

**FARAD CONTINUATION SHEET
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH, AURANGABAD**

**ORIGINAL APPLICATION NO. 698 OF 2016
(Shri Shriram M. Patil V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : B. P. PATIL, MEMBER (J)

DATE : 24.11.2017.

ORAL ORDER :

Heard Shri A.D. Sugdare, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. Learned Presenting Officer has filed affidavit in reply on behalf of respondent No. 3 in view of the order passed by this Tribunal dated 10.10.2017 and the same is taken on record and the copy thereof has been served on the learned Advocate for the applicant.

3. S.O. to 21st December, 2017.

MEMBER (J)

ORAL ORDERS 24.11.2017-HDD

**FARAD CONTINUATION SHEET
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH, AURANGABAD**

**ORIGINAL APPLICATION NO. 573 OF 2015
(Shri Ajinath K. Kharat V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : B. P. PATIL, MEMBER (J)

DATE : 24.11.2017.

ORAL ORDER :

Heard Ms. Bhavna Panpatil, learned Advocate holding for Shri S.B. Talekar, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicant, S.O. to 4th December, 2017.

MEMBER (J)

ORAL ORDERS 24.11.2017-HDD

**FARAD CONTINUATION SHEET
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH, AURANGABAD**

**ORIGINAL APPLICATION NO. 375 OF 2017
(Shri Gopal A. Kulkarni & Ors. V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : B. P. PATIL, MEMBER (J)

DATE : 24.11.2017.

ORAL ORDER :

Heard Shri Vivek Pingle, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. Learned Presenting Officer for the respondents prays for time for filing affidavit in reply. Time granted.

3. S.O. to 10th January, 2018.

MEMBER (J)

ORAL ORDERS 24.11.2017-HDD

**FARAD CONTINUATION SHEET
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH, AURANGABAD**

**ORIGINAL APPLICATION NO. 211 OF 2017
(Shri Ashok B. Bankar V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : B. P. PATIL, MEMBER (J)

DATE : 24.11.2017.

ORAL ORDER :

Heard Shri S.M. Shegaonkar, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. At the request of learned Presenting Officer for the respondents, S.O. to 15th December, 2017.

MEMBER (J)

ORAL ORDERS 24.11.2017-HDD

**FARAD CONTINUATION SHEET
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH, AURANGABAD**

**ORIGINAL APPLICATION NO. 754 OF 2017
(Shri Anil G. Tornekar V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : B. P. PATIL, MEMBER (J)

DATE : 24.11.2017.

ORAL ORDER :

Heard Shri A.D. Sugdare, learned Advocate
for the applicant and Shri M.P. Gude, learned
Presenting Officer for the respondents.

2. Learned Presenting Officer prays for time
for filing affidavit in reply. Time granted.

3. S.O. to 11th January, 2018.

MEMBER (J)

ORAL ORDERS 24.11.2017-HDD

**FARAD CONTINUATION SHEET
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH, AURANGABAD**

**ORIGINAL APPLICATION NO. 755 OF 2017
(Shri Mohammad Abdul Sami V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : B. P. PATIL, MEMBER (J)

DATE : 24.11.2017.

ORAL ORDER :

Heard Shri A.D. Sugdare, learned Advocate for the applicant and Mrs. Priya R. Bharaswadkar, learned Presenting Officer for the respondents.

2. Learned Presenting Officer prays for time for filing affidavit in reply. Time granted.

3. S.O. to 11th January, 2018.

MEMBER (J)

ORAL ORDERS 24.11.2017-HDD

**FARAD CONTINUATION SHEET
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH, AURANGABAD**

**ORIGINAL APPLICATION NO. 756 OF 2017
(Shri Sunil M. Bandawar V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : B. P. PATIL, MEMBER (J)

DATE : 24.11.2017.

ORAL ORDER :

Heard Shri A.D. Sugdare, learned Advocate
for the applicant and Shri S.K. Shirse, learned
Presenting Officer for the respondents.

2. Learned Presenting Officer prays for time
for filing affidavit in reply. Time granted.

3. S.O. to 11th January, 2018.

MEMBER (J)

ORAL ORDERS 24.11.2017-HDD

**FARAD CONTINUATION SHEET
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH, AURANGABAD**

**ORIGINAL APPLICATION NO. 757 OF 2017
(Shri Haseeb Ur Rehman Khan V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : B. P. PATIL, MEMBER (J)

DATE : 24.11.2017.

ORAL ORDER :

Heard Shri A.D. Sugdare, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. Learned Presenting Officer prays for time for filing affidavit in reply. Time granted.

3. S.O. to 11th January, 2018.

MEMBER (J)

ORAL ORDERS 24.11.2017-HDD

**FARAD CONTINUATION SHEET
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH, AURANGABAD**

**M.A. 471/2017 IN REV.ST. 1744/2017 IN O.A. 471/2017
(Shri Surendra D. Deshpande V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : B. P. PATIL, MEMBER (J)

DATE : 24.11.2017.

ORAL ORDER :

Heard Shri S.D. Joshi, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. This Miscellaneous Application No. 471/2017 has been filed by the applicant for condonation of delay of about 52 days caused in filing Review Application St. No. 1744/2017.

3. Issue notices to the respondents in M.A. No. 471/2017, returnable on 10th January, 2018.

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.. 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

**M.A. 471/17 IN REV.ST.
1744/17 IN O.A. 471/17**

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. Applicants are directed to file Affidavit of compliance and notice.

8. S.O. to 10th January, 2018.

9. Steno copy and hamdust is allowed to both the parties.

MEMBER (J)

ORAL ORDERS 24.11.2017-HDD

**FARAD CONTINUATION SHEET
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH, AURANGABAD**

**ORIGINAL APPLICATION ST. NO. 1552 OF 2017
(Shri Jeevan N. Wader V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : B. P. PATIL, MEMBER (J)

(This case is placed before the Single Bench due to non-availability of the Division Bench.)

DATE : 24.11.2017.

ORAL ORDER :

Shri H.B. Nandagavle, learned Advocate for the applicant (**absent**). Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. Since nobody appears for the applicant, S.O. to 1st January, 2018, for passing necessary orders.

MEMBER (J)

ORAL ORDERS 24.11.2017-HDD

**FARAD CONTINUATION SHEET
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH, AURANGABAD**

**M.A. 467/17 IN REV. ST. 1576/17 IN O.A. 701/13
(State of Maharashtra & Ors. V/s. Mr. Ramrao T. Rathod)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : B. P. PATIL, MEMBER (J)

(This case is placed before the Single Bench due to non-availability of the Division Bench.)

DATE : 24.11.2017.

ORAL ORDER :

Shri M.P. Gude, Presenting Officer for the miscellaneous applicants/ original respondents and Shri K.B. Jadhav, learned Advocate for the applicant in O.A.

2. On perusal of the record, it reveals that the Review Application has been filed by the present applicants without attaching the copy of the order dated 01.08.2017 passed by this Tribunal in O.A. No. 701/2013.

3. Learned Presenting Officer has submitted that the delay has been caused to file Review Application, as the concerned department spent time for getting copy of the order passed by this Tribunal. I find no substance in the submission made by the learned Presenting Officer, since no copy of the order passed by this Tribunal in O.A. No. 701/2013 has been attached along with Review Application.

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**M.A. 467/17 IN REV. ST.
1576/17 IN O.A. 701/13**

4. At this stage, learned Presenting Officer prays for time to make further submissions on going through the record. Short time is granted.
5. S.O. to 6th December, 2017.

MEMBER (J)

ORAL ORDERS 24.11.2017-HDD

**FARAD CONTINUATION SHEET
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH, AURANGABAD**

**M.A.NO. 420/2015 IN O.A.NO. 420/2014
(Shri Manik B. Bidve V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : B. P. PATIL, MEMBER (J)

(This case is placed before the Single Bench due to non-availability of the Division Bench.)

DATE : 24.11.2017.

ORAL ORDER :

Shri M.K. Deshpande, learned Advocate for the applicant (**absent**). Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. On perusal of the record, it reveals that several adjournments were sought by the applicant on previous occasions on one and the other grounds. But he remained absent today also. The applicant is not diligent in conducting the present case

3. In view thereof, S.O. to 21st December, 2017 for passing further order.

MEMBER (J)

ORAL ORDERS 24.11.2017-HDD

**FARAD CONTINUATION SHEET
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH, AURANGABAD**

**M.A.NO. 438/2017 IN O.A.ST.NO. 1296/2017
(Shri Dhondiram G. Mirkale & Ors. V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : B. P. PATIL, MEMBER (J)

DATE : 24.11.2017.

ORAL ORDER :

Heard Shri Kakasaheb B. Jadhav, learned Advocate for the applicants and Mrs. Priya R. Bharaswadkar, learned Presenting Officer for the respondents.

2. On perusal of the record it reveals that the dates of eligibility of the applicants are different for seeking relief of absorption in the post of Civil Engineering Assistant. Therefore, each of the applicants has separate cause of action. Hence, permission to sue jointly cannot be granted. Each of the applicants has to file separate Original Applications.

3. In view thereof, the present Miscellaneous Application No. 438/2017 seeking permission for sue jointly is rejected. Liberty to file separate Original Applications to each of the applicants is granted.

4. In view of rejection of M.A. No. 438/2017 for sue jointly, the registration of O.A. St. No. 1296/2017 stands refused.

There shall be no order as to costs.

MEMBER (J)

**FARAD CONTINUATION SHEET
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH, AURANGABAD**

**O.A.NOS. 59, 127 & 273 ALL OF 2017
(Shri Vishwanath Babarao Baswante & Ors. V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : B. P. PATIL, MEMBER (J)

DATE : 24.11.2017.

COMMON ORAL ORDER :

Heard Shri V.P. Golewar, learned Advocate for the applicants in all these cases and Shri I.S. Thorat, Smt. Sanjivani Deshmukh-Ghate & Shri I.S. Thorat, learned Presenting Officers for the respective respondents in respective cases.

2. The applicants have joined their services as Mustering Assistant with respondent No. 5 under the Employment Guarantee Scheme and rendered the service as per the directions of the respondents from time to time. They were terminated previously, but thereafter they were reinstated in services as Mustering Assistants in view of the decision given by the Labour Court.

3. The applicant No. 4 in O.A. No. 59/2017 viz. Shri Shankar S/o. Rekha Pawar has stood retired from the service.

4. It is the contention of the applicants that the Government of Maharashtra has issued G.R. dated 01.12.1995 and framed a scheme of absorption of Mustering Assistants working under Employment Guarantee Scheme and

**O.A.NOS. 59, 127 & 273
ALL OF 2017**

thereafter, ratified it by the Government Resolution dated 21.04.1999 and thereafter, the Government decided to absorb all Mustering Assistants in the Government / Zilla Parishad Departments as per their seniority and qualification provided that those employees must be in service for the period from 26.5.1993 to 31.5.1993. It is their contention that in spite of the Government Resolutions dated 1.12.1995 and 21.4.1999, the respondents have not absorbed the applicants in Government service and their proposals sent by the Collector is pending with the Divisional Commissioner.

5. It is their further contention that similarly situated persons had filed O.A. No. 462/2004 before the Nagpur Bench of this Tribunal, which was allowed by this Tribunal on 14th August, 2015. This Tribunal has directed the respondents to take necessary steps to give benefit of the scheme floated by the Government Resolution dated 1.12.1995 and ratified in terms of G.R. dated 21.4.1999, to those applicants. It is their contention that the decision of the Tribunal in O.A. No. 462/2004 is binding on the respondents and it is applicable to the applicants. Therefore, they filed the present Original Applications and prayed to direct the respondents to extend the benefit of the scheme floated as per G.R. dated 1.12.1995, 21.4.1999

and 25.6.2004 for absorbing the applicants in the Government service and extending the monetary benefits to them.

6. The respondents have contended that the applicants were not eligible for absorption in Government service as they were not in service during the period from 26.05.1993 to 31.05.1993. It is their contention that the applicants have been removed from service earlier and therefore, they are not eligible for absorption in view of the aforesaid Government Resolutions. It is their contention that in view of the paragraph No. 5 of the of the Government Resolution dated 21.04.1999, the Mustering Assistants working under the EGS are not the Government Servants and, therefore, their services cannot regularized and they cannot be absorbed in the Government Service.

7. I have gone through the documents on record, On going through the documents placed on record, it reveals that similarly situated persons had filed O.A. bearing No. 462/2004 before this Tribunal claiming the same relief and that O.A. was allowed by this Tribunal on 14th August, 2015 (Annexure 'A-6', page Nos. 116 to 125) and the respondents were directed to extend the benefit of the scheme floated by G.R. dated 1.12.1995 and ratified by G.R. dated 21.4.1999 and to take necessary steps in that regard. Not

only this, but another Original Application bearing No. 316/2016 (Annexure 'A-8' page Nos. 139 to 143) had been filed by the similarly situated persons claiming the same relief and it was allowed on the basis of the decision rendered by this Tribunal in O.A. No. 462/2004. In both the Original Applications, it has been held that the applicants will be treated as in service on the relevant dated i.e. 31.5.1993, as the decision of the Labour Court to reinstate them by granting continuity in service had an effect of notionally putting them in service on the date. The Tribunal had therefore, held that all these applicants who were still in service to be held to be so as on 31.5.1993 and were entitled to the benefits of the G.Rs. dated 1.12.1995 and 21.4.1999. It has been further observed that, Cases two more Mustering Assistants who had filed O.A. Nos. 636 & 637 of 2005 were also similarly decided by the Tribunal by granting same relief by an order dated 20.01.2016.

8. On going through the above decisions of this Tribunal, it reveals that the similarly situated persons, like the present applicants, have received the benefit under the said G.Rs. dated 1.12.1995 and 21.4.1999, in the earlier O.As. and accordingly the directions were given to the respondents to extend the benefit under the said scheme. It is also material to note that

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in the communication dated 25.02.2016 sent by the Desk Officer, Planning Department, E.G.S., Government of Maharashtra, to the Divisional Commissioner, Nagpur Region, Nagpur, it has been specifically mentioned that Law & Judiciary Department of the Government of Maharashtra has opined that no appeal can be preferred against the decision rendered by this Tribunal in O.A. No. 462/2004 and O.A. No.11/2007 decided on 14.8.2015 & 28.8.2015 respectively and also opined to implement the decision rendered by this Tribunal. It seems that no appeal, challenging the decision of this Tribunal in O.A. No. 462/2004, has been preferred by the Government of Maharashtra.

9. In view of the aforesaid position, in my opinion, it is just and proper to give the directions to the respondents to consider the cases of the applicants herein for extending the benefit under the scheme floated by the Government Resolution dated 1.12.1995 and subsequently ratified in terms of G.Rs. dated 21.04.1999 & 25.06.2004 in the line of the directions given by this Tribunal in O.A. No. 462/2004 decided on 14th August, 2015 and, therefore, the present Original Applications deserve to be allowed.

10. In view of the aforesaid discussions, the present Original Applications are allowed and the

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respondents are directed to extend the benefit of the scheme floated by G.R. dated 1.12.1995 and subsequently ratified by G.Rs. dated 21.04.1999 & 25.06.2004 to the applicants, if they are otherwise eligible and to take necessary steps in that regard. The respondents are further directed to extend the monetary benefits to the applicants also if they are eligible.

There shall be no orders to costs.

MEMBER (J)

ORAL ORDERS 24.11.2017-HDD

**FARAD CONTINUATION SHEET
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH, AURANGABAD**

**ORIGINAL APPLICATION NO. 356/2017
(Dr. Shrikrishna R. Wani V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : B. P. PATIL, MEMBER (J)

DATE : 24.11.2017.

ORAL ORDER :

Ms. Ashwini P. Sahasrabudhe, learned Advocate holding for Shri A.S. Deshmukh, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for respondents.

2. Learned Chief Presenting Officer seeks time to file affidavit in reply on behalf of respondents. Time granted.

3. S.O. to 12.01.2018.

MEMBER (J)

KPB ORAL ORDER 24-11-2017

**FARAD CONTINUATION SHEET
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH, AURANGABAD**

**ORIGINAL APPLICATION NO. 385/2017
(Shri Chandulal B. Sathe V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : B. P. PATIL, MEMBER (J)

DATE : 24.11.2017.

ORAL ORDER :

Heard Ms. Preeti R. Wankhade, learned Advocate for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer or respondents.

2. The learned Presenting Officer has placed on record a copy of communication dated 15.06.2017 issued by the Desk Officer, Maharashtra State, Mumbai. Same is taken on record and marked as Exhibit-X for the purposes of identification. She has submitted that the approval of the Government has been taken for transfer of the applicant and it has been made in accordance with the Transfer Act, 2005 and Government Resolutions issued from time to time.

3. Learned Advocate for the applicant has submitted that the list of the employees to be

transferred is attached with the communication dated 15.06.2017 but it does not disclose the name of applicant and proposal regarding his transfer. She has submitted that the proposal regarding transfer of the applicant on administrative ground has not been forwarded and placed before the Civil Services Board and the recommendation of the Civil Services Board has not been obtained for his transfer. Not only this, but, the approval of the higher competent transferring authority has been obtained to the transfer of the applicant.

4. Learned Presenting Officer on instructions states that the proposal for transfer of the applicant has not been placed before the Civil Services Board and the recommendation of the Civil Services Board had been obtained before issuing impugned order.

5. In view of the submissions of the learned Advocate for the applicant and on perusal of the communication dated 15.06.2017, prima facie it reveals that there was no approval to the

proposal of the transfer of the applicant on administrative ground. In these circumstances, the respondent Nos. 1 and 2 are directed to state on oath as to whether the proposal for transfer of the applicant has been placed before the Civil Services Board and on recommendation of it the approval of the next higher transferring authority has been obtained for the said proposal before issuing impugned order. They shall file their short affidavit on or before next date.

6. S.O. to 06.12.2017.

7. Learned Presenting Officer to act upon steno copy.

MEMBER (J)

**FARAD CONTINUATION SHEET
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH, AURANGABAD**

**ORIGINAL APPLICATION NO. 413/2017
(Suresh P. Hatgale V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : B. P. PATIL, MEMBER (J)

DATE : 24.11.2017.

ORAL ORDER :

Heard Shri Shamsundar B. Patil, learned Advocate for the applicant and Smt. Resha S. Deshmukh, learned Presenting Officer for respondents.

2. At the request of learned Advocate for the applicant, S.O. to 28.11.2017 for taking instructions from the applicant.

MEMBER (J)

ARJ ORAL ORDERS 24-11-2017

**FARAD CONTINUATION SHEET
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH, AURANGABAD**

**OA 718/2016
(Ashok T. Bari & Ors. V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : B. P. PATIL, MEMBER (J)

DATE : 24.11.2017.

ORAL ORDER :

None appears for the applicants. Shri I.S. Thorat, learned Presenting Officer for respondents, is present.

2. The learned P.O. seeks time to take instructions from the concerned respondents as regards the corrective steps taken by them in view of the order of the Tribunal dtd. 1.8.2017. Time granted.

3. S.O. to 15.12.2017.

MEMBER (J)

ARJ ORAL ORDERS 24-11-2017

**FARAD CONTINUATION SHEET
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH, AURANGABAD**

**ORIGINAL APPLICATION ST. NO. 1749/2017
(Nilesh D. Kale V/s. State of Maharashtra & Ors.)**

A N D

**ORIGINAL APPLICATION ST. NO. 1750/2017
(Ashish N. Pardhe V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : B. P. PATIL, MEMBER (J)

(This matter is placed before the Single Bench due to non-availability of Division Bench.)

DATE : 24.11.2017.

ORAL ORDER :

Heard Ms. Bhavna Panpatil, learned Advocate holding for Shri S.B. Talekar, learned Advocate for the applicants in both the matters and Smt. Priya R. Bharaswadkar, learned Presenting Officer for respondents in both the matters.

2. Both the applicants have challenged the order dated 16.11.2017 issued by the res. no. 2 the Dist. Collector, Jalgaon on the basis of the judgment and order of Hon'ble High Court of Judicature at Bombay, Bench at Aurangabad dtd. 28.4.2017 in W.P. no. 5715/2017 and thereby reconstituting the earlier selection list based on which the applicants have been appointed, by filing the present O.As.

3. It is the contention of the applicants that they have been selected for the post of Talathi in the recruitment process conducted on the basis of an advertisement dtd. 27.8.2014 and they were selected as a candidate from O.B.C. (Sportsman) and S.C. (Sportsman) category respectively. Accordingly, they joined the service. They completed their probation period successfully and they are in regular service. It is their contention that the said recruitment process has been challenged by some of candidates, who participated in the said recruitment process by filing O.A. no. 107/2015 before this Tribunal and this Tribunal by the order dtd. 14.3.2016 has disposed of the said matter and thereby declared the selection of the res. nos. 3 to 5 therein from Open (Sportsmen) category as illegal. This Tribunal has directed the res. no. 2 therein to ensure that suitable and eligible candidates from the Open Sportsperson category are available to fill in all or few of these three posts are appointed. If no suitable

candidates from Open Sportsperson category are available, the posts remaining unfilled shall be added to Open General category and shall be filled on merit. The said decision of the Tribunal has been challenged by the State Government before Hon'ble High Court in W.P. no. 5715/2017, which has been dismissed on 28.4.2017.

4. It is the contention of the applicants that they were not party to both the matters and no opportunity of hearing was given to them by the Collector, Jalgaon while reconstituting the selection list and the Collector, Jalgaon has abruptly passed the impugned order dtd. 16.11.2017 and published the fresh select list. It is their contention that in the fresh select list the name of applicant in O.A. st. no. 1749/2017 Shri Nilesh D. Kale has been shown as a waitlist candidate no. 1 from O.B.C. sportsperson category and the applicant in O.A. st. no. 1750/2017 Shri Ashish N. Pardhe has been

shown as a waitlist candidate from S.C. Sports person category.

5. It is the contention of the applicants that they have filed Review Petition before the Hon'ble High Court for reviewing the order passed in W.P., however, it is not yet decided. It is their contention that because of impugned order passed by the res. no. 2 they are apprehending their removal/termination from service and, therefore, they prayed to grant stay to the execution and operation of the fresh select list.

6. Learned Advocate for the applicants has submitted that because of the order dtd. 16.1.2017, the applicants' services have been terminated. Therefore, learned Advocate for the applicants prayed to grant interim relief in favour of the applicant.

7. Learned P.O. has submitted that the res. no. 2 has passed the order dtd. 16.11.2017, which has been challenged in the present O.A., on the basis of order dtd. 14.3.2016 passed by

the Tribunal in O.A. no. 107/2015 and the judgment delivered by the Hon'ble High Court in W.P. no. 5715/2017 on 28.4.2017. Learned P.O. has submitted that the res. no. 2 has published the reconstituted select list of the candidates, who participated in the recruitment process for the post of Talathi in view of the directions given by the Tribunal in O.A. no. 107/2015 as well as per the judgment delivered by the Hon'ble High Court in W.P. no. 5715/2017. Learned P.O. has submitted that there is no illegality in the said select list and the res. no. 2 has followed the directions given by this Tribunal as well as by the Hon'ble High Court. She has submitted that only reconstituted select list has been published by the res. no. 2 in which the names of the present applicants are mentioned in waitlist. She has submitted that no termination order has been issued terminating the services of the applicants till today and, therefore, the apprehension of the applicants is not just and proper.

8. Learned P.O. further submits that the Review Petition filed by the applicants before the Hon'ble High Court for reviewing the order passed in W.P. is pending till today. She has further submitted that before reconstituting the select list, the Collector, Jalgaon had given an opportunity to both the applicants of being heard and after considering their say, he had passed the order dtd. 16.11.2017 and, therefore, she prayed to reject the prayer of the applicants regarding grant of interim relief.

9. On going through the documents, it reveals that the applicants as well as other candidates had participated in the recruitment process for the post of Talathin in the year 2014. Initially the select list has been prepared and on that basis the applicants were appointed as a OBC Sportsperson and S.C. Sportsperson category, but some of other candidates had challenged the said recruitment process by filing O.A. no. 107/2015 before this Tribunal. In the said matter the Tribunal by the order dtd. 14.3.2016

has quashed the selection of some of selected candidates and the Collector, Jalgaon was directed to consider the cases of those applicants and to reconstitute the select list. The said order of the Tribunal was challenged by the State Government before the Hon'ble High Court by filing W.P. no. 5715/2017 and the Hon'ble High Court by the judgment dtd. 28.4.2017 has upheld the order of the Tribunal.

10. In view of the directions of this Tribunal and the Hon'ble High Court, the res. no. 2 considered the cases of all the candidates by giving an opportunity of being hearing to the present applicants. After considering the contentions of the applicants the res. no. 2 has passed the impugned order dtd. 16.11.2017 and declared the fresh select list in view of directions of the Tribunal & Hon'ble High Court. In the fresh select list both the applicants are placed in the waiting list maintained for the candidates belonging to O.B.C. Sports persons and S.C. Sports Persons category respectively. The

impugned order passed by the res. no. 2 does not show that the applicants have been terminated from the present post. Therefore, in my view, the apprehension of the applicants regarding relieving them from their service is not just and proper. Prima-facie, in my view, there is no just ground to grant stay to the execution and operation of the impugned order dtd. 16.11.2017 passed by the res. no. 2. Moreover, the Review Petition filed by the present applicants is pending before the Hon'ble High Court. In these circumstances, in my view, it is not a fit case to grant interim relief as prayed for by the applicants. Hence, the prayer of the applicants for grant of interim relief is rejected.

11. In the circumstances, issue notices to the respondents in the present O.A., returnable on 9.1.2018.

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

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13. 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. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

14. 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.

15. 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. Applicants are directed to file affidavit of compliance and notice.

16. S.O. to 9.1.2018.

17. Steno copy & hamdast allowed to both the sides.

MEMBER (J)

**FARAD CONTINUATION SHEET
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH, AURANGABAD**

**ORIGINAL APPLICATION NO. 392/2017
(Sheela H. Mohite V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : B. P. PATIL, MEMBER (J)

DATE : 24.11.2017.

ORAL ORDER :

Heard Shri S.R. Kawade, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for respondents.

2. Learned Advocate, on instructions from the applicant, submits that the applicant does not want to proceed with the present O.A. He further submits that directions may be given to the respondents to decide the representation of the applicant dtd. 5.6.2017 (Annex. A.8 Page 55 of the O.A.) on merit and to consider her request for transfer at any other place in Dist. Beed.

3. Learned P.O. has submitted that the applicant has not joined at the new posting though she has been relieved and, therefore, he prayed that the applicant may be directed to first join at the new posting and then her representation dtd. 5.6.2017 will be considered by the respondents. The learned P.O. has further submitted that he has no objection to dispose of the present O.A. with the said direction.

4. The applicant does not want to proceed with the O.A. and she wants to withdraw the

matter unconditionally. The applicant has been relieved from her earlier posting i.e. from Beed in view of the impugned transfer order dated 31.5.2017, but she has not joined at the transferred place i.e. Hingoli. She has made a representation dtd. 5.6.2017 with a request to the respondents to post her at the place, which is suitable to her.

5. Since the applicant does not want to proceed with the O.A. and she wants to withdraw present matter, the present O.A. stands disposed of as withdrawn with a direction to the respondents to consider the representation of the applicant dtd. 5.6.2017 on its own merits, only after the applicant joins at the place of new posting, first i.e. at Hingoli. There shall be no order as to costs.

MEMBER (J)

**FARAD CONTINUATION SHEET
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH, AURANGABAD**

**M.A. 304/2017 IN OA 718/2016
(Ashok T. Bari & Ors. V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : B. P. PATIL, MEMBER (J)

DATE : 24.11.2017.

ORAL ORDER :

None appears for the applicants. Shri I.S. Thorat, learned Presenting Officer for respondents, is present.

2. By filing the present M.A., the applicants want to produce on record the copies of representations dated 16.5.2013, 7.5.2013 and 21.12.2015 submitted by them to the respective authorities of the Government claiming to extend the benefits on the line of decision given by Hon'ble High Court of Judicature at Bombay, Bench at Nagpur in W.P. No. 2046/2010, which has been upheld by the Hon'ble Supreme Court. Therefore, they prayed to allow them to produce on record copies of said documents.

3. Learned Presenting Officer has no objection to allow the Misc. Application.

4. As the documents, which the applicants want to produce on record are relevant and as other side has no objection, the present M.A. stands allowed and the applicants are allowed to produce on record the relevant documents. There shall be no order as to costs.

MEMBER (J)