

ORIGINAL APPLICATION NO.688/2019
(SujitGordeVs. State of Maharashtra & Ors.)

CORAM :Hon'ble Shri Bijay Kumar, Member (A)

DATE : 06.08.2021

ORAL ORDER :

Heard Shri ShashikantChalikwar learned Advocate holding forShri A.B.Jagtap, learned Advocate for the applicants and Shri D.R.Patil, learned Presenting Officer for the respondent.

2. Affidavit in reply is filed by respondent nos.1 and 2 on 7th January, 2020. Learned P.O. referring to his office copy has submitted that copy of affidavit in reply on behalf of respondent nos.1 and 2 was served on the applicant on 13-01-2020. No rejoinder has been filed by the applicant. In paragraph 4 of the reply the respondents have contested the reliability of document submitted by the applicant along with O.A. and marked as Annexure A-2. Therefore, the respondents have asserted that the applicant had not filed any application before the appropriate authority for appointment on compassionate ground as claimed by the applicant through Annexure A-2 of O.A.

3. The applicant is required to produce the original copy of the document at Annexure A-2 of O.A. Secondly, it has transpired that the respondents have not placed on record any documentary proof in compliance of the point no.7-A of Government Resolution enclosed by the applicant which is

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O.A.NO.688/2019

marked as Annexure A-9 evidencing that the respondents have duly informed the family of the deceased employee about the scheme as prescribed.

4. Learned P.O. for the respondents has assured to produce evidence to the effect of compliance of this requirement.

5. Applicant seeks time to file affidavit in rejoinder, if necessary. However, they are definitely required to submit original copy of document enclosed at Annexure A-2.

6. S.O. to 02-09-2021.

MEMBER (A)

M.A.NO.609/2019 IN O.A.ST.NO.2372/2019
(RadhabaiKedareVs. State of Maharashtra & Ors.)

CORAM :Hon'ble Shri Bijay Kumar, Member (A)

DATE : 06.08.2021

ORAL ORDER :

Heard Shri Kakasaheb B. Jadhav, learned Advocate for the applicants and Smt. DeepaliDeshpande, learned Presenting Officer for the respondent.

2. Notice is served on 13-01-2020. Learned P.O. seeks time to file affidavit in reply in M.A. Time is granted.

3. S.O. to 06-09-2021.

MEMBER (A)

YUK ORAL ORDERS 06.08.2021

M.A.NO.611/2019 IN O.A.ST.NO.2374/2019
(RambhauNikamVs. State of Maharashtra & Ors.)

CORAM :Hon'ble Shri Bijay Kumar, Member (A)

DATE : 06.08.2021

ORAL ORDER :

Heard Shri Kakasaheb B. Jadhav, learned Advocate for the applicants and Smt. M.S.Patni, learned Presenting Officer for the respondent.

2. Service of notice is done on 13-01-2020. Learned P.O. seeks time to file affidavit in reply in M.A. Time is granted.

3. S.O. to 06-09-2021.

MEMBER (A)

M.A.NO.247/2020 IN O.A.ST.NO.339/2020
(PanditPawar&Anr.Vs. State of Maharashtra & Ors.)

CORAM :Hon'ble Shri Bijay Kumar, Member (A)

DATE : 06.08.2021

ORAL ORDER :

Heard Shri SwarajTandale learned Advocate holding forShriB.R.Kedar, learned Advocate for the applicants and Smt. SanjivaniGhate, learned Presenting Officer for the respondent.

2. Service affidavit has been filed on 12-01-2021. Learned P.O. seeks time to file affidavit in reply on behalf of the respondents. Time is granted.

3. S.O. to 08-09-2021.

MEMBER (A)

YUK ORAL ORDERS 06.08.2021

ORIGINAL APPLICATION NO.264/2019
(SupaduBhaleraoVs. State of Maharashtra & Ors.)

CORAM :Hon'ble Shri Bijay Kumar, Member (A)

DATE : 06.08.2021

ORAL ORDER :

Heard Shri SwarajTandale learned Advocate holding forShriB.R.Kedar, learned Advocate for the applicant and Shri D.R.Patil, learned Presenting Officer for the respondent.

2. Service affidavit has been filed on 24-04-2019 and affidavit in reply has been filed on 21-09-2019.
3. S.O. to 07-09-2021 for final hearing.

MEMBER (A)

**C.P. No. 14/2021 in O.A. No. 187/2021
(Ramrao K. PallewadVs. State of Maharashtra &Ors.)**

**CORAM :Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 06.08.2021

ORAL ORDER :

Heard Shri Ganesh Jadhav, learned Advocate holding for Shri A.S. Shelke, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. The present C.P. is arising out of interim order dated 04.05.2021 passed by Single Bench of this Tribunal in O.A. No. 187/2021. The said O.A. is pending before the said Single Bench of this Tribunal.

3. Learned C.P.O. seeks time for filing affidavit in reply in the present C.P.

4. Learned C.P.O. points out that in O.A. No. 187/2021 filed by the present applicant pleadings up to rejoinder are complete and the respondents are going to file sur-rejoinder today. He further points out that one intervention application bearing M.A. No. 149/2021 filed by two intervenors is pending in the said O.A. No. 187/2021. He requests for time to tag

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C.P. No. 14/2021 in
O.A. No. 187/2021

the said O.A. No. 187/2021 along with this C.P. in order to avoid passing of conflicting orders. We call for O.A. No. 187/2021 and M.A. No. 149/2021 in O.A. No. 187/2021 pending before the Single Bench to this Division Bench and be tagged it with the present C.P. No. 14/2021.

5. In the facts and circumstances, time is granted for filing affidavit in reply on behalf of respondents in C.P.

6. S.O. to 23.08.2021

MEMBER (A)

MEMBER (J)

**M.A. No. 614/2019 in O.A. St. No. 2365/2019
(Hanuman P. JarareVs.State of Maharashtra &Ors.)**

**CORAM :Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 06.08.2021

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicant, S.O. to 03.09.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 224 OF 2021
(Chandu M. WaghmareVs. State of Maharashtra &Ors.)

CORAM :Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 06.08.2021

ORAL ORDER :

Shri Sunil B. Jadhav, learned Advocate for the applicant (**Absent**).Heard Smt. M.S. Patni, learned Presenting Officer for the respondents.

2. At the request of learned Presenting Officer, time is granted for filing affidavit in reply of respondent Nos. 1 and 2.

3. S.O. to 16.09.2021.

MEMBER (A)

MEMBER (J)

**ORIGINAL APPLICATION NO. 150 OF 2021
(Mayur P. ChavanVs. State of Maharashtra &Ors.)**

**CORAM :Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 06.08.2021

ORAL ORDER :

Heard Shri K.B. Jadhav, 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 respondent Nos. 4 to 6. Same is taken on record and copy thereof has been served on the other side.

3. At the request of learned Presenting Officer, time is granted for filing affidavit in reply on behalf of other respondents.

4. S.O. to 03.09.2021.

MEMBER (A)

MEMBER (J)

**Review No. 6/2019 in O.A. No. 100/2018
(Ramrao T. RathodVs. State of Maharashtra &Ors.)**

**CORAM :Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 06.08.2021

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. At the request of learned Presenting Officer, time is granted for filing affidavit in reply of respondents.

3. S.O. to 16.09.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 410 OF 2019
(Santosh R. JagdaleVs. State of Maharashtra &Ors.)

CORAM :Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 06.08.2021

ORAL ORDER :

Learned Advocate Shri S.G. Kulkarni, holding for Shri Ajay Deshpande, submits that the previous Advocate for the applicant Shri ShashikumarChoudhary, has given no objection and as such, he has filed **VAKALATNAMA** on behalf of the applicant.

Heard Shri N.U. Yadav, learned Presenting Officer for the respondent No. 1 and Shri M.R. Kulkarni, learned Advocate for respondent No. 2.

2. Record shows that pleadings up to rejoinder are complete.
3. S.O. to 21.09.2021.

MEMBER (A)

MEMBER (J)

**M.A. St. No. 802/2021 in O.A. St. No. 803/2021
(Dattatraya S. Sonawane&Anr.Vs.State of Maharashtra &Ors.)**

**CORAM :Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 06.08.2021

ORAL ORDER :

Heard Shri V.S. Panpatte, learned Advocate holding for Shri R.C. Bramhankar, learned Advocate for the applicants and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. There is office objection about the jurisdiction regarding the alleged cause of action.

3. Learned Advocate for the applicants seeks time for taking appropriate steps in the matter. Time granted.

4. S.O. to 20.08.2021.

MEMBER (A)

MEMBER (J)

M.A. No. 149/2021 in O.A. No. 187/2021
(Padmakar V. Thakur &Anr.Vs.Ramrao K. Pallewad&Ors.)

CORAM :Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 06.08.2021

ORAL ORDER :

Heard Shri A.D. Sugdare, learned Advocate for the applicants/proposed intervenors in M.A., and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondent Nos. 2 & 3 and Shri Ganesh Jadhav, learned Advocate holding for Shri A.S. Shelke, learned Advocate for respondent No. 1 in the present M.A. / applicant in O.A.

2. Learned Advocate for the intervenors in M.A. No. 149/2021 submits that the said intervention application is pending for hearing, as the affidavit in reply is filed by the respondent No. 1 / applicant in O.A. and respondent Nos. 2 and 3 therein who are respondent Nos. 1 and 2 in O.A. have also filed affidavit in reply and the said M.A. is ready for hearing.

3. Learned Advocate for respondent No. 1 / applicant in O.A. submits that he is holding for Shri A.S. Shelke and he is not ready for hearing.

4. In view of above, S.O. to 23.08.2021.

5. Interim relief granted earlier in O.A. No. 187/2021to continue till then.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.252 OF 2020
(Harikishan D. JadhavVs. the State of Maharashtra &Ors.)

CORAM :Hon'ble Shri V.D. Dongare, Member (J)

DATE : 6.8.2021

ORAL ORDER :

Heard Ms. Preeti R. Wankhade, learned Advocate for the applicant, Smt. SanjivaniDeshmukh-Ghate, learned Presenting Officer for respondent No. 4 and Shri Shamsundar B. Patil, learned Advocate for respondent Nos. 1 to 3.

2. Record shows that affidavit in reply on behalf of respondent No. 4 is already filed on record.

3. Today, learned Advocate for respondent Nos. 1 to 3 has filed affidavit in reply on their behalf and the same is taken on record and copy thereof has been served on the other side.

4. Perusal of earlier notings on farad sheets would show that by order dated 16.2.2021 the respondent No. 3 was directed to ensure payment of regular pension to the applicant and compliance be reported on the next date. Since then the present case was adjourned from time to time i.e. 2.6.2021, 18.6.2021, 25.6.2021, 13.7.2021 and 14.7.2021. In spite of the said directions till today compliance of report is not filed on behalf of respondent No.3. By order dated 13.7.2021 respondent No. 3 i.e. the

Executive Engineer, Aurangabad Irrigation Division, Aurangabad, was directed to remain present personally before this Tribunal to explain the things, but the respondent No. 3 is absent and nothing is produced on record to explain his personal absence. On the last date i.e. on 13.7.2021 it was cautioned that in case respondent No. 3 fails to remain present personally before this Tribunal to explain the things, appropriate action will be taken against the respondent No. 3.

5. Learned Advocate for respondent Nos. 1 to 3 has filed a copy of letter dated 16.7.2021 addressed to respondent No. 2 i.e. Superintending Engineer and Administrator, Command Area Development Authority, Aurangabad, by respondent No. 3 i.e. the Executive Engineer, Aurangabad Irrigation Division, Aurangabad, thereby informing about the adjournment of the present case. The copy of the said letter is taken on record and marked as document 'X' for the purpose of identification.

Learned Advocate for respondent Nos. 1 to 3 further submitted that he has personally apprised to the respondents and particularly respondent No. 3 to remain present personally before this Tribunal, but he is absent today. The conduct of the respondent No. 3 is not desirable. He failed to comply with the earlier order of this Tribunal dated 13.7.2021 and has not even bothered to

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O.A. NO. 252 OF 2020

place on record the status report though he was given opportunity from time to time. In view of the same, cost of Rs. 5000/- is imposed upon the respondent No. 3, which is to be paid from his own pocket.

S.O. to 23.8.2021.

MEMBER (J)

ORAL ORDERS 6.8.2021-HDD

ORIGINAL APPLICATION NO. 367 OF 2019
(Arvind D. Sulakhe Vs. the State of Maharashtra &Ors.)

CORAM :Hon'ble Shri V.D. Dongare, Member (J)

DATE : 6.8.2021

ORAL ORDER :

Heard Shri Arvind B. Ade, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant submits that he is trying to get certified copy of order dated 20.10.1992 passed in O.A. No. 281/1991. However, it is still not available. He submits that certified copy of the said judgment was filed in C.P. No. 3/1993, which is disposed of this Tribunal by order dated 16.3.1993. He has filed true copy of judgment and order dated 3.6.2003 passed in O.A. No. 542/1995 and the same is taken on record.

3. At the request of learned Advocate for the applicant, S.O. to 27.8.2021.

MEMBER (J)

ORAL ORDERS 6.8.2021-HDD

ORIGINAL APPLICATION NO. 77 OF 2020
(Mahesh S. KhedkarVs. the State of Maharashtra &Ors.)

CORAM :Hon'ble Shri V.D. Dongare, Member (J)

DATE : 6.8.2021

ORAL ORDER :

Heard Shri C.T. Jadhav, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant has filed short affidavit of the mother of the applicant viz. Nirmala S. Khedkar, in view of communication dated 15.6.2021 received by her from the office of respondent No. 3 mentioning that her name from waiting list of compassionate appointment is cancelled due to completion of her age of 45 years. The copy of said communication is taken on record and marked as document 'X' for the purpose of identification.

3. Learned Advocate for the applicant submitted that in view of this subsequent development he would like to make application for amendment in the O.A.

4. Leave to make application for amendment in the O.A. is granted.

5. S.O. to 23.8.2021.

MEMBER (J)

**M.A.NO.218/2021 IN M.A.No.217 OF 2020 IN
O.A.ST.NO.519 OF 2020
(Dipak D. Joshi & Ors.Vs. State of Maharashtra & Ors.)**

**CORAM :Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 06.08.2021

ORAL ORDER :

Heard Smt. A.N. Ansari, learned Advocate for the Applicant and Shri V.R. Bhumkar, learned Presenting Officer for the Respondents.

2. By this application the heirs and legal representatives of the original applicant no.2 are seeking to brought themselves on record as heirs and legal representatives of the original applicant no.2 by condoning delay of 15 days.

3. The Original Applicant nos.1 to 3 have filed the Original Application St.No.519/2020 for the relief of declaration that the Recruitment Rule of 13.09.2021 are not relevant in case of the applicants and they are governed by the Rule of 1979 by relaxing the three years experience condition and they have also sought deemed date of promotion by relaxing three years experience clause, in view of judgment of Hon'ble High Court passed in W.P.No.1598/1988 and to declare that ratio ration fixed by Respondents in recruitment Rules of 13.09.2021 is arbitrary, illegal, unreasonable and irrational. There is

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**M.A.218/2022 In M.A.217/20
In O.A.St.No.519/20**

delay in filing the Original Application. Hence, they have also made application bearing Misc. Application No.217/2020 for condonation of delay.

4. It is contended that the said original applicant no.2 namely Shri Mohammed Ibrahim s/o Mohammed Wazir died on 01.06.2021 i.e. during pendency of the Original Application St.No.519/2020 and Misc. Application No.217/2020. They are the heirs and legal representative of the original applicant no.2. They received death certificate on 25.06.2021(Exh. 'A'). The present application is made on or above 16.07.2021.

5. Considering the reliefs sought in the Original Application and in the accompanied M.A., it can be said that right to sue survive in heirs and legal representatives of the Original Applicant No.2. The delay is of about 16 days. It is not deliberate and intentional. Thereby, these heirs and legal representatives and nothing else.

6. Upon laps of 30 days from the date of death of original Applicant no.2 when heir and legal representatives were not brought on record, the proceedings deem to have been abated.

**M.A.218/2022 In M.A.217/20
In O.A.St.No.519/20**

7. In view of above, in our considered opinion, it is fit case to condone delay and set aside the abetment and bring the names of heirs and legal representatives on record in O.A.St.519/2020 and Misc. Application No.217/2020. Hence following order.

ORDER

- (a) Misc. Application No.218 of 2021 is allowed.
- (b) The Applicants are permitted to bring their names on record as heirs and legal representatives of the Original Applicant no.2 in O.A.St.No.519/2020 M.A.217/2020.
- (c) Amendment be carried out within two weeks.
- (d) No order as to costs.

MEMBER (A)

MEMBER (J)

**M.A.No.217 OF 2020 IN O.A.ST.NO.519 OF 2020
(Dipak D. Joshi & Ors.Vs. State of Maharashtra & Ors.)**

**CORAM :Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 06.08.2021

ORAL ORDER :

Heard Smt. A.N. Ansari, learned Advocate for the Applicant and Shri V.R. Bhumkar, learned Presenting Officer for the Respondents.

2. At the request of learned P.O., time is granted for filing affidavit-in-reply on behalf of the Respondents.
3. S.O. to 01.09.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.738 OF 2016
(Shri Amol D. BedseVs. State of Maharashtra & Ors.)

CORAM :Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 06.08.2021

ORAL ORDER :

Heard Shri V.G. Pingle, learned Advocate holding for Shri V.B. Wagh, learned Advocate for the Applicant, Shri M.S. Mahajan, learned Chief Presenting Officer for the Respondent Nos. 1 to 3 and Shri Suresh Pidgewar, learned Advocate holding for Shri N.L. Choudhary, learned Advocate for the Respondent No.4. None appears for Respondent No.5.

2. At the request of learned Advocate for the Applicant, S.O. to 21.09.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.575 OF 2016
(Shri Aniket N. MundheVs. State of Maharashtra & Ors.)

CORAM :Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 06.08.2021

ORAL ORDER :

Heard Shri V.G. Pingle, learned Advocate holding for Shri V.B. Wagh, learned Advocate for the Applicant, Shri N.U. Yadav, learned Presenting Officer for the Respondent Nos. 1 to 3 and Shri R.B. Ade, learned Advocate holding for Shri AmitSavale, learned Advocate for the Respondent No.4.

2. At the request of learned Advocate for the Applicant, S.O. to 21.09.2021.

MEMBER (A)

MEMBER (J)

SAS ORAL ORDERS 06.08.2021

ORIGINAL APPLICATION NO.829 OF 2018
(KiranPranavPrabhakarKolteVs. State of Maharashtra & Ors.)

**CORAM :Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 06.08.2021

ORAL ORDER :

Heard Ms. AnaghaPandit, learned Advocate holding for Shri S.B. Talekar, learned Advocate for the Applicant and Shri M.S. Mahajan, learnedChief Presenting Officer for the Respondents.

2. At the request of learned Advocate for the Applicant, S.O. to 26.08.2021.

MEMBER (A)

MEMBER (J)

SAS ORAL ORDERS 06.08.2021

ORIGINAL APPLICATION NO.483 OF 2020

(Bhagwan L. Dahale Vs. State of Maharashtra & Ors.)

CORAM :Hon'ble Shri V.D. Dongre, Member (J)

DATE : 06.08.2021

ORAL ORDER :

Heard Shri D.T. Devane, learned Advocate for the Applicant and Shri M.P. Gude, learned Presenting Officer for the Respondents.

2. At the request of learned Advocate for the Applicant, time is granted for filing affidavit-in-rejoinder.
3. S.O. to 7.09.2021. Interim relief granted earlier to continue till next date.

MEMBER (J)

SAS ORAL ORDERS 06.08.2021

ORIGINAL APPLICATION NO.111 OF 2020

(Rajendra S. BuwaVs. State of Maharashtra & Ors.)

CORAM :Hon'ble Shri V.D. Dongre, Member (J)

DATE : 06.08.2021

ORAL ORDER :

Heard Shri Anand S. Deshpande, learned Advocate for the Applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the Respondents.

2. At the request of learned P.O., time is granted for filing affidavit-in-reply on behalf of the Respondents.

3. S.O. to 06.09.2021.

MEMBER (J)

SAS ORAL ORDERS 06.08.2021

**ORIGINAL APPLICATION NO.444 OF 2020 WITH
CAVEAT NO.14 OF 2020**

(Shri Alkesh D. GetmeVs. State of Maharashtra & Ors.)

CORAM :Hon'ble Shri V.D. Dongre, Member (J)

DATE : 06.08.2021

ORAL ORDER :

Heard Shri Shasikant T. Chalikwar, learned Advocate for the Applicant, Shri B.S. Deokar, learned Presenting Officer for the Respondent Nos.1 & 2, Shri U.P. Giri, learned Advocate holding for Shri E.G. Erale, learned Advocate for the Respondent Nos.3 & 4 and Shri B.R. Kedar, learned Advocate for the Respondent No.5.

2. Record shows that pleadings are complete upto rejoinder.

3. The matter is pertaining to transfer of the Applicant. The impugned order dated 10.08.2020 is Exh. 'E', whereby the Applicant has been transferred from Ahmednagar to Bhandara.

4. In view of above, the matter is fixed for hearing at the stage of admission.

5. S.O. to 27.08.2021.

MEMBER (J)

SAS ORAL ORDERS 06.08.2021

**ORIGINAL APPLICATION NO.118 OF 2021
(Sunanda A. PagareVs. State of Maharashtra & Ors.)**

CORAM :Hon'ble Shri V.D. Dongre, Member (J)

DATE : 06.08.2021

ORAL ORDER :

Heard Ms. Preeti R. Wankhade, learned Advocate for the Applicant and Shri D.R. Patil, learned Presenting Officer for the Respondents.

2. Record shows that pleadings are complete. The Original Application challenges the transfer order dated 31.07.2020 (Annex. 'A-4'), whereby the Applicant is transferred from Aurangabad to Navi Mumbai. The Applicant is due for retirement by 31.01.2022.

3. In view of above, the matter is admitted and fixed for hearing at the stage of admission on 25.08.2021.

MEMBER (J)

SAS ORAL ORDERS 06.08.2021

ORIGINAL APPLICATION NO.391 OF 2021

(Dr. Mohan P. ShindeVs. State of Maharashtra & Ors.)

CORAM :Hon'ble Shri V.D. Dongre, Member (J)

DATE : 06.08.2021

ORAL ORDER :

Shri Jayant S. Deshmukh, learned Advocate for the Applicant is **absent**. Heard Shri V.R. Bhumkar, learned Presenting Officer for the Respondents.

2. As none present on behalf of the Applicant, S.O. to 27.08.2021.

MEMBER (J)

SAS ORAL ORDERS 06.08.2021

**ORIGINAL APPLICATION NO.606 OF 2019
(Sayanna N. AadopVs. State of Maharashtra & Ors.)**

CORAM :Hon'ble Shri V.D. Dongre, Member (J)

DATE : 06.08.2021

ORAL ORDER :

Heard Smt. A.N. Ansari , learned Advocate for the Applicant, Shri M.P. Gude, learned Presenting Officer for the Respondent No.1 and Shri A.B. Rajkar, learned Advocate for the Respondent No.4. Shri R.K. Ingole, learned Advocate for the Respondent Nos.2 & 3 (**absent**).

2. During argument it reveals that the Civil Services Board report for the general transfers of 2019, the proposal for transfer of the Applicant at PanchayatSamitiNanded is accepted by Civil Services Board.

3. Learned Advocate for the Applicant has already filed affidavit-in-rejoinder along with the said documents.

4. The Respondents have not sated anything about it in the affidavit-in-rely.

5. The Respondents to respond on this report by the next date.

6. S.O. to 23.08.2021.

MEMBER (J)

SAS ORAL ORDERS 06.08.2021

**ORIGINAL APPLICATION NO.411 OF 2021
(Bharat L. BhillareVs. State of Maharashtra & Ors.)**

CORAM :Hon'ble Shri V.D. Dongre, Member (J)

DATE : 06.08.2021

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the Applicant and Shri M.P. Gude, learned Presenting Officer for the Respondents.

2. The Original Application is filed challenging the impugned order dated 19/22-07-2021 (Annex. 'A-5') passed by the Respondent No.3 re-fixing revised pay of the Applicant and thereby holding that excess amount paid to the Applicant in view of the earlier wrong pay fixation is to be recovered. The Applicant is seeking interim relief in terms of prayer clause E as follows:-

(E) Pending hearing and final disposal of the original application, the impugned order dtd.19/22.07.2021 issued by the respondent no.3 may kindly be stayed and the respondent no.3 kindly be directed not to recover the excess payments from the pension and /or from the amount of Commutation Value of pension of the applicant.

(quoted from page no.9 of P.B.)

3. The Applicant retired from the post of Assistant Police Sub-Inspector w.e.f. 28.02.2021 vide order dated 05.02.2021 (Annex. 'A-1'). The Applicant is granted pension and pensionary benefits as per PPO dated 22.04.2021 (Annex. 'A-2').

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4. Learned Advocate for the Applicant submits that the Applicant is group 'C' employee. The recovery of excess amount is ordered vide order dated 19/22-07-2021 (Annex. 'A-5') on account of wrong pay fixation and not on account of any misrepresentation made by Applicant. In view of the same, he says that the Applicant is entitled for stay to the impugned order of recovery in view of the decision of the Hon'ble Apex Court in the matter of **State of Punjab and others etc. V/s. RafiqMasih (White Washer) etc. in Civil Appeal No.11527 of 2014** dtd.18.12.2014 In paragraph 12 of the said judgment, it has been observed by Hon'ble the Apex Court as under:

"12. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarize the following few situations, wherein recoveries by the employers, would be impermissible in law:

- (i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).*
- (ii) Recovery from retired employees, or employees who are due to retire*

within one year, of the order of recovery.

- (iii) Recovery from the employees when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.*
- (iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.*
- (v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employees, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."*

5. Learned P.O. for the Respondents on the other hand submits that after verification for pay scale of the Applicant by Pay Verification Unit pay of the applicant is revised and it is found that the Applicant was paid excess amount due to wrong pay fixation earlier. He seeks time for filing affidavit-in-reply.

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6. On perusal of impugned order dated 19/22.07.2021 (Annex. 'A-5') it does not show that any show cause notice was given to the Applicant before fixation of revised pay. Moreover, the case of the Applicant falls within the parameter of judgment of Hon'ble Apex Court in the matter of **State of Punjab and others etc. V/s. RafiqMasih (White Washer) etc. in Civil Appeal No.11527 of 2014** dtd.18.12.2014. Hence, in my opinion, it is fit case to grant interim relief as prayed by the Applicant.

7. In the result, interim relief in terms of prayer clause 'E' is granted till filing reply of the Respondents.

8. In view of above, issue notices to the respondents, returnable on 14.09.2021.

9. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

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

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

12. 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.

13. S.O. to 14.09.2021.

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

MEMBER (J)

SAS ORAL ORDERS 06.08.2021

Date :06.08.2021

ORIGINAL APPLICATION NO.375 OF 2021

(Shri Ravindra R. Kulkarni V/s The State of Maharashtra & Ors.)

Per :- Standing directions of Hon'ble Chairperson, M.A.T., Mumbai

1. Shri PrashantDeshmukh, ld. Advocate for the applicant and Shri D.R. Patil,ld.P.O.forthe respondents, are present.
2. Circulation is granted. Issue notices to the respondents, returnable on 15.09.2021. The case be listed for admission hearing on 15.09.2021.
3. Tribunal may take the case for final disposal at this stage and a separate notice for final disposal shall not be issued.
4. Applicant is authorized and directed to serve on Respondent intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
5. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 and the questions such as limitation and alternate remedy are kept open.
6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with Affidavit of compliance in the Registry as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

REGISTRAR

Date :06.08.2021

ORIGINAL APPLICATION NO.377 OF 2021

(Shri Vivekanand P. Dhongade V/s The State of Maharashtra & Ors.)

Per :- Standing directions of Hon'ble Chairperson, M.A.T., Mumbai

1. Shri PrashantDeshmukh, ld. Advocate for the applicant and Smt. Sanjivani K. Deshmukh-Ghate,ld.P.O.forthe respondents, are present.
2. Circulation is granted. Issue notices to the respondents, returnable on 15.09.2021. The case be listed for admission hearing on 15.09.2021.
3. Tribunal may take the case for final disposal at this stage and a separate notice for final disposal shall not be issued.
4. Applicant is authorized and directed to serve on Respondent intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
5. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 and the questions such as limitation and alternate remedy are kept open.
6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with Affidavit of compliance in the Registry as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

REGISTRAR

Date :06.08.2021

ORIGINAL APPLICATION NO.376 OF 2021

(Shri Hanumant S. Jadhav V/s The State of Maharashtra & Ors.)

Per :- Standing directions of Hon'ble Chairperson, M.A.T., Mumbai

1. Shri PrashantDeshmukh, ld. Advocate for the applicant and Shri N.U. Yadav,ld.P.O.forthe respondents, are present.
2. Circulation is granted. Issue notices to the respondents, returnable on 15.09.2021. The case be listed for admission hearing on 15.09.2021.
3. Tribunal may take the case for final disposal at this stage and a separate notice for final disposal shall not be issued.
4. Applicant is authorized and directed to serve on Respondent intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
5. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 and the questions such as limitation and alternate remedy are kept open.
6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with Affidavit of compliance in the Registry as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

REGISTRAR

Date :06.08.2021

ORIGINAL APPLICATION NO.402 OF 2021

(Shri Sudhakar N. Kamble V/s The State of Maharashtra & Ors.)

Per :- Standing directions of Hon'ble Chairperson, M.A.T., Mumbai

1. Shri PrashantDeshmukh, ld. Advocate for the applicant and Shri M.P. Gude,ld.P.O.forthe respondents, are present.
2. Circulation is granted. Issue notices to the respondents, returnable on 15.09.2021. The case be listed for admission hearing on 15.09.2021.
3. Tribunal may take the case for final disposal at this stage and a separate notice for final disposal shall not be issued.
4. Applicant is authorized and directed to serve on Respondent intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
5. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 and the questions such as limitation and alternate remedy are kept open.
6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with Affidavit of compliance in the Registry as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

REGISTRAR

Date :06.08.2021

ORIGINAL APPLICATION NO.403 OF 2021

(Shri Navnath D. Ghorpade V/s The State of Maharashtra & Ors.)

Per :- Standing directions of Hon'ble Chairperson, M.A.T., Mumbai

1. Shri PrashantDeshmukh, ld. Advocate for the applicant and Shri V.R. Bhumkar,ld.P.O.forthe respondents, are present.
2. Circulation is granted. Issue notices to the respondents, returnable on 15.09.2021. The case be listed for admission hearing on 15.09.2021.
3. Tribunal may take the case for final disposal at this stage and a separate notice for final disposal shall not be issued.
4. Applicant is authorized and directed to serve on Respondent intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
5. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 and the questions such as limitation and alternate remedy are kept open.
6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with Affidavit of compliance in the Registry as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

REGISTRAR

Date :06.08.2021

ORIGINAL APPLICATION NO.404 OF 2021

(Smt. Jayshree P. Hambire V/s The State of Maharashtra & Ors.)

Per :- Standing directions of Hon'ble Chairperson, M.A.T., Mumbai

1. Shri PrashantDeshmukh, ld. Advocate for the applicant and Smt. M.S. Patni,ld.P.O.forthe respondents, are present.
2. Circulation is granted. Issue notices to the respondents, returnable on 15.09.2021. The case be listed for admission hearing on 15.09.2021.
3. Tribunal may take the case for final disposal at this stage and a separate notice for final disposal shall not be issued.
4. Applicant is authorized and directed to serve on Respondent intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
5. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 and the questions such as limitation and alternate remedy are kept open.
6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with Affidavit of compliance in the Registry as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

REGISTRAR

06.08.2021/sas registrar notice

Date :06.08.2021

ORIGINAL APPLICATION NO.417 OF 2021

(Shri Ramakant D. Joshi V/s The State of Maharashtra & Ors.)

Per :- Standing directions of Hon'ble Chairperson, M.A.T., Mumbai

1. Shri PrashantDeshmukh, ld. Advocate for the applicant and Shri I.S. Thorat,ld.P.O.forthe respondents, are present.
2. Circulation is granted. Issue notices to the respondents, returnable on 15.09.2021. The case be listed for admission hearing on 15.09.2021.
3. Tribunal may take the case for final disposal at this stage and a separate notice for final disposal shall not be issued.
4. Applicant is authorized and directed to serve on Respondent intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
5. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 and the questions such as limitation and alternate remedy are kept open.
6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with Affidavit of compliance in the Registry as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

REGISTRAR

Date :6.8.2021

O.A. 409/2021

(Govind R. More V/s State of Maharashtra & Ors.)

**Per :- Standing directions of Hon'ble Chairperson,
M.A.T., Mumbai**

1. Smt. Priya R. Bharaswadkar, learned Advocate for the applicant and Shri N.U. Yadav, learned P.O. for respondents, are present.

2. Circulation is granted. Issue notice to the respondents, returnable on 7.9.2021. The case be listed for admission hearing on 7.9.2021.

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

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

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

6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with Affidavit of compliance in the Registry as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

REGISTRAR

Date : 6.8.2021

M.A. 236/2021 IN O.A. ST. 950/2021

(Suresh M. Jagtap V/s State of Maharashtra & Ors.)

Per :- Standing directions of Hon'ble Chairperson, M.A.T., Mumbai

1. Shri K.B. Jadhav, learned Advocate for the applicant and Smt. M.S. Patni, learned P.O. for respondents, are present.
2. Circulation is granted. Issue notice to the respondents in M.A., returnable on 13.9.2021. The case be listed for admission hearing on 13.9.2021.
3. Tribunal may take the case for final disposal at this stage and a separate notice for final disposal shall not be issued.
4. Applicant is authorized and directed to serve on Respondent intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
5. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 and the questions such as limitation and alternate remedy are kept open.
6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with Affidavit of compliance in the Registry as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

REGISTRAR