

O.A.No.869/2018 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 03/03/2022.

Heard Shri B.Kulkarni, the Id. Counsel for the applicant and Shri A.M.Ghogre, the Id. P.O. for the respondents.

2. At the request of Id. P.O., **S.O. two weeks to file reply.**

Member(J)
Date:-03/03/2022.
aps.

Vice Chairman

O.A.No.34/2019 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 03/03/2022.

Heard Shri G.G.Bade, the Id. Counsel for the applicant and Shri A.P.Potnis, the Id. P.O. for the State. Await service of R-2 to 4.

2. The Id. counsel for the applicant is directed to serve the respondents. The Id. counsel for the applicant has pointed out document dated 27.09.2016 (Pg.No. 13, A-3), by which it appears that proposal has been submitted to respondent no. 2 by respondent no. 3.

3. Respondent no. 2 is directed to finalized the proposal submitted by respondent no. 3 dated 27.09.2016 (Pg.No. 13, A-3) **within 60 days from the date of receipt of this order.**

4. With these directions, **O.A. is disposed of with no order as to costs.**

Member(J)
Date:-03/03/2022.
aps.

Vice Chairman

O.A.No.59/2021 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 03/03/2022.

C.A.No.80/2021:-

Heard Shri P.V.Thakre, the ld. Counsel for the applicant and Shri H.K.Pande, the ld. P.O. for the respondents.

2. The ld. counsel for the applicant has filed C.A. No. 80/2021 for amendment. Prayer of the same is reproduced below:-

“Prayer:- It is therefore most respectfully prayed that this Hon’ble Tribunal be pleased to allow the present application and permit the applicant to amend the original application in the interest of justice.”

3. Hence, **C.A. No. 80/2021 for amendment is allowed and disposed of.** The ld. counsel for the applicant is directed to carryout the amendment within one week. He is further directed to supply the same to the other side.

4. **S.O. three weeks.**

Member(J)
Date:-03/03/2022.
aps.

Vice Chairman

O.A.No.796/2021 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 03/03/2022.

Heard Shri A.Barahate holding for Shri N.R.Saboo, the ld. Counsel for the applicant and Shri M.I.Khan, the ld. P.O. for the State. Await service of R-2 & 4.

2. The ld. P.O. has filed reply of respondent no. 3. It is taken on record. Copy is served to the other side. He further submits that it is sufficient to decide the O.A..

3. The ld. counsel for the applicant is directed to file service affidavit of R-2 & 4, **S.O. four weeks.**

Member(J)
Date:-03/03/2022.
aps.

Vice Chairman

O.A.No.19/2022 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman & Shri M.A.Lovekar, Member (J)

Dated : 03/03/2022.

Heard Shri R.V.Shiralkar, the Id. Counsel for the applicant and Shri A.M.Ghogre, the Id. P.O. for the respondents.

2. The Id. P.O. is directed to file reply of R-1 & 2; that will make the issue very clear. While perusing the reply of respondent nos. 3 & 4; it appears that Rule was framed by respondent no. 3 and it was submitted to State Government, State Government has returned back file with some suggestions and objections to respondent no. 3. Hence, respondent no. 3 is granted four weeks time to incorporate the suggestions and objections and submit it to Government of Maharashtra.

3. The G.O.M. has issued G.A.D. G.R. dated 17.12.2016 (Pg. Nos. 58 to 68) and in para no. 5 clear observations are given which is reproduced below:-

“एखाद्या संवर्गात अधिक प्रमाणात प्रतिनियुक्तीने नियुक्त्या दिल्यास मूळ संवर्गातील पदोन्नत्या प्रभावित होतात व मूळ संवर्गातील कर्मचा-यांवर अन्याय होतो. असे होवू नये म्हणून ज्या संवर्गात प्रतिनियुक्तीने नियुक्ती करावयाची आहे, त्या संवर्गाच्या प्रतिनियुक्तीसाठी विनिर्दिष्ट केलेल्या १५ टक्केच्या मर्यादेपर्यंतच पदे प्रतिनियुक्तीने भरता येतील. ज्या संवर्गासाठी सेवाप्रवेश नियमात प्रतिनियुक्तीने पद भरण्यासंदर्भात तरतूद अद्याप करण्यात आली नसेल तेथे संवर्गसंख्येच्या जास्तीत जास्त १५ टक्के पदे प्रतिनियुक्तीने भरता येतील. तथापि, या आदेशापासून एक वर्षात सेवाप्रवेश नियमामध्ये तशी तरतूद विभागाने करून घ्यावी”

4. As pointed out by ld. counsel for the applicant D.P.C. for other cadres has not been taken place since 2010. Hence, ball is lying in the court of respondent no. 3 who has to formulate the Rule.

5. In view of this situation, he has been granted one month time to incorporate suggestions and objections. Till that time Rules will be framed by respondent no. 3 and finalized by respondent nos. 1 & 2.

6. Respondents are directed to strictly follow G.A.D. G.R. dated 17.12.2016 and particularly its provisions contained in para no. 5.

7. **S.O. five weeks.**

Member(J)
Date:-03/03/2022.
aps.

Vice Chairman

O.A.No.90/2022 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 03/03/2022.

Heard Shri S.N.Gaikwad holding for Shri G.K.Bhusari, the Id. Counsel for the applicant and Shri A.P.Potnis, the Id. P.O. for the State. Await service of R-2 to 4.

2. At the request of Id. counsel for the applicant, **S.O. one week to file service affidavit.**

Member(J)
Date:-03/03/2022.
aps.

Vice Chairman

O.A.Nos.135,136,137&138/2022 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 03/03/2022.

Heard Shri A.D.Mahagaonkar, the ld. Counsel for the applicant and Shri S.A.Sainis, the ld. P.O. for the respondents.

2. The ld. counsel for the applicant submits that applicant has not been paid payment since last three months. Hence, respondents are directed that their payment should be make as per Law. **S.O. three weeks.**

Member(J)
Date:-03/03/2022.
aps.

Vice Chairman

O.A.No.203/2022 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 03/03/2022.

C.A.No.73/2022:-

Heard Shri S.P.Palshikar, the Id. Counsel for the applicant and Shri H.K.Pande, the Id. P.O. for the respondents.

2. Since they are all together 39 applicants and Id. counsel for the applicant submits that grievances of all the applicants are same and redressal will be also same. Hence, **C.A.No. 73/2022 for Jt. O.A. is allowed and disposed of.**

O.A. No. 203/2022:-

Issue notice to Respondents, returnable on four weeks. Learned P.O. waives notice for R-1. Hamdast allowed.

2. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.

3. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

4. 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.

5. 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 within one week. Applicant is directed to file Affidavit of compliance and notice.

6. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

7. **S.O. four weeks.**

Member(J)
Date:-03/03/2022.
aps.

Vice Chairman

C.A.No.38/2022inC.P.No.17/2020in

O.A.No.197/2017 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 03/03/2022.

Heard Shri S.P.Palshikar, the Id. Counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the State. Await service of R-2.

2. Office is directed to issue fresh notice on C.A. to Respondent no. 2 be issued returnable in **four weeks**.

3. Shri M.I.Khan, the learned P.O. waives notice for respondent no.1. Hamdast granted.

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

5. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of the O.A.

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 acknowledgement be obtained and produced along with an affidavit of compliance in the Registry as far as possible once week before the date fixed by this Tribunal.

Applicant is directed to file Affidavit of compliance and notice.

8. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

9. **S.O. four weeks.**

Member(J)
Date:-03/03/2022.
aps.

Vice Chairman

M.C.A.No.02/2022inO.A.No.220/2019 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 03/03/2022.

Heard Shri R.V.Shiralkar, the ld. Counsel for the applicant and Shri M.I.Khan, the ld. P.O. for the respondents.

2. The ld. P.O. submits that as per order of this Tribunal in O.A. No. 220/2009 delivered on 24.12.2020, respondents are in the process of complying the order and as instructions received by the ld. P.O., Medical Report has been received. Now, file is in process of G.A.D. and after sanctioning from the G.A.D., they will comply the full order of the Tribunal dated 24.12.2020.

3. For full compliance, the ld. P.O. has moved **M.C.A.No.02/2022 for extension of time and it is allowed and disposed of.**

4. **S.O. six weeks.**

5. *Put up this matter along with C.P. No. 18/2022 in O.A. No. 220/2019.*

Member(J)
Date:-03/03/2022.
aps.

Vice Chairman

C.P.No.18/2022 in O.A.No.220/2019 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 03/03/2022.

Heard Shri R.V.Shiralkar, the Id. Counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the State.

2. Issue Notice to the respondents returnable in **six weeks** under Rule 8 of the MAT (Contempt of Courts) Rules, 1996 as to why they should not be proceeded for committing contempt of this Tribunal's order and as to why they shall not be punished under the Contempt of Court Act.

3. Shri M.I.Khan, the learned P.O. waives notice for respondent No. 1. Hamdast granted.

4. **S.O. six weeks.**

5. *Put up this matter along with M.C.A.No.02/2022 in O.A. No. 220/2019.*

Member(J)
Date:-03/03/2022.
aps.

Vice Chairman

C.P.No.23/2021 in O.A.No.278/2018 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 03/03/2022.

Heard Shri R.V.Shiralkar, the Id. Counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the Respondents.

2. The Id. P.O. has filed document by way of pursis which is marked Exh. 'X' for the purpose of identification. It is taken on record. Copy is served to the other side. The same is reproduced below:-

"As per query made by this Hon'ble Tribunal vide order dated 10.02.2022, it is submitted that the applicant was well aware of the fact that the amount of Rs. 76,673/- is paid to him towards excess payment. It is further submitted that when the proposal for pension and gratuity was forwarded by the respondents to the Accountant General, the applicant never took the objection for recovery and thereby granted his consent to the department to deduct the recovery of excess payment amount from his gratuity amount. The copy of pension case which includes recovery proposal is attached herewith for the perusal of this Hon'ble Tribunal."

3. The matter was heard on 03.08.2020 and in para no. 5 following observations have been made:-

“5. The respondents are directed to revisit fixation of pay of applicant and if there is wrong calculation due to wrong fixation. Amount recovered due to that be refunded back to the applicant.”

4. At the same time case of the applicant is squarely covered by the Judgment of **Hon'ble Apex Court in case of State Of Punjab & Ors vs. Rafiq Masih (White Washer) decided on 18 December, 2014** in Civil Appeal No. 11527 OF 2014 (Arising out of SLP(C) No. 11684 of 2012).

5. In view of the above, respondents are directed to refund back the amount of Rs. 76,673/- **within two months from the date of receipt of this order.**

6. With the above directions, **C.P. stands disposed of with no order as to costs.**

Member(J)
Date:-03/03/2022.
aps.

Vice Chairman

O.A.No.210/2022 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 03/03/2022.

Heard Shri S.P.Palshikar, the Id. Counsel for the applicant and Shri V.A.Kulkarni, the Id. P.O. for the State.

2. Issue notice to Respondents, returnable on four weeks. Learned P.O. waives notice for R-1. Hamdast allowed.

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

4. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is 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 within one week. Applicant is directed to file Affidavit of compliance and notice.

7. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

8. **S.O. four weeks.**

Member(J)
Date:-03/03/2022.
aps.

Vice Chairman