

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**M.A. NO. 142/2016 WITH OA ST. NO. 473/2016**  
(Shri Mohammad Rahimullha Khan s/o Ahmed Noorullh Khan  
Vs. The State of Mah. & Ors.)

**Coram : Hon'ble Shri Justice M.T. Joshi, Vice Chairman**

**Date : 29-06-2017**

**ORAL ORDER:-**

Heard Shri Kakasaheb B. Jadhav, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents, with consent.

2. The learned Presenting Officer has filed separate affidavit in replies of res. nos. 2 & 5 in the misc. application. The same are taken on record and copies thereof are served upon the learned Advocate for the applicant.

3. The present misc. application has been filed by the applicant for condonation of 23 years' delay caused in filing the accompanying original application. The accompanying original application is filed by the applicant for seeking direction to the res. no. 2 to grant deemed date of promotion to him of the post of Assistant Draftsman from the date his juniors were promoted i.e. w.e.f. 25.6.1986 with all consequential benefits.

4. The documents placed on record would show that the applicant was promoted to the post of Assistant Draftsman on

::-2-::  
**M.A. NO. 142/2016 WITH**  
**OA ST. NO. 473/2016**

25.6.1986. He was, however, directed to join the said promotional post at Irrigation Project Bureau (Anweshan), Aurangabad. The applicant, however, did not join the said promotional post and, therefore, vide order dated 25.6.1986 (Annex. 5 paper book page 24 of the O.A.), the said promotion order of the applicant was cancelled. According to the applicant, thereafter he went on filing representations one after another on 6.7.1993, 24.11.1993 & 26.10.1994, 19.12.2007, 24.12.2009, 16.6.2010 & 14.12.2015 to the respondents and requested to grant the promotion for the post of ADM with effect from his juniors had promoted.

5. The learned Advocate for the applicant submits that, his first representation / application is dated 6.7.1993, which is still not decided by the concerned respondent and, therefore, the delay in filing the O.A. is to be computed from the date of first representation i.e. 6.7.1993. Ultimately the applicant has filed O.A. in this Tribunal on 18.3.2016 and as delay of 23 years occurred therein, he has filed the present M.A. for condonation of said delay.

::-3-::  
M.A. NO. 142/2016 WITH  
OA ST. NO. 473/2016

6. The learned P.O. opposed the plea of the applicant and submits that, as per the settled principle of law regarding the limitation, the applicant was required to approach the Tribunal within a period of one year from the date of filing of the first representation, if it is not decided.

7. In view of above position, I am of the opinion that the applicant has not shown satisfactory reasons for condonation of 23 years' delay caused in filing the original application. Accordingly, the misc. application stands dismissed. In view of dismissal of misc. application, the original application is also disposed of. There shall be no order as to costs.

**VICE CHAIRMAN**

ARJ ORAL ORDERS 29.6.2017

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 697/2015**

(Shri Totaram B. Thakre Vs. The State of Mah. & Ors.)

**Coram : Hon'ble Shri Justice M.T. Joshi, Vice Chairman**

**Date : 29-06-2017**

**ORAL ORDER:-**

Heard Shri Vivek Pingle, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. The learned Advocate, on instructions, submits that, in view of the statement made on 27.4.2017, the only issue remained to be decided in the present matter is regarding payment of interest on delayed payment of pension and pensionary benefits to the applicant. It is to be noted that, whether on fact there is delay as regards removing of Efficiency Bar and as to whether any Officer is responsible therefor, naturally the respondents would have to inquire and fix responsibility, if possible, against the said erring Officer.

3. In the circumstances, the learned Advocate for the applicant submits that the present original application may be disposed of with a direction to the respondents to decide the said issue of payment of interest on delayed payment of pension and pensionary benefits, within a certain period. The said submission appears to be reasonable.

4. In the circumstances, the original application is disposed of without any order as to costs with a direction to the respondents to decide the issue of payment of interest on delayed payment of pension and pensionary benefits to the applicant within a period of six months from the date of this order.

**VICE CHAIRMAN**

ARJ ORAL ORDERS 29.6.2017

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 701/2015**

(Shri Mohan R. Choudhari Vs. The State of Mah. & Ors.)

**Coram : Hon'ble Shri Justice M.T. Joshi, Vice Chairman**

**Date : 29-06-2017**

**ORAL ORDER:-**

Heard Shri A.D. Sugdare, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. During the course of hearing the learned Advocate for the applicant files on record the copy of G.R dated 7.10.2016 issued by the Finance Department. It is taken on record and copy thereof has been served upon the learned Advocate for the applicant.

3. Upon hearing both the sides, it appears that, there is a issue as to whether the said G.R. is applicable to the Mumbai region only or it is applicable to entire State. The learned P.O. is, therefore, directed to take instructions from the concerned respondent regarding applicability of the said G.R. S.O. to 27.7.2017 for taking instructions.

**VICE CHAIRMAN**

ARJ ORAL ORDERS 29.6.2017

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 623/2015**

(Shri Premsing P. Rathod Vs. The State of Mah. & Ors.)

**Coram : Hon'ble Shri Justice M.T. Joshi, Vice Chairman**

**Date : 29-06-2017**

**ORAL ORDER:-**

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

2. The learned P.O. submits that, 15 days' time is required for taking instructions on the points as stated by the applicant in his affidavit in rejoinder. At her request, S.O. to 26.7.2017, for taking instructions.

**VICE CHAIRMAN**

ARJ ORAL ORDERS 29.6.2017

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 572/2015**

(Shri Subhash G. Chavan Vs. The State of Mah. & Ors.)

**Coram : Hon'ble Shri Justice M.T. Joshi, Vice Chairman**

**Date : 29-06-2017**

**ORAL ORDER:-**

Heard Shri Ajay S. Deshpande, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. Upon hearing both the sides, it appears that the contention of the res. nos. 1 & 2 as are raised in the freshly filed affidavit in reply that the Superintending Engineer is not the competent authority to decide the deemed date of promotion, is against the G.R. dated 5.2.1977 (paper book page 70 of the O.A.). The next submission from the side of the respondents that, in view of mass termination of the cadre and thereafter reinstatement has affected the seniority in the cadre also appears against G.R. dated 6.12.1981 (Annex. R-1 paper book pages 34 to 36 of the O.A.) and more particularly against the condition nos. 2, 9 & 10 thereof. The learned P.O., however, argued on the strength of the submissions made in the affidavit in reply.

3. In view of above situation, prima-facie, the Tribunal is of the opinion that the respondents shall take corrective steps in



the matter, if any, or to file written note of arguments supporting the stand of the respondents, within a period of 15 days from today. The communication, if any, from the side of the respondents shall be filed by 19.7.2017.

3. S.O. to 19.7.2017, for filing the communication or written note of arguments, if any, by the learned P.O..

4. The learned P.O. to act upon the Steno copy of this order.

**VICE CHAIRMAN**

ARJ ORAL ORDERS 29.6.2017

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**MA 422/2016 in oa st. 1713/2016**

(Shri Baburao G. Randive Vs. The State of Mah. & Ors.)

**Coram : Hon'ble Shri Justice M.T. Joshi, Vice Chairman**

**Date : 29-06-2017**

**ORAL ORDER:-**

Shri G.J. Kore, learned Advocate for the applicant  
(**absent**). Smt. Deepali S. Deshpande, learned Presenting  
Officer for the respondents, is present.

2. In view of absence of learned Advocate for the applicant,  
S.O. to 2.8.2017 either for hearing of M.A. or for passing  
necessary orders.

**VICE CHAIRMAN**

ARJ ORAL ORDERS 29.6.2017

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**MA 562/2015 IN OA ST. 113/2015**

(Shri Ravindra K. Jadhav Vs. The State of Mah. & Ors.)

**Coram : Hon'ble Shri Justice M.T. Joshi, Vice Chairman**

**Date : 29-06-2017**

**ORAL ORDER:-**

Shri N.P. Bangar, learned Advocate for the applicant  
(**absent**). Smt. Deepali S. Deshpande, learned Presenting  
Officer for the respondents, is present.

2. The learned P.O. seeks time to file affidavit in reply of  
the respondents in the M.A. Time granted.

3. S.O. to 8.8.2017 for filing reply by the respondents in the  
M.A.

**VICE CHAIRMAN**

ARJ ORAL ORDERS 29.6.2017

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 858/2016**

(Shri Sunil L. Jadhav & Ors. Vs. The State of Mah. & Ors.)

**Coram : Hon'ble Shri Justice M.T. Joshi, Vice Chairman  
(This matter is placed before the Single Bench  
due to non-availability of Division Bench.)**

**Date : 29-06-2017**

**ORAL ORDER:-**

Heard Shri Suresh D. Dhongde, learned Advocate for the applicants and Smt. Sanjivani Deshmukh Ghate, learned Presenting Officer for the respondents.

2. The learned Advocate for the applicant seeks time to file on record copy of the concerned rule of Maharashtra Police Manual, 1999 as contained at page 10 / para 6 (k) of the present O.A. At his request, S.O. to 28.7.2017 for filing copy of relevant rule.

**VICE CHAIRMAN**

ARJ ORAL ORDERS 29.6.2017

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 399/2017**

(Dr. Pritam Tukaram Raut Vs. The State of Mah. & Ors.)

**Coram : Hon'ble Shri B.P. Patil, Member (J)**

**Date : 29-06-2017**

**ORAL ORDER:-**

1. Heard Shri S.K. Mathpathi, learned Advocate holding for Shri P.P. Dama – learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. Learned Advocate for the applicant has submitted that the applicant has been transferred from the post of Medical Officer (Group-A), Primary Health Center Ujani to Trauma Care Unit, Degloor, District Nanded by an order dated 31.05.2017 issued by respondent No. 1 i.e. Principal Secretary, Public Health Department, M.S. Mantralaya, Mumbai-32. He has submitted that the applicant has no grievance about his transfer as he has completed normal tenure of posting at Ujani. He has submitted that the only grudge of the applicant is that he has made application dated 01.03.2017 to the respondents & requested that he may be transferred in Osmanabad District as his wife is working as Medical Officer at Osmanabad. He has submitted that the applicant has made aforesaid request application while he was serving in Beed District. He has submitted that the parents of the applicant are old aged

and the applicant is the only son to look after his old parent. He has further submitted that the mother of the applicant is suffering from lung cancer and she was operated at Pushpan Imaging Center at Barsi, Dist. Solapur on 10<sup>th</sup> May, 2017. He has further submitted that the applicant's father was also suffering from Eye disease and operated at Venkatest Eye Institute, Latur on 21.06.2017. He has submitted that as the parents of the applicant are old aged and they are suffering from disease, they are required to take continuous treatment. He, therefore, requested to the respondents to post him near native place, as well as, near Osmanabad. He has submitted that the respondents have not considered the request application of the applicant while issuing the impugned transfer order. He has therefore, prayed to stay the execution of the impugned transfer order dated 31.05.2017.

3. Learned Chief Presenting Officer has submitted that the impugned transfer order has been issued on 31.05.2017. The applicant has submitted request application on 13.06.2017. He has submitted that the representation made by the applicant is pending with the respondents and there is no urgency in the present Original Application. Therefore, he prayed to reject the prayer made by the applicant for interim

relief. He has submitted that he wants to take instructions from the respondents and to file detailed affidavit in reply, and therefore, he sought time.

4. On going through the documents placed on record it reveals that the impugned transfer order has been issued as the applicant has completed his normal tenure on the present post i.e. Medical Officer (Group-A) at Primary Health Center Ujani. The applicant has no grievance regarding his transfer. Only grievance is that his request for his transfer near Osmanabad, where his wife is serving is not considered by the respondents. He wants modification of order so far the place of new posting. He made representation with the respondents in that regard and same is pending with the respondents. The respondents to seek time to file detailed reply in that regard.

5. In view of the above, in my opinion, it is not a fit case to grant interim relief to the applicant. Hence, the request made on behalf of the applicant for grant of interim relief stands rejected.

6. Issue notices to the respondents, returnable on 21<sup>st</sup> July, 2017.

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

8. 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.

9. 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.

10. 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.

11. S.O. to 21<sup>st</sup> July, 2017.

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

**MEMBER (J)**



**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 400/2017**

(Smt. Vrushali D/o S. Doifode Vs. The State of Mah. & Ors.)

**Coram : Hon'ble Shri B.P. Patil, Member (J)**

**Date : 29-06-2017**

**ORAL ORDER:-**

1. Heard Shri Ajay Deshpande – learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.
2. Issue notices to the respondents, returnable on 19<sup>th</sup> July, 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 with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.
7. S.O. to 19<sup>th</sup> July, 2017.
8. Steno copy and hamdust is allowed to both the parties.

**MEMBER (J)**

ORAL ORDERS 29.6.2017-HDD

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 401/2017**

(Smt. Rizwana Rafiq Pathan Vs. The State of Mah. & Ors.)

**Coram : Hon'ble Shri B.P. Patil, Member (J)**

**Date : 29-06-2017**

**ORAL ORDER:-**

1. Heard Shri S.D. Dhongde – learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.
2. Issue notices to the respondents, returnable on 12<sup>th</sup> July, 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 with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.
7. S.O. to 12<sup>th</sup> July, 2017.
8. Steno copy and hamdust is allowed to both the parties.

**MEMBER (J)**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**M.A.NO. 191/2017 IN O.A.ST.NO. 519/2017**

(Shri Shaikh Mohammad Aminuddin Vs. The State of Mah. &  
Ors.)

**Coram : Hon'ble Shri B.P. Patil, Member (J)**

**Date : 29-06-2017**

**ORAL ORDER:-**

1. Heard Shri U.A. Khekale – learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.
2. This Miscellaneous Application No. 191/2017 has been filed by the applicant for condonation of delay of about 3 years and 20 days caused in filing accompanying Original Application.
3. Issue notices to the respondents in M.A. No. 191/2017, returnable on 27<sup>th</sup> July, 2017.
4. Tribunal may take the case/s 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 M.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. to 27<sup>th</sup> July, 2017.
9. Steno copy and hamdust is allowed to both the parties.

**MEMBER (J)**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**O.A.ST. 237/2017 WITH M.A.ST. 236/2017**  
(Shri Ramdas Vitthal Firke Vs. The State of Mah. & Ors.)

**Coram : Hon'ble Shri B.P. Patil, Member (J)**

**Date : 29-06-2017**

**ORAL ORDER:-**

1. Heard Shri S.D. Dhongde, learned Advocate holding for Smt. Suchita A. Dhongde – learned Advocate for the applicant and Shri D.R. Patil - learned Presenting Officer for the respondents.
2. On instructions, the learned Advocate for the applicant has submitted that the applicant does not want to proceed with the present Original Application and Miscellaneous Application and wants to withdraw the same with liberty to file fresh Original Application and Miscellaneous Application, if required.
3. In view of the above submissions made on behalf of the applicant and as the applicant does not want to proceed with the O.A. and M.A., liberty to withdraw the O.A. and M.A. is granted with liberty to file fresh O.A. and M.A., if required.
4. Accordingly, the O.A. and M.A. both stand disposed of as withdrawn with liberty as sought by the applicant. There shall be no order as to costs.

**MEMBER (J)**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 909/2016**

(Shri Laxman S/o. A Lomte Vs. The State of Mah. & Ors.)

**Coram : Hon'ble Shri B.P. Patil, Member (J)**

**Date : 29-06-2017**

**ORAL ORDER:-**

1. Shri S.D. Joshi – learned Advocate for the applicant (**absent**). Mrs. Deepali S. Deshpande, learned Presenting Officer for the respondents, present.
2. It appears from the proceedings that affidavit in reply on behalf of respondent Nos. 1 to 3 has been already filed. It further appears that the affidavit in rejoinder has also been already filed by the applicant.
3. In that view of the matter and considering the cause made out in the present original application, the same is **admitted** and kept for final hearing on 19<sup>th</sup> July, 2017.

**MEMBER (J)**

ORAL ORDERS 29.6.2017-HDD

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 02/2017**

(Shri Dattatraya K. Ubale Vs. The State of Mah. & Ors.)

**Coram : Hon'ble Shri B.P. Patil, Member (J)**

**Date : 29-06-2017**

**ORAL ORDER:-**

1. Heard Shri V.B. Wagh – learned Advocate for the applicant and Smt. Resha S. Deshmukh - learned Presenting Officer for the respondents.
2. Learned Presenting Officer for the respondents prays for time for filing affidavit in reply on behalf of respondent Nos. 1 to 4.
3. It transpires from the proceedings that already ample opportunities are given to the respondent Nos. 1 to 4 to file their affidavit in reply, but they are not filed the same.
4. It further transpires from the proceedings that on the last occasion i.e. on 09.06.2017 most last chance was granted to the respondent Nos. 1 to 4 to file affidavit in reply, in spite of that they failed to file affidavit in reply.
5. In view of the above facts most last is granted to the respondent Nos. 1 to 4 for filing affidavit in reply subject to payment of costs of Rs. 5,000/-, which is to be deposited in the Registry of this Tribunal.
6. S.O. to 19<sup>th</sup> July, 2017.

**MEMBER (J)**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 13 OF 2017**  
(Shri Ramesh N. Swami Vs. The State of Mah. & Ors.)

**Coram : Hon'ble Shri B.P. Patil, Member (J)**

**Date : 29-06-2017**

**ORAL ORDER:-**

1. Heard Shri D.T. Devane – learned Advocate for the applicant and Mrs. Priya R. Bharaswadkar - learned Presenting Officer for the respondents.

2. It appears from the proceedings that affidavit in reply on behalf of respondent Nos. 2 & 3 has been already filed on record. It further appears that the affidavit in rejoinder to the reply filed by respondent Nos. 2 & 3 has also been already filed on record by the applicant.

3. In that view of the matter and considering the cause made out in the present original application, the same is **admitted** and kept for final hearing on 7<sup>th</sup> July, 2017.

**MEMBER (J)**

ORAL ORDERS 29.6.2017-HDD

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 76 OF 2017**

(Shri Rajendra S. Sudruk Vs. The State of Mah. & Ors.)

**Coram : Hon'ble Shri B.P. Patil, Member (J)**

**Date : 29-06-2017**

**ORAL ORDER:-**

1. Heard Shri J.S. Deshmukh – learned Advocate for the applicant and Shri M.S. Mahajan - learned Chief Presenting Officer for the respondents.
2. Learned Chief Presenting Officer has placed on record a copy of communication dated 11.05.2017 issued by the Superintendent of Police, Ahmednagar along with copy of order dated 13.06.2017 issued by Office Superintendent in the office of Superintendent of Police, Ahmednagar. The copy of the communication along with order is taken on record and marked as document 'X' for the purpose of identification.
3. On perusal of the aforesaid communication it reveals that the suspension period of the applicant w.e.f. 18.11.2008 to 31.3.2013 has been regularized and treated as duty period.
4. Learned Advocate for the applicant has submitted that the purpose of filing of the present Original Application is served in view of the aforesaid order / communication issued by the Superintendent of Police, Ahmednagar, and therefore, he prayed to pass necessary orders.



:: - 2 - ::

**O.A. NO. 76 OF 2017**

5. Since the purpose of filing of the present Original Application has been served in view of the order dated 13.6.2017 issued by the Superintendent of Police, Ahmednagar, nothing remains to be decided in the present Original Application. Hence, the present Original Application is disposed of accordingly with no order as to costs.

**MEMBER (J)**

ORAL ORDERS 29.6.2017-HDD

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 121 OF 2017**  
(Shri Shamkant B. Dusane Vs. The State of Mah. & Ors.)

**Coram : Hon'ble Shri B.P. Patil, Member (J)**

**Date : 29-06-2017**

**ORAL ORDER:-**

1. Heard Smt. Vidya Taksal, learned Advocate holding for Shri Shamsundar B. Patil – learned Advocate for the applicant and Shri D.R. Patil - learned Presenting Officer for the respondent Nos. 1 to 4. None appears for the respondent Nos. 5 & 6.
2. Learned Presenting Officer prays for time for taking instructions from the respondents as to what corrective steps have been taken in view of the directions given by this Tribunal on 12.5.2017. Short adjournment is granted as a last chance.
3. S.O. to 17<sup>th</sup> July, 2017.

**MEMBER (J)**

ORAL ORDERS 29.6.2017-HDD

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 147 OF 2017**  
(Shri Ajitkumar R. Saswade Vs. The State of Mah. & Ors.)

**Coram : Hon'ble Shri B.P. Patil, Member (J)**

**Date : 29-06-2017**

**ORAL ORDER:-**

1. Heard Shri V.B. Wagh – learned Advocate for the applicant and Shri D.R. Patil - learned Presenting Officer for the respondents.
2. Learned Presenting Officer has filed affidavit in reply on behalf of the respondent and the same is taken on record and copy thereof has been served on the learned Advocate for the applicant.
3. Learned Advocate for the applicant prays for time to go through the affidavit in reply filed by the learned Presenting Officer on behalf of the respondent, today. Time granted.
4. S.O. to 19<sup>th</sup> July, 2017.

**MEMBER (J)**

ORAL ORDERS 29.6.2017-HDD

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 163 OF 2017**  
(Shri Shaikh Anis Ayub Vs. The State of Mah. & Ors.)

**Coram : Hon'ble Shri B.P. Patil, Member (J)**

**Date : 29-06-2017**

**ORAL ORDER:-**

1. Heard Shri M.R. Kulkarni – learned Advocate for the applicant and Mrs. Priya R. Bharaswadkar - learned Presenting Officer for the respondents.
2. Learned Presenting Officer prays for two days' time for filing affidavit in reply. Time granted.
3. S.O. to 6<sup>th</sup> July, 2017.

**MEMBER (J)**

ORAL ORDERS 29.6.2017-HDD

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 229 OF 2017**  
(Shri Sunil S. Pawar Vs. The State of Mah. & Ors.)

**Coram : Hon'ble Shri B.P. Patil, Member (J)**

**Date : 29-06-2017**

**ORAL ORDER:-**

1. Heard Shri S.P. Salgar – learned Advocate for the applicant and Mrs. Priya R. Bharaswadkar - learned Presenting Officer for respondent No. 1. Shri G.N. Patil – learned Advocate for respondent No. 2 has filed leave note.
2. Learned Presenting Officer has submitted that she will take instructions from respondent Nos. 3 & 4 whether she can appear on their behalf ?
3. In view of leave note filed by the learned Advocate for respondent No. 2, S.O. to 21<sup>st</sup> July, 2017.

**MEMBER (J)**

ORAL ORDERS 29.6.2017-HDD

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 236 OF 2017**

(Smt. Yamuna L. Bhosale & Ors. Vs. The State of Mah. & Ors.)

**Coram : Hon'ble Shri B.P. Patil, Member (J)**

**Date : 29-06-2017**

**ORAL ORDER:-**

1. Heard Shri S.D. Dhongde – learned Advocate for the applicants and Mrs. Priya R. Bharaswadkar - learned Presenting Officer for the respondents.
2. Learned Presenting Officer prays for time for filing affidavit in reply on behalf of the respondents. Time granted.
3. S.O. to 27<sup>th</sup> July, 2017.

**MEMBER (J)**

ORAL ORDERS 29.6.2017-HDD

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 322 OF 2017**  
(Shri Rajesh P. Deshmukh Vs. The State of Mah. & Ors.)

**Coram : Hon'ble Shri B.P. Patil, Member (J)**

**Date : 29-06-2017**

**ORAL ORDER:-**

1. Shri S.D. Joshi – learned Advocate for the applicant (**absent**). Shri N.U. Yadav - learned Presenting Officer for the respondents, present.
2. Learned Presenting Officer has filed affidavit in reply on behalf of the respondent Nos. 1 to 3 and the same is taken on record. The copy of the same could not be served on the applicant as nobody appeared on his behalf.
3. S.O. to 25<sup>th</sup> July, 2017.

**MEMBER (J)**

ORAL ORDERS 29.6.2017-HDD

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 671/2016**

(Smt. Vandana M. Kharmale Vs. The State of Mah. & Ors.)

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

**Date : 29-06-2017**

**ORAL ORDER:-**

1. Heard Shri V.B. Wagh – learned Advocate for the applicant and Shri I.S. Thorat - learned Presenting Officer for the respondents.
2. After hearing the matter for considerable time, learned Advocate for the applicant prays for one day's time to produce on record a copy of judgment delivered by the Hon'ble Supreme Court. Time granted as prayed for. Treated as part heard.
3. S.O. to 30<sup>th</sup> June, 2017.

**VICE CHAIRMAN (J)**

ORAL ORDERS 29.6.2017-HDD



**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**  
**BENCH AT AURANGABAD..**

**MISC. APPLICATION NO.214/2017**  
**IN OA NO.150/2017.**

**(Shri Balasaheb Panditrao Mane Vs.  
The State of Maharashtra & Oths.)**

**CORAM: Hon Shri Justice M. T. Joshi, Vice Chairman.**

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

**DATE : 29-06-2017**

**ORAL ORDER:-**

Heard Shri S. S. Dambe learned Advocate for the applicant and Smt P. R. Bharaswadkar learned Presenting Officer for the respondents.

2. The learned P.O. files instructions on record regarding para no.7 of the present original application vide order dated 8.6.2017 and submit that, only because there is no space in computer for column on Internet, in front of the name of the applicant it can not be shown that, the applicant is from Open Project Affected Person (P.A.P.) category.

3. The applicant has filed an application for amendment explaining that, in fact the O.B.C. candidate is selected from P.A.P. category which was reserved for open P.A.P. category i.e. Shri Lokhande Ganesh Vitthalrao as can be found in the Provisional General

Merit List (Annexure A-7, page no.9). The learned P.O. is therefore, directed to take instructions as to whether any mistake as alleged in the amendment application is caused.

4. In the meantime issue notices of the present application for amendment to the proposed Respondent no.4 Shri Ganesh Vitthalrao Lokhande as is found at page no.3 of the present Misc. Application.

5. In the meantime if proposed Respondent no.4 Shri Ganesh Vitthalrao Lokhande is selected no appointment order shall be issued to him until further orders.

6. S. O. to 2.8.2017.

7. The learned P.O. is directed to act on the Steno copy of this order.

8. Authenticated copy is allowed to the learned Advocate for the applicant.

**VICE CHAIRMAN.**

ORAL ORDERS 29-06-2017-ATP

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**  
**BENCH AT AURANGABAD..**

**OA NO.150/2017.**

**(Shri Balasaheb Panditrao Mane Vs.  
The State of Maharashtra & Oths.)**

**CORAM: Hon Shri Justice M. T. Joshi, Vice Chairman.**

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

**DATE : 29-06-2017**

**ORAL ORDER:-**

Heard Shri S. S. Dambe learned Advocate for the applicant and Smt P. R. Bharaswadkar learned Presenting Officer for the respondents.

2. The learned P.O. files affidavit in reply on behalf of the Respondents no.1 to 3. The same is taken on record. Its copy is served on the other side.

3. S. O. to 2.8.2017.

**VICE CHAIRMAN.**

**ORAL ORDERS 29-06-2017-ATP**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**  
**BENCH AT AURANGABAD..**

**MA NO.211/2017 IN OA ST.NO.360/2017.**  
**(Shri R. R. Shirsath Vs. The State of Mah. & Ors.)**

**CORAM: Hon Shri Justice M. T. Joshi, Vice Chairman.**  
(This matter is placed before the Single Bench  
due to non-availability of Division Bench.)

**DATE : 29-06-2017**

**ORAL ORDER:-**

Heard Smt. Manjusha S. Jagtap learned Advocate for the applicant and Shri M. S. Mahajan learned Chief Presenting Officer for the respondents, with consent.

2. Perused the Misc. Application for condonation of delay as well as gone through the contents of the O.A. to find out as to whether prima facie any case exists. By the O.A. the applicant is seeking a direction to the Respondent to accommodate the applicant on the clear and vacant post reserved for Project Affected Persons category.

3. The full Bench of the Hon'ble Bombay High Court in "Rajendra Pandurang Pagare & another Vs. State of Maharashtra and others" in 2009 (4) Mh.L.J., 961 has clearly held as under :-

"41. No doubt, that under the Government Circulars, the Collectors are also required to sponsor the names of eligible candidates to the recruitment authority. However, since we have already held hereinabove that the district-wise reservation is not permissible under the Constitution, the candidates from the other districts, who are project affected persons, would also be entitled to compete with the candidates who are sponsored by the Collector. In the absence of the advertisement, it will not be possible for them to get knowledge about recruitment process initiated in the areas beyond their district. We, therefore, find that in order to ensure the equality of opportunity which is guaranteed in the matter of employment under Article 16 of the Constitution, it would be necessary that the posts reserved for project affected persons are advertised so that all the eligible candidates can submit their applications and get an opportunity to compete with others in their category."

4. The submissions of Smt. Manjusha S. Jagtap learned Advocate for the applicant would show that, since

the applicant was not able to pass any competitive examination the present applicant seeks direction for out of turn appointment which in view of the Full Bench decision can not be considered.

5. In that view of the matter though for the reasons stated in the application for condonation of delay the delay is condoned. However, as there is no prima facie case the O.A. is dismissed without any order as to costs.

**VICE CHAIRMAN.**

ORAL ORDERS 29-06-2017-ATP

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**  
**BENCH AT AURANGABAD..**

**ORIGINAL APPLICATION NO.872/2016.**  
**(Shri S. S. Shaikh & Ors. Vs. State of Mah.& Ors.)**

**CORAM: Hon Shri Justice M. T. Joshi, Vice Chairman.**  
(This matter is placed before the Single Bench  
due to non-availability of Division Bench.)

**DATE : 29-06-2017**

**ORAL ORDER:-**

Heard Shri V. G. Pingale learned Advocate for the applicants and Shri N. U. Yadav learned Presenting Officer for the respondents.

2. The learned Advocate for the applicants files on record Maharashtra Civil Services (Revised Pay) Rules, 2009. According to him at page no.15 Sr.No.127 and at page no.16 Sr. 171 would show that, not only these two posts are totally different even their pay scale is also different. The copy is supplied to the learned P.O. Learned P.O. seeks time to take instructions. At his request, S. O. to 5.7.2017 for taking corrective steps.

**VICE CHAIRMAN.**

**ORAL ORDERS 29-06-2017-ATP**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**  
**BENCH AT AURANGABAD..**

**ORIGINAL APPLICATION NO.224/2017.**  
**(Shri D. K. Taru Vs. State of Mah. & Ors.)**

**CORAM: Hon Shri Justice M. T. Joshi, Vice Chairman.**  
(This matter is placed before the Single Bench  
due to non-availability of Division Bench.)

**DATE : 29-06-2017**

**ORAL ORDER:-**

None appears for the applicant. Heard Shri D. R. Patil learned Presenting Officer for the respondents no.1 & 2 and Shri S. B. Munde learned Advocate holding for Shri S. G. Rudrawar, learned Advocate for the Respondent no.3.

2. The learned P.O. submit that, the Rules will have to be collected as directed by order dated 4.5.2017. At his request, S. O. to 25.7.2017.

**VICE CHAIRMAN.**

**ORAL ORDERS 29-06-2017-ATP**



**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**  
**BENCH AT AURANGABAD..**

**ORIGINAL APPLICATION NO.296/2017.**  
**(Shri P. L. Salve Vs. State of Mah. & Ors.)**

**CORAM: Hon Shri Justice M. T. Joshi, Vice Chairman.**  
(This matter is placed before the Single Bench  
due to non-availability of Division Bench.)

**DATE : 29-06-2017**

**ORAL ORDER:-**

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

2. The learned P.O. files on record the result upon participation of the present applicant for selection. The same is accepted and marked as "X" for the purpose of identification. Its copy is served to the other side. The learned P.O. submit that, only one post was available from the Open category, the present applicant has secured less marks and he stood third in the examination.

3. In view of the above fact Mr. Wagh learned Advocate for the applicant seeks time to take instructions from the applicant regarding withdrawal, if any, of the present application.

4. `S. O. to 28.7.2017. Interim relief to continue till then.

**VICE CHAIRMAN.**

**ORAL ORDERS 29-06-2017-ATP**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**  
**BENCH AT AURANGABAD..**

**ORIGINAL APPLICATION St. NO.658/2017.**  
**(Shri B. M. Ambalkar Vs. State of Mah. & Ors.)**

**CORAM: Hon Shri Justice M. T. Joshi, Vice Chairman.**  
(This matter is placed before the Single Bench  
due to non-availability of Division Bench.)

**DATE : 29-06-2017**

**ORAL ORDER:-**

None appears for the applicant. Smt S. K. Ghate  
Deshmukh learned Presenting Officer for the respondents  
is present.

2. No steps are taken for filing second set. It was  
warned that, in case of non compliance necessary orders  
will be passed as Ex-parte ad interim relief was granted  
to the applicant. However, no compliance is made.  
The learned Advocate for the applicant is absent S.O. to  
28.7.2017. In the meantime if no steps are taken the  
O.A. shall stand dismissed in default without any further  
reference to the Tribunal.

**VICE CHAIRMAN.**

**ORAL ORDERS 29-06-2017-ATP**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**  
**BENCH AT AURANGABAD..**

**OA Nos. 850 and 851 of 2009.**

**CORAM: Hon Shri Justice M. T. Joshi, Vice Chairman.**

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

**DATE : 29-06-2017**

**ORAL ORDER:-**

Heard Shri Ajay Deshpande learned Advocate for the applicants and Shri M. S. Mahajan learned Chief Presenting Officer for the respondents.

2. The office has collected the case details of the writ petition. The same is accepted and marked as "X" for the purpose of identification. The learned Advocate for the applicant submit that the writ petition is still pending. In view of the said fact remove from the Board.

**VICE CHAIRMAN.**

**ORAL ORDERS 29-06-2017-ATP**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**  
**BENCH AT AURANGABAD..**

**OA Nos. 652, 682 & 683 of 2009.**

**CORAM: Hon Shri Justice M. T. Joshi, Vice Chairman.**

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

**DATE : 29-06-2017**

**ORAL ORDER:-**

Heard Shri Ajay Deshpande learned Advocate for the applicants and Shri M. S. Mahajan learned Chief Presenting Officer for the respondents.

2. The learned Advocate for the applicant seeks time to take instructions regarding the pendency of the proceeding in Hon'ble the Supreme Court. In the meantime the office is also directed to find out the status on the website of Hon'ble the Supreme Court.

3. S.O. to 19.7.2017.

**VICE CHAIRMAN.**

**ORAL ORDERS 29-06-2017-ATP**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**  
**BENCH AT AURANGABAD..**

**OA Nos. 321 & 83 of 2017.**

**CORAM: Hon Shri Justice M. T. Joshi, Vice Chairman.**

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

**DATE : 29-06-2017**

**ORAL ORDER:-**

Heard Shri P. A. Kulkarni learned Advocate for the applicants and Shri S. K. Shirse learned Presenting Officer for the respondents.

2. The learned P.O. files on record the result of the participation of the applicant no.1 Smt. Sayyed Jarinabi Raisoddin in OA No.83/2017 from the year 2016 onwards. The same is accepted. Copy is served on the other side. The learned P.O. submit that, the notification of which earlier reference was made during argument could not be located. Taking into consideration the oral arguments already advanced and written notes of arguments submitted, S. O. to 5.7.2017 for passing orders. Interim relief to continue till then in O.A. No.83/2017.

**VICE CHAIRMAN.**

**ORAL ORDERS 29-06-2017-ATP**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.12/2016**

(Suvarna Ghodke V/s. The State of Mah. & Ors.)

CORAM: Hon'ble Shri B. P. Patil, Member (J)

DATE : 29-06-2017

**ORAL ORDER:-**

Heard Shri S.R.Dhelple learned Advocate for the applicant and Smt. Resha Deshmukh learned Presenting Officer for the respondents.

2. Learned P.O. has produced 2 affidavits in reply on behalf of respondent no.3. Those are taken on record. Copies thereof have been served on the other side.

3. Learned P.O. submitted that respondent no.3 passed order dated 08-06-2017 cancelling earlier office orders dated 18-04-2017 and 20-05-2017 passed by her by which the applicant was held ineligible for interview of the post of Police Patil. She has submitted that in view of the reasoned order dated 08-06-2017, applicant has been held eligible for interview conducted on 17-03-2017 in view of the directions given by the Tribunal on 08-06-2016. Learned P.O. has submitted that on the basis of

marks obtained by the candidates in written and oral examination the result has been declared. She has submitted that purpose of the O.A. is served in view of the order dated 08-06-2017 passed by respondent no.3. Therefore, she prayed to dispose of the O.A.

4. Learned Advocate for the applicant has submitted that the applicant has been held eligible for oral interview in view of order passed by respondent no.3 on 08-06-2017. He has submitted that already oral interview of the applicant has been conducted on 17-03-2016 in view of the order passed by the Tribunal on 08-01-2016. He has submitted that purpose of filing O.A. is served, and therefore, applicant does not wish to proceed further. Therefore, he prayed for disposal of the O.A. accordingly.

5. In view of the above facts and reply of the respondent no.3 it reveals that applicant was held eligible for oral interview for the post of Police Patil of Village Ambe Vadgaon which was conducted on 17-03-2016 in

view of the order passed by the Tribunal on 08-01-2016. Respondent no.3 thereafter declared final result of selection process for the post of Police Patil. Entire recruitment process has been completed. Purpose of filing O.A. is served as the applicant was held eligible for oral interview and was called for oral interview. Therefore, O.A. stands disposed of accordingly with no order as to costs.



**MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.154/2016**  
(Shri Abhijit Shinde V/s. The State of Mah. & Ors.)

CORAM: Hon'ble Shri B. P. Patil, Member (J)

DATE : 29-06-2017

**ORAL ORDER:-**

Heard Shri V.B.Wagh learned Advocate for the applicant and Shri N.U.Yadav learned Presenting Officer for the respondents.

2. Learned P.O. seeks time in the matter on the ground that he has not received instructions from the respondents as to decision taken by them in view of the directions given by the Tribunal on 10-03-2017. Time granted.

3. S.O.20-07-2017.

YUK ORAL ORDER 29-06-2017

**MEMBER (J)**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH AT AURANGABAD  
ORIGINAL APPLICATION NO.33/2017  
(Shri Bharat Kharat V/s. The State of Mah. & Ors.)**

CORAM: Hon'ble Shri B. P. Patil, Member (J)

DATE : 29-06-2017

**ORAL ORDER:-**

Heard Shri V.B.Wagh learned Advocate for the applicant and Shri Resha Deshmukh learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant has submitted that the applicant has passed revenue qualifying examination in the month of November, 2001 and he has been posted in Ahmednagar District in July 2003 from Nashik District in the cadre of Clerk Typist. Other employees, namely, R.V.Shinde and S.V.Rode, who were senior to him in the cadre of Clerk Typist passed examination in October, 2002. Learned Advocate for the applicant has submitted that R.V.Shinde and S.V.Rode have been promoted as Awal Karkun with effect from 18-09-2006 but the applicant has not been promoted on that date as his confidential reports were not available.

Learned Advocate for the applicant has submitted that the applicant made representation for giving effect to his promotion with effect from 18-09-2006 but that was not considered by the respondents on the ground that he lost his seniority because of the inter-district transfer. Learned Advocate for the applicant has submitted that respondents have not considered Rule 15 of the Maharashtra Revenue Qualifying Examination for promotion to the post of Awal Karkun from the cadre of Clerk Typist Rules, 1999 Rules, which provide to maintain seniority list amongst employees who passed revenue qualifying examination while considering them for promotion to the post of Awal Karkun.

3. Learned P.O. has submitted that respondents have taken decision as per the provisions of Maharashtra Civil Services Rules but she is unable to state as to whether Rule 15 of the Maharashtra Revenue Qualifying Examination for promotion to the post of Awal Karkun from the cadre of Clerk Typist Rules, 1999 Rules, had

been taken into consideration. Therefore, she seeks time to take instructions in this regard from the respondents.

4. In such circumstances, it is just to direct respondents to explain whether they have decided eligibility of the applicant on the basis of seniority under Rule 15 of the Maharashtra Revenue Qualifying Examination for promotion to the post of Awal Karkun from the cadre of Clerk Typist Rules, 1999 Rules for promotion to the cadre of Awal Karkun. Respondents are therefore directed to file affidavit to that effect on the next date.

5. S.O. 06-07-2017.

YUK ORAL ORDER 29-06-2017

**MEMBER (J)**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.13/2016**

(Shri Laxman Kulkarni V/s. The State of Mah. & Ors.)

CORAM: Hon'ble Shri B. P. Patil, Member (J)

DATE : 29-06-2017

**ORAL ORDER:-**

Heard Shri P.B.Jadhav learned Advocate holding for Shri V.P.Golewar learned Advocate for the applicant and Shri I.S.Thorat learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant seeks time to argue the matter finally. Time granted as a last chance.

3. S.O.21-07-2017.

**MEMBER (J)**

YUK ORAL ORDER 29-06-2017

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.207/2017**

(Shri Ganpat Waghmare V/s. The State of Mah. & Ors.)

CORAM: Hon'ble Shri B. P. Patil, Member (J)

DATE : 29-06-2017

**ORAL ORDER:-**

Shri H.P.Jadhav learned Advocate for the applicant is **absent**. Shri S.K.Shirse learned Presenting Officer for the respondents is present.

2. From the record it reveals that earlier matter was not heard and it has been wrongly shown as part heard.

3. Since none present for the applicant,  
S.O.27-07-2017.

YUK ORAL ORDER 29-06-2017

**MEMBER (J)**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.571/2016**

(Shri Vishnu Hagwane V/s. The State of Mah. & Ors.)

CORAM: Hon'ble Shri B. P. Patil, Member (J)

DATE : 29-06-2017

**ORAL ORDER:-**

Heard Smt. Vidya Taksal learned Advocate holding for Shri A.S.Deshmukh learned Advocate for the applicant and Shri V.R.Bhumkar learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant has sought time to argue the matter finally.

3. Learned P.O. has filed copy of the order 22-12-2015 as directed by the Tribunal. It is taken on record. He shall serve copy of the same on the other side.

4. S.O.26-07-2017.

**MEMBER (J)**

YUK ORAL ORDER 29-06-2017

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.409/2017**  
(Shri Bhujang Rithe V/s. The State of Mah. & Ors.)

CORAM: Hon'ble Shri B. P. Patil, Member (J)

DATE : 29-06-2017

**ORAL ORDER:-**

Heard Ku. Preeti Wankhade learned Advocate for the applicant and Shri M.S.Mahajan learned Chief Presenting Officer for the respondents.

2. At the request of learned CPO, S.O. to tomorrow on 30-06-2017.

YUK ORAL ORDER 29-06-2017

**MEMBER (J)**



**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 614/2016**

(Shri Subhash Kitkul Shirke Vs. The State of Mah. & Ors.)

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

**Date : 29-06-2017**

**ORAL ORDER:-**

1. Heard Shri S.D. Dhongde, learned Advocate holding for Smt. Suchita A. Dhongde – learned Advocate for the applicant and Shri I.S. Thorat - learned Presenting Officer for the respondents.

2. The applicant is claiming directions to the respondents to grant him the benefits of Assured Career Progress Scheme as per the Government Resolution dated 1.4.2010 i.e. to grant of pay scale of the post of Head Clerk since 1.10.2006 with consequential benefits of payment of arrears.

3. From the admitted facts on record it seems that the applicant was appointed as a Junior Clerk and was granted first time bound promotion in the year 1994. The applicant was dismissed since he was convicted for the offences punishable under Preventions of Corruption Act and sentenced him to undergo RI for six months and to pay Rs. 100/- fine. The applicant then filed Criminal Appeal No. 186/1999 before the Hon'ble Bombay High Court Bench at Aurangabad and the Hon'ble High Court vide order judgment and order dated 1.3.2012 was pleased to allow the criminal appeal and the applicant's conviction was quashed and set aside.

4. The applicant then filed application for reinstatement in service, but no action was taken. He, therefore, filed Original

Application. While disposing the said Original Application, this Tribunal directed the applicant to file representation for reinstatement against which the applicant filed Writ Petition No. 3950/2014. The said Writ Petition was allowed vide order dated 2<sup>nd</sup> August, 2014. The Hon'ble High Court in the said Writ Petition passed order on 2<sup>nd</sup> August, 2014 and directed that since the case of the applicant has been recommended by respondent Nos. 2 & 3 to respondent No. 1 for reinstatement of the applicant, respondent No. 1 shall take decision on the proposal / letter dated 23.5.2014 with regard to grant of retiral benefits to the applicant, expeditiously, preferably within three months.

5. The applicant accordingly, filed representation before the competent authority i.e. Superintending Engineer & Administrator, Command Area Development Authorities, Jalgaon (R-2), but the respondent No. 2 vide impugned letter dated 14.1.2015 sought guidance from the respondent No. 1. However, no decision has been taken on the said representation.

6. Learned Presenting Officer submits that that second time bound promotion is to be granted on the basis of Government Resolution dated 1.4.2010 and 5<sup>th</sup> July, 2010 (Annexure R-1 Collectively). As per the said Government Resolutions for granting time bound promotion, the ACRs may be considered. Since the applicant was dismissed during the period from 1999, his ACRs were not written.

7. It is true that, the ACRs might not have been written since the applicant was dismissed during the particular

**O.A. NO. 614/2016**

period. However, since the applicant has been acquitted on criminal charges and the Hon'ble High Court has already directed the authorities to grant him all benefits since 1999, there is no other go for the respondents, but to consider the case of the applicant for grant of second time bound promotional scheme, in spite of the fact that his ACRs were not written. The respondent authorities may either ignore those ACRs or may consider his earlier ACRs prior to his dismissal. Whatever may be the case, the respondent No. 1 ought to have taken decision on the proposal filed by the Superintending Engineer & Administrator, Command Area Development Authorities, Jalgaon (R-2).

8. In view thereof, the following order: -

**ORDER**

(i) Respondent No. 1 is directed to take into consideration all the pros and cons of the case and shall take decision on the proposal submitted by Superintending Engineer & Administrator, Command Area Development Authorities, Jalgaon (R-2) dated 14.1.2015, on the applicant's claim for second time bound promotion and also take into consideration the directions given by the Hon'ble High Court in the Writ Petition No. 3950/2014. Earlier ACRs of the applicant may also be taken into consideration i.e. prior to his dismissal.

(ii) Necessary decision shall be taken within a period of three months from the date of this order and shall communicate its result to the applicant in writing, since the applicant has retired from the Government service.

(iii) Accordingly, the present Original Application stands disposed of with no order as to costs.

**VICE CHAIRMAN (J)**

ORAL ORDERS 29.6.2017-HDD

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 732/2016**

(Dr. Surekha Shyamlal Totala Vs. The State of Mah. & Ors.)

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

**Date : 29-06-2017**

**ORAL ORDER:-**

1. Heard Shri S.B. Mene – learned Advocate for the applicant and Shri M.S. Mahajan - learned Chief Presenting Officer for the respondents.

2. The applicant viz. Dr. Surekha S. Totala, who is working as Medical Officer. She was under suspension. Vide order dated 28.3.2016 she has been reinstated in Government service, but no posting was given to her. The applicant has, therefore, filed the present Original Application claiming directions to the respondents to post the applicant since she was in hanging position from 27.5.2016.

3. Learned Advocate for the applicant submits that during the pendency of the Original Application, the applicant has been posted at Ajintha, Tq. Sillod, District Aurangabad. She has already taken over the charge of the said post on 8<sup>th</sup> October, 2016. However, she was not given posting from 27.5.2016 till 17.10.2016. The proposal has been sent to the Principal Secretary on 14.2.2017, to regularize that period and to treat it as compulsory waiting period and also to release the applicant's salary. However, no decision has been taken on the said proposal. The applicant has also filed one representation on 19.5.2017 to the Principal Secretary, Public Health Department, Mantralaya, Mumbai. The copy of the said representation is taken on record and marked as

document 'X' for the purposes of identification. However, till today no decision is taken by the Principal Secretary, Public Health Department, M.S. Mumbai. The applicant is, therefore, claiming relief in terms of prayer clause 'C' of the Original Application.

4. Since the claim of the applicant as regards posting has been fulfilled, the respondents are directed to take decision as regards the period from 27.5.2016 to 17.10.2016 of the applicant as to whether the same shall be treated as compulsory waiting period or not ?

5. The said decision shall be taken within a period of two months' from the date of this order and the same shall be communicated in writing to the applicant.

6. Accordingly, the present Original Application stands disposed of with no order as to costs.

**VICE CHAIRMAN (J)**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.793/2016**

(Shri Rajendra Pathade V/s. The State of Mah. & Ors.)

CORAM: Hon'ble Shri J.D.Kulkarni, Vice-Chairman (J)

DATE : 29-06-2017

**ORAL ORDER:-**

Heard Shri V.G.Pingle learned Advocate for the applicant and Shri M.S.Mahajan learned Chief Presenting Officer for the respondents.

2. Applicant has filed this O.A. for direction to respondent authorities to continue the service of the applicant w.e.f. 17-06-1996 on the post of Laboratory Technician. It is further stated that service period from 17-06-1996 to 13-12-1999 be regularized and counted as total service period of the applicant. Reply was filed in the M.A. by the respondents.

3. Learned CPO has placed on record communications which are marked as document "X" dated 01-06-2017 and 03-06-2017 on the last date and submitted that a proper decision has been taken, and therefore, O.A. has

become infructuous since the decision has already been taken in the matter.

4. Perusal of the communication dated 03-06-2017 shows that the following decision has been taken by the Joint Director, Medical Services. Said decision is as under:

"Jh- i BkMs; kpk 873 fnol kph vLFkk; h dkyko/kh gk R; k; k I | kP; k I od tkMu fu; fer dj.ksvko'; d vkgs rl p Jh- i BkMs ; kau fnuad 13@12@1999 i kl u LFkk; h Lo: Ikkph fu; Drh fnysyh gk h R; keGsl nj 13@12@1999 rkj [ki whz 873 fnol kph vLFkk; h I ok Eg.ktp fn-23@07@1997 ; k rkj [ki kl u fn-12@12@1999 i ; r R; k; k I ok LFkk; h Lo: i kr /k: u fu; fer dj.ksvko'; d vkgs

'kkl ukus ojhy I nfHkz P; k i =kuq kj Jh- i BkMs gs i dYi xLr 0; Drh vl Y; kusR; kph ; ki whz vLFkk; h Lo: i kr dsybh I ok fn-21-1-1982 P; k 'kkl u fu.kz kuq kj R; k; k 'kkl u I oPk , dwk dkyko/kh fu/kkzjr dj.; kl kBh xkg; /kj.ksvko'; d vl u I keU; i z kkl ukpsfoHkkxkpsvfHki k; y{kk r ?ksw



Jh- i BkMs; kph vLFkk; h I ok fu; fer dj.; kl kBh vkns' kr  
 dsys vkgs Jh- i BkMs; kauk fn-13-12-1999 i kl u LFkk; h  
 Lo: i kph fu; Drh fnysyh vkgs rjh ojhy I nfHKz 9  
 P; k vuqkxkus 'kkl ukusfnyY; k ekU; rP; k v/khu jkgu gs  
 dk; kZy; Jh- i BkMs; kph fn-13@12@1999 i qhZ873 fnoI  
 vLFkk; h I ok I yx /k: u Eg.kts fn-23-07-1997 ; k  
 rkj [ki kl u R; kph I ok LFkk; h I ok Eg.ku fu; fer dj.; kr  
 ; r vkgs mi jkDr 'kkl u fu.kZ; kr R; kP; k vLFkk; h I ok g; k  
 I | kP; k I od t kMu R; kP; k I ok fu; fer dY; kl R; kauk  
 ekxhy dBygh oru o HkRrso R; kpk Qjd gk R; kauk R; kP; k  
 I ok dkyko/khrp vnk dYk vI Y; keGgs u0; kus vnk  
 dj.; kr ; ouu; s i jarqR; kpk vLFkk; h dkyko/kh fu; fer  
 dY; kl I ok fuoRrh; k vuqkxkus I okfuorh oru]  
 I okfuorh mi nku o R; k vuqkxhd brj ykHka kBh vuks  
 jkghy-"

5. Learned Advocate for the applicant submits that the respondents have considered only days on which the applicant has actually worked and they have not considered the fact that services are to be treated as continuous service as per G.R. dated 21-01-1980.

=4=

O.A.No.793/16

6. In my opinion, this O.A. is only for direction to take decision on the subject matter by competent authority. The competent authority has already taken decision on the representation filed by the applicant. If the applicant is aggrieved by the said decision, it is open for him to file separate O.A. challenging decisions dated 01-06-2017 and 03-06-2017, if he so desires. In view thereof, I pass following order:

**ORDER**

O.A. stands disposed of in view of the observations made hereinabove. There shall be no order as to costs.

**VICE-CHAIRMAN (J)**

YUK ORAL ORDER 29-06-2017

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH AT AURANGABAD**

**M.A.No.402/2015 IN C.P.St.No.1406/2015 IN  
O.A.No.236/2014 WITH  
REVIEW APPLICATION No.09/2016**

(Shri Adhikaro S. Mane V/s. The State of Mah. & Ors.)

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

DATE : 29-06-2017

**ORAL ORDER:-**

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

2. This petition is filed whereby the applicant has claimed that in paragraph 18 of the judgment in O.A.No., it has been mentioned that the memorandum of charges has been served on the applicant/petitioner on 12-09-2014 i.e. well after approximately 6 and ½ months' of his retirement. It is an admitted fact that the applicant has retired on 28-02-2014.

3. Respondent State has filed Writ Petition No.1905/2016 against the judgment and order in O.A.No.230/2014. Said O.A.No.230/2014 was allowed in terms of order as under:

**ORDER**

1. The Original Application stands allowed in terms of prayer clause 18(B).
2. The respondent nos. 2 and 3 are directed to release the retiral benefits of the petitioner including the Group Insurance Scheme, Leave Encashment, Gratuity DCRG amount etc.
3. As regards the interest on the pension it is not fit case to grant interest since the delay might be due to pendency of the criminal trial and departmental enquiry. The petitioner however, is at liberty to file representation for interest to appropriate authority and in case he files the representations, the respondents shall consider it, as per rules and regulations therefor without being influenced by any of the observations made in this order. No order as to costs."
4. It seems that before the Hon'ble High Court the State submitted that the chargesheet was served on the applicant on 28-02-2014 prior to his retirement, and therefore, observation made by the Tribunal that chargesheet was served after retirement on

12<sup>th</sup> September, 2014 is not correct, and therefore, the judgment is required to be reviewed.

5. One communication dated 6<sup>th</sup> March 2014 was placed before the Hon'ble High Court for the first time, in which, it is alleged that the applicant himself has accepted that the chargesheet was served on him on 28-02-2014, and therefore, the statement made by the respondent authority in its reply affidavit that the chargesheet was served on 12<sup>th</sup> September, 2014 is incorrect. In this regard, it is material to note that the Hon'ble High Court has refused to accept the said letter on record and stated that the petitioner may file Review Application to bring the said letter to the notice of the Tribunal. Accordingly, the said copy is filed in Review Application.

6. The learned P.O. submits that respondents have no other document except Annexure "B" (page 27) i.e. letters

dated 06-03-2014 in which the applicant alleged to have accepted the fact that the chargesheet was received on 28-12-2014. It was necessary for the respondents to file on record acknowledgement, if any, on behalf of the applicant to show that the chargesheet was served on the applicant prior to his retirement but admittedly, no such document is placed on record and it is stated that such document is not available.

6. Learned Advocate for the original applicant submits that a sealed envelope was handed over to the applicant after office hours (page 28). His contention seems to be corroborated from the fact that one letter dated 26<sup>th</sup> February, 2014 (Annexure "C", page 28) is placed on record by the original respondents. It is stated in the said letter that respondents have served sealed envelope to the applicant and also on one Shri S.G.Saner, Sub Divisional Engineer. Though the said letter bears date as 26<sup>th</sup> February 2014, there is endorsement at the bottom

that it was served on the applicant on 28-02-2014. From the documents placed on record, it is not clear as to whether the applicant was served with the chargesheet prior to his retirement and at what exact time, on 28-02-2014. In such circumstances, there is, at the most, statement against statement.

7. The Hon'ble High Court has observed in Writ Petition No.1905/2016 filed by the State, in the last paragraph of the order dated 29<sup>th</sup> June, 2016 as under:

*"However, we make it clear that merely because we have made certain observations enabling the petitioner to file review application, that by itself cannot be construed as a ground not to implement/execute the order passed by the Maharashtra Administrative Tribunal. We hope that and expect that petitioner - State will initiate an appropriate action against respondent No.2 for filing the affidavit before the Maharashtra Administrative Tribunal making a wrong statement that the charge-sheet was served on 12<sup>th</sup> September 2014. However, initiation of such an action should be in accordance with the procedure and relevant rules. "*

8. However, learned P.O. submits that she has no instructions as to whether action has been taken against the respondent no.2 for filing affidavit before this Tribunal making a wrong statement that chargesheet was served on 12<sup>th</sup> September, 2014. In view of such circumstances, it cannot be safely stated that the statement made by the respondent no.2 that chargesheet was served on 12<sup>th</sup> September, 2014 is incorrect, absolutely.

9. In the judgment, this Tribunal has also observed other aspects of the service of chargesheet on the employee on the last date of his retirement and also considered Rule 27 of Maharashtra Civil Services (Pension) Rules, 1982 and other relevant MCS Rules. Considering all these aspects, I am satisfied that it is not a fit case to review the order passed by this Tribunal as even accepting the so-called letter i.e. Annexure "B" dated 06-03-2014, it cannot be stated that the chargesheet was



=7=

M.A.No.402/2015 IN C.P.St.No.1406/2015 IN  
O.A.No.236/2014 R.A.No.09/2016

served on the applicant prior to his retirement or in other words, respondent State has failed to prove as to exactly at what time chargesheet was served on the applicant on 28-02-2014, and particularly, whether it was served prior to his retirement. Hence, following order:

**ORDER**

Review Application No.09/2016 in Original Application No.236/2014 stands dismissed with no order as to costs.

YUK ORAL ORDER 29-06-2017

**MEMBER (J)**