

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 297 OF 2017

(Shri Ramesh S. Ghorpade V/s. State of Mah. & Ors.)

**Coram : Hon'ble Shri J.D. Kulkarni, Vice Chairman
(This matter is placed before the Single Bench
due to non-availability of Division Bench.)**

DATE : 23-05-2017

ORAL ORDER:-

Heard Shri V.B. Wagh, learned Advocate for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents.

2. The applicant is apprehending that his promotion to the post of Police Sub Inspector Wireless (Traffic) vide order dated 19.7.2016 may likely to be reconsidered and he may be demoted. The applicant's apprehension seems to be well founded as it seems that the applicant was called for interrogation and in the said interrogation it was told that deemed date of promotion was to be given to some other candidate and, therefore, the present applicant may be required to be demoted. Though the apprehension has not yet come true, but said possibility cannot be ruled out. However, it will not be in the interest of justice to grant any interim stay at this juncture, unless the respondents' side is heard. It is, however, made clear that whatever decision that may be taken by the respondent authorities as regards

demotion of the applicant or cancellation of promotion of the applicant, the same will be subject to final outcome of the present original application.

3. Issue notices to the respondents in the original application, returnable on 29.6.2017.

4. Tribunal may take the cases 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 question such as limitation and alternate remedy are kept open.

7. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along

with affidavit of compliance in the Registry before due date.

Applicant is directed to file affidavit of compliance and notice.

8. S.O. 29.6.2017.

9. Steno copy & hamdust allowed to both the parties.

VICE CHAIRMAN

ARJ ORAL ORDERS 23.5.2017

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**MISC. APPLICATION NO. 181/2017
IN
ORIGINAL APPLICATION NO. 71/2017**

(Mahadeo G. Kandalgaonkar & Ors. V/s. State of Mah. & Ors.)

Coram : Hon'ble Shri J.D. Kulkarni, Vice Chairman

DATE : 23-05-2017

ORAL ORDER:-

Heard Shri Vivek Pingle, learned Advocate for the applicants and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents.

2. In the O.A. no. 71/2017 the applicants have claimed directions to the respondents to pay two promotional posts' pay scales of Sub Divisional Officer / Engineer and Executive Engineer, after completion of 12 and 24 years of service as on 1.10.1994 and 1.10.2006 or at a later date when applicants actually complete 12 and 24 years of service instead of 1.8.2001 and 1.8.2013 and pay all consequential monetary benefits.

3. In the meantime the applicants have moved the present M.A. and has prayed that during the pendency of the O.A. no. 71/2017, the implementation and operation of the impugned letter dated 15.5.2017 (Annex. A-1 paper book page 10 of the M.A.) be stayed.

(2)
M.A. NO. 181/17 IN
O.A. NO. 71/17

4. Perusal of the letter dated 15.5.2017 shows that the matter in dispute is pending before Hon'ble Bombay High Court in writ petition no. 2605/2017 and Hon'ble High Court has passed order on 8.3.2017 in the said matter, which reads as under :-

“Stand over four weeks. Learned A.G.P. appears for all the respondents. In the meanwhile, no coercive recovery be enforced against the petitioners. Leave to correct the prayer clause.”

5. It seems that the impugned letter dated 15.5.2017 has been issued by the res. authorities in view of the interim relief granted by the Hon'ble High Court and, therefore, same will be subject to final outcome of the writ petition pending before the Hon'ble High Court. In view thereof there is no question of granting any interim relief in favour of the present applicant and the final result of the O.A. no. 71/2017 may decide validity of the impugned letter dated 15.5.2017. The recovery is already stayed by the Tribunal in the O.A. and, therefore, there is no need to consider this M.A. at this juncture.

6. The learned Advocate for the applicant seeks permission to amend the O.A. and prayer clauses as he intends to

(3)
M.A. NO. 181/17 IN
O.A. NO. 71/17

challenge the impugned letter dated 15.5.2017. Permission as sought for is granted. The applicant may amend the O.A. & prayer clauses within a period of 2 weeks.

7. As the O.A. is already fixed on 15.6.2017 and, therefore, the present M.A. also be placed on board along with O.A. on 15.6.2017.

VICE CHAIRMAN

ARJ ORAL ORDERS 23.5.2017

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

MISC. APPLICATION ST. NO. 668/2017

IN

ORIGINAL APPLICATION ST. NO. 669/2017

(Aurangabad Dist. Talathi Sanghatana, Aurangabad through
its President, Anil Shivajirao Suryawanshi V/s. The State of
Mah. & Ors.)

Coram : Hon'ble Shri J.D. Kulkarni, Vice Chairman

DATE : 23-05-2017

ORAL ORDER:-

Heard Shri V.B. Wagh, learned Advocate for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents.

2. The applicant has filed present misc. application for permission to file O.A. on behalf of Aurangabad District Talathi Sanghatana, Aurangabad, through its President Shri Anil Shivajirao Suryawanshi. The applicant association has challenged the G.R. dated 21.11.1995 and submits that the said G.R. is unconstitutional.

3. For the reasons stated in the misc. application for permission to file O.A. through President of the association is allowed and disposed of accordingly. There shall be no order as to costs.

VICE CHAIRMAN

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION ST. NO. 669/2017

(Aurangabad Dist. Talathi Sanghatana, Aurangabad through
its President, Anil Shivajirao Suryawanshi V/s. The State of
Mah. & Ors.)

Coram : Hon'ble Shri J.D. Kulkarni, Vice Chairman

DATE : 23-05-2017

ORAL ORDER:-

Heard Shri V.B. Wagh, learned Advocate for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents.

2. The applicant has challenged the G.R. dated 21.11.1995 and consequential action on the basis of the said G.R. in view of the proceedings dated 20.5.2017 and 26.5.2017.

3. In the circumstances, keeping open the point of limitation, issue notices to the respondents in the original application, returnable on 29.6.2017.

4. Tribunal may take the cases 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 question such as limitation and alternate remedy are kept open.

7. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

8. S.O. 29.6.2017.

9. Steno copy & hamdust allowed to both the parties.

VICE CHAIRMAN

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 296 OF 2017

(Shri Panchamlal L. Salve V/s. State of Mah. & Ors.)

**Coram : Hon'ble Shri J.D. Kulkarni, Vice Chairman
(This matter is placed before the Single Bench
due to non-availability of Division Bench.)**

DATE : 23-05-2017

ORAL ORDER:-

Heard Shri V.B. Wagh, learned Advocate for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents.

2. The applicant has applied for the post of Joint Director (Group -A), Maharashtra Ground Water Services in response to the advertisement dated 8.12.2016 published by the res. no. 2. It is stated that application of the applicant has been accepted initially, however, a list of eligible candidates is published in which it has been stated that the applicant is not eligible for the post as per criteria laid down in the advertisement.

3. The learned Advocate for the applicant submits that as per the advertisement the applicant has applied for the post by nomination and he possesses all the eligibility criteria therefor including qualification, age, experience etc. The interviews are being held on 25.5.2016.

4. The learned P.O., on telephonic instructions from the respondents, submits that as per clause 5 of the advertisement, the M.P.S.C. has authority to shortlist the candidates. It is stated that the M.P.S.C. has shortlisted the candidates on the basis of experience and since there was only one post for appointment by nomination, in all five candidates have been called, who are more experienced than the applicant. She further submits that the applicant stands at sr. no. 7 in the seniority list considering his experience. His experience is of about 24 years and some months, whereas the last candidate at sr. no. 5 viz. Shri Gajbhiye Mukul Shaligram (Annex. A.5), who is called for interview has experience of 26 years and in between the present applicant and the last candidate in the seniority list i. e. sr. no. 5 viz. Shri Gajbhive, there is one another candidate, who has more experience than the applicant.

5. The learned Advocate for the applicant submits that out of 5 candidates, who are held eligible for being called for interview, one Shri Rajendra Krishnarao Deshkar at sr. no. 3 in the seniority list is going to retire in the month of July, 2017, whereas one candidate was under suspension and one

candidate is due for departmental promotion for the said post
i. e. from departmental quota.

6. Considering the above aspect, I feel that it may not be improper to direct the respondents to allow the present applicant to be called for interview. The respondents may also call the candidates having more experience than the applicant and less experience than the candidate at sr. no. 5 Shri Gajbhiye (Annex. A-5 of the O.A.), for interview. In view thereof, I pass following order :-

O R D E R

(i) The res. no. 2 is directed to call the applicant and the candidates having more experience than the applicant and less experience than the candidate at sr. no. 5 Shri Gajbhiye (Annex. A-5 of the O.A.) for interview. It is needless to state that the respondents may judge the candidates on their own merits without being influenced by any of the observations made in this order.

(ii) Issue notices to the respondents in the original application, returnable on 29.6.2017.

(iii) Tribunal may take the cases for final disposal at this stage and separate notice for final disposal shall not be issued.

(iv) 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.

(v) This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the question such as limitation and alternate remedy are kept open.

(vi) The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

(vii) S.O. 29.6.2017.

(viii) Steno copy & hamdust allowed to both the parties.

VICE CHAIRMAN

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION ST. NO. 666 OF 2017
[Shri Sugriv Mahadev Lohar Vs. The State of Mah. & Ors.]**

**CORAM : Hon'ble Shri J.D. Kulkarni, Vice Chairman.
(This matter is placed before Single Bench
due to non-availability of Division Bench)**

DATE : 23.05.2017.

ORAL ORDER:

Heard Shri B.R. Kedar, learned Advocate for the Applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for respondents.

2. This matter belongs to the jurisdiction of this Tribunal at Nagpur Bench, since the charge of all three Benches is at Aurangabad, the O.A. is being considered and it be sent back to Nagpur Bench for proper registration.

3. The applicant has challenged the recruitment process made on the basis of Corrigendum dated 24.04.2017 and submitted that the said Corrigendum be quashed and set aside and the recruitment process be continued on the basis of initial advertisement dated 24.02.2017. It is further prayed that the name of the applicant be kept in select list from NT-B Earthquake Affected Category and respondents be directed to give appointment order in favour of the applicant and not to give appointment order to the candidate selected on the basis of Corrigendum dated 24.04.2017.

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O.A. St. No. 666/2017

4. Admittedly, the advertisement dated 24.02.2017 is for the post of Police Constable in which there was specific reservation for the Earthquake Affected persons and the said reservation was as under:-

	खुला	अजा	अज	विज-अ	भज-ब	भज-क	भज-ड	विमाप्र	इमाव	एकुण
एकुण	८३	३४	११	११	६	१२	१६	०	६७	२४०
भुकंपग्रस्त	०१	०१	००	००	०१	००	००	००	०२	०५

5. The applicant accordingly applied for the said post under NT-B category for Earthquake Affected person. Subsequently, the respondents have issued the Corrigendum dated 24.04.2017 and change the reservation for Project Affected persons as under:-

	खुला	अजा	अज	विज-अ	भज-ब	भज-क	भज-ड	विमाप्र	इमाव	एकुण
एकुण	८३	३४	११	११	६	१२	१६	०	६७	२४०
भुकंपग्रस्त	०२	०१	००	००	००	००	००	००	०१	०४

6. The learned Presenting Officer submits that as per Clause-E of the advertisement dated 24.02.2017, the respondent authority has every right to change the reservation and that the candidate has no authority to challenge it. The Clause-E reads as under:-

“इ)वर दर्शविलेली पदे व आरक्षण यात बदल होण्याची शक्यता आहे. त्यामध्ये बदल करण्याचे अधिकार हे सक्षम प्राधिका-यास राहतील. त्याबाबत उमेदवाराचा कोणताही दावा करण्याचा हक्क राहणार नाही.”

7. It is further pertinent to note that the last date of filing application was as per first advertisement was 31.03.2017 and the applications were accordingly called and the Corrigendum is subsequent to that date.

8. The learned Advocate for the applicant has placed reliance on the judgment reported in **2013(2) ALL MR 795** in the case of **Tushar Babanrao Deshmukh Vs. The State of Maharashtra and Ors.** wherein it is stated that the criteria prescribed in advertisement cannot be changed by the authority and it will have to be considered as existing on last day of submitting application.

9. If the applicant's claim is considered from NT-B category for the Earthquake Affected persons as per first advertisement, the applicant may be entitled to claim appointment on merits. In view thereof, the respondents are directed to keep one post reserved for NT-B Earthquake Affected Category, if the appointment orders are issued as per the recruitment process dated 24.02.2017 and Corrigendum dated 24.04.2017. It is needless to mention that the outcome of the recruitment process shall be subject to final disposal of this O.A.

10. In the meantime, issue notices to the respondents, returnable on 19.06.2017.

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

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

13. 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.

14. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

15. S.O. 19.06.2017.

16. Steno copy and Hamdast is allowed to both parties.

VICE CHAIRMAN

ORAL ORDERS 23.05.2017-KPB(SB) Vice Chairman