0.A.No.935/2020 (D.B.)

<u>Coram</u> : Shri Shree Bhagwan, Vice Chairman & Shri Justice M.G.Giratkar, Member (J) <u>Dated</u> : 28/04/2022.

Heard Shri S.N.Gaikwad, the ld. Counsel for the applicant and Shri V.A.Kulkarni, the ld. P.O. for the respondents.

2. The ld. counsel for the applicant is directed to delete the name of the applicant no. 8 and file a fresh chart accordingly.

3. **S.O. 05.05.2022.**

Member(J) Date:-28/04/2022. aps.

0.A.No.807/2019 (D.B.)

<u>Coram</u> : Shri Shree Bhagwan, Vice Chairman & Shri Justice M.G.Giratkar, Member (J) <u>Dated</u> : 28/04/2022.

C.A.Nos.79 & 126/2022:-

Heard Shri A.Sambre, the ld. Counsel for the applicant, Shri S.A.Deo, the ld. C.P.O. for the respondents and Shri D.M.Kakani, the ld. counsel for the Intervenor.

2. The ld. P.O. has filed reply on behalf of the respondent nos. 1 & 2 on C.A.. It is taken on record. Copy is served to the other side.

3. Intervention application no. 126/2022 is allowed and disposed of.

4. Already detailed order was passed on 28.08.2019 in O.A. No. 130 and 168/2019. Subsequent to that Government has already issued order on 18.12.2019 and as submission made by ld. C.P.O., Government is in the process of following order and process is going on. At this stage, we do not interfere in the order dated 28.08.2019. However, matter will be finally heard on **14.06.2022.**

5. **S.O. 14.06.2022.**

Member(J) Date:-28/04/2022. aps.

0.A.No.610/2020 (D.B.)

<u>Coram</u> : Shri Shree Bhagwan, Vice Chairman & Shri Justice M.G.Giratkar, Member (J) <u>Dated</u> : 28/04/2022.

C.A.No.131/2022:-

Heard Shri S.P.Palshikar, the ld. Counsel for the applicant and Shri M.I.Khan, the ld. P.O. for the respondents.

2. The ld. counsel for the applicant has filed C.A.No.131/2022 and in prayer (ii) which is below:-

"(ii) further be pleased to issue necessary directions to respondents to release the salary of the applicant from October, 2021 till date and continue to pay the same till Original Application is finally decided."

3. It appears that applicant has not been paid salary from October, 2021 till today, this is the main grievance of the applicant in the C.A..

4. However, ld. P.O. wants to file reply on the C.A.. He is granted time till 05.05.2022. The ld. P.O. is further directed to serve the same to the other side.

5. **S.O. Monday i.e. 05.05.2022.**

6. Steno copy is granted.

Member(J) Date:-28/04/2022. aps.

0.A.No.838/2021 (D.B.)

<u>Coram</u> : Shri Shree Bhagwan, Vice Chairman & Shri Justice M.G.Giratkar, Member (J) <u>Dated</u> : 28/04/2022.

Heard Adv.S.W.Deshpande, the ld. Counsel for the applicant, Shri H.K.Pande, the ld. P.O. for the respondents and Shri P.D.Sharma, the ld. counsel for the respondent nos. 5 to 10.

2. The ld. P.O. has filed reply on behalf of the respondent no. 2 tag with G.R. dated 20.04.2013. Accordingly, it is mentioned that by virtue of G.R. dated 20.04.2013; respondent no. 2 has power to post the employee who are facing inquiry out of district, therefore, employee has been transferred from Yavatmal to Amravati.

3. In reply of respondent no. 2 by using the G.R. dated 20.04.2013 he has posted the applicant from Yavatmal to Amravati. Since applicant is a Taluka Level Officer, he has been covered by para no. 2 (b) of the G.R. dated 20.04.2013.

4. As per record and as submitted by ld. counsel for the applicant, applicant was revoked from suspension vide order dated 17.08.2021 and was posted to Chandur Railway, Amravati.

5. The ld. counsel for the applicant submits that since then applicant has not been paid salary. It is surprising that when applicant was revoked from suspension, why salary of applicant is not been paid and why applicant is begging for salary for the period after suspension. The ld. P.O. is also directed

to take instructions from respondents, whether salary has been paid or not? If not why?

6. The ld. counsel for the respondent nos. 5 to 10 submits that he will file reply within two weeks time. He is further directed to supply the same in advance to the other side.

7. Hence, matter is **admitted** and kept for final hearing.

8. **S.O. 09.06.2022.**

9. **Steno copy is granted.**

Member(J) Date:-28/04/2022. aps.

0.A.No.181/2022 (D.B.)

<u>Coram</u> : Shri Shree Bhagwan, Vice Chairman & Shri Justice M.G.Giratkar, Member (J) <u>Dated</u> : 28/04/2022.

Heard Shri S.P.Palshikar, the ld. Counsel for the applicant and Shri A.P.Potnis, the ld. P.O. for the respondents.

2. The ld. P.O. submits that he has received parawise reply. At his request, **S.O. 07.06.2022.**

Member(J) Date:-28/04/2022. aps.

C.A.No.150/2022inO.A.No.454/2022 With

C.A.No.151/2022inO.A.No.455/2022 With C.A.No.152/2022inO.A.No.456/2022 With C.A.No.153/2022inO.A.No.457/2022 With C.A.No.154/2022inO.A.No.458/2022 With C.A.No.155/2022inO.A.No.459/2022 With C.A.No.156/2022inO.A.No.460/2022 With C.A.No.157/2022inO.A.No.461/2022 (D.B.) Coram : Shri Shree Bhagwan, Vice Chairman & Shri Justice M.G.Giratkar, Member (J) Dated : 28/04/2022.

Heard Shri R.Joshi, the ld. Counsel for the applicant and Shri S.A.Deo, the ld. C.P.O. for the State.

2. The ld. counsel for the applicant is relying on A-5, Pg. No. 53 (A to C). By letter of Medical Council of India; in this letter at page no. 53 (C) it is mentioned that the provision of senior residency does not applicable for pre and para clinical subject.

3. However, ld. counsel for the applicant submits that in all the advertisement for the appointment of Assistant Professor this condition has been put as a pre-requisite condition. Now since this post of senior residence was not in existence prior to one year of advertisement; the applicant cannot produce this certificate. He further submits that in private colleges this kind of certificate is issued. But since the applicant is working in the Government Medical College; he could not be get these certificates. However, ld. C.P.O. submits that he requires two days time to take necessary instructions from department.

4. Issue notice to Respondents, returnable on <u>02.05.2022</u>. 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 <u>three</u> <u>days</u> and if service report on affidavit is not filed <u>three days</u> before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

S.O. 02.05.2022 for instructions.
 Steno copy is granted.

Member(J) Date:-28/04/2022. aps.

O.A.No.473/2022 (D.B.)

<u>Coram</u> : Shri Shree Bhagwan, Vice Chairman & Shri Justice M.G.Giratkar, Member (J) <u>Dated</u> : 28/04/2022.

C.A.No.165/2022:-

Heard Shri A.B.Mirza, the ld. Counsel for the applicant and Shri S.A.Deo, the ld. C.P.O. for the State.

2. C.A.No.165/2022 for Jt. O.A. is allowed and disposed of.

3. The ld. counsel for the applicant has filed letter by Government of Maharashtra which is marked Exh. 'X' for the purpose of identification and order in O.A. No. 109/2022 which is marked Exh. – 'X-1' for the purpose of identification. Both are taken on record. Copies are served to the other side.

 Issue notice to Respondents, returnable on <u>four weeks</u>. 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 <u>three</u> <u>days</u> and if service report on affidavit is not filed <u>three days</u> before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

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

Member(J) Date:-28/04/2022. aps.

O.A.No.486/2022 (D.B.)

<u>Coram</u> : Shri Shree Bhagwan, Vice Chairman & Shri Justice M.G.Giratkar, Member (J) <u>Dated</u> : 28/04/2022.

C.A.No.164/2022:-

Heard Shri S.V.Purohit, the ld. Counsel for the applicant and Shri S.A.Deo, the ld. C.P.O. for the State.

2. C.A.No.164/2022 for Jt. O.A. is allowed and disposed of.

3. Applicants are working as Agricultural Officers and their seniority is in question. Respondent no. 3 is supposed to finalize the seniority list. Hence, **respondent no. 3 is directed to examine and finalize the seniority list before proceeding with any other steps**.

 Issue notice to Respondents, returnable on <u>four weeks</u>. 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 <u>three</u> <u>days</u> and if service report on affidavit is not filed <u>three days</u> before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

10. **<u>S.O. four weeks</u>**.

Member(J) Date:-28/04/2022. aps.

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

<u>Coram</u> : Shri Shree Bhagwan, Vice Chairman & Shri Justice M.G.Giratkar, Member (J) <u>Dated</u> : 28/04/2022.

C.A.No.141/2022 :-

Heard Shri P.B.Patil, the ld. Counsel for the applicant and Shri S.A.Deo, the ld. C.P.O. for the respondents.

2. The matter was previously heard on 20.04.2022 and order was dictated. However, due to other necessary engagements and circuit sitting of Shri M.A.Lovekar, Member (J) had to leave early. The order sheet was only signed by V.C. but signature of Member (J) remains.

3. As per the telephonic conversation with Shri
M.A.Lovekar on 27.04.2022 who is at Mumbai Bench,
C.A. No. 141/2022 is listed today before this Bench.
After hearing following order is passed:-

C.A.No.141/2022 is allowed and disposed of in terms of prayer clause (a).

4. Issue notice to Respondent no. 4, returnable on <u>06.05.2022</u>. 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. <u>S.O. 06.05.2022</u>.

Member(J) Date:-28/04/2022. aps.

O.A.No.1029/2021 (D.B.)

<u>Coram</u> : Shri Shree Bhagwan, Vice Chairman & Shri Justice M.G.Giratkar, Member (J) <u>Dated</u> : 28/04/2022.

C.A.No.142/2022:-

Heard Shri P.B.Patil, the ld. Counsel for the applicant, Shri S.A.Deo, the ld. C.P.O. for the respondents and Shri V.B.Gawli, the ld. counsel for the respondent no. 4.

2. The ld. counsel for the applicant has filed C.A. No. 167/2022 today. In prayer clause (b) on page no. 4 which is below:-

"B. Permit the applicant to delete the respondent nos. 5 & 6 from the array of respondents."

3. He is permitted to delete the same within week time in view of Judgment dated 31.03.2022 in O.A. Nos. 22, 308, 309 & 325/2022 which were allowed.

4. As submitted by ld. counsel for the respondent no. 4; that respondent no. 4 and applicant have equal marks. But respondent no. 4 is lower in age than applicant. However, applicant is from S.C. Category and Respondent No. 4 is from O.B.C. Category. Since both the candidates have equal marks. As per the settled Law and Existing Rules and Regulations, Respondents are directed to decide the selection of both the candidates as per existing rules and regulations.

5. With the above directions, **C.A. along with O.A. stands disposed of with no order as to costs.**

Member(J) Date:-28/04/2022. aps.

O.A.Nos.450,451, 466,467,468,476,477/22D.B.

<u>Coram</u> : Shri Shree Bhagwan, Vice Chairman & Shri Justice M.G.Giratkar, Member (J) <u>Dated</u> : 28/04/2022.

Heard Shri A.B.Moon, the ld. Counsel for the applicant and Shri S.A.Deo, the ld. C.P.O. for the State.

2. Regarding the advertisement in clause no. 11.10 detailed order has been passed in O.A. Nos. 22, 308, 309, 325/2022 on 31.03.2022. In para no. 2 of the circular dated 28.02.2017 which has been clearly mentioned that :-

> "If a principle of general applicability is capable of being culled out from a particular pronouncement of this Tribunal, then similarly placed employees, though not before the Tribunal should be given the benefit thereof without actually moving this Tribunal for relief. If on the other hand, the relief is person specific, then of course, this direction will not apply."

3. In para no. 3 of the said Circular it is mentioned that **State of Uttar Pradesh & Ors. Vs. Arvind Kumar Srivastava reported in 2015 (1) SCC 347.**

4. So, Hon'ble Chief Secretary letter and Judgment in the previous Judgment mentioned above should be considered by respondents before deciding the matter.

5. In view of the Judgment in O.A. Nos. 22, 308,
309, 325/2022 and Chief Secretary letter; all these
O.As. are allowed and disposed of with no order as to costs.

Member(J) Date:-28/04/2022. aps.

O.A.No. 453/2022 (D.B.)

<u>Coram</u> : Shri Shree Bhagwan, Vice Chairman & Shri Justice M.G.Giratkar, Member (J) <u>Dated</u> : 28/04/2022.

Heard Shri A.Motlog, the ld. Counsel for the applicant and Shri S.A.Deo, the ld. C.P.O. for the State.

 Issue notice to Respondents, returnable on <u>four weeks</u>. Learned C.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 <u>three</u> <u>days</u> and if service report on affidavit is not filed <u>three days</u> before returnable date. Original

Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

8. **<u>S.O. four weeks</u>**.

Member(J) Date:-28/04/2022. aps.

O.A.No.478/2022 (D.B.)

<u>Coram</u> : Shri Shree Bhagwan, Vice Chairman & Shri Justice M.G.Giratkar, Member (J) <u>Dated</u> : 28/04/2022.

Heard Shri A.B.Moon, the ld. Counsel for the applicant and Shri S.A.Deo, the ld. C.P.O. for the State.

2. The dispute is that applicant is a P.A.P. candidate and going to be appointed under quota of horizontal reservation. The ld. counsel for the applicant is directed to first make party to the persons who become affected by the order of the Tribunal.

3. **S.O. Monday i.e. 02.05.2022.**

Member(J) Date:-28/04/2022. aps.

0.A.No.490/2022 (D.B.)

<u>Coram</u> : Shri Shree Bhagwan, Vice Chairman & Shri Justice M.G.Giratkar, Member (J) <u>Dated</u> : 28/04/2022.

Heard Shri R.M.Fating, the ld. Counsel for the applicant and Shri A.M.Ghogre, the ld. C.P.O. for the respondents.

2. The impugned order was issued on 25.04.2022. However, ld. counsel for the applicant submits that as on today he is on duty.

3. Hence, the ld. counsel for the applicant is directed to produce certificate either by H.O.D. of the concerning department or Muster Roll on which applicant is putting his signature by which it proofs that after passing of his termination order and till today; he is on duty.

4. At the request of ld. counsel for the applicant, **S.O. tomorrow i.e. 29.04.2022.**

5. **Issue of Interim Relief is kept open.**

Member(J) Date:-28/04/2022. aps.

O.A.No.493/2022 (D.B.)

<u>Coram</u> : Shri Shree Bhagwan, Vice Chairman & Shri Justice M.G.Giratkar, Member (J) <u>Dated</u> : 28/04/2022.

Heard Shri A.I.Sheikh, the ld. Counsel for the applicant and Shri A.M.Ghogre, the ld. P.O. for the State.

 Issue notice to Respondents, returnable on <u>four weeks</u>. 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. **<u>S.O. four weeks</u>**.

Member(J) Date:-28/04/2022. aps.

0.A.No.946/2018 (D.B.)

<u>Coram</u> : Shri Shree Bhagwan, Vice Chairman & Shri Justice M.G.Giratkar, Member (J) <u>Dated</u> : 28/04/2022.

Heard Shri A.Motlog holding for Shri K.P.Mahalle, the ld. Counsel for the applicant and Shri A.M.Khadatkar, the ld. P.O. for the respondents.

2. The respondent no. 2 i.e. M.P.S.C. has filed additional affidavit in reply on 17.03.2022 and in this reply in para no. 6 on page no. 158 they have admitted that they shortlisted the candidate in 1:3 criteria. Since, 1 post of N.T.-D female was vacant they selected 3 N.T.-D female candidates. But after scrutiny they have admitted that they found that out of 3 candidates; two were male. After this, they revised the list and excluded 2 male candidates who were wrongly taken and included 2 female candidates. Now this become there second list of eligibility. It means that M.P.S.C. before interview had two lists; in one list N.T.-D candidate one female and two male and in second list three N.T.-D. female candidates.

3. Both these two lists, where male candidates excluded in first list and where female candidates included in second list. That list should be filed on record along with the proper marking.

4. After all this stage, they took interview and in Interview highest marks obtained in N.T.-D female was 54 marks and lower marks was 42.

5. M.P.S.C. is directed to file on record merit list of N.T.-D female candidates. So that it can be examined that whether any candidate of N.T.-D female was in between applicant and respondent no. 3 or not? Without examining this, applicant grievances cannot be redressed.

6. Respondent no. 2 should also mark the seniority number of male who were wrongly taken in first list and seniority number of female who were rightly taken in second list.

7. The ld. P.O. is directed to file these documents and supply the same to the applicant in advance.

- 8. **S.O. 16.06.2022.**
- 9. Matter be treated as P.H..
- 10. **Steno copy is granted.**

Member(J) Date:-28/04/2022. aps.

O.A.No.325/2015withC.A.No.110/2016 (D.B.)

<u>Coram</u> : Shri Shree Bhagwan, Vice Chairman & Shri Justice M.G.Giratkar, Member (J) <u>Dated</u> : 28/04/2022.

Heard Shri S.P.Palshikar, the ld. Counsel for the applicant and Shri A.M.Ghogre, the ld. C.P.O. for the respondents.

2. The ld. P.O. has not sure that whether his reply is on record or not?

3. **S.O. 14.06.2022.**

4. The ld. counsel for the applicant submits that he will remove objections as raised by the office within one week.

Member(J) Date:-28/04/2022. aps.

0.A.No.647/2016 (D.B.)

<u>Coram</u> : Shri Shree Bhagwan, Vice Chairman & Shri Justice M.G.Giratkar, Member (J) <u>Dated</u> : 28/04/2022.

Heard Shri S.U.Ambagade, the ld. Counsel for the applicant and Shri V.A.Kulkarni, the ld. P.O. for the respondents.

2. The ld. counsel for the applicant submits that his senior Shri M.R.Pillai is no more.

3. At his request, **S.O. after summer vacation**.

Member(J) Date:-28/04/2022. aps.

0.A.No.1023/2018 (D.B.)

<u>Coram</u> : Shri Shree Bhagwan, Vice Chairman & Shri Justice M.G.Giratkar, Member (J) <u>Dated</u> : 28/04/2022.

Heard Shri A.Barahate holding for Shri N.R.Saboo, the ld. Counsel for the applicant and Shri V.A.Kulkarni, the ld. P.O. for the respondents.

2. At the request of ld. counsel for the applicant, **S.O. 01 week of July, 2022.**

Member(J) Date:-28/04/2022. aps.

O.A.No.774/2019 (D.B.)

<u>Coram</u> : Shri Shree Bhagwan, Vice Chairman & Shri Justice M.G.Giratkar, Member (J) <u>Dated</u> : 28/04/2022.

Heard Shri S.M.Khan, the ld. Counsel for the applicant and Shri V.A.Kulkarni, the ld. P.O. for the respondents.

2. The ld. counsel for the applicant has filed G.R. dated 01.04.2010 and 01.08.2019. It is taken on record. Copy is served to the other side.

3. **Closed for orders.**

Member(J) Date:-28/04/2022. aps.

O.A.No.688/2017 (D.B.)

<u>Coram</u> : Shri Shree Bhagwan, Vice Chairman & Shri Justice M.G.Giratkar, Member (J) <u>Dated</u> : 28/04/2022.

Heard Shri S.A.Marathe, the ld. Counsel for the applicant and Shri M.I.Khan, the ld. P.O. for the respondents.

2. At the request of ld. counsel for the applicant, **S.O. after summer vacation.**

Member(J) Date:-28/04/2022. aps.