

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

**ORIGINAL APPLICATION NO.325/2018
(Shamrao Budhawant V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : JUSTICE A.H.JOSHI, CHAIRMAN

DATE : 28.05.2018

ORAL ORDER :

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

2. Issue notices to the respondents, returnable on 30-07-2018.

3. Tribunal may take the case 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 the 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 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. In case notice is not collected within 7 days or service report on affidavit is not filed 3 days before returnable date, O.A. shall stand dismissed without reference to Tribunal and papers be consigned to record.

8. S.O.to 30-07-2018.

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

CHAIRMAN

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

**ORIGINAL APPLICATION NO.298/2018
(Mohan Damodhar Badgujar V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : JUSTICE A.H.JOSHI, CHAIRMAN

DATE : 28.05.2018

ORAL ORDER :

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

2. Learned Advocate for the applicant has moved the application for withdrawal of the O.A. on written instructions from the applicant. Copy of which is taken on record and marked as document "X" for identification.

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 Accordingly, O.A. stands disposed of as withdrawn with no order as to costs.

CHAIRMAN

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

ORIGINAL APPLICATION NO. 324/2018
(Shri Shivaji D. Kamble V/s. State of Maharashtra & Ors.)

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : JUSTICE A.H. JOSHI, CHAIRMAN.

DATE : 28.05.2018.

ORAL ORDER :

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

2. Issue notices to the respondents, returnable on 13.07.2018.
3. Tribunal may take the case 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 the 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 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. In case notice is not collected within 7 days or service report on affidavit is not filed 3 days before returnable date, O.A. shall stand dismissed without reference to Tribunal and papers be consigned to record.

8. Learned Advocate for the applicant has argued on the point of interim relief.

9. The points on which the interim relief is pressed are as follows:-

(a) The applicant has joined on the present post pursuant to the order dated 15.02.2014.

(b) Statutory tenure of the applicant as provided by Section 22N (1)(d) of the Maharashtra Police Act is of six years.

(c) The impugned order contains recital in the opening para to the effect that the transfers are ordered considering the request of the officers. The relevant clause reads as follows:-

“egkj”V^a i syhl dk; nk dye 22 u ¼2½ vlló; s i klr
 vf/kdkj kpk oki j d: u i syhl vLFki uk eMG dz 2 ; kuh
 fo’ksk ckc Eg.ku fu%kL= i syhl fufj-{kd ; kuh dsyY; k
 fourhp k l kksi kx fopkj d: u [kkyhi ek.ks i nLFki ukpk
 fu.kz ?kryk vkgS”

(d) The recital (quoted in foregoing para) reveals that the transfers are made pursuant to the decision taken by the Police Establishment Board No. 2, as a special case.

(e) The circumstances which entitle the recourse to the enabling clause prescribed in Section 22N (2) requires that a mid-term or mid-tenure transfer is possible in exceptional cases, in public interest, and on account of administrative exigencies.

(f) The impugned order does not disclose existence of any reason as contemplated by Section 22N (2).

10. Learned Chief Presenting Officer was called upon to secure instructions and copies of documents on following points:-

(i) Request for transfer, if any, made by the applicant.

(ii) The note in which the reasons referred to in sub Section 2 of Section 22N if recorded, could be found.

11. Time was granted to learned CPO for taking instructions.

12. Learned Chief Presenting Officer appeared on 01.30 p.m. and made submissions as follows:-

(a) He has contacted the Law Officer of the office of Director General of Police and also Shri Rajkumar Vhatkar, the Addl. DGP.

(b) He has received instructions to pray for time of one week to produce the documents.

13. In fact, the points on which the C.P.O. was asked to secure instructions is a matter of documentary evidence and those ought to be readily available, in the background that the order is passed on 25.05.2018 while today is on 28.05.2018 and longer time for production of copy on fax, email etc. is not justified.

14. In the aforesaid premises, it prima-facie reveals that though the impugned order is mid-tenure, the same is not supported by the reasons contemplated by Section 22N (2) of the Maharashtra Police Act, and reasons if any, are not disclosed in the impugned order or even are not disclosed orally and/or by production of documents in support thereof.

15. This Tribunal sees no reason as to why the documents which are called by this Tribunal could

not be supplied on fax, email etc. to the learned C.P.O.

16. Hence, the applicant has made out a case for grant of ex-parte ad interim relief by way of stay as prayed for.

17. Hence, the interim relief is granted in terms of prayer clause (C) of paragraph No. 15 to the extent of applicant with a notice to show cause as to why the interim relief should not be made final till disposal of the O.A.

18. Reply be filed on or before 13-07-2018.

19. S.O. 13-07-2018.

20. Steno copy and hamdust is allowed to both the sides.

CHAIRMAN

KPB ORAL ORDER 28-05-2018