

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**M.A.NO. 33/2017 IN O.A.ST.NO. 1580/2016  
(Shri Sundarbai T. Kamble & Ors. Vs. The State of  
Maharashtra and Others.)**

**CORAM : HON'BLE SHRI J.D. Kulkarni, Member (J)**

**DATE : 25.01. 2017.**

**ORAL ORDER:**

Heard Shri D.G. Kamble, learned Advocate holding for Shri P.R. Adkine – learned Advocate for the applicants and Shri M.S. Mahajan – learned Chief Presenting Officer for the respondents.

2. This is an application preferred by the applicants seeking leave to sue jointly.

3. For the reasons stated in the misc. application and since the cause and the prayers are identical and since the applicants have prayed for same relief, and to avoid the multiplicity, leave to sue jointly granted, subject to payment of court fee stamp, if not paid, and present M.A. stands disposed of accordingly. No order as to costs.

**MEMBER (J)**

ORAL ORDERS 25.01.2017- HDD(DB)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION ST.NO. 1580/2016  
(Shri Sundarbai T. Kamble & Ors. Vs. The State of  
Maharashtra and Others.)**

**CORAM : HON'BLE SHRI J.D. Kulkarni, Member (J)**

**DATE : 25.01. 2017.**

**ORAL ORDER:**

Heard Shri D.G. Kamble, learned Advocate holding for Shri P.R. Adkine – learned Advocate for the applicants and Shri M.S. Mahajan – learned Chief Presenting Officer for the respondents.

2. Issue notices to the respondents, returnable 7<sup>th</sup> March, 2017.
3. Tribunal may take the case/s 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 question such as limitation and alternate remedy are kept open.
6. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along

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with affidavit of compliance in the Registry before due date.  
Applicant is directed to file affidavit of compliance and notice.

7. S.O. to 7<sup>th</sup> March, 2017.

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

**MEMBER (J)**

ORAL ORDERS 25.01.2017- HDD(DB)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION ST. NO. 117 OF 2017**

**(Shri Ramrao Genaji Rakh Vs. The State of Maharashtra  
and Others.)**

**CORAM : HON'BLE SHRI J.D. Kulkarni, Member (J)**

**DATE : 25.01.2017.**

**ORAL ORDER:**

Heard Shri K.N. Farooqui, learned Advocate holding for Shri N.L. Jadhav – learned Advocate for the applicant and Shri M.S. Mahajan – learned Chief Presenting Officer for the respondents.

2. On instructions, the learned Advocate for the applicant seeks permission of this Tribunal to withdraw the present Original Application with liberty to file departmental appeal before the Competent Authority. The learned advocate for the applicant filed pursis to that effect and the same is taken on record and marked as document 'X' for the identification purpose.

3. The learned Advocate for the applicant submits that the applicant will file departmental appeal before the Competent Authority within 10 days and respondents be directed to consider and decide the appeal filed by the applicant within a stipulated timeframe. The learned Advocate for the applicant further submits that the liberty may be granted to the applicant to approach this Tribunal, if decision goes against the applicant in appeal.

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4. In view of the aforesaid submission made by the learned Advocate for the applicant, leave granted and the present O.A. stands disposed of as withdrawn with the liberty to the applicant to file departmental appeal before the Competent Authority and if appeal is filed by the applicant, the Competent Authority is directed to consider it within one month from the date of receipt of copy of the same. There shall be no order as to costs.

**MEMBER (J)**

ORAL ORDERS 25.01.2017- HDD(DB)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**M.A. 35/17 IN C.P..ST.NO. 113/17 IN O.A. 472/16**

**(Sd. Fahimoddin Vs. The State of Maharashtra and  
Others.)**

**CORAM : HON'BLE SHRI J.D. Kulkarni, Member (J)  
(This matter is placed before the Single Bench  
due to non-availability of Division Bench.)**

**DATE : 25.01.2017.**

**ORAL ORDER:**

Heard Shri A.C. Deshpande – learned Advocate for the applicant and Shri M.P. Gude – learned Presenting Officer for the respondents.

2. Issue notices to the respondents in M.A. No. 35/2017, returnable on 28<sup>th</sup> February, 2017.

**MEMBER (J)**

ORAL ORDERS 25.01.2017- HDD(DB)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 832 OF 2016**

**(Shri V.P. Gangawane Vs. The State of Maharashtra and  
Others.)**

**CORAM : HON'BLE SHRI J.D. Kulkarni, Member (J)  
(This matter is placed before the Single Bench  
due to non-availability of Division Bench.)**

**DATE : 25.01.2017.**

**ORAL ORDER:**

Heard Shri Ajay Deshpande – learned Advocate for the applicant, Shri I.S. Thorat – learned Presenting Officer for the respondent Nos. 1 & 3 and Shri Ashish Rajkar – learned Advocate for respondent No. 2.

2. The learned Advocate for respondent No. 2 has filed affidavit in reply on his behalf and the same is taken on record and the copy thereof has been served on the other side.

3. S.O. to 28<sup>th</sup> February, 2017.

**MEMBER (J)**

ORAL ORDERS 25.01.2017- HDD(DB)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 842 OF 2016**

**(Shri A.F. Kasabekar & Ors Vs. The State of Maharashtra  
and Others.)**

**CORAM : HON'BLE SHRI J.D. Kulkarni, Member (J)  
(This matter is placed before the Single Bench  
due to non-availability of Division Bench.)**

**DATE : 25.01.2017.**

**ORAL ORDER:**

Heard Shri A.R. Kurangal, learned Advocate holding for Shri C.R. Thorat – learned Advocate for the applicants and Mrs. Priya R. Bharaswadkar – learned Presenting Officer for the respondents.

2. The learned Presenting Officer has filed affidavit in reply on behalf of respondent Nos. 1 to 4 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 28<sup>th</sup> February, 2017.

**MEMBER (J)**

ORAL ORDERS 25.01.2017- HDD(DB)



**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 50 OF 2017**

**(Shri Balesh S/o. Dashrath Bhendekar Vs. The State of  
Maharashtra and Others.)**

**CORAM : HON'BLE SHRI J.D. Kulkarni, Member (J)  
(This matter is placed before the Single Bench  
due to non-availability of Division Bench.)**

**DATE : 25.01.2017.**

**ORAL ORDER:**

Ms. Preeti R. Wankhade – learned Advocate for the applicant and Shri M.S. Mahajan – learned Chief Presenting Officer for the respondents.

2. At the request and by consent of both the parties the present Original Application is heard on the point of interim relief

3. The applicant has claimed that the communication dated 03/10/2016 (Annexure 'A-7') issued by the respondent No. 3 be quashed and set aside and the respondent No. 2 be directed to recast the final Select List/Recommendation List dated 12/01/2016 (Annexure 'A-3') by including the name of the applicant from NT-D category and further recommended the applicant's name to the respondent No. 1 for being appointed as Range Forest Officer, Group-B. It is further prayed that till the decision on the Original application on merits, one post of Range Forest Officer, Group-B be kept vacant.

4. According to the learned Advocate for the applicant, the applicant along with other candidates, had participated in the

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recruitment process for the post of Range Forest Officer from NT-D category. One Shri Sachin Balso Khade got 197 marks, Vikrant Waman Khade got 191 marks and Shri Sham Ramkisan Shirsat also got 190 marks. The applicant also got 190 marks. All these candidates are from NT-D category. However, except applicant the other three candidates have been shown selected for the post. No wait list was prepared.

5. The applicant further submits that the candidate Shri Sachin B. Khade, is at Sr. No. 1 in the merit list did not join the post of Range Forest Officer, but he joined another post and, therefore, the applicant can be very well accommodated in the merit list as he has also obtained 190 marks, which is equivalent to the candidate at Sr. No. 3 i.e. Sham Ramkisan Shirsath.

6. The applicant, therefore, made a representation and requested that his name be included, but his request has been rejected on the ground that since the posts are unitary (एकाकी), there is no provision for wait list and the same was very well stated in the advertisement.

7. The learned Advocate for the applicant invited my attention to the Rules of procedure of Maharashtra Public Service Commission known as Maharashtra Public Service Commission Rules of procedure, 2005. She has invited my attention to Rule 7 of the said procedure Rule, which states about wait list and it reads as under: -

***“(7) Wait-List.- Based on the merit of the candidates in their respective category, the***

***Commission may maintain a reserve list up to the 10% of the vacancies in each category. Provided further that the candidates from the reserved list may be recommended to the Government only if the candidates recommended earlier are unable to accept the offer of appointment for any reason. This waiting list shall not be operative for any additional number of posts, other than those advertised. Further this reserve list and entire merit list shall be maintained confidentially with the Secretary of the Commission only. This reserve list shall lapse or the declaration of date of subsequent examination for the same category or after a period of two years from the date of preparation of this reserve list whichever is earlier.***

8. The learned Advocate for the applicant submitted that there are three posts of Range Forest Officer and it is not that the said posts are isolated and even if there is mention in the advertisement that there will not be wait list, still the rules provides for such wait list. Admittedly, if the wait list is not prepared and exhausted, the respondents will have to again re-advertise the post. In view thereof, it will be in the interest of justice to keep one post of Range Forest Officer vacant till the reply of the respondents is received in the matter.

9. The respondent Nos. 1 & 3 are, therefore, directed to keep one post of Range Forest Officer, Group-B vacant till reply is filed by the respondents.

10. In the meantime, issue notices to the respondents, returnable on 28<sup>th</sup> February, 2017.

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11. Tribunal may take the case/s 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 O.A. Respondent is 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 question 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. to 28<sup>th</sup> February, 2017.

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

**MEMBER (J)**