

**O.A. No. 995/2022 (D.B.)**

**(Dr. S.O. Agrawal Vs. State of Mah. & Ors. )**

**Coram: Hon'ble Shri Shree Bhagwan,  
Vice-Chairman and Hon'ble Shri Justice M.G. Giratkar,  
Vice-Chairman.**

**Dated : 21/10/2022.**

**ORDER**

Heard Shri N.D. Thombre, learned counsel for applicant and Shri S.A. Deo, Id. C.P.O. for respondents.

2. The applicant was appointed as an Assistant Professor in the department of Ophthalmology on ad-hoc basis as per the order dated 16/03/2016. Thereafter, the applicant was regularly posted by MPSC on the said post. On 7/2/2019, the applicant was promoted on the post of Associate Professor in the department of Ophthalmology on ad-hoc basis. Since 2019 he was continued on the post of Associate Professor. Last appointment order was upto 25/7/2022. The applicant applied for continuation on the said post. The respondent no.3, the Dean, IGGMC, Nagpur recommended to the Commissioner, Medical Education (M.S.), Mumbai as per letter dated 18/06/2022 for continuation of the applicant on the said post. The HOD of the said department highly recommended for the continuation of the applicant on the said post. Till date the respondent no.1 has not taken any decision. The respondent no.2 issued Circular dated 27/09/2022 by which the Dean concerned to the Medical Colleges were directed to submit list of Ad-hoc Associate Professor and it was decided by the respondent no.2 that the ad-hoc post will be filled as per seniority.

3. The learned counsel for applicant pointed out the order of M.A.T., Bench at Aurangabad dated 14/06/2022 in O.A. 479/2022. He has also relied on the Judgment of Hon'ble Bombay High Court, Bench at Aurangabad in W.P. No.9877/2010.

4. The learned counsel for applicant submits that as per the Circular dated 27/09/2022 the respondent no.2 has decided to replace the applicant by another ad-hoc promotees those who will be senior to him. As per the submission, ad-hoc employee cannot be replaced by another ad-hoc employee.

5. Heard learned CPO for respondent Shri S.A. Deo. He has strongly objected to grant interim relief. As per his submission, as per the seniority, the post will be filled and there will be no injustice to the applicant.

6. The order of M.A.T., Bench at Aurangabad relying on the Judgment of Hon'ble Bombay High Court in W.P. No. 9877/2010 shows that similarly situated Associated Professor was granted the same relief. The Hon'ble Bombay High Court has held in the case of **Dr. Manisha G. Choudhary Vs. State of Maharashtra & Ors.**, in para-3 as under–

*“ (3) By now, it is a settled position of law that an ad-hoc employee cannot be replaced by another ad-hoc employee and in case ad-hoc arrangement is required to be continued, same ad-hoc employee should be continued till regularly selected candidate is available.”*

7. The Circular dated 27/09/2022 shows that the applicant / other ad-hoc Associate Professor will be replaced by senior ad-hoc Associate Professor as per their seniority. The Circular clearly shows that as per the seniority another ad-hoc Senior Associate Professor will be replaced in place of the applicant, if he is junior. The HOD of the Ophthalmology department of the IGGMC, Nagpur highly recommended for continuation of the applicant. The Dean also recommended for continuation. Hence, the following order –

#### **ORDER**

(i) Interim relief is granted.

(ii) Respondents are directed in case the respondents are intending to appoint any other person on the post of Associate Professor (Ophthalmology) on ad-hoc basis, then the present applicant be continued on the said post till regularly selected candidate becomes available, until further orders. This situation shall continue until further orders.

(iii) **S.O. after four weeks for filing reply.**

Steno copy is granted...

Put up along with similar matter.

**(Justice M.G. Giratkar)**  
**Vice-Chairman**

**(Shree Bhagwan)**  
**Vice- Chairman**

dnk.

**O.A. No. 987/2022 (D.B.)**

**(Dr. U.S. Joge & Ors. Vs. State of Mah. & Ors. )**

**Coram: Hon'ble Shri Shree Bhagwan,  
Vice-Chairman and Hon'ble Shri Justice M.G. Giratkar,  
Vice-Chairman.**

**Dated : 21/10/2022.**

**C.A. No. 421/2022 -**

Heard Shri S.A. Marathe, learned counsel for applicant and Shri S.A. Deo, Id. C.P.O. for respondents.

2. As per submission of learned counsel for applicants, this application is wrongly filed. He has submitted that instead of adding Dr.Trishul O. Padole as the applicant, he made application for Intervener. The learned counsel for applicants orally submits that he be permitted to add Dr.Trishul O. Padole as an applicant no.5 in this matter.

3. In view of above submission made by learned counsel for applicant, he is permitted as prayed. The C.A. is allowed and disposed of.

**O.A. No. 987/2022 -**

Heard Shri S.A. Marathe, learned counsel for applicants and Shri S.A. Deo, Id. C.P.O. for respondents.

2. The applicants were appointed on the posts of Assistant Professor in the departments of Community Medicine, Pharmacology, Surgery, Anatomy, and Forensic Science respectively on ad-hoc basis. Thereafter, the applicants were regularly posted by MPSC on the said post. By orders dated 26/09/2017 (P-48) and 19/05/2020 (P-52) and 27/8/2015 (P-54), the applicants were promoted on the post of Associate Professor in the concerned department on ad-hoc basis. Since then they were continued on the post of Associate Professor. Last appointment order was upto 21/03/2022. The applicants applied for continuation on the said post. The respondent no.4, the Dean, VNGMC, Yavatmal recommended to the Commissioner, Medical Education (M.S.), Mumbai as per letter dated 29/03/2022 (P-65) for continuation of the applicants on the said post. Till date the respondent no.1 has not taken any decision. The respondent no.3 issued Circular dated

27/09/2022 by which the Dean concerned to the Medical Colleges were directed to submit list of Ad-hoc Associate Professor and it was decided by the respondent no.3 that the ad-hoc post will be filled as per seniority.

3. The learned counsel for applicants pointed out the order of M.A.T., Bench at Aurangabad dated 14/06/2022 in O.A. 479/2022. He has also relied on the Judgment of Hon'ble Bombay High Court, Bench at Aurangabad in W.P. No.9877/2010.

4. The learned counsel for applicants submits that as per the Circular dated 27/09/2022 the respondent no.2 has decided to replace the applicants by another ad-hoc promotees those who will be senior to them. As per the submission, ad-hoc employee cannot be replaced by another ad-hoc employee.

5. Heard learned CPO for respondent Shri S.A. Deo. He has strongly objected to grant interim relief. As per his submission, as per the seniority, the post will be filled and there will be no injustice to the applicants.

6. The order of M.A.T., Bench at Aurangabad relying on the Judgment of Hon'ble Bombay High Court in W.P. No. 9877/2010 shows that similarly situated Associated Professor was granted the same relief. The Hon'ble Bombay High Court has held in the case of **Dr. Manisha G. Choudhary Vs. State of Maharashtra & Ors.**, in para-3 as under–

*“ (3) By now, it is a settled position of law that an ad-hoc employee cannot be replaced by another ad-hoc employee and in case ad-hoc arrangement is required to be continued, same ad-hoc employee should be continued till regularly selected candidate is available.”*

7. The Circular dated 27/09/2022 shows that the applicants / other ad-hoc Associate Professor will be replaced by senior ad-hoc Associate Professor as per their seniority. The Circular clearly shows that as per the seniority another ad-hoc Senior Associate Professor will be replaced in place of the applicants, if they are juniors. The Dean, VNGMC, Yavatmal highly recommended for continuation of the applicants. Hence, the following order –

#### **ORDER**

(i) Interim relief is granted.

(ii) Respondents are directed in case the respondents are intending to appoint any other person on the post of Associate Professor in respective departments on ad-hoc basis, then

the present applicants be continued on the said post till regularly selected candidate becomes available, until further orders. This situation shall continue until further orders.

(iii) **S.O. after four weeks for filing reply.**

Steno copy is granted...

Put up along with similar matter.

**(Justice M.G. Giratkar)**  
**Vice-Chairman**

**(Shree Bhagwan)**  
**Vice- Chairman**

dnk.

**O.A. No. 1059/2021 (D.B.)**

**Coram: Hon'ble Shri Shree Bhagwan,  
Vice-Chairman and  
Hon'ble Shri Justice M.G. Giratkar,  
Vice-Chairman.**

**Dated : 21/10/2022.**

**C.A. 368/2022 in O.A. 1059/2021 -**

Heard Shri V.B. Gawali, Id. counsel for applicant, Shri A.M. Khadatkhar, Id. P.O. for respondents and Shri G.G. Bade, Id. counsel for Intervener.

2. As per the submission of Shri G.G. Bade, the applicant / intervener is in select waiting list at Sr.No.1, but she is not appointed. Hence, she is necessary party and therefore prayed to allow the civil application.

3. The application is objected by the learned P.O. Shri A.M. Khadatkhar and Shri V.B. Gawali, Id. counsel for applicant.

4. Looking to the ground, the C.A. is allowed. Intervener be joined as respondent no.3. After amendment, the newly added respondent no.3 is directed to file reply on the next date without fail.

**S.O. 11/11/2022.**

Put up along with connected matter.

**(Justice M.G. Giratkar)  
Vice-Chairman**

**(Shree Bhagwan)  
Vice- Chairman**

dnk.

O.A. No. 1060/2021 (D.B.)

**Coram: Hon'ble Shri Shree Bhagwan,  
Vice-Chairman and  
Hon'ble Shri Justice M.G. Giratkar,  
Vice-Chairman.**

**Dated : 21/10/2022.**

Heard Shri V.B. Gawali, Id. counsel for  
applicant and Shri A.M. Khadatkar, Id. P.O. for  
respondents

**S.O. 11/11/2022.**

Put up along with connected matter.

**(Justice M.G. Giratkar)  
Vice-Chairman**

**(Shree Bhagwan)  
Vice- Chairman**

dnk.

O.A. No. 322/2022 (D.B.)

**Coram: Hon'ble Shri Shree Bhagwan,  
Vice-Chairman and  
Hon'ble Shri Justice M.G. Giratkar,  
Vice-Chairman.**

**Dated : 21/10/2022.**

Heard Shri D.R. Irale Patil, learned counsel for applicants and Shri V.A. Kulkarni, Id. P.O. for respondents.

At the request of Id. P.O., **S.O. 17/11/2022** for filing reply as a last chance.

Put up along with similar matters.

**(Justice M.G. Giratkar)  
Vice-Chairman**

**(Shree Bhagwan)  
Vice- Chairman**

dnk.



O.A. No. 915/2022 (D.B.)

**Coram:** Hon'ble Shri Shree Bhagwan,  
Vice-Chairman and  
Hon'ble Shri Justice M.G. Giratkar,  
Vice-Chairman.

**Dated :** 21/10/2022.

Heard Shri K.S. Motwani, learned  
counsel for applicant and Shri V.A. Kulkarni, Id.  
P.O. for R-1.

Await service of R-1&2.

**S.O. after four weeks** for filing service  
affidavit.

(Justice M.G. Giratkar)  
Vice-Chairman

(Shree Bhagwan)  
Vice- Chairman

dnk.

O.A. No. 924/2022 (D.B.)

**Coram: Hon'ble Shri Shree Bhagwan,  
Vice-Chairman and  
Hon'ble Shri Justice M.G. Giratkar,  
Vice-Chairman.**

**Dated : 21/10/2022.**

Heard Shri Y.B. Mandpe, learned  
counsel for applicant and Shri V.A. Kulkarni, Id.  
P.O. for State.

Hamdast not collected.

**S.O. After four weeks.**

(Justice M.G. Giratkar)  
Vice-Chairman

(Shree Bhagwan)  
Vice- Chairman

dnk.

O.A. No. 947/2022 (D.B.)

**Coram:** Hon'ble Shri Shree Bhagwan,  
Vice-Chairman and  
Hon'ble Shri Justice M.G. Giratkar,  
Vice-Chairman.

**Dated :** 21/10/2022.

None for applicant. Heard Shri V.A.  
Kulkarni, Id. P.O. for R-1.

Await service of R-2&3.

**S.O. After four weeks.**

(Justice M.G. Giratkar)  
Vice-Chairman

(Shree Bhagwan)  
Vice- Chairman

dnk.

O.A. No. 949/2022 (D.B.)

**Coram:** Hon'ble Shri Shree Bhagwan,  
Vice-Chairman and  
Hon'ble Shri Justice M.G. Giratkar,  
Vice-Chairman.

**Dated :** 21/10/2022.

Heard Shri R. P. Ladekar, Id. counsel holding for Shri S.P. Palshikar, learned counsel for applicant and Shri A.M. Khadatkar, Id. P.O. for respondents.

At the request of Id. P.O., **S.O. three weeks** for filing reply.

(Justice M.G. Giratkar)  
Vice-Chairman

(Shree Bhagwan)  
Vice- Chairman

dnk.

O.A. No. 1051/2022 (D.B.)

**Coram:** Hon'ble Shri Shree Bhagwan,  
Vice-Chairman and  
Hon'ble Shri Justice M.G. Giratkar,  
Vice-Chairman.

**Dated :** 21/10/2022.

Heard Shri Gode, learned counsel for  
applicant and Shri S.A. Deo, Id. C.P.O. for R-1.

**S.O. 17/11/2022.**

(Justice M.G. Giratkar)  
**Vice-Chairman**

(Shree Bhagwan)  
**Vice- Chairman**

dnk.

**C.P. 58/2022 in O.A. No. 321/2022 (D.B.)**

**Coram: Hon'ble Shri Shree Bhagwan,  
Vice-Chairman and  
Hon'ble Shri Justice M.G. Giratkar,  
Vice-Chairman.**

**Dated : 21/10/2022.**

Heard Shri D.R. Irale Patil, Id. counsel for applicants, Shri V.A. Kulkarni, Id. P.O. for R-1 to 4 and 7 and Shri G.K. Bhusari, Id. counsel for R-5&6.

**S.O. 17/11/2022** along with similar matters.

**(Justice M.G. Giratkar)  
Vice-Chairman**

**(Shree Bhagwan)  
Vice- Chairman**

dnk.

**O.A. No. 996/2022 (D.B.)**

(S.G. Aloni Vs. State of Mah. & Ors. )

**Coram: Hon'ble Shri Shree Bhagwan,  
Vice-Chairman and  
Hon'ble Shri Justice M.G. Giratkar,  
Vice-Chairman.**

**Dated : 21/10/2022.**

Heard Shri N.B. Jawade, Id. counsel for applicant and Shri S.A. Deo, Id. C.P.O. for State.

2. Issue notice to the respondents returnable **17/11/2022**. Learned C.P.O. waives notice for State. Hamdast allowed.

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 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 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 within one week. Applicant is directed to file Affidavit of compliance and notice.

7. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

**S.O. 17/11/2022.**

(Justice M.G. Giratkar)  
**Vice-Chairman**

(Shree Bhagwan)  
**Vice- Chairman**

dnk.



**O.A. No. 1048/2022 (D.B.)**

(Dr. A.R. Wahame Vs. State of Mah. & Ors. )

**Coram: Hon'ble Shri Shree Bhagwan,  
Vice-Chairman and  
Hon'ble Shri Justice M.G. Giratkar,  
Vice-Chairman.**

**Dated : 21/10/2022.**

Heard Shri K.Y. Mandape, Id. counsel for applicant and Shri S.A. Deo, Id. C.P.O. for State.

2. Issue notice to the respondents returnable **18/11/2022**. Learned C.P.O. waives notice for State. Hamdast allowed.

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 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 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 within one week. Applicant is directed to file Affidavit of compliance and notice.

7. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

8. **S.O. 18/11/2022.**

(Justice M.G. Giratkar)  
**Vice-Chairman**

(Shree Bhagwan)  
**Vice- Chairman**

dnk.

**O.A. No. 1064/2022 (D.B.)**

(Mrs. K.S. Kukreja Vs. State of Mah. & Ors. )

**Coram: Hon'ble Shri Shree Bhagwan,  
Vice-Chairman and  
Hon'ble Shri Justice M.G. Giratkar,  
Vice-Chairman.**

**Dated : 21/10/2022.**

Heard Shri N.D. Thombre, Id. counsel for applicant and Shri S.A. Deo, Id. C.P.O. for State.

2. Issue notice to the respondents returnable **18/11/2022**. Learned C.P.O. waives notice for State. Hamdast allowed.

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 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 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 within one week. Applicant is directed to file Affidavit of compliance and notice.

7. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

8. **S.O. 18/11/2022.**

(Justice M.G. Giratkar)  
**Vice-Chairman**

(Shree Bhagwan)  
**Vice- Chairman**

dnk.

**C.P. 68/2022 in O.A. No. 767/2017 (D.B.)**

(R.F. Madavi Vs. State of Mah. & Ors.)

**Coram: Hon'ble Shri Shree Bhagwan,  
Vice-Chairman and  
Hon'ble Shri Justice M.G. Giratkar,  
Vice-Chairman.**

**Dated : 21/10/2022.**

Heard Shri P.S. Wathore, learned counsel for applicant and Shri S.A. Deo, Id. C.P.O. for State.

2. Issue Notice to the respondents returnable after **four weeks** under Rule 8 of the MAT (Contempt of Courts) Rules, 1996 as to why they should not be proceeded for committing contempt of this Tribunal's order and as to why they shall not be punished under the Contempt of Court Act.

3. The learned C.P.O. waives notice for State. Hamdast granted.

4. S.O. after **four weeks**.

(Justice M.G. Giratkar)  
**Vice-Chairman**

(Shree Bhagwan)  
**Vice- Chairman**

dnk.

O.A. No. 537/2021 (D.B.)

**Coram: Hon'ble Shri Shree Bhagwan,  
Vice-Chairman and  
Hon'ble Shri Justice M.G. Giratkar,  
Vice-Chairman.**

**Dated : 21/10/2022.**

Heard Shri Shri Motlog, Id. counsel holding for Shri R.V. Shiralkar, learned counsel for applicant and Shri V.A. Kulkarni, Id. P.O. for respondents.

At the request of Id. counsel for applicant, **S.O. 25/11/2022.**

**(Justice M.G. Giratkar)  
Vice-Chairman**

**(Shree Bhagwan)  
Vice- Chairman**

dnk.

O.A. No. 1135/2021 (D.B.)

**Coram: Hon'ble Shri Shree Bhagwan,  
Vice-Chairman and  
Hon'ble Shri Justice M.G. Giratkar,  
Vice-Chairman.**

**Dated : 21/10/2022.**

Heard Shri Y.Y. Humne, learned  
counsel for applicant and Shri V.A. Kulkarni, Id.  
P.O. for respondents.

At the request of Id. P.O., **S.O.**  
**10/11/2022.**

(Justice M.G. Giratkar)  
**Vice-Chairman**

(Shree Bhagwan)  
**Vice- Chairman**

dnk.

O.A. No. 321/2022 (D.B.)

**Coram:** Hon'ble Shri Shree Bhagwan,  
Vice-Chairman and  
Hon'ble Shri Justice M.G. Giratkar,  
Vice-Chairman.

**Dated :** 21/10/2022.

Heard Shri D.R. I. Patil, learned counsel for applicants, Shri V.A. Kulkarni, Id. P.O. for R-1 to 4 and 7 and Shri G.K. Bhusari, Id. counsel for respondent nos.5 and 6.

**S.O. 17/11/2022** along with similar matters.

Till then, interim relief to continue.

(Justice M.G. Giratkar)  
**Vice-Chairman**

(Shree Bhagwan)  
**Vice- Chairman**

dnk.



O.A. No. 735/2022 (D.B.)

**Coram: Hon'ble Shri Shree Bhagwan,  
Vice-Chairman and  
Hon'ble Shri Justice M.G. Giratkar,  
Vice-Chairman.**

**Dated : 21/10/2022.**

Heard Shri Motlog, Id. counsel holding for Shri S.P. Palshikar, learned counsel for applicant and Shri V.A. Kulkarni, Id. P.O. for respondents.

At the request of Id. counsel for applicant, **S.O. 18/11/2022.**

**(Justice M.G. Giratkar)  
Vice-Chairman**

**(Shree Bhagwan)  
Vice- Chairman**

dnk.

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**O.A.No.352/2021 (D.B.)**

**Coram : Hon'ble Shri Shree Bhagwan, Vice  
Chairman &  
Hon'ble Shri M.A.Lovekar, Member (J)  
Dated : 21/10/2022.**

Heard Shri S.N.Gaikwad, ld. counsel for the applicant and Shri A.M.Khadatkar, ld. P.O. for the Respondents.

2. The learned counsel states that on 09.11.2022 he will file bullet points of his submission.

3. Today respondent no.2 has filed additional affidavit in reply.

4. **P.H.**

5. **S.O. 09.11.2022.**

**Member(J)**

**Vice Chairman**

**Date:-21/10/2022.**

rsm.

**Rev.A.No.01/2020 in O.A.No.147/2017  
(S.B.)**

**Coram : Hon'ble Shri Shree Bhagwan, Vice  
Chairman**

**Dated : 21/10/2022.**

Heard Shri A.Motlag, holding for Shri R.V.Shiralkar, ld. counsel for the applicant and Shri A.M.Khadatkar, the ld. P.O. for the Respondents.

2. The learned counsel for the applicant states that the respondents are served and he will file service affidavit.

3. On the request of learned P.O. **S.O. after vacation.**

**Vice Chairman**

**Date:-21/10/2022.  
rsm.**

**O.A.No.941/2021 (S.B.)**

**Coram: Hon'ble Shri M.A.Lovekar,**  
**Member (J)**

**Dated : 21/10/2022.**

None for the applicant. Shri V.A.Kulkarni,  
ld. P.O. for the respondents.

2. On oral request of the learned P.O., **S.O.**  
**after Diwali Vacation** for filing reply.

**Date :- 21/10/2022**  
**APS**

**Member (J).**

**O.A.No.704/2022 (S.B.)**

**Coram: Hon'ble Shri M.A.Lovekar,**  
**Member (J)**  
**Dated : 21/10/2022.**

Heard Shri A.Srivastava holding for Shri A.A.Mardikar, ld. counsel for the applicant and Shri S.A.Sainis, ld. P.O. for the respondents.

2. On oral request of the learned P.O., **S.O. after vacation** for filing reply.

**Date :- 21/10/2022**  
**APS**

**Member (J).**

**O.A.No.879/2022 (S.B.)**

**Coram: Hon'ble Shri M.A.Lovekar,**  
**Member (J)**  
**Dated : 21/10/2022.**

None for the applicant. Shri V.A.Kulkarni,  
ld. P.O. for the respondents.

2. On oral request of the learned P.O., **S.O.**  
**after vacation** for filing reply.

**Date :- 21/10/2022**  
**APS**

**Member (J).**

**O.A.Nos.1023,1024&1049/2022 (S.B.)**

**Dr.U.Narlwar & Ors. Vs. State of Ors.**

**Coram: Hon'ble Shri M.A.Lovekar, Member (J)**

**Dated : 21/10/2022.**

Heard Shri R.Joshi, ld. counsel for the applicants and Shri A.M.Ghogre, ld. P.O. for the respondents.

2. By the impugned communications the respondents seek to withdraw benefit of three non compounded advance increments granted to the applicants as per Clause 8 (iii) of G.R. dated 10.11.2009 by relying on para no. 8 (xix) of the said G.R..

Clause 8 (iii) reads as under:-

*"Incentives for MD/MS/DNB/DM/MCh/Ph.D & Other Higher:  
Qualification:*

*(iii) Teachers who are in service possessing MD/MS/DNB/Ph.D degree recognized by the Medical Council of India/Dental Council of India/ Central Council of India Medicine System shall be entitled to 3 non compounded increments. Teachers who are in service possessing DM/MCh degree recognised by the Medical Council of India/Dental Council of India/ Central Council of India Medicine System shall be entitled to 5 non compounded increments. Provided such degree is in the relevant discipline and has been awarded by a*

*University complying with the process prescribed by the UGC for enrolment, course work and evaluation, etc in its regulation.”*

Clause 8 (xix) of the G.R. reads as under :-

*“(xix) Notwithstanding anything in the foregoing clauses, those who have already availed the benefits of advance increments for possessing Ph.D./M.Phil at the entry level under the earlier scheme shall not be entitled to the benefit of advance increments under this scheme.”*

3. It is not in dispute that because of their higher educational qualification higher start of Rs. 2,500/- was given to the applicants as per 4<sup>th</sup> Pay Commission. Thereafter, by resorting to aforequoted Clause 8 (iii) of G.R. dated 10.11.2009, three advance increments were given to them. This benefit is sought to be withdrawn by the impugned communications.

4. A query was made to the Id. P.O. whether benefit of three advance increments has been extended to the applicants once or twice. Granting such benefit twice is not permissible under the G.R. dated 10.11.2009. The applicants maintain that they have received this benefit only once. On the other hand it is the contention of the respondents that such benefit has been extended to the applicants not once but twice.

5. It is submitted on behalf of the applicants that the prohibition stipulated in Clause 8 (xix) will not be attracted in the instant case since it



applies to higher education in the form of Ph.D./M.Phil at the entry level only.

6. On behalf of the applicants reliance is placed on orders dated 07.12.2018 and 05.11.2020 passed by this Tribunal in O.A. Nos. 950/2018 & 745/2020, respectively in support of their prayer for grant of interim relief. The interim relief which the applicants are seeking is to stay the effect and implementation of the impugned communications proposing recovery.

7. As mentioned above it is the contention of the respondents that three advance increments have been given to the applicants twice and hence proposed recovery by the impugned communications should go ahead.

8. The respondents have also relied on the Judgment dated 22.03.2021 passed in O.A. No. 1172/2019 by the Principal Bench of this Tribunal. It is submitted that by this Judgment recovery on account of erroneous extension of non compoundable increments was held to be proper. While distinguishing this Judgment dated 22.03.2021 it is submitted by the Id. Counsel for the applicants, that in the said O.A. there was no contention that the applicant was entitled to get the benefits flowing from the impugned extension of advance increments.

9. Having considered rival submissions I have come to the conclusion that effect and implementation of the impugned communications/orders of proposed recovery is required to be stayed but only till the returnable date

so that the respondents will get an opportunity of filing reply and the matter can be heard at length and decided on merits.

10. The proposed recovery under the impugned communications is stayed but only till the returnable date i.e. 15.11.2022.

11. **S.O. 15.11.2022.**

12. **Put up this matter along with O.A. No. 1025/2022.**

**Date :- 21/10/2022**

**(J).**

**APS**

**Member**

**O.A.No.1025/2022 (S.B.)**

**Dr.S.M.Lanjewar Vs. State of Mah. & 2 Ors.**

**Coram: Hon'ble Shri M.A.Lovekar, Member (J)**

**Dated : 21/10/2022.**

Heard Shri S.S.Ghate, Id. counsel for the applicant and Shri A.M.Ghogre, Id. P.O. for the State.

2. By the impugned communications the respondents seek to withdraw benefit of three non compounded advance increments granted to the applicant as per Clause 8 (iii) of G.R. dated 10.11.2009 by relying on para no. 8 (xix) of the said G.R..

Clause 8 (iii) reads as under:-

*"Incentives for MD/MS/DNB/DM/MCh/Ph.D & Other Higher:  
Qualification:*

*(iii) Teachers who are in service possessing MD/MS/DNB/Ph.D degree recognized by the Medical Council of India/Dental Council of India/ Central Council of India Medicine System shall be entitled to 3 non compounded increments. Teachers who are in service possessing DM/MCh degree recognised by the Medical Council of India/Dental Council of India/ Central Council of India Medicine System shall be entitled to 5 non compounded increments. Provided such degree is in the relevant discipline and has been awarded by a*

*University complying with the process prescribed by the UGC for enrolment, course work and evaluation, etc in its regulation.”*

Clause 8 (xix) of the G.R. reads as under :-

*“(xix) Notwithstanding anything in the foregoing clauses, those who have already availed the benefits of advance increments for possessing Ph.D./M.Phil at the entry level under the earlier scheme shall not be entitled to the benefit of advance increments under this scheme.”*

3. It is not in dispute that because of his higher educational qualification higher start of Rs. 2,500/- was given to the applicant as per 4<sup>th</sup> Pay Commission. Thereafter, by resorting to aforequoted Clause 8 (iii) of G.R. dated 10.11.2009, three advance increments were given to him. This benefit is sought to be withdrawn by the impugned communications.

4. A query was made to the Id. P.O. whether benefit of three advance increments has been extended to the applicant once or twice. Granting such benefit twice is not permissible under the G.R. dated 10.11.2009. The applicant maintains that they have received this benefit only once. On the other hand it is the contention of the respondents that such benefit has been extended to the applicant not once but twice.

5. It is submitted on behalf of the applicant that the prohibition stipulated in Clause 8 (xix) will not be attracted in the instant case since it applies to higher education in the form of Ph.D./M.Phil at the entry level only.

6. On behalf of the applicant reliance is placed on orders dated 07.12.2018 and 05.11.2020 passed by this Tribunal in O.A. Nos. 950/2018 & 745/2020, respectively in support of their prayer for grant of interim relief. The interim relief which the applicant is seeking to stay the effect and implementation of the impugned communications proposing recovery.

7. As mentioned above, it is the contention of the respondents that three advance increments have been given to the applicants twice and hence proposed recovery by the impugned communications should go ahead.

8. The respondents have also relied on the Judgment dated 22.03.2021 passed in O.A. No. 1172/2019 by the Principal Bench of this Tribunal. It is submitted that by this Judgment recovery on account of erroneous extension of non compoundable increments was held to be proper. While distinguishing this Judgment dated 22.03.2021 it is submitted by the Id. Counsel for the applicant, that in the said O.A. there was no contention that the applicant was entitled to get the benefits flowing from the impugned extension of advance increments.

9. Having considered rival submissions I have come to the conclusion that effect and implementation of the impugned communications/orders of

proposed recovery is required to be stayed but only till the returnable date so that the respondents will get an opportunity of filing reply and the matter can be heard at length and decided on merits.

10. The proposed recovery under the impugned communications is stayed but only till the returnable date i.e. 15.11.2022.

11. Issue notice to Respondents, returnable on 15.11.2022. Learned P.O. waives notice for R-1. Hamdast allowed.

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

13. 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.

14. 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.

15. 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 within one week. Applicant is directed to file Affidavit of compliance and notice.

16. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

17. **S.O. 15.11.2022.**

18. **Put up this matter along with O.A. Nos. 1023,1024&1049/2022.**

**Date :- 21/10/2022**

**Member**

**(I).**  
**APS**

**O.A.No.154/2022 (S.B.)**

**Coram: Hon'ble Shri M.A.Lovekar,**  
**Member (J)**  
**Dated : 21/10/2022.**

Heard Shri S.N.Gaikwad, ld. counsel for the applicant and Shri M.I.Khan, ld. P.O. for the respondents.

2. It is the grievance of the applicants that they have not received salary since March, 2022. Contention of the respondents is that salary of these applicants could not be paid because necessary funds are not been provided by the Central Government. It is the submission of the applicants that the respondents be directed to release the salary for atleast for two months. It is further submitted that salary of the applicants for the month of March, 2022 was released only after they resorted to hunger strike. Having regard to the principal contention of the respondents it would be proper to hear the matter finally since the difficulty appears to be between Central Government and the State Government.

3. It is submitted by ld. P.O. that reply of respondent no. 5 is already filed and said reply is sufficient to decide the matter finally.

4. Hence, matter is **admitted** and kept for final hearing on 09.11.2022.

5. Ld. P.O. waives notice for the respondent.



6. **S.O. 09.11.2022.**

7. **Steno copy is granted.**

**Date :- 21/10/2022**  
APS

**Member (I).**

**O.A.No.721/2022 (S.B.)**

**Coram: Hon'ble Shri M.A.Lovekar,**  
**Member (J)**  
**Dated : 21/10/2022.**

Heard Shri A.A.Potnis, ld. counsel for the applicant and Shri S.A.Sainis, ld. P.O. for the respondents.

2. On oral request of the learned P.O., **S.O. after vacation** for filing reply.

**Date :- 21/10/2022**  
**APS**

**Member (J).**

**O.A.Nos.722&752/2022 (S.B.)**

**Coram: Hon'ble Shri M.A.Lovekar,**  
**Member (J)**  
**Dated : 21/10/2022.**

**C.A.Nos.434&435/2022:-**

Heard Ms. P.R.Wankhede, ld. counsel for the applicant and Shri S.A.Sainis, ld. P.O. for the respondents.

2. Perused contents of Civil Applications. The applicant is praying for following interim relief:-

*“B. During the pendency & final disposal of original application filed by the applicant she be reinstated in service on her post of medical officer forthwith under the respondent no. 3 by issuing continuation order.”*

3. Having considered the nature of relief which is being sought presently as interim measure, I have come to the conclusion that it cannot be granted because it is final in nature.

4. Notice on C.A. to Respondents be issued returnable in **14.11.2022.**

5. Shri S.A.Sainis, the learned P.O. waives notice for respondent no.1. Hamdast granted.

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

7. 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 O.A.

8. 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.

9. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with an affidavit of compliance in the Registry as far as possible once week before the date fixed by this Tribunal. Applicant is directed to file Affidavit of compliance and notice.

10. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

11. **S.O. 14.11.2022.**

**Date :- 21/10/2022**  
**APS**

**Member (I).**

**O.A.No.739/2022 (S.B.)**

**Coram: Hon'ble Shri M.A.Lovekar,**  
**Member (J)**

**Dated : 21/10/2022.**

Heard Shri S.A.Marathe, ld. counsel for the applicant and Shri A.P.Potnis, ld. P.O. for the respondents.

2. On oral request of the learned P.O., **S.O.**  
**09.11.2022** for filing reply.

**Date :- 21/10/2022**  
**APS**

**Member (J).**

**O.A.No.1059/2022 (S.B.)**

**Coram: Hon'ble Shri M.A.Lovekar,**  
**Member (J)**  
**Dated : 21/10/2022.**

Heard Shri A.Motlog holding for Shri R.V.Shiralkar, ld. counsel for the applicant and Shri A.P.Potnis, ld. P.O. for the State.

2. By way of interim relief the applicant is seeking the direction as follows:-

*“C. Direct the respondent no. 2 to continue/restore benefit of one step promotional pay scale to the applicant for working in naxal affected and tribal area as per Govt. Resolution dated 06.08.2002 and direct the respondents 2 & 3 to stop recovery which is started from December, 2020 immediately during the pendency of present application till final disposal, in the interest of justice.”*

In support of this submission for grant of interim relief, on behalf of the applicant reliance is placed on order dated 21.09.2021 passed by the Hon'ble High Court in W.P. No. 3642/2021. By this order interim stay in terms of prayer clause (v)

was granted until further orders. Prayer clause (v) in the aforesaid W.P. reads as under :-

*“By way of Interim Order direct the Zilla Parishad Gadchiroli to continue/ restore the benefit of one step promotional pay scale to the petitioners till they are working in the Naxal and Tribal Area Gadchiroli District under the Government Resolution dated 06.08.2002 and direct not to recover any excess payment paid under the one step promotional pay scale after completion of 12 years during the pendency of present petition and stay to the recovery if any regarding the excess payment in one step promotional pay scale paid after 12 years service from the petitioners.”*

3. In view of this factual background interim relief is granted in terms of prayer clause 7 (C) till the returnable date.

4. Issue notice to Respondents, returnable on 14.11.2022. Learned P.O. waives notice for R-1. Hamdast allowed.

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

6. 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.

7. 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.

8. 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 within one week. Applicant is directed to file Affidavit of compliance and notice.

9. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

10. **S.O. 14.11.2022.**

**Date :- 21/10/2022**  
**APS**

**Member (I).**



**O.A.No.1065/2022 (S.B.)**

**Coram: Hon'ble Shri M.A.Lovekar,**

**Member (J)**

**Dated : 21/10/2022.**

Heard Shri S.A.Puranik, ld. counsel for the applicant and Shri A.P.Potnis, ld. P.O. for the State.

2. The ld. Counsel for the applicant states that the applicant is being deprived of his salary and in this background ld. P.O. be directed to file reply of the respondent on the returnable date without fail. Ld. P.O. states that he will comply with this.

3. Issue notice to Respondents, returnable on 21.11.2022. Learned P.O. waives notice for R-1. Hamdast allowed.

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 questions such as limitation and alternate remedy are kept open.

7. 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 within one week. Applicant is directed to file Affidavit of compliance and notice.

8. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

9. **S.O. 21.11.2022.**

**Date :- 21/10/2022**  
**APS**

**Member (I).**

**O.A.No.315/2022 (S.B.)**

**Coram: Hon'ble Shri M.A.Lovekar,**  
**Member (J)**  
**Dated : 21/10/2022.**

Heard Ms.B.V.Reddy, ld. counsel for the applicant and Shri S.A.Sainis, ld. P.O. for the State.

2. Issue notice to Respondents, returnable on four weeks. Learned P.O. waives notice for R-1. Hamdast allowed.

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 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 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 within one week. Applicant is directed to file Affidavit of compliance and notice.

7. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

8. **S.O. four weeks.**

**Date :- 21/10/2022**  
**APS**

**Member (I).**

**O.A.No.718/2018 (S.B.)**

**Coram: Hon'ble Shri M.A.Lovekar,  
Member (J)**

**Dated : 21/10/2022.**

Heard Shri A.S.Deshpande, ld. counsel for the applicant and Shri M.I.Khan, ld. P.O. for the respondents.

2. On oral request of the learned counsel for the applicant, **S.O. after Diwali Vacation.**

**Date :- 21/10/2022**  
**APS**

**Member (J).**

**O.A.No.133/2019 (S.B.)**

**Coram: Hon'ble Shri M.A.Lovekar,**  
**Member (J)**

**Dated : 21/10/2022.**

Heard Shri A.S.Deshpande, ld. counsel for the applicant and Shri M.I.Khan, ld. P.O. for the respondents.

2. On oral request of the learned counsel for the applicant, **S.O. after Diwali Vacation.**

**Date :- 21/10/2022**  
**APS**

**Member (J).**

**O.A.No.566/2019 (S.B.)**

**Coram: Hon'ble Shri M.A.Lovekar,**  
**Member (J)**

**Dated : 21/10/2022.**

Heard Shri A.P.Sadavarte, ld. counsel for the applicant, Shri M.I.Khan, ld. P.O. for the respondents 1 to 3 and 6 and Shri M.Shaikh, ld. Counsel for the R-4 & 5.

2. On oral request of the learned P.O., **S.O.**  
**05.12.2022.**

**Date :- 21/10/2022**  
**APS**

**Member (J).**

**O.A.No.560/2020 (S.B.)**

**Coram: Hon'ble Shri M.A.Lovekar,**  
**Member (J)**

**Dated : 21/10/2022.**

Heard Shri B.Chandrikapure, ld. counsel for the applicant and Shri M.I.Khan, ld. P.O. for the respondents.

2. On oral request of the learned P.O., **S.O.**  
**16.11.2022.**

**Date :- 21/10/2022**  
**APS**

**Member (J).**



**O.A.No.580/2020 (S.B.)**

**Coram: Hon'ble Shri M.A.Lovekar,**  
**Member (J)**

**Dated : 21/10/2022.**

Heard Shri S.N.Gaiwkad, ld. counsel for the applicant and Shri M.I.Khan, ld. P.O. for the respondents.

2. On oral request of the learned P.O., **S.O. 2<sup>nd</sup>**  
**Week of November, 2022.**

**Date :- 21/10/2022**  
**APS**

**Member (J).**

**O.A.No.505/2021 (S.B.)**

**Coram: Hon'ble Shri M.A.Lovekar,  
Member (J)**

**Dated : 21/10/2022.**

Heard Shri K.J.Khanorkar, ld. counsel for the applicant and Shri M.I.Khan, ld. P.O. for the respondents.

2. On oral request of the learned P.O., **S.O.**  
**16.11.2022.**

**Date :- 21/10/2022**  
**APS**

**Member (J).**

**O.A.No.127/2022 (S.B.)**

**Coram: Hon'ble Shri M.A.Lovekar,  
Member (J)**

**Dated : 21/10/2022.**

None for the applicant. Shri M.I.Khan, Id.  
P.O. for the respondents.

2. On oral request of the learned P.O., **S.O.**  
**After Diwali Vacation.**

**Date :- 21/10/2022**  
**APS**

**Member (J).**