

Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.

Dated : 11/07/2023.

C.A. No. 324/2023 in O.A. 737/2023 (SB) -

Heard Shri D.M. Kakani, learned counsel for the applicants and Shri S.A. Deo, learned CPO for the respondents / Caveator.

2. Looking to the ground, the C.A. for filing Jt. O.A. is allowed and disposed of.

C.A. No. 325/2023 in O.A. 738/2023 (SB) -

Heard Shri H.S. Chitale, learned counsel for the applicants and Shri S.A. Deo, learned CPO for the State.

2. Looking to the ground, the C.A. for filing Jt. O.A. is allowed and disposed of.

Common order in O.A. Nos. 737/2023 and 738/2023 (SB) –

Heard Shri D.M. Kakani, learned counsel for the applicants and Shri S.A. Deo, learned CPO for the respondents / caveator in O.A.No. 737/2023.

2. Heard Shri H.S. Chitale, learned counsel for the applicants and Shri S.A. Deo, learned CPO for the State in O.A. 738/2023.

3. Case of the applicants in short is as under –

All the applicants appeared in the examination held for the post of Police Patil. After due scrutiny of their applications, they were allowed to appear in the written examination. They have passed written examination. The Written examination papers were valued as per the OMR system. The applicants were found eligible for second stage of examination, i.e., oral interview of 20 marks. After the result of written examination, all the applicants were called for oral interview. As per the merit list by calculating the marks obtained in written examination and oral examination, they were selected for the post of Police Patil. All the applicants were appointed on the said post.

4. The respondents have issued termination order to all the applicants stating that there is some favouritism while granting oral marks and therefore their services were terminated. The respondent (Govt.) has issued order dated 30/06/2023 directing the respondent no.2 to conduct the fresh examination for the post of Police Patil. All the applicants approached to this Tribunal claiming interim relief against the order dated 04/07/2023 (termination order) and order dated 30/06/2023 (for fresh recruitment).

5. During the submission, the learned counsel for applicants Shri D.M. Kakani (in O.A. 737/2023) has pointed out various documents. As per his submission, the appointing authority was respondent no.3. There is nothing on record to show that there was any malafide on the part of the authorities who have conducted the oral interview. He has pointed out the marks sheet / selection list of MPSC and submitted that though the candidates who got less marks in the written examination / oral examination, but their total marks are considered for appointment of the said post. In this process for appointment of Police Patil, the same procedure was followed. The total marks, i.e., written examination marks and oral examination marks were considered for preparing the merit list. According to the merit list, the appointment orders were passed.

6. The learned counsel for applicants has pointed out various decisions of the Hon'ble Supreme Court and submitted that without any malafide, process for selection cannot be set aside. He has pointed out the landmarks Judgments of the Hon'ble Supreme Court.

7. The learned CPO has pointed out some communications and submitted that there were some complaints in respect of entire process of selection of Police Patil. The learned CPO has submitted that three Officers who were the Members of the Interview Committee are suspended. They have challenged the said suspension order in O.A.Nos.721,722 & 723 of 2023 before this Tribunal.

8. The learned CPO has submitted that no prejudice will cause to the applicants, if the fresh selection process is started.

9. The Hon'ble Supreme Court in the case of **Barot Vijaykumar Balakrishna & Ors. Vs. Modh Vinay Kumar Dasrathlal and ors.**, in para-22 has held as under –

“ Further, as noted above the marks obtained by the short listed candidates in the written test were kept in a sealed cover and those were taken out only after the oral interview of all the candidates was over. At the time a candidate appeared for the interview the members of the interview board had no means to know the mark obtained by him/her in the written test. In such a situation we don't see how it could be possible for the interview board to purposefully exclude a candidate by giving less than the minimum qualifying mark for the viva voce even though he/she might have been selected on the basis of the mark obtained in the written test alone.”

10. The Hon'ble Supreme Court in the case of **Lila Dhar Vs. State of Rajasthan & Ors.**, in para-2 has held as under –

“The result of the comparative examination was announced by the Rajasthan Public Service Commission on March 12, 1981 and respondents Nos. 3 to 41 were declared selected for appointment. Out of the 39 candidates who were selected for appointment, one belonged to the scheduled castes and the rest belonged to the general category. The last of the candidates belonging to the general category who was selected for appointment obtained a total of 190 marks in the examination, 135 in the written examination and 55 in the viva voce. The petitioner who obtained a total of 189 marks. 159 in the written test and 30 in the viva voce was not selected for appointment. He has filed the present writ petition under Article 32 of the Constitution questioning the selection.”

11. The Hon'ble Supreme Court in the case of **Joginder Singh and others Vs. Roshan Lal and others**, in paras-4 and 5 has held as under –

“ 4. In the judgment under appeal, the High Court observed:

“in its opinion, fair amount of time should be given to each one of the candidates so that he may be able to show his worth, ability as per his intellect, to the members of the Selection Committee”.

The High Court further observed:

"that it had no hesitation to hold that the process of selection was a farce and the fair chance was never given to the candidates to show their worth".

5. On the facts on record we see no justification for the High Court to have come to this conclusion. The High Court in exercise of its jurisdiction under Article 226 of the Constitution is not supposed to act as an Appellate Authority over the decision of the Departmental Selection Committee. If the Committee has been properly constituted, as in this case, and the post is advertised and a selection process known to law which is fair to all, is followed, then the High Court could have no jurisdiction to go into a question whether the Departmental Selection Committee conducted the test properly or not when there is no allegation of mala fides or bias against any member of the Committee. Merely because there were a large number of candidates who appeared on two days, cannot ipso facto lead to the conclusion that the process of selection was a farce and fair chance was not given. Normally, experienced persons are appointed as members of the Selection Committee and how much time should be spent with a candidate would vary from person to person. Merely because only two days were spent in conducting the interviews for the selection of Class IV posts cannot lead to the conclusion that the process of selection was not proper."

12. The Hon'ble Supreme Court in the case of **Madan Lal and others Vs. State of Jammu & Kashmir**, in para-17 has held as under –

"17. In the light of what is stated above while dealing with contention No. 1, this contention also must fail. The petitioners subjectively feel that as they had fared better in the written test and had got more marks therein as compared to concerned selected respondents, they should have been given more marks also at the oral interview. But that is in the realm of assessment of relative merits of concerned candidates by the expert committee before whom these candidates appeared for the viva voce test. Merely on the basis of petitioners' apprehension or suspicion that they were deliberately given less marks at the oral interview as compared to the rival candidates, it cannot be said that the process of assessment was vitiated. This contention is in the realm of mere suspicion having no factual basis. It has to be kept in view that there is not even a whisper in the petitioner about any personal bias of the members of the interview committee against the petitioners. They have also not alleged any mala fides on the part of the interview committee in this connection. Consequently, the attack

on assessment of the merits of the petitioners cannot be countenanced. It remains in the exclusive domain of the expert committee to decide whether more marks should be assigned to the petitioners or to the concerned respondents. It cannot be the subject-matter of an attack before us as we are not sitting as a court of appeal over the assessment made by the committee so far as the candidates interviewed by them are concerned. In the light of the affidavit in reply filed by Dr. Girija Dhar to which we have made reference earlier, it cannot be said that the Expert Committee had given a deliberate unfavourable treatment to the petitioners, Consequently, this contention also is found to be devoid of any merit and is rejected.”

13. The applicants have challenged the orders dated 04/07/2023 and 30/06/2023 on the ground that the selection process was legal and proper. There was no any malafide on the part of Appointing Authority (Selection Committee). At this stage, nothing is on record to show that there was any proof or any malafide on the part of any of the Members of the Selection Committee. Only on the complaints, some of the Officers of Revenue Department are suspended, but all the Members of Selection Committee are not suspended or taken any action.

14. The IPS Officers and other Social Welfare Officers etc. are not questioned or taken any action against them. As per the documents filed on record, it appears that the selection of the applicants were as per the procedure laid down by the Government. Unless any malafide is proved, the appointments of the applicants cannot be cancelled.

15. Now the appointments of the applicants are already terminated, therefore, stay cannot be granted to the termination order, but this Tribunal has to decide as to whether the selection process of all the applicants were legal and proper and therefore, fresh process of selection cannot be started. Hence, **the order dated 30/06/2023 directing the Collector, Bhandara (R/2) to start the fresh selection process of the post of Police Patil is hereby stayed until further orders.**

16. Notices are already served to the respondents in the **O.A. No.737/2023**. The respondents are directed to file reply positively within three weeks. The matter will be heard and finally decided expeditiously.
17. **In O.A. No. 738/2023**, issue notice to the respondents returnable **after three weeks**. Learned C.P.O. waives notice for State. Hamdast allowed.
18. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
19. 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.
20. 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.
21. 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.
22. 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 three weeks.

Steno copy is granted.

Vice Chairman

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M.C.A.No.14/2023inO.A.No.400/2018 (D.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated :11/07/2023.**

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

2. Ld. Counsel for the applicant submits that he is going to file vakalatnama on behalf of the applicant.

3. **S.O. after two weeks.**

Date:- 11/07/2023.
aps.

Vice Chairman

O.A.No. 29 /2023 (D.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated :11/07/2023.**

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

2. Ld. P.O. has filed reply on behalf of the respondents 3 & 4. It is taken on record. Copy is served to the other side.

3. Ld. P.O. further seeks time to file reply of respondent no. 2, **S.O. three weeks.**

Vice Chairman

Date:- 11/07/2023.
aps.

O.A.No. 52 /2023 (D.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated :11/07/2023.**

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

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

3. Hence, O.A. is **admitted** and kept for final hearing.

4. The ld. P.O. waives notice for the respondents.

5. **S.O. 02.08.2023.**

6. *Meanwhile, the ld. counsel for the applicant is at liberty to file Rejoinder, if any.*

Vice Chairman

Date:- 11/07/2023.
aps.

O.A.No. 73/2023 (D.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated :11/07/2023.**

Heard Shri Rathi holding for Shri P.B.Patil, ld.
Counsel for the applicant and Shri A.M.Khadatkar, ld.
P.O. for the respondents.

2. At the request of ld. P.O., **S.O. 02.08.2023 to
file reply as a last chance.**

Date:- 11/07/2023.
aps.

Vice Chairman

O.A.No. 585 /2023 (D.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated :11/07/2023.**

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

2. At the request of ld. P.O., **S.O. three weeks to file reply.**

Date:- 11/07/2023.
aps.

Vice Chairman

C.A.No.320/2023inO.A.No.475/2023 (D.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated :11/07/2023.**

Heard Smt. R.S.Sirpurkar, Id. Counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the respondents.

2. Looking to the further development after passing the interim order the applicant wants to amend the O.A.. Looking to the submission, **C.A.No.320/2023 for amendment is allowed.** The Id. counsel for the applicant is directed to carryout the amendment within one week. She is further directed to supply the same to the other side.

3. At the request of Id. P.O., **S.O. 03.08.2023 to file reply.**

4. **Put up this matter along with C.P.No.57/2023inO.A.No.475/2023.**

Vice Chairman

Date:- 11/07/2023.

aps.

C.P.No.57/2023inO.A.No.475/2023 (D.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated :11/07/2023.**

Heard Smt. R.S.Sirpurkar, Id. Counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the State.

2. 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.

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

4. **S.O. 03.08.2023.**

5. **Put up this matter along with O.A.No.475/2023.**

Vice Chairman

Date:- 11/07/2023.

aps.

C.P.No.82/2022inO.A.No.683/2022 (D.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated :11/07/2023.**

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

2. On last date i.e. on 14.06.2023 the communication dated 03.07.2023 was placed on record. As per this communication process for promotion is under the consideration of respondents. The respondents are directed to consider the same till next date.

3. **S.O. 01.08.2023.**

Vice Chairman

Date:- 11/07/2023.
aps.

C.P.No.86/2022inO.A.No.828/2012 (D.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated :11/07/2023.**

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

2. Ld. Counsel for the applicant has pointed out the calculation made by the respondents as per the chart filed on record. The respondents are directed to comply the order of this Tribunal dated 11.07.2017 till the next date.

3. At the request of ld. P.O., **S.O. 03.08.2023.**

Vice Chairman

Date:- 11/07/2023.

aps.

O.A.No. 1037 /2022 (D.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated :11/07/2023.**

Heard Shri A.Chaware, Id. Counsel for the applicant and Shri M.I.Khan, Id. P.O. for the respondents.

2. At the request of Id. P.O., **S.O. 03.08.2023 for final hearing.**

Vice Chairman

Date:- 11/07/2023.
aps.

O.A.No.655 /2020 (D.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated :11/07/2023.**

Heard Shri D.I.Charlewar, ld. Counsel for the applicant and Shri M.I.Khan, ld. P.O. for the respondents. None for the R-3 & 4. None for other respondents.

2. At the request of ld. P.O., **S.O. 07.08.2023 for final hearing.**

Vice Chairman

Date:- 11/07/2023.
aps.

O.A.No. 763 /2020 (D.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated :11/07/2023.**

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

2. Ld. Counsel for the applicant has pointed out order dated 17.11.2022 passed by the Division Bench of this Tribunal. Ld. P.O. seeks time to get instructions in respect of the order dated 17.11.2022.

3. **S.O. two weeks.**

Vice Chairman

Date:- 11/07/2023.
aps.

O.A.No. 746 /2023 (D.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated :11/07/2023.**

Heard Shri P.R.Puri, ld. Counsel for the applicant and Shri V.A.Kulkarni, ld. P.O. for the State.

2. At the request of ld. P.O., **S.O. 12.07.2023.**

Vice Chairman

Date:- 11/07/2023.
aps.

O.A.No. 968 /2022 (S.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated : 11/07/2023.**

Heard Shri A.Motlog holding for Shri R.V.Shiralkar, ld. counsel for the applicant and Shri M.I.Khan, ld. P.O. for the Respondents.

2. The ld. P.O. has filed reply on behalf of the respondents 2 & 3. It is taken on record. Copy is served to the other side. He further submits that it is sufficient to decide the matter.

3. Hence, O.A. is **admitted** and kept for final hearing.

4. The ld. P.O. waives notice for the respondents.

5. **S.O. in due course.**

6. *Meanwhile, the ld. counsel for the applicant is at liberty to file Rejoinder, if any.*

Vice Chairman

Date:- 11/07/2023.
aps.

O.A.No. 1135 /2022 (S.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated : 11/07/2023.**

None for the applicant. Shri M.I.Khan, ld. P.O. for the Respondents. C.F. applicant has not collected hamdast for R-2 to 4.

2. At the request of ld. P.O., **S.O. four weeks.**

Vice Chairman

Date:- 11/07/2023.
aps.

O.A.No. 1198 /2022 (S.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated : 11/07/2023.**

Heard Ms.R.R.Evnate, ld. counsel for the applicant&Shri M.I.Khan, ld. P.O. for the Respondents. None for the R-5.

2. At the request of ld. Counsel for the applicant, **S.O. three weeks.**

Vice Chairman

Date:- 11/07/2023.
aps.

O.A.No. 857 /2022 (S.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated : 11/07/2023.**

Heard Shri K.S.Malokar, ld. counsel for the applicant, Shri M.I.Khan, ld. P.O. for the Respondents and Ms. M.P.Munshi ld. Counsel for the R-5.

2. At the request of ld. Counsel for the applicant, **S.O. 19.07.2023 to file reply.**

Vice Chairman

Date:- 11/07/2023.
aps.

O.A.No. 302 /2023 (S.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated : 11/07/2023.**

Heard Smt. Saboo, ld. counsel for the applicant&Shri M.I.Khan, ld. P.O. for the Respondents. None for the R-3. Await service of R-2.

2. At the request of ld. Counsel for the applicant, **S.O. one week.**

Vice Chairman

Date:- 11/07/2023.
aps.

O.A.No. 355 /2023 (S.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated : 11/07/2023.**

Heard Shri D.R.Rupnarayan, ld. counsel for the applicant and Shri M.I.Khan, ld. P.O. for the Respondents.

2. At the request of ld. P.O., **S.O. four weeks to file reply.**

Vice Chairman

Date:- 11/07/2023.
aps.

O.A.No. 366 /2023 (S.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated : 11/07/2023.**

Heard Smt.Saboo, ld. counsel for the applicant and Shri M.I.Khan, ld. P.O. for the Respondents. Await service of R-2.

2. At the request of ld. Counsel for the applicant, **S.O. two weeks.**

Vice Chairman

Date:- 11/07/2023.
aps.

O.A.No. 504 /2023 (S.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated : 11/07/2023.**

Heard Shri T.U.Tathod, ld. counsel for the applicant and Shri M.I.Khan, ld. P.O. for the Respondents.

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

3. **Ld. P.O. requested to get instructions about the direction given on 01.06.2023.**

Vice Chairman

Date:- 11/07/2023.
aps.

O.A.No. 608 /2023 (S.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated : 11/07/2023.**

Heard Shri P.S.Kshirsagar, ld. counsel for the applicant and Shri M.I.Khan, ld. P.O. for the Respondents. Await service of R-2 & 3.

2. Ld. Counsel for the applicant states that respondent nos. 2 & 3 are served and he will file service affidavit today itself.

3. At the request of ld. P.O., **S.O. three weeks to file reply.**

Vice Chairman

Date:- 11/07/2023.
aps.

O.A.No. 609 /2023 (S.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated : 11/07/2023.**

Heard Smt.Saboo, ld. counsel for the applicant and Shri M.I.Khan, ld. P.O. for the Respondents. Await service of R-2 & 3.

2. Ld. Counsel for the applicant states that respondents 2 & 3 are served. Ld. P.O. seeks time to file reply, **S.O. after three weeks.**

Vice Chairman

Date:- 11/07/2023.
aps.

O.A.No. 706 /2023 (S.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated : 11/07/2023.**

C.A.No.319/2023:-

Heard Shri A.Barahate, ld. counsel for the applicant and Shri M.I.Khan, ld. P.O. for the Respondents.

2. Applicants are directed to remove the objections raised by the office. **S.O. after one week.**

Vice Chairman

Date:- 11/07/2023.
aps.

M.C.A.Nos.02&03/2023inO.A.No.178/20 (S.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated : 11/07/2023.**

None for the applicant. Shri M.I.Khan, ld. P.O.
for the Respondents.

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

Vice Chairman

Date:- 11/07/2023.
aps.

O.A.No. 363 /2022 (S.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated : 11/07/2023.**

Heard Shri G.G.Bade, ld. counsel for the applicant and Shri M.I.Khan, ld. P.O. for the Respondents.

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

3. Hence, O.A. is **admitted** and kept for final hearing.

4. The ld. P.O. waives notice for the respondents.

5. **S.O. 26.07.2023.**

6. *Meanwhile, the ld. counsel for the applicant is at liberty to file Rejoinder, if any.*

Vice Chairman

Date:- 11/07/2023.
aps.

O.A.No. 119 /2023 (S.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated : 11/07/2023.**

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

2. The ld. P.O. has filed reply on behalf of the respondents 2 & 3. It is taken on record. Copy is served to the other side. He further submits that it is sufficient to decide the matter.

3. Hence, O.A. is **admitted** and kept for final hearing.

4. The ld. P.O. waives notice for the respondents.

5. **S.O. 27.07.2023.**

6. *Meanwhile, the ld. counsel for the applicant is at liberty to file Rejoinder, if any.*

Vice Chairman

Date:- 11/07/2023.
aps.

O.A.No. 666 /2023 (S.B.)

Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated : 11/07/2023.

Heard Shri D.M.Kakani, Id. counsel for the applicant and Shri S.A.Deo, Id. C.P.O. for the State.

2. Issue notice to Respondents, returnable on three weeks. 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 **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. three weeks.**

Date:- 11/07/2023.
aps.

Vice Chairman

O.A.No. 724 /2023 (S.B.)

Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated : 11/07/2023.

Heard Shri D.M.Kakani, ld. counsel for the applicant and Shri S.A.Deo, ld. C.P.O. for the State.

2. The applicant was working as a Dean in G.M.C., Nagpur. The applicant sought voluntary retirement as per letter dated 28.11.2022. By this letter applicant wanted to get voluntary retirement w.e.f. 28.02.2023. The applicant was not given salary of 01.10.2022 to 28.02.2023. The respondents have not accepted/refused the application for voluntary retirement of the applicant.

3. As per Rule 66 (2) of Pension Rule, it is clear that if the voluntary retirement is not accepted/refused within a period of 90 days from the date of application, it is deemed to be accepted. It appears that respondents are not deciding application for voluntary retirement.As per Rule 66 (2), it is deemed to be accepted.

4. Hence, respondents are directed to pay the salary of the applicant from 01.10.2022 till 28.02.2023 within a period of one month. The respondents are also directed to take conscious decision keeping in mind Rule 66 (2) of pension rule on the application of voluntary retirement dated 28.11.2022.

5. Issue notice to Respondents, returnable on four weeks. Learned C.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. four weeks.**

12. **Steno copy is granted.**

Vice Chairman

Date:- 11/07/2023.

aps.

O.A.No. 124 /2017 (S.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated : 11/07/2023.**

Heard Smt. S.Kulkarni, ld. counsel for the applicant and Shri A.M.Khadatkar, ld. P.O. for the Respondents.

2. At the request of ld. P.O., **S.O. 26.07.2023 for final hearing.**

Vice Chairman

Date:- 11/07/2023.
aps.

O.A.Nos. 279 & 280 /2019 (S.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated : 11/07/2023.**

Heard Shri A.Motlog holding for Shri R.V.Shiralkar, ld. counsel for the applicant and Shri V.A.Kulkarni, ld. P.O. for the Respondents.

2. At the request of ld. Counsel for the applicant, **S.O. 20.07.2023 for final hearing.**

Vice Chairman

Date:- 11/07/2023.

aps.

O.A.No.381/2020withC.A.No.223/2021 (S.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated : 11/07/2023.**

Heard Ms. A.Singh holding for Shri P.D.Meghe, ld. counsel for the applicant and Shri A.M.Khadatkar, ld. P.O. for the Respondents.

2. O.A. is already fixed for final hearing. Issue can be decided finally. Hence, **C.A. is disposed of.** Parties are requested to argue the matter finally.

3. At the request of ld. P.O., **S.O. 13.07.2023 for final hearing.**

Vice Chairman

Date:- 11/07/2023.
aps.

O.A.No. 632 /2022 (S.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated : 11/07/2023.**

Heard Shri B.Kulkarni, Id. counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the Respondents.

2. At the request of Id. P.O., **S.O. 18.07.2023 for final hearing.**

Vice Chairman

Date:- 11/07/2023.
aps.

O.A.No. 92 /2022 (S.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated : 11/07/2023.**

Heard Shri K.J.Khanorkar, ld. counsel for the applicant&Shri V.A.Kulkarni, ld. P.O. for the Respondents. None for the R-3.

2. Ld. P.O. has filed reply of Respondents 1 & 2. It is taken on record. Copy is served to the other side.

3. **S.O. 19.07.2023.**

Vice Chairman

Date:- 11/07/2023.
aps.

O.A.No. 933 /2022 (S.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated : 11/07/2023.**

Heard Shri B.Kulkarni, Id. counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the Respondents.

2. At the request of Id. P.O., **S.O. 18.07.2023 for final hearing.**

Vice Chairman

Date:- 11/07/2023.
aps.

O.A.No. 581 /2019 (S.B.)

**Coram:Shri Justice M.G.Giratkar,Vice Chairman
Dated : 11/07/2023.**

Heard Shri N.W.Almelkar, ld. counsel for the applicant and Shri A.M.Khadatkar, ld. P.O. for the Respondents.

2. At the request of ld. P.O., **S.O. 02.08.2023 for final hearing.**

Vice Chairman

Date:- 11/07/2023.
aps.

**O.A.No.310/2019 with O.A.No.311/2019
(S.B.)**

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

None for the applicant. Heard Shri A.M.Ghogre, ld. P.O. for the respondent, Shri A.Parihar, ld. counsel for the respondents 2 to 4.

2. It is the submission of learned P.O. that the O.A. is not maintainable since by the impugned order only reply of the applicant was called to the show cause notice (Annexure -1).

3. **S.O. four weeks.**

Member (J).

rsm.

O.A.No.886/2020 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Shri A.D.Patil, ld. counsel for the applicant, Shri A.M.Khadatkar, ld. P.O. for the respondents 1 to 3 and Shri S.C.Deshmukh, ld. counsel for the respondent no.4.

2. Learned P.O. states that parawise comments are awaited and time of two weeks be granted to file reply.

3. **S.O. two weeks.**

Member (J).

rsm.

O.A.No.922/2020 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

None for the applicant. Heard Shri
A.M.Khadatkar, ld. P.O. for the respondents.

2. On oral request of ld. P.O., **S.O. four weeks.**

Member (J).

rsm.

O.A.No.232/2022 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Shri P.P.Khaparde, holding for Shri G.G.Bade, ld. counsel for the applicant and Shri A.M.Khadatkar, ld. P.O. for the respondents.

2. On oral request of ld. P.O., **S.O. four weeks for filing reply.**

Member (J).

rsm.

O.A.No.529/2022 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Shri R.P.Deshpande, ld. counsel for the applicant and Shri A.M.Khadatkar, ld. P.O. for the respondents.

2. On oral request of ld. P.O., **S.O. three weeks for filing reply.**

Member (J).

rsm.

O.A.No.835/2022 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

None for the applicant. Heard Shri A.M.Khadatkar, ld. P.O. for the respondents.

2. Reply of respondents 2 and 3 filed by learned P.O. is taken on record. It is stated to be sufficient. The O.A. is **admitted** and kept for final hearing in last week of August.

3. **S.O. last week of August.**

Member (J).

rsm.

O.A.No.1102/2022 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

None for the applicant. Heard Shri A.M.Khadatkar, ld. P.O. for the respondents.

2. On oral request of ld. P.O., **S.O. four weeks for filing reply.**

Member (J).

rsm.

O.A.No.1118/2022 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Shri N.R.Saboo, ld. counsel for the applicant and Shri A.M.Khadatkar, ld. P.O. for the respondents.

2. Learned counsel for the applicant has placed on record communication dated 30.06.2023. Copy of this communication is given to the learned P.O.. Learned P.O. shall take instructions about compliance of this communication and make a statement on next date i.e. on 19.07.2023.

3. **S.O. 19.07.2023.**

Member (J).

rsm.

O.A.No.1157/2022 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Shri K.S.Malokar, ld. counsel for the applicant and Shri A.M.Khadatkar, ld. P.O. for the respondents.

2. On oral request of ld. P.O., **S.O. 19.07.2023 for filing reply.**

Member (J).

rsm.

O.A.No.1241/2022 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Shri I.G.Meshram, ld. counsel for the applicant, Shri S.A.Sainis, ld. P.O. for the respondent no.1. None for the respondents 2 & 3.

2. On oral request of ld. P.O., **S.O. 25.07.2023 for filing reply.**

Member (J).

rsm.

O.A.No.10/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Shri P.P.Khaparde, ld. counsel for the applicant and Shri S.A.Sainis, ld. P.O. for the respondents.

2. On oral request of ld. P.O., **S.O. three weeks for filing reply.**

Member (J).

rsm.

O.A.No.252/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

None for the applicant. Heard Shri S.A.Sainis,
ld. P.O. for the respondents.

2. On oral request of ld. P.O., **S.O. four weeks for
filing reply.**

Member (J).

rsm.

O.A.No.294/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Shri S.Pande, holding for Shri B.Kulkarni, ld. counsel for the applicant and Shri S.A.Sainis, ld. P.O. for the respondents.

2. Office objection is dismissed.
3. On oral request of ld. P.O., **S.O. two weeks for filing reply.**

Member (J).

rsm.

O.A.No.298/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Shri N.R.Saboo, ld. counsel for the applicant and Shri A.M.Khadatkar, ld. P.O. for the respondents.

2. On oral request of ld. P.O., **S.O. three weeks for filing reply.**

Member (J).

rsm.

O.A.No.354/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Shri S.C.Deshmukh, ld. counsel for the applicant and Shri A.M.Khadatkar, ld. P.O. for the respondents.

2. On oral request of ld. P.O., **S.O. three weeks for filing reply.**

Member (J).

rsm.

O.A.No.394/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

None for the applicant. Shri A.M.Khadatkar, ld.
P.O. for the respondents. Await service of respondents
2 and 3. Await service of respondents 2 and 3.

2. **S.O. four weeks.**

Member (J).

rsm.

O.A.No.406/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

None for the applicant. Heard Shri A.M.Khadatkar, ld. P.O. for the respondents.

2. On oral request of ld. P.O., **S.O. four weeks for filing reply.**

Member (J).

rsm.

O.A.No.414/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Shri A.P.Sadavarte, ld. counsel for the applicant and Shri A.M.Khadatkar, ld. P.O. for the respondents.

2. On oral request of ld. P.O., **S.O. three weeks for filing reply.**

Member (J).

rsm.

O.A.No.416/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Shri P.P.Khaparde, ld. counsel for the applicant and Shri A.M.Khadatkar, ld. P.O. for the respondents.

2. On oral request of ld. P.O., **S.O. three weeks for filing reply.**

Member (J).

rsm.

O.A.No.497/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Shri P.P.Khaparde, holding for Shri G.G.Bade, ld. counsel for the applicant and Shri , ld. P.O. for the respondents.

2. On oral request of ld. P.O., **S.O. four weeks for filing reply.**

Member (J).

rsm.

O.A.No.525/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

None for the applicant. Heard Shri A.M.Khadatkar, ld. P.O. for the respondents.

2. On oral request of ld. P.O., **S.O. four weeks for filing reply.**

Member (J).

rsm.

O.A.No.601/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Shri S.N.Gaikwad, ld. counsel for the applicant and Shri A.M.Khadatkar, ld. P.O. for the respondents.

2. Learned counsel for the applicant states that the respondents 1 to 4 and respondent no.5 has refused to take notice, and he will file service affidavit within three days.

3. On oral request of ld. P.O., **S.O. two weeks for filing reply.**

Member (J).

rsm.

O.A.No.610/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Adv.S.P.Deshpande, ld. counsel for the applicant and Shri A.M.Khadatkar, ld. P.O. for the respondents.

2. Learned counsel for the applicant states that today she will take Hamdast and served the respondents within three days.

3. Issue fresh notice to the respondent 2, returnable **on 17.07.2023**. Learned P.O. waives notice for State. Hamdast allowed.

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 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. 17.07.2023.**

Member (I).

rsm.

O.A.No.811/2016 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Shri S.N.Gaikwad, ld. counsel for the applicant and Shri S.A.Sainis, ld. P.O. for the respondents.

2. **Closed for Orders.**

Member (J).

rsm.

O.A.No.510/2017 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Mrs.P.T.Joshi, ld. counsel for the applicant and Shri S.A.Sainis, ld. P.O. for the respondents.

2. On oral request of ld. counsel for the applicant,
S.O. two weeks.

Member (J).

rsm.

O.A.No.541/2017 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Shri A.Motlog, holding for Shri R.V.Shiralkar, ld. counsel for the applicant and Shri S.A.Sainis, ld. P.O. for the respondents.

2. **S.O. one week.**

Member (J).

rsm.

O.A.No.625/2017 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Shri S.P.Palshikar, ld. counsel for the applicant and Shri S.A.Sainis, ld. P.O. for the respondents.

2. On oral request of ld. counsel for the applicant,
S.O. 19.07.2023.

Member (J).

rsm.

O.A.No.1017/2018 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Shri D.M.Kakani, ld. counsel for the applicant, Shri S.A.Sainis, ld. P.O. for the respondents 1 and 2 and Shri K.S.Malokar, ld. counsel for the respondents 3 and 4.

2. Learned counsel for respondent no.4 states that today a responsible person from the office of respondent no,no.4 has produced the record and he is hanging over. One xerox set of the same to the learned P.O..

3. **S.O. next week.**

Member (J).

rsm.

O.A.No.346/2019 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Shri S.N.Gaikwad, ld. counsel for the applicant and Shri S.A.Sainis, ld. P.O. for the respondents.

2. On oral request of ld. counsel for the applicant,
S.O. one week.

Member (J).

rsm.

O.A.No.773/2019 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Shri S.M.Khan, ld. counsel for the applicant and Shri S.A.Sainis, ld. P.O. for the respondents.

2. On oral request of ld. P.O., **S.O. 24.07.2023.**

Member (J).

rsm.

O.A.No.941/2019 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

None for the applicant. Shri S.A.Sainis, Id. P.O.
for the respondents.

2. **S.O. two weeks.**

Member (J).

rsm.

O.A.No.1037/2019 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Shri V.D.Muley, ld. counsel for the applicant and Shri V.A.Kulkarni, ld. P.O. for the respondents.

2. Learned counsel for the applicant states that the applicant is dead and nothing survives in the O.A..

The O.A. is accordingly disposed of.

Member (J).

rsm.

O.A.No.1038/2019 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Shri V.D.Muley, ld. counsel for the applicant and Shri V.A.Kulkarni, ld. P.O. for the respondents.

2. Learned counsel for the applicant seeks one week to take instructions.

3. **S.O. one week.**

Member (J).

rsm.

O.A.No.378/2020 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

None for the applicant. Heard Shri S.A.Sainis,
ld. P.O. for the respondents.

2. The O.A. is dismissed for want of prosecution.

Member (J).

rsm.

O.A.No.631/2021 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Shri K.S.Motwani, ld. counsel for the applicant and Shri A.M.Khadatkar, ld. P.O. for the respondents.

2. **S.O. two weeks.**

Member (J).

rsm.

O.A.No.848/2021 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

None for the applicant. Heard Shri V.A.Kulkarni, Id. P.O. for the respondents.

2. Learned P.O. states that written notes of arguments are already filed.

3. **S.O. three weeks.**

Member (J).

rsm.

O.A.No.180/2022 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Shri B.K.Vyas, holding for Shri A.M.Tirukh, ld. counsel for the applicant and Shri , ld. P.O. for the respondents.

2. On oral request of ld. counsel for the applicant,
S.O. two weeks.

Member (J).

rsm.

O.A.No.589/2022 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Shri R.M.Fating, ld. counsel for the applicant and Shri M.I.Khan, ld. P.O. for the respondents.

2. **Closed for Orders.**

Member (J).

rsm.

O.A.No.806/2022 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Shri A.Motlog, holding for Shri R.V.Shiralkar, ld. counsel for the applicant and Shri M.I.Khan, ld. P.O. for the respondents.

2. **S.O. 19.07.2023.**

Member (J).

rsm.

O.A.No.55/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

Heard Shri S.P.Palshikar, ld. counsel for the applicant and Shri S.A.Sainis, ld. P.O. for the respondents.

2. On oral request of ld. counsel for the applicant,
S.O. 19.07.2023.

Member (J).

rsm.

O.A.No.692/2023 with O.A.694/2023 with O.A.No.695/2023 with O.A.No.696/2023 with O.A.No.697/2023 with O.A.No.698/2023 with O.A.No.699/2023 with O.A.No.700/2023 with O.A.No.701/2023 with O.A.No.702/2023 with O.A.No.703/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

COMMON ORDER

Heard Shri S.N. Gaikwad, Id. Counsel (in O.A.692/2023) and Shri N.R. Saboo, Id. Counsel in other O.As. for the applicants and Shri S.A.Deo, Id. C.P.O. for the respondents.

2. Grievances of the applicants are as follows.

- i) Procedure of counselling and calling options was not followed.
- ii) List of employees due for transfer was not prepared as provided in Section 4(2) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (in short "Transfers Act, 2005").
- (iii) Civil Services Board was not constituted.

3. In reply, it is submitted by the learned C.P.O. that considering the pay scales of the applicants procedure of counselling and calling options could be dispensed with. Further submission of the learned C.P.O. is that the Civil Services Board was duly constituted.

4. Today the learned C.P.O. has placed on record communication dated 10.07.2023 (marked-X) which states-

प्रस्तुतप्रकरणीनमूदकरण्यातयेतेकी,

**संचालनालयाच्याअधिपत्याखालीलसंस्थामधीलचिकित्सालयीनवअचिकित्सालयीनविषयातीलकार्यर
तसर्वसहायकप्राध्यापकांचीबदल्यांबाबतचीकार्यरतकालावधीदर्शकयादीजानेवारी२०२३मध्येसंचालनाल
याच्यास्तरावरतयारकरण्यातआलीहोती.**

दरम्यानच्याकालावधीमध्येसरळसेवेनेतसेचपदोन्नतीनेसहायकप्राध्यापकांचेवरीष्ठपदावरीलनियुक्ती

आदेश प्राप्त झाल्यानुसार सदरहू यादीमध्ये योग्य तो बदल करून माहे मे २०२३ मध्ये अंतिमरीत्या तयार विषयनिहाय यादी संचालनालयाने शासनास सादर केली आहे.

It is submitted that these details shall show that there was due compliance of Section 4(2) of the Transfers Act, 2005.

5. For grant of interim order the applicants have relied on the common order dated 06.07.2023 passed in a batch of Original Applications by Aurangabad Bench of this Tribunal. In order dated 06.07.2023 the Aurangabad Bench observed-

(i) List of Government servants due for transfer during the ensuing general transfers was not prepared.

(ii) Process of counselling and inviting options from the Government servants due for transfer was not undertaken.

6. Before the Aurangabad Bench of this Tribunal, on behalf of the respondents it was submitted that the applicants could be treated to be Group-A Officers and therefore, the procedure laid down in G.R. dated 09.04.2018 was not applicable to them. So far as this submission is concerned, the Aurangabad Bench observed-

(i) The applicants were claiming to be Group-B Officers whereas their employer was contending that they were Group-A Officers and thus there were rival contentions on this point.

(ii) Assuming that the applicants fall in the category of Group-A Officers, their transfers could have been effected only after obtaining approval from the Hon'ble Chief Minister and no such approval was stated to have been obtained.

(iii) Prima facie guidelines laid down in G.R. dated 09.04.2018 were required to be observed before transferring the applicants.

(iv) Since a Special Act is introduced regulating transfers the respondents were expected to follow the provisions of said Act.

(v) In the Transfers Act, 2005 there are adequate provisions to make transfers on account of administrative exigency. However, the transfers impugned before the Bench were made by resorting to Sub-Sections 1, 2 and 3 of Section 4 of the Transfers Act, 2005 and prima facie while effecting the impugned transfers these provisions were not complied with.

7. It is not in dispute that all the applicants in this batch of Original Applications were due for transfer and all of them have been relieved.

8. It was argued by the C.P.O. that on behalf of the applicants two statements were initially made which are found to be incorrect viz. list of Government servants due for transfer was not prepared and Civil Services Board was not constituted. So far as the first circumstance is concerned, it is argued on behalf of the applicants that as per communication dated 10.07.2023 the list of Government servants due for transfer was merely forwarded to the Government and it was not notified. It was further argued that unless such list is notified / published it cannot be said to be proper compliance of Section 4(2) of the Transfers Act, 2005. In reply, it is submitted by the C.P.O. that Section 4(2) of the Transfers Act only refers to preparation of list of Government servants due for transfer and no duty appears to have been cast on the employer to notify /publish the same.

9. It is further argued by the C.P.O. that the impugned transfers were effected in public interest and taking into account welfare of the students and if, by passing interim order clock is set back, it would adversely affect the students. In communication dated 06.07.2023 it is stated –

सदरबदल्यांमागेव्यापकलोकहितविचारार्थीहितहेएकमेवकारणआहे.

उपरोक्तवस्तुस्थितीविचारातघेता, मा. न्यायाधिकरणाच्याआदेशानुसारपरीच्छेदक्र.

३मधीलनमूदअध्यापकांनीत्याचीबदलीकरण्याबाबतकेलेल्याविनंत्याअमान्यकरण्यातयेतआहेत.

10. It is the contention of the applicants that none of them was aware about preparation of list of Government servants due for transfer and hence they could not take precautionary steps to protect their interest in the best way possible.

11. As mentioned earlier, the Aurangabad Bench, in order dated 06.07.2023 observed that guidelines contained in the G.R. dated 09.04.2018 were prima facie required to be followed though the Government was contending that the applicants fall in Group-A and hence these guidelines could be dispensed with. All the applicants before this Bench are similarly situated.

12. Having regard to facts of the cases it would be appropriate to pass the order similar to the one passed by the Aurangabad Bench. Hence, the order.

ORDER

- 1) Issue notice to the respondents returnable on 25.07.2023. Till the returnable date the respondents shall permit the applicants to discharge their duties on their existing posts.
- 2) It is clarified that if appointment or transfer has been made in place of any applicant and said person has been relieved from his earlier post prior to passing of this order, the said applicant would be liable to be relieved from his existing post.

- 3) Learned C.P.O. waives notice for State.
- 4) Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
- 5) The applicants are 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. 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 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 consigned to record.
- 9) **S.O. 25.07.2023.**
- 10) **Steno copy and Hamdast is allowed to both the parties.**

Member (I).

rsm.

O.A.No.716/2023 with O.A.No.717/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 11/07/2023.

COMMON ORDER

Heard Shri N.R.Saboo, ld. counsel for the applicants and Shri S.A.Deo, ld. C.P.O. for the respondents.

2. Grievances of the applicants are as follows.

- i) Procedure of counselling and calling options was not followed.
- ii) List of employees due for transfer was not prepared as provided in Section 4(2) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (in short "Transfers Act, 2005").
- (iii) Civil Services Board was not constituted.

3. In reply, it is submitted by the learned C.P.O. that considering the pay scales of the applicants procedure of counselling and calling options could be dispensed with. Further submission of the learned C.P.O. is that the Civil Services Board was duly constituted.

4. Today the learned C.P.O. has placed on record communication dated 10.07.2023 (marked-X) which states-

प्रस्तुतप्रकरणीनमूदकरण्यातयेतेकी,

संचालनालयाच्याअधिपत्याखालीलसंस्थामधीलचिकित्सालयीनवअचिकित्सालयीनविषयातीलकार्यर
तसर्वसहायकप्राध्यापकांचीबदल्यांबाबतचीकार्यरतकालावधीदर्शकयादीजानेवारी२०२३मध्येसंचालनाल
याच्यास्तरावरतयारकरण्यातआलीहोती.

दरम्यानच्याकालावधीमध्येसरळसेवेनेतसेचपदोन्नतीनेसहायकप्राध्यापकांचेवरीष्ठपदावरीलनियुक्ती
आदेश प्राप्त झाल्यानुसार सदरहू यादीमध्ये योग्य तो बदल करून माहे मे २०२३ मध्ये
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It is submitted that these details shall show that there was due compliance of Section 4(2) of the Transfers Act, 2005.

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(i) The applicants were claiming to be Group-B Officers whereas their employer was contending that they were Group-A Officers and thus there were rival contentions on this point.

(ii) Assuming that the applicants fall in the category of Group-A Officers, their transfers could have been effected only after obtaining approval from the Hon'ble Chief Minister and no such approval was stated to have been obtained.

(iii) Prima facie guidelines laid down in G.R. dated 09.04.2018 were required to be observed before transferring the applicants.

(iv) Since a Special Act is introduced regulating transfers the respondents were expected to follow the provisions of said Act.

(v) In the Transfers Act, 2005 there are adequate provisions to make transfers on account of administrative exigency. However, the transfers impugned before the Bench were made by resorting to Sub-Sections 1, 2 and 3 of Section 4 of the Transfers Act, 2005 and prima facie while effecting the impugned transfers these provisions were not complied with.

7. It is not in dispute that all the applicants in this batch of Original Applications were due for transfer and all of them have been relieved.

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the applicants that as per communication dated 10.07.2023 the list of Government servants due for transfer was merely forwarded to the Government and it was not notified. It was further argued that unless such list is notified / published it cannot be said to be proper compliance of Section 4(2) of the Transfers Act, 2005. In reply, it is submitted by the C.P.O. that Section 4(2) of the Transfers Act only refers to preparation of list of Government servants due for transfer and no duty appears to have been cast on the employer to notify /publish the same.

9. It is further argued by the C.P.O. that the impugned transfers were effected in public interest and taking into account welfare of the students and if, by passing interim order clock is set back, it would adversely affect the students. In communication dated 06.07.2023 it is stated –

सदरबदल्यांमागेव्यापकलोकहितविद्यार्थीहितहेएकमेवकारणआहे.

उपरोक्तवस्तुस्थितीविचारातघेता, मा. न्यायाधिकरणाच्याआदेशानुसारपरीच्छेदक्र.

३मधीलनमूदअध्यापकांनीत्याचीबदलीकरण्याबाबतकेलेल्याविनंत्याअमान्यकरण्यातयेतआहेत.

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12. Having regard to facts of the cases it would be appropriate to pass the order similar to the one passed by the Aurangabad Bench. Hence, the order.

ORDER

- 1) Issue fresh notice to the respondents returnable on 25.07.2023. Till the returnable date the respondents shall permit the applicants to discharge their duties on their existing posts.
- 2) It is clarified that if appointment or transfer has been made in place of any applicant and said person has been relieved from his earlier post prior to passing of this order, the said applicant would be liable to be relieved from his existing post.
- 3) Learned C.P.O. waives notice for State.

- 4) Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
- 5) The applicants are 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. 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 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 consigned to record.
- 9) **S.O. 25.07.2023.**
- 10) **Steno copy and Hamdast is allowed to both the parties.**

Member (I).

rsm.