

ORIGINAL APPLICATION NO.573/2015.

(AK Kharat Vs. State of Mah. & Ors.)

CORAM : HON'BLE SHRI J.D. KULKARNI, MEMBER (J).

DATE : 30.08.2016.

ORAL ORDER

Heard Smt. Bhavna Panpatil, learned Advocate h/f Shri SB Talekar, learned Advocate for the applicant and Shri NU Yadav, learned Presenting Officer for the Respondents.

2. Learned Advocate for the applicant files rejoinder.

Same is taken on record. Its copy is served on the Respondents.

3. The matter is admitted and kept for final hearing.

4. S.O. to 5.10.2016.

MEMBER (J)

30.08.2016-ATP

ORIGINAL APPLICATION NO.751/2015.
(JB Mahatole Vs. State of Mah. & Ors.)

CORAM : HON'BLE SHRI J.D. KULKARNI, MEMBER (J).

DATE : 30.08.2016.

ORAL ORDER

Heard Shri A.D. Sugdare, learned Advocate for the applicant and Shri MP Gude, learned Presenting Officer for the Respondents.

2. Learned P.O. seeks time to file reply affidavit on behalf of newly added Respondent no.4. Time granted.

3. S.O. to 21.09.2016.

MEMBER (J)

30.08.2016-ATP

ORIGINAL APPLICATION NO.785/2015.

(CD Nerkar Vs. State of Mah. & Ors.)

CORAM : HON'BLE SHRI J.D. KULKARNI, MEMBER (J).

DATE : 30.08.2016.

ORAL ORDER

None present for the applicant. Heard Shri IS Thorat, learned Presenting Officer for the Respondents.

2. Reply affidavit has already been filed.
3. It seems that since the matter has been transferred to Single Bench in view of Circular No.MAT/Mumbai/JUD/356/2016,dated 28/29.01.2016 nobody is appearing for the applicant. Hence, put up for dismissal order after two weeks.
4. S.O. to 21.09.2016.

MEMBER (J)

30.08.2016-ATP

ORIGINAL APPLICATION NO.36/2016.

(LS Shinde Vs. State of Mah. & Ors.)

CORAM : HON'BLE SHRI J.D. KULKARNI, MEMBER (J).

DATE : 30.08.2016.

ORAL ORDER

Heard Shri SP Salgar, learned Advocate for the applicant, Shri VR Bhumkar, learned Presenting Officer for the Respondents no.1, & 5 to 7 and Shri Vivek Bhavthankar, learned Special Counsel for the Respondents no.2 to 4.

2. Learned Special counsel files Reply affidavit on behalf of Respondents no.3 & 4 separately. Same is taken on record. Its copy is served on the other side.

3. Learned P.O. seeks time to file reply affidavit on behalf of Respondents no.5 to 7. Time granted.

4. Learned Advocate for the applicant submits that he has received the reply on behalf of Respondents no.3 & 4 separately and that he will go through it and file rejoinder, if necessary.

5. S.O. to 28.9.2016.

MEMBER (J)

30.08.2016-ATP

ORIGINAL APPLICATION NO.154/2016

(A.T. Shinde Vs. State of Mah. & Ors.)

CORAM : HON'BLE SHRI J.D. KULKARNI, MEMBER (J).

DATE : 30.08.2016.

ORAL ORDER

Heard Shri VB Wagh, learned Advocate for the applicant and Shri NU Yadav, learned Presenting Officer for the Respondents.

2. Learned P.O. seeks time to file reply affidavit. Time granted.

3. S.O. to 3.10.2016.

MEMBER (J)

30.08.2016-ATP

ORIGINAL APPLICATION NO.184/2016
(Smt. L.D. Shirsath Vs. State of Mah. & Ors.)

CORAM : HON'BLE SHRI J.D. KULKARNI, MEMBER (J).

DATE : 30.08.2016.

ORAL ORDER

Heard Shri RP Bhumkar, learned Advocate holding for Shri KB Jadhav, learned Advocate for the applicant and Smt RS Deshmukh, learned Presenting Officer for the Respondents.

2. Learned P.O. files reply on behalf of Respondent no.2. Same is taken on record. Its copy is served on the applicant.
3. Learned Advocate for the applicant seeks time for filing rejoinder, if any.
4. S.O. to 29.9.2016.

MEMBER (J)

30.08.2016-ATP

ORIGINAL APPLICATION NO.195/2016
(Gita B. Shejwal Vs. State of Mah. & Ors.)

CORAM : HON'BLE SHRI J.D. KULKARNI, MEMBER (J).

DATE : 30.08.2016.

ORAL ORDER

Heard Shri Sonar, learned Advocate holding for Shri VB Patil, learned Advocate for the applicant and Shri SK Shirse, learned Presenting Officer for the Respondents.

2. Learned Advocate for the applicant seeks time for filing rejoinder. Time granted.

3. S.O. to 29.9.2016.

MEMBER (J)

30.08.2016-ATP

ORIGINAL APPLICATION NO.222/2016

(SK Patil Vs. State of Mah. & Ors.)

CORAM : HON'BLE SHRI J.D. KULKARNI, MEMBER (J).

DATE : 30.08.2016.

ORAL ORDER

Heard Shri SR Sapkal, learned Advocate for the applicant and Shri MP Gude, learned Presenting Officer for the Respondents.

2. Learned P.O. files reply on behalf of Respondent no.2. Same is taken on record. Its copy is served on the applicant.

3. Learned Advocate for the applicant submits that, he will go through it and seeks time to argue the matter.

4. S.O. to 23.9.2016.

MEMBER (J)

30.08.2016-ATP

ORIGINAL APPLICATION NO.346 /2016
(S.A. Meghle Vs. State of Mah. & Ors.)

CORAM : HON'BLE SHRI J.D. KULKARNI, MEMBER (J).

DATE : 30.08.2016.

ORAL ORDER

Heard Shri RP Bhumkar, learned Advocate holding for Shri KB Jadhav, learned Advocate for the applicant and Shri MS Mahajan, learned Chief Presenting Officer for the Respondents.

2. Learned C.P.O. seeks time to file reply affidavit. Time granted.

3. S.O. to 29.09.2016.

MEMBER (J)

30.08.2016-ATP

ORIGINAL APPLICATION NO.351/2016.

(NL Pote Vs. State of Mah. & Ors.)

CORAM : HON'BLE SHRI J.D. KULKARNI, MEMBER (J).

DATE : 30.08.2016.

ORAL ORDER

Heard Shri AS Shelke, learned Advocate for the applicant and Shri MP Gude, learned Presenting Officer for the Respondents.

2. Learned P.O. files reply affidavit on behalf of Respondent no.6. Same is taken on record. Its copy is served on the applicant.

3. Learned P.O. submits that, there is no need to file reply affidavit on behalf of rest of the respondents.

4. Learned Advocate for the applicant submits that identical matters are kept on 19.9.2016 so this matter also be kept on that date. Hence, S.O. to 19.9.2016.

MEMBER (J)

30.08.2016-ATP

ORIGINAL APPLICATION NO.418/2016

(MM Gatkal Vs. State of Mah. & Ors.)

CORAM : HON'BLE SHRI J.D. KULKARNI, MEMBER (J).

DATE : 30.08.2016.

ORAL ORDER

None present for the applicant. Shri MS Mahajan,
learned Chief Presenting Officer for the Respondents.

2. Learned C.P.O. files reply affidavit on behalf of
Respondent no.2. Same is taken on record.

3. S.O. to 5.10.2016.

MEMBER (J)

30.08.2016-ATP

ORIGINAL APPLICATION NO.434/2016

(Dr.Abdul Salim Vs. State of Mah. & Ors.)

CORAM : HON'BLE SHRI J.D. KULKARNI, MEMBER (J).

DATE : 30.08.2016.

ORAL ORDER

Heard Shri JB Choudhary, learned Advocate for the applicant and Smt PR Bharaswadkar, learned Presenting Officer for the Respondents.

2. Learned Advocate for the applicant submits that acknowledgment of the notices are not received and therefore, he may be permitted to re-issue notices. Hence, he is permitted to issue fresh notices to the respondents.

3. Issue notices to the respondents returnable on 6.10.2016.

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

5. Applicant is authorized and directed to serve on respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. 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. The respondents are free to file reply affidavit before due date, if they wish to do so.

9. S.O. 6.10.2016.

10. Steno Copy and Hamdust allowed to both parties.

MEMBER (J)

30.08.2016-ATP

ORIGINAL APPLICATION NO.457/2016
(GS Dighule Vs. State of Mah. & Ors.)

CORAM : HON'BLE SHRI J.D. KULKARNI, MEMBER (J).

DATE : 30.08.2016.

ORAL ORDER

None present for the applicant. Smt DS Deshpande, learned Presenting Officer for the Respondents no.1 & 2 and Shri RP Bhumkar, learned Advocate holding for Shri KB Jadhav, learned Advocate for the Respondent no.3.

2. Learned P.O. files reply affidavit on behalf of Respondent no.2. Same is taken on record.

3. S.O. to 6.10.2016.

MEMBER (J)

30.08.2016-ATP

ORIGINAL APPLICATION NO.524/2016.

(TS Pathan Vs. State of Mah. & Ors.)

CORAM : HON'BLE SHRI J.D. KULKARNI, MEMBER (J).

DATE : 30.08.2016.

ORAL ORDER

Heard Shri AD Sugdare, learned Advocate for the applicant and Shri MS Mahajan, learned Chief Presenting Officer for the Respondents.

2. Learned C.P.O. seeks time to file reply affidavit. Time granted.

3. S.O. to 3.10.2016.

MEMBER (J)

30.08.2016-ATP

ORIGINAL APPLICATION NO.537/2016

(AL Pawar Vs. State of Mah. & Ors.)

CORAM : HON'BLE SHRI J.D. KULKARNI, MEMBER (J).

DATE : 30.08.2016.

ORAL ORDER

Heard Shri BS Chondhekar, learned Advocate for the applicant and Shri MP Gude, learned Presenting Officer for the Respondents.

2. Learned P.O. files reply on behalf of Respondents no.2 & 3. Same is taken on record. Its copy is served on the applicant.

3. At the request of the learned Advocate for the applicant, S.O. to 6.10.2016.

MEMBER (J)

30.08.2016-ATP

ORIGINAL APPLICATION NO.321/2016

(PK Patil Vs. State of Mah. & Ors.)

CORAM : HON'BLE SHRI J.D. KULKARNI, MEMBER (J).

DATE : 30.08.2016.

ORAL ORDER

Heard Shri SR Rathod, learned Advocate for the applicant and Smt SK Ghate Deshmukh, learned Presenting Officer for the Respondents.

2. The applicant has applied for the post of Police Patil of village Padalse, Tq. Yawal, Dist. Jalgaon as per advertisement dated 2.11.2015 (Annexure A-1). The Respondent no.5 also applied for the said post.

3. According to the learned Advocate for the applicant, the applicant has taken objection for the appointment of Respondent no.5 on three grounds as stated in his representation (Annexure A-4). The first objection is that the Respondent no.5 does not possess any agricultural land at village Padalse. Second objection is that he is serving as a "Rozgar Sevak" under Mahatma Gandhi Rural Employment Scheme and third objection is that, he does not own and possess any house property at Padalse. According to the

learned Advocate for the applicant without considering said objections Respondent no.5 has been appointed to the post of Police Patil of Village Padalse Tq. Yawal Dist. Jalgaon. The applicant is claiming that the appointment of Respondent no.5 to the post of Police Patil of village Padalse Tq. Yawal Dist. Jalgaon be quashed and set aside and in his place the applicant be appointed.

5. The Respondent no.3 has resisted the claim and denied all the allegations made by the applicant.

6. The learned P.O. pointed out that all the three objections taken by the applicant have been considered by the Respondent no.3 before appointing the Respondent no.5. She has invited my attention to para nos.5 & 6 of the reply affidavit, which is reproduced as under :-

“5. It is true that applicant has taken objection on selection of Shri Suresh Waman Khairnar for interview stating therein that he does not have a house or cultivable land in village Padalwse. The applicant was conveyed by this office letter No.mag/e-tapal/2016/2/148/25 dt. 8.1.2016 that the verification of document of the candidate was scheduled from 11.1.2016 to 13.1.2016, there after the decision on the candidature of Shri Suresh Waman Khairnar would be taken. The copy of

said letter dated 8.1.2016 is attached herewith as annexure R-1. On 13.1.2016 Shri Suresh Waman Khairnar had produce electricity charges bill, residence certificate of village development officer, Grampanchayat Padalse, certificate of domicile, a voucher of water supply given by Grampanchayat Padalse. Character certificate issued by Superintendent of Police, Jalgaon Caste certificate. All these document clearly showing that he is resident of village Padalse Tal. Yawal. Hence, Shri Suresh Waman Khairnar was called for interview and was selected for the post of Police Patil for village Padalse Tal. Yawal Dist. Jalgaon.

6. With reference to Para No. 6 G and 6 F, I say and submit that, the Maharashtra Village Police Patils (Recruitment, Pay, Allowances and other Conditions of Service) Order 1968, Rule 3 deals with the eligibility for the post of Police Patil. The said rule does not prescribed that the applicant must have property in that village. Hence, it is not necessary to have any property for agriculture land for the applying to the post of Police Patil.”

7. From perusal of the advertisement it seems that the person to be appointed on the post of Police Patil shall have immovable property at village and he shall be resident of that village. From the reply affidavit it seems that the Respondent no.3 has verified the various documents placed before it and came to the conclusion that Respondent no.5

owns and possess house property. They have also verified the electricity bill and other documents showing ownership and possession of such property by Respondent no.5. So far as the applicant's temporary service is concerned, the respondents have specifically stated that, the applicant has resigned from the post of "Rozgar Sevak" on 4.2.2016. It was a temporary post and only after verifying the fact that he has resigned from the post, an appointment order was issued.

8. From all these circumstances it is clear that all the grievances made by the applicant against Respondent no.5 have been considered by the Respondent no.3 and only thereafter the Respondent no.5 has been appointed. I do not find any illegality in the said order. Hence the order.

ORDER.

The O.A. stands dismissed with no order as to costs.

MEMBER (J)

30.08.2016-ATP

ORIGINAL APPLICATION NO. 629/2016

(Shankar Sitaram Waghmare Vs. State of Mah. & Ors.)

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

DATE : 30.08.2016.

ORAL ORDER

Heard Shri A.D. Sugdare, learned Advocate for the applicant and Shri D.R. Patil, learned Chief Presenting Officer for the Respondents.

2. In this Original Application, the applicant is claiming promotion to the post of Group-A (Maharashtra Education Services Group-A {Administrative Department} for example Education Officer or equivalent in view of the letter dated 29.04.2016. From the said letter, it seems that four persons were found fit for promotion and were to be given posting and therefore, their willingness were called. In spite of said order and giving willingness, the applicant has not been given posting. The applicant has therefore, claimed that he be given posting on promotional post.

3. It transpires that the some departmental enquiry is pending against the applicant and the applicant is claiming posting during pendency of the said Departmental

Enquiry. From the letter dated 29.04.2016, it seems that the one Shri S.M. Khude, one Shri C.V. Deshmukh and one Shri A.N. Devkar are also in the list of promotes whose willingness were called. There is nothing on the record to show that any junior person to the applicant has been given posting. It is stated that even Shri S.M. Khude, Shri C.V. Deshmukh and Shri A.N. Devkar are also not given posting. The applicant is going to retire on superannuation on 31.08.2016.

4. From the affidavit in reply filed by the respondents, it seems that the respondents are coming with a case that the applicant was not found fit in the D.P.C. meeting because of Departmental Enquiry is pending against him. In order to go through all these matters, it is necessary to call upon the respondents to produce on record minutes of the D.P.C. meeting and therefore, it is necessary to consider the applicant's claim on merits, which cannot be decided prior to his retirement on 31.08.2016.

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O.A. No. 629/2016

5. In view thereof, since pleadings are complete, the Original Application is admitted and be kept for final hearing wherever Division Bench is available.

MEMBER (J)

30.08.2016-KPB(DB)

ORIGINAL APPLICATION NO. 649/2016
(Patbandhare Bintari Sandesh Yantrana Karmachari
Sanghatana Vs. State of Maharashtra & Ors.)

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

DATE : 30.08.2016.

ORAL ORDER

Heard Shri Avishkar S. Shelke, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the Respondents.

2. With the consent of both the sides, the matter is being disposed of.

3. On last date, the learned Presenting Officer submitted that the proposal dated 28.03.2012 and proposal of similarly situated employees are under consideration of the Government. He has also placed on record communication to that effect are marked as Exhibit-X1 and Exhibit-X2 and the learned Presenting Officer was to take instructions as to within how much time the said proposal will be decided.

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O.A. No. 649/2016

4. Today, the learned Chief Presenting Officer submits that it may take four months time to take decision on the proposal.

5. In view thereof, the Original Application stands disposed of with direction to the respondent nos. 1 and 2 to take decision on the proposals dated 28.03.2012 and 21.01.2012 and also in view of the submission made in Exhibit-X1 and Exhibit-X2, within four months from the date of this order. There shall be no order as to costs.

MEMBER (J)

30.08.2016-KPB(DB)

ORIGINAL APPLICATION NO. 325/2012

(Ratan Anandrao Surudkar Vs. State of Maharashtra & Ors.)

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

DATE : 30.08.2016.

ORAL ORDER

Heard Ms. Amruta Paranjape, learned Advocate holding for Shri P.S. Paranjape, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the Respondents.

2. Learned Presenting Officer seeks time to file affidavit in reply to the amended O.A. Time granted.

3. S.O. to 29.9.2016.

MEMBER (J)

30.08.2016-KPB(DB)

ORIGINAL APPLICATION NO. 312/2015

(Dr. Shivani d/o Vikesh Sachdeva Vs. State of Mah. & Ors.)

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

DATE : 30.08.2016.

ORAL ORDER

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

2. The learned C.P.O. seeks time to file affidavit in reply on behalf of newly added respondent no. 7. Time granted.

3. S.O. to 03.10.2016.

MEMBER (J)

30.08.2016-KPB(DB)

ORIGINAL APPLICATION NO. 108/2014
(Saha Dilip Usman & Ors. Vs. State of Mah. & Ors.)

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

DATE : 30.08.2016.

ORAL ORDER

Shri A.S. Deshmukh, learned Advocate for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the Respondents.

2. The learned Presenting Officer has filed affidavit in reply on behalf of respondent nos. 2, 4, 5 and 6. It is taken on record and copy thereof has been served upon the learned Advocate for the applicant.

3. S.O. to 03.10.2016, for filing rejoinder affidavit, if necessary.

MEMBER (J)

30.08.2016-KPB(DB)

**M.A. 53/16 with M.A.St. 67/16 in C.P. St. 68/16 in O.A. 281/1993
(Jagdish Kashinath Mahendrakar Vs. State of Mah. & Ors.)**

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

DATE : 30.08.2016.

ORAL ORDER

Heard Shri R.P. Bhumkar, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the Respondents.

2. The learned Advocate for the applicant has filed rejoinder affidavit. It is taken on record and copy thereof has been served upon the leaned P.O.

3. S.O. to 29.09.2016.

MEMBER (J)

30.08.2016-KPB(DB)

T.A. 1/1999(W.P. No. 3251/1993)
T.A. 12/1999(W.P. No. 653/1994)
T.A. 19/1999(W.P. No. 2311/1994)
T.A. 26/1999(W.P. No. 2772/1993)
T.A. 47/1999(W.P. No. 776/1993)

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

DATE : 30.08.2016.

ORAL ORDER

Shri A.S. Shelke, learned Advocate for the applicants in all these matters and S/Shri V.R. Bhumkar, S.K. Shirse, Smt. Priya R. Bharaswadkar and Smt. Deepali S. Deshmpane and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officers for the Respondent no.1 in all these matters and Shri Vivek Bhavthankar, learned Special counsel for respondent nos. 2 and 3 in all these matters.

2. S.O. to 18.10.2016.

MEMBER (J)

30.08.2016-KPB(DB)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.640/2014
(B.D.Gadekar V/s. The State of Mah. & Ors.)

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

DATE : 30-08-2016.

ORAL ORDER:-

Heard Shri V.M.Maney learned Advocate for the applicant and Smt. Deepali Deshpande learned Presenting Officer for respondents.

2. Learned Advocate for the applicant submits that he has not yet received the requisite documents and it may take one week for securing such documents. He prays for time for the same. Time granted.

3. S.O.21-09-2016.

MEMBER (J)

YUK ORAL ORDER 30-08-16

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.234/2012

(Y.D.Londhe V/s. The State of Mah. & Ors.)

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

DATE : 30-08-2016.

ORAL ORDER:-

Heard Shri Y.P.Deshmukh learned Advocate for the applicant and Shri N.U.Yadav learned Presenting Officer for respondent nos.1 and 2. Shri S.D.Dhongde learned Advocate for respondent nos.3 and 4 has filed **leave note** on record.

2. In view of leave note of learned Advocate for the respondent nos.3 and 4, who are the contesting respondents, S.O.07-09-2016.

MEMBER (J)

YUK ORAL ORDER 30-08-16

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**O.A.No.219/2014, 220/2014, 221/2014, 222/2014,
322/2014 AND 323/2014**

(H.U.Jadhav & Ors. V/s. The State of Mah. & Ors.)

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

DATE : 30-08-2016.

COMMON ORAL ORDER:-

Heard Shri P.A.Kulkarni learned Advocate for the applicant and Shri S.K.Shirse, Shri D.R.Patil, Shri I.S.Thorat, Shri V.R.Bhumkar and Smt. Resha Deshmukh (in O.A.Nos.322/14 & 323/14) learned Presenting Officers for respondents in respective O.As.

2. After hearing the matter for considerable length, learned Advocate for the applicant submits that he may be permitted to exhaust alternate remedy and prayed for withdrawal of the O.As.

3. From the relief/s claimed, it seems that the applicants are claiming regularization of their services from the initial date of appointment with all consequential benefits.

4. Learned Advocate for the applicants pointed out a letter dated 3rd January, 2011 issued by the Principal, Government Engineering College, Aurangabad whereby he has

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O.A.No.219/2014 & Ors.

recommended that 7 persons/including applicants shall be regularized since they are in service from 1995 or so. Thereafter, the applicants have also filed representation on 19-05-2012 as per Exhibit-B for regularization and even some information was sought. It is stated that out of 9 applicants, services of Shri R.T.Dawange and Shaikh Jafar Ali have been regularized but the applicants herein are not regularized.

5. Affidavits in reply have been filed on behalf of the respondents in the O.As. According to the respondents, cases of the applicants were already considered by the Tribunal in a group of O.A.No.782/2004 & Others.

6. It seems that the cases of the applicants were considered in the said O.As. In paragraph 61 and 62 of the order in the said O.As., Tribunal has observed as under (page 81-82):

“61. The G.R. referred to above is in respect of 288 workers, who fall within the ambit and scope of G.R. dtd. 8th of March, 1999 i.e. 3761, who were left out inadvertently from consideration for regularization. Out of 288,

who were to be regularized, 9 employees were inadvertently not referred to and for that purpose this G.R. was issued. In the light of the said G.R. it appears that S/shri Dawange and Jafar Ali were considered and appointed. There is no record produced before us that the applicants also fall in those numbers, who were left out. Thus, we cannot give directions to extend the benefit of the said G.R. to the applicants.

62. It is the contention of Smt. Ansari-learned Counsel for the applicants that when the respondents have forwarded the names of Shri Dawange and Sk. Jafar Ali the applicants were working along with those 2 persons but their cases were not referred for consideration of their regularization. Smt. Ansari accepts that now the names of all the 7 applicants those who are actually working have been sent to Govt. in Technical Education Department, Mumbai for granting the regularization. If this is so then, in our view, it is not necessary for us to make any observations as the Govt. is considering the cases of the applicants and we hope and trust that if they fall within the 3761/288

employees referred to in the G.Rs. dtd. 8th March, 1999 and 10-12-2001 Govt. is bound to consider their cases for regularization as it has done in the case of S/shri Dawange and Shaikh Jafar Ali. The Tribunal cannot expand the scope of G.R. dtd. 8th of March, 1999 nor can it increase the number of 3761 to any higher number. Even on the ground of similarity etc. that exclusively falls within the area or domain of the policy of the competent authority i.e. the State Govt. can take that decision and Tribunal can not substitute its view.”

7. Perusal of the above order/s passed in O.A.No.782/2004 and Others, it is evident that the applicants' appointment was on ad-hoc basis, and therefore, the Tribunal has shown inability to issue any direction as regards regularization of the applicants. Direction (G) of the said order reads as under (page 84):

“G) Ad-hoc appointees/daily wagers shall be allowed to participate in the competitive selection process by giving them the benefit of relaxation in upper age limit to the extent of service rendered by them as ad-hoc/daily wage or contractual employee.”

8. From the aforesaid direction, it seems that the cases of the applicants have already been covered in earlier O.As. (supra). In view thereof, only remedy open to the applicants was that they should have filed appeal against the said order in the O.As. or revision/review/writ petition, as the case may be, permissible as per law and the same, now, cannot be agitated in these O.As.

9. Now, since the applicants are praying for leave to withdraw the O.As. Leave to withdraw the O.As. is granted. However, it is made clear that all the legal points such as tenability, limitation, etc. will be open for scrutiny. Accordingly, O.As. are disposed of as withdrawn with no order as to costs.

MEMBER (J)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.521/2016

(B.S.Wankhede V/s. The State of Mah. & Ors.)

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

DATE : 30-08-2016.

ORAL ORDER:-

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

2. O.A. was filed praying for following reliefs:

“(B) To hold and declare the applicant is exonerated of the departmental enquiry dated 31-10-1997 (P.K.-30/96) and to issue necessary consequential directions to the respondent no.1.

(C) The respondent no.3 may kindly be directed to issue the certificate under sub rule (4) of Rule 27 of MCS (pension) Rules, 1982 and further the respondent no.4 may kindly be directed to release the pensionary benefits as per the Pension Pay order No.111501285071 of dated 29-06-2015 by the Principal Accountant General, (AE-1), Maharashtra, Mumbai.

(D) To direct the respondent no.3 to refund the amount of Rs.16,786/- (Rupees sixteen thousand seven hundred and eighty six).”

3. Learned Advocate for the applicant submits that the applicant has been exonerated from the departmental enquiry and all consequential benefits have already been granted to him. He has filed one written communication to that effect received from the applicant, which is marked as document "X" for identification. The applicant, therefore, prays for permission to withdraw the O.A. In view of the fact that all the grievances of the applicant have been satisfied, the applicant prays for leave to withdraw the O.A. Hence, following order:

ORDER

O.A. stands disposed of as withdrawn with no order as to costs.

MEMBER (J)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.595/2016

(D.R.Dhumare V/s. The State of Mah. & Ors.)

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

DATE : 30-08-2016.

ORAL ORDER:-

Shri B.R.Waramaa learned Advocate for the applicant is **absent**. Shri I.S.Thorat learned Presenting Officer for respondents is present.

2. Nobody appears for the applicant. The applicant in this O.A. has challenged recruitment process of the year 1998. Recruitment rules are not produced inspite of specific order passed on 28-07-2016.

3. Put up for passing necessary orders on 26-09-2016.

MEMBER (J)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.764/2015

(Dr. V.O.Kasat V/s. The State of Mah. & Ors.)

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

DATE : 30-08-2016.

ORAL ORDER:-

Heard Ku. Bhavana Panpatil learned Advocate holding for Shri S.B.Talekar learned Advocate for the applicant and Shri D.R.Patil learned Presenting Officer for respondents.

2. O.A. has been filed for getting appointment to the post of Associate Professor in Oral Diagnosis and Radiology, Group A in Government Dental College and Hospital, Aurangabad since the applicant was at Sr. No.1 in wait list. Respondents have already filed affidavit in reply on record.

3. Today, learned Advocate for the applicant has placed on record a copy of the appointment order dated 29-07-2016, which is marked as document "X" for identification. It is evident from said order that the applicant has been appointed on the post. Hence, nothing survives in the O.A.

4. Learned Advocate for the applicant prays for leave to withdraw the O.A. Leave granted.

5. O.A. stands disposed of as withdrawn with no order as to costs.

MEMBER (J)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.388/2016, 389/2016,
390/2016, 391/2016 and 392/2016**

(B.K.Rahane & Ors. V/s. The State of Mah. & Ors.)

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

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

DATE : 30-08-2016.

ORAL ORDER:-

Heard Shri V.B.Wagh learned Advocate for the applicants in all the matters, Shri M.S.Mahajan learned Chief Presenting Officer (O.A.No.388/16 & 392/16), Shri V.R.Bhumkar, Shri S.K.Shirse & Shri D.R.Patil learned Presenting Officer for respondent authorities and Shri Sudhir Patil learned Advocate for private respondent no.4 in O.A.No.388/2016 and 390/2016.

2. Learned Advocate for the applicants submits that similar matters are already fixed on 1st September, 2016. Learned C.P.O. states he will take instruction from the respondent authorities as to what action is taken in view of earlier direction/s issued by the Tribunal.

3. Shri Sudhir Patil learned Advocate for respondent no.4 in O.A.No.388/2016 and 390/2016 submits that Hon'ble

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O.A.No. 388/16 & Ors.

High Court has passed status quo order in the matter and he will file copy of the same on record on next date.

4. In view of above, these O.As. be kept on 01-09-2016.

5. In the meanwhile, learned CPO is directed to call concerned officer, namely, Shri Mohan Ramrao Wagh, District Superintendent Agriculture Officer, Nasik to appear before the Tribunal on 01-09-2016.

6. Steno copy be provided to the learned CPO on his request.

7. S.O.01-09-2016.

MEMBER (J)

YUK ORAL ORDER 30-08-16