shri N.B. Narwade and Shri H.I. Pathan,  
learned Advocate for the applicants and Shri M.S.  
Mahajan, Learned Chief Presenting Officer (C.P.O.) and

Mrs. Priya R. Bharaswadkar, Smt. S.K. Deshmukh-Ghate and Smt. D.S. Deshpande, learned Presenting Officers (P.Os.) for the Respondents.

2. These O.As. were heard together and are being disposed of by a common order as the issues to be decided are identical.

3. In O.A. No. 257/2012, the Applicant had applied for the post of Assistant Public Prosecutor, pursuant to the advertisement issued by the Respondent No. 2 viz. Maharashtra Public Service Commission (M.P.S.C.) on 13.3.2012. The Applicant is seeking relaxation in age as she was working as Special Assistant Public Prosecutor. In other O.As. the Applicants are seeking age relaxation on the same ground.

4. Learned Counsel for the Applicants argued that the Respondent no. 2 had issued an advertisement on 13.3.2012 to fill up 145 posts of Assistant Public Prosecutors. The age limit for general candidates was 33

years while for backward class candidates it was 38 years. The applicants were appointed as Ad-hoc Assistant Public Prosecutor under the provision of Section 25(3) of Code of Criminal Procedure. As per the aforesaid advertisement, age relaxation is admissible to Ex-servicemen, Sportspersons and Handicapped Persons. This para in the advertisement is discriminatory and arbitrary. The Applicants should have been held eligible for relaxation in age. This fact that the Applicants were discharging the same duties as the post advertised has not been considered by the Respondents. In the year 2006, when advertisement was issued, the persons working as Ad-hoc Assistant Public Prosecutors were given age relaxation in view of the order of Hon'ble Supreme Court dated 17.08.2010 in Special Leave Petition No. 21592/2007. The Applicants are therefore, eligible to be granted age relaxation for recruitment for the post of Assistant Public Prosecutors pursuant to the advertisement dated 13.03.2012.

5. Learned Chief Presenting Officer (C.P.O.) argued on behalf of the Respondents that the Recruitment Rules

for the post of Assistant Public Prosecutors viz. the Assistant Public Prosecutor, Group 'B' in Directorate of Public Prosecution in Maharashtra State (Recruitment) Rules 1995 were amended by notification dated 21.04.2009. The proviso in Rule 3 about eligibility for the post was deleted. This proviso read as follows:

“Provided that the provisions of Clause (i) and (iii) shall not apply to the persons working as Police Prosecutors in the service of the Government.”

The Applicants are relying on the judgment of Hon'ble Supreme Court in Special Leave Petition No. 21592/2007, which is no longer applicable, as the aforesaid judgment was given for the recruitment process when this 'proviso' was part of the rule book. In the present case, the Advertisement is issued on 13.3.2012, when the aforesaid proviso was already deleted by notification dated 21.04.2009. Learned Chief Presenting Officer (C.P.O.) argued that there is no merit in these O.As.

6. We find that the Applicants are claiming age relaxation on the ground that they were working as Ad-hoc Assistant Public Prosecutors. Two grounds are raised for

seeking relaxation in age vix. (i) some other categories like sports person handicapped persons etc. are given age relaxation, and as per the judgment of Hon'ble Supreme Court cited above, such relaxation was granted in the past. Regarding age-relaxation to sports persons and handicapped person, the candidates belonging to these categories are entitled to age-relaxation as per policy decision of the State Government reflected in the relevant Government Resolutions (G.R.). There is no policy decision, either by G.R./Circular of the Government or under the Rules to grant any age relaxation to the persons working as Ad-hoc Assistant Public Prosecutors. The claim of the Applicants that the decision of the State Government in this regard is arbitrary or discriminatory cannot be accepted. As regards the judgment of Hon'ble Supreme Court, it relies on the advertisement dated 27.7.2006 issued by M.P.S.C. for the post of Assistant Public Prosecutors where the age limit was not applicable for persons already working as Public Prosecutors in the service of Government. This condition in the advertisement dated 27.7.2006 issued by M.P.S.C. was as per proviso to Rule 3 of the Assistant Public Prosecutors, Group-B in Directorate of Public Prosecution in Maharashtra State (Recruitment) Rules, 1995, notified on 6.10.1995. This proviso was deleted by notification dated 21.4.2009. The judgment of Hon'ble Supreme

Court, is evidently not applicable for the recruitment after this date i.e. after 21.4.2009. The Applicants claim that they are entitled for age-relaxation has no legal basis and has to be rejected.

7. Having regard to the aforesaid facts and circumstances of the case, these O.As. are dismissed with no order as to costs.

8. As O.As. are dismissed, nothing survives in M.A.No. 126/2013 in O.A. No. 269/2012 and the same also stands dismissed.

**(J.D Kulkarni)**  
**Member (J)**

**(Rajiv Agarwal)**  
**Vice-Chairman**