

C.A.No.361/21 in O.A.No.951/21 with

**C.A.No.362/21 in O.A.No.952/21 with
C.A.No.363/21 in O.A.No.953/21 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 12/11/2021.**

Heard Shri N.R.Saboo holding for Shri P.N.Shende, the Id. Counsel for the applicant and Shri A.M.Khadatkar, the Id. P.O. for the State. Await service of respondent nos. 2 to 5.

2. The Id. P.O. has filed letter dated 11.11.2021 by Deputy Director, Education, Nagpur and he further submits that absorption as prayed in the Original Application has been already redressed as per last para of the letter which is reproduced below:-

"ek- e[; dk; Zlkjh vf/kdkjh] ftYgk i fj "kn] o/kkZ; kauh vknsk dækd ft i o@i kf' kfo@LFkkof' k@1060@2021 fnukad 26-10-2021 v'lo; sJh- i z kkr fpdkqth gM] ; k f'k{kdkpsl ek; kst ukps vknsk fuxfer dyyysvlgS i kpk; 7] ftYgk f'k{k.k o i f'k{k.k l k.Fkk] ukxi j ; kku R; kps vknsk dækd ft f'ki j @ukx@vkl.Fkki uk@2021@1079 fnukad 28-10-2021 v'lo; sJh- i z kkr gM] l gk- f'k{kdk ; kulk l ek; kst ukps i nkoj : tuggs; kcljhrk fnukad 28-10-2021 yk ek/; kUgki oz dk; ZDr dyyysvlgS"

3. However, the Id. counsel for the applicant requires to go through the order, **S.O. 22.11.2021.**

Vice Chairman

Date:-12/11/2021.

aps.

C.P.No.52/21 in O.A.No.519/21 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 12/11/2021.

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

2. The order was passed in O.A. No. 519/2021 on 09.07.2021. Today, the Id. counsel for the applicant has filed Contempt Petition. However, the Id. P.O. has placed Judgment of **Hon'ble Supreme Court in the case of 2016 ALL SCR 1019, Quantum Securities Pvt. Ltd. & Ors. Vs. New Delhi Television Ltd. in C.A. Nos. 4914-15 of 2015** delivered on 01.07.2015 which is marked Exh. "X" for the purpose of identification. The Id. P.O. is directed to supply the copy of the same to the Id. counsel for the applicant.

3. Issue Notice to the respondents returnable in **four 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.

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

5. **Put up this matter before regular D.B. along with Original Application No. 519/2021, S.O. four weeks.**

Vice Chairman

Date:-12/11/2021.

aps.

O.A.No.1012/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 12/11/2021.

Heard Shri P.J.Mehta, the Id. Counsel for the applicant and Shri S.A.Deo, the Id. C.P.O. for the State.

2. As submitted by Id. counsel for the applicant, applicant has applied for Police Constable post as per the advertisement published by Maharashtra State, Police Constable Recruitment 2019. The advertisement is dated 22.08.2019 (Pg. Nos. 32, 33 & 34). As per documents at (A-2, Pg. No. 35); it appears that applicant has applied in O.B.C. category.

3. The Id. counsel for the applicant submits that applicant has scored 74 marks (A-3, Pg. No. 36). The Id. counsel for the applicant submits that cut off marks for open is 63. These facts clarified that applicant has scored higher marks than cut off marks in Open Category. In these situations, as per settled principles; applicant must be considered in open category. The grievance of the applicant is that applicant has not been called for physical test to be conducted on 15.11.2021; respondents are directed to include the applicant for physical test and further test if applicant is eligible otherwise in all the tests. Then one post be kept vacant till outcome of the O.A.

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

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

6. 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.

7. 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.

8. 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.

9. 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.

10. **S.O. four weeks.**

11. **Steno copy granted.**

12. *The Id. counsel for the applicant is directed to remove office objections immediately.*

Vice Chairman

Date:-12/11/2021.

aps.

O.A.No.1013/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 12/11/ 2021.

Heard Shri B.W.Patil, the Id. Counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the State.

2. The matter was heard on 25.02.2020 and order was passed in para no. 4 which is reproduced below:-

"Respondents are directed to consider the applicants for the work at Bamboo Training Centre as per the availability of the work on priority within thirty days from the date of this order. Since, Government expense has been done on them during course of training at Tripura. They should be provided job as per their skill and availability of work and conditions of the advertisement."

3. The documents at A-2, Pg. No. 15 is not legible. The Id. counsel for the applicant is directed to file the typed copy of the said documents.

4. However, as per submission of the Id. counsel for the applicant meeting was held in the Chairmanship of the Collector on 20.07.2020 and in the said meeting in the last line; respondents have committed that after availability of the post of Master Trainer; applicant will be given first priority. Now, respondents have published notice dated 14.10.2021 (A-3, Pg. No. 16) which is inviting application for everybody and it is not mentioned that applicant have been given any preference as per order dated 25.02.2020 of this Tribunal and as per their own commitments in meeting dated 20.07.2020 at District Level. After publication of notice dated 14.10.2021; applicant wrote a letter to the upper management vide letter dated 25.10.2021 (A-4, Pg. No. 19). Subsequently, Respondents revised notice dated 27.10.2021 (A-5, Pg. No. 21) but in this notice also nothing appears where applicant's have been given priority.

5. In view of these situations, respondents are directed as per the order dated 25.02.2020 of this Tribunal and their own commitment in meeting dated 20.07.2020; applicant should be given **Preference/ Priority** while filling the post as per notice dated 27.10.2021; since already a lot of investment has been done by Government.

While proceeding with the notice dated 27.10.2021; it appears that as per marks distribution on pg. no. 22 at Sr. No. 5; for skill test marks allotment is 60 marks.

6. Now, since applicant were trained by the department at the Government cost and they were also working in the said unit. This skill test marks must be considered for the applicant. **The Id. counsel for the applicant is also directed to ask the applicant to submit the application as per notice dated 27.10.2021; then only respondents can give them priority.**

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

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

9. 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.

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 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.

12. 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.

13. **S.O. after four weeks.**

14. **Steno copy granted.**

15. *The Id. counsel for the applicant is directed to remove office objections immediately.*

Vice Chairman

Date:-12/11/2021.

aps.

O.A.No.1015/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 12/11/2021.

Heard Shri P.S.Wathore and Shri B.Kulkarni, the Id. Counsel for the applicants and Shri M.I.Khan, the Id. P.O. for the State.

2. As submitted by Id. counsel for the applicant in the advertisement dated 20.07.2021 (A-2, Pg. No. 32) following conditions were given which is mentioned below:-

"Possess practical experience of geological field work and mineral administration work in a responsible position for a period of not less than 23 years 10 months 17 days."

3. The experience certificate of respondent no. 3 is at Pg. No. 45. As per this certificate applicant experience as Senior Geologist (Technical Post) is from 07.12.2013 till date this practise is more than 7 years only. Applicant's experience certificate is A-5, Pg. No. 42 and it says that applicant has experienced as Deputy Director (Technical Post) from 01.08.1992 to 26.09.2016 and till date which is definitely more than respondent no. 3. Now, M.P.S.C. has recommended by this impugned letter dated 28.10.2021 (A-3, Pg. No. 35) and on pg. no. 36 in condition no. 2 they have asked to respondent no. 1 i.e. State Government to verify the certificates of candidates. Applicant is aggrieved with this letter feels that his experience is more than respondent no. 3 and which were not taken into account. **Respondents are directed to clarify the way of experience calculated; where respondent no. 3 fulfils the criteria of the advertisement and applicant does not fulfils.**

4. If reply of respondent no. 3 and respondent no. 1 are not received after six weeks; matter will be decided on merit. **It is also made clear to all the parties that Status-quo be maintained till filing of the reply.**

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

6. 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 O.A. Respondent is 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 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.
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.**
10. **Steno copy is granted.**

Vice Chairman

Date:-12/11/2021.

aps.

O.A.No.1017/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 12/11/2021.

Heard Shri P.B.Patil, the Id. Counsel for the applicant and Shri A.M.Khadatkar, the Id. P.O. for the State.

2. The applicant is applied as per advertisement dated 30.11.2019 (A-2, Pg. No. 20) and as relied by the Id. counsel for the applicant in para no. 11.10 which is below:-

“menokjl ¼1½ ftYgk i ksyI nykrhy i ksyhl vk; Dr@i ksyI v/kh{kld ; kb; k vklFkki uojhy i ksyhl f'ki kbZpkycd] ¼2½ ykgeixzi ksyI nykrhy i ksyI f'ki kbZpkycd o ¼3½ jkT; jk[kho i ksyI cykrhy l 'kl= i ksyI f'ki kbZ i nkl kBh , d v'kk , cluk i nkl kBh rhu vkonu vtZl knj djrk ; rhy ¼efgyk menokjauk jkT; jk[kho i ksyI cykrhy l 'kl= i ksyI f'ki kbZi nkl kBh vkonu vtZl knj djrk ; skkj ukgh½”

3. The Id. counsel for the applicant has filed marksheet of Akola District, Police Recruitment 2019 (Driver Post); were applicant name is at Sr. No. 44 and he has scored 90 marks in written and 42 in physical; so total marks he scored is 132; whereas Respondent no. 4 is at Sr. No. 36 and he has scored 90 marks in written and 35 marks in physical; so the total goes to 125 marks. Apparently, applicant has scored more marks than respondent no. 4.

4. In view of this situation, Respondents are directed to keep one post vacant in District Police Constable (Driver Post) in N.T.B. Category till filing of the reply in the interest of justice to the applicant.

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

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

7. 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.

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 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.

10. 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.

11. **S.O. after four weeks.**

12. **Steno copy is granted.**

Vice Chairman

Date:-12/11/2021.

aps.

O.A. 1014/2021 (S.B.)

(Dr. Punam B. Ganvir Vs. State of Mah.)

**Coram: Shri Shree Bhagwan,
Vice-Chairman.**

Dated : 12/11/2021.

Heard Shri N.R. Saboo, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for the State.

2. The applicant was appointed as Livestock Development Officer in the Animal Husbandry Department in the year 2012 and posted at Nagbhid, District Chandrapur. Admittedly, the applicant completed her tenure in said area and came to be transferred at Vihirgaon, Tq. Wadsa, Dist. Gadchiroli on 15/2/2018 and since then she is working at said place.

3. As per submission in the O.A., the applicant has completed three years in the naxalite area. As submitted by the Id. counsel for the applicant as per policy of G.R. dated 6/8/2002 (A-1,P-11) and particularly as per clause M (2) on page 5 of the G.R., the applicant's case should be considered and she should be posted as per her choice posting. The applicant has also submitted choice posting vide letter dated 14/6/2021 (A-2,P-18), but inspite of that vide impugned order dated 9/8/2021 (A-3,P-19) again the applicant has been transferred in Gadchiroli District in Walumata area, Tq. Wadsa on vacant post and one Dr. S.S. Meshram has been posted in place of applicant.

4. As submitted by the Id. counsel, the applicant is not relieved till now. In view of this situation, since Govt. policy is very clear that after working for more than two years in naxalite area, the applicant should be considered for choice posting as per clause M (2) of G.R. dated 6/8/2002 (A-1,P-11). So as submitted by the Id. counsel, the applicant is not relieved till now, **the transfer order dated 9/8/2021 (A-3,P-19) is stayed to the extent of applicant only till filing of reply.**

5. The learned counsel for the applicant submits that one Dr. S.S. Meshram has already joined at Deolapar. So it is not necessary to make him as party respondents in the O.A. and take his reply.

6. Issue notice to respondents returnable **after four weeks**. Learned P.O. waives notice for State. Hamdast allowed.

7. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
8. 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.
9. 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.
10. 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.
11. 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.

S.O. after four weeks.

Steno copy is granted..

Vice-Chairman

dnk.

(Kishor H. Wasnik Vs. State of Mah. & Ors.)

**Coram: Shri Shree Bhagwan,
Vice-Chairman.**

Dated : 12/11/2021.

Heard Smt. S.W. Deshpande, Id. counsel for the applicant and Shri A.M. Khadatkar, Id. P.O. for the State.

2. As per submission made by the Id. counsel for the applicant, the applicant was suspended vide order dated 21/28/6/2016 (A-12,P-76) and this suspension order was revoked vide order dated 10/8/2016 (A-14,P-82). The learned counsel submits that the applicant was further suspended vide order dated 26/10/2021 (A-54,P-228) and so two times the applicant has been suspended for the same reason and aggrieved with this order the applicant has approached to this Tribunal.

3. The learned counsel submits that the respondents are moving to Police Station against the applicant. **The respondents are directed not to take any coercive action till filing of reply.**

4. As pointed out by the Id. P.O., the respondent nos.2 to 7 has been listed by name. The Id. counsel for the applicant is directed to make it by posts because the officers have performed duties as per their posts. The learned counsel has mentioned that the posts of respondent nos.2 to 7 are already mentioned. Though the respondents have taken decision as per their posts, but names should be deleted and it should be kept by posts only.

5. Issue notice to respondents returnable **after four weeks**. Learned P.O. waives notice for State. Hamdast allowed.

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

7. 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.

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 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.

10. 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.

S.O. after four weeks.

Vice-Chairman

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