

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. _____ of 20

IN

Original Application No. _____ of 20

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p>DATE <u>28/6/18</u></p> <p>CORAM Hon'ble Shri P.N. DIXIT (Member) A</p> <p>APPEARANCE: Shri/Smt. <u>C.T. Chandratre</u> Advocate for the Applicant</p> <p>Shri/Smt. <u>K.B. Bhise</u> C.P.O./P.O. for the Respondent/s</p> <p>Adj./S.O. to <u>12/7/18</u></p> <p><i>[Signature]</i></p>	<p>Date : 28.06.2018</p> <p>O. A. No.1131 of 2017</p> <p>A. V. ChavanApplicant</p> <p>Versus</p> <p>The State of Maharashtra & Ors.Respondents.</p> <p>1. Heard Shri C. T. Chandratre, the learned Advocate for the Applicant and Shri K. B. Bhise, the learned Presenting Officer for the Respondents.</p> <p>2. Adjourned to 12.07.2018.</p> <p>Sd/- (P.N. DIXIT) MEMBER (A)</p> <p>VSM</p> <p>Date : 28.06.2018</p>


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<p>DATE <u>28/6/18</u></p> <p><u>CORAM</u> Hon'ble Shri P.N. DIXIT (Member) A</p> <p><u>APPEARANCE:</u> Shri/Smt. <u>A.V. Bandiwadkar</u> (sgj) Advocate for the Applicant</p> <p>Shri/Smt. <u>Ms. N.G. Gohad</u> C.P.O/P.O. for the Respondent/s</p> <p>Adj./S.O. to <u>31/7/18.</u></p> <p align="right"></p>	<p align="center"><u>O.A. No.963 of 2017</u></p> <p>N.B. Wagh ..Applicant Vs. The State of Maharashtra & Ors. ..Respondents</p> <p>Heard Shri A.V. Bandiwadkar, learned Advocate for the Applicant and Miss Neelima Gohad, learned Presenting Officer for the Respondents.</p> <p>2. Ld. PO files reply and the same is taken on record.</p> <p>3. Ld. Advocate for the applicant requests for six week's time to file rejoinder.</p> <p>4. S.O. to 31.7.2018.</p> <p align="right">Sd/- (P.N. Dixit) Member (A) 28.6.2018</p>

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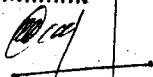
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
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<p>DATE <u>28/6/18</u></p> <p><u>CORAM</u> Hon'ble Shri P.N. DIXIT (Member) A</p> <p><u>APPEARANCE:</u> Shri/Smt. <u>A.V. Bandiwadkar</u> Advocate for the Applicant</p> <p>Shri/Smt. <u>A.J. Chougule</u> C.P.O/P.O. for the Respondent/s</p> <p>Adj./S.O. to <u>30/7/18</u> <u>as a last chance.</u></p>	<p><u>O.A. No.453 of 2018</u></p> <p>P.S. Walke ..Applicant Vs. The State of Maharashtra & Ors. ..Respondents</p> <p>Heard Shri A.V. Bandiwadkar, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.</p> <p>2. Ld. PO requests for four weeks time to file his reply. He also contends that the applicant has not exhausted the remedy of appeal before the appellate authority.</p> <p>3. S.O. to 30.7.2018 as a last chance.</p> <p style="text-align: right;">Sd/- (P.N. Dixit) Member (A) 28.6.2018</p> <p>(sg)</p>

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders O.A. No.558 of 2018
<p>DATE <u>28/6/18</u></p> <p>CORAM Hon'ble Shri P.N. DIXIT (Member) A</p> <p>APPEARANCE: Shri/Smt. <u>K.R. Jagdale</u> Advocate for the Applicant</p> <p>Shri/Smt. <u>N.K. Rajpurohit</u> G.P.O/P.O. for the Respondent/s</p> <p>Adj./S.O. to <u>30/7/18</u></p> <p style="text-align: right;"></p>	<p>K.D. Dhondge ..Applicant Vs. The State of Maharashtra & Ors. ..Respondents</p> <p>Heard Shri K.R. Jagdale, learned Advocate for the Applicant and Shri N.K. Rajpurohit, learned Presenting Officer for the Respondents.</p> <p>2. Issue notice returnable on 30.7.2018.</p> <p>3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need not be issued.</p> <p>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. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.</p> <p>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.</p> <p>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.</p> <p>7. In case notice is not collected within seven days and if service report on affidavit is not filed three days before returnable date, OA shall stand dismissed without reference to Tribunal and papers be consigned to record.</p> <p>8. Ld. Advocate for the applicant states that applicant has been suspended from 7.10.2017. However, till date no subsistence allowance has been paid to him.</p> <p>9. Ld. PO confirms that as per rules applicant is entitled to subsistence allowance and he will instruct the concerned respondents to make the payment. The respondents are directed to make the payment of subsistence allowance before 20.7.2018.</p> <p>10. Ld. PO points out that remedy of appeal is not exhausted by the applicant. Ld. Advocate for the applicant states that he will do the same in coming days on priority.</p> <p>11. Steno copy and hamdast is granted. Ld. PO is directed to communicate this order to the respondents.</p> <p style="text-align: right;">Sd/- (P.N. Dixit) Member (A) 28.6.2018</p> <p>(sgj)</p>

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<p>DATE <u>28/6/18</u></p> <p>CORAM Hon'ble Shri P.N. DIXIT (Member) A</p> <p>APPEARANCE: Shri/Smt. <u>A.V. Bandiwadkar</u> Advocate for the Applicant</p> <p><u>Smt. M. S. P. Manchekar</u> C.P.O./P.O. for the Respondent/s</p> <p>Adj./S.O. to <u>6/8/18</u></p> <p style="text-align: right;"></p>	<p style="text-align: center;"><u>O.A. No.579 of 2018</u></p> <p>Dr. M.A. Waghmare ..Applicant Vs. The State of Maharashtra & Ors. ..Respondents</p> <p>Heard Shri A.V. Bandiwadkar, learned Advocate for the Applicant and Miss S.P. Manchekar, learned Chief Presenting Officer for the Respondents.</p> <p>2. Issue notice returnable on 6.8.2018.</p> <p>3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need not be issued.</p> <p>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. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.</p> <p>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.</p> <p>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.</p> <p>7. In case notice is not collected within seven days and if service report on affidavit is not filed three days before returnable date, OA shall stand dismissed without reference to Tribunal and papers be consigned to record.</p> <p style="text-align: right;">Sd/- (P.N. Dixit) Member (A) 28.6.2018</p> <p>(sgi)</p>

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<p>DATE <u>28/6/18</u></p> <p><u>CORAM</u> Hon'ble Shri P.N. DIXIT (Member) A</p> <p><u>APPEARANCE:</u> Shri/Smt. <u>A.V. Bandiwadekar</u> Advocate for the Applicant</p> <p><u>Shri/Smt. Ms. N.G. Gohad</u> C.P.O./P.O. for the Respondent/s</p> <p>Adj./S.O. to <u>12/7/18</u></p> <p align="right"><i>[Signature]</i></p>	<p align="center"><u>O.A. No.580 of 2018</u></p> <p>P.S. Bhore ..Applicant Vs. The State of Maharashtra & Ors. ..Respondents</p> <p>Heard Shri A.V. Bandiwadekar, learned Advocate for the Applicant and Miss Neelima Gohad, learned Presenting Officer for the Respondents.</p> <p>2. Ld. Advocate for the applicant mentions that in the above matter as the date of the impugned order is prior to one year, he proposes to confirm the actual date of receipt. He seeks one weeks time to do so.</p> <p>3. S.O. to 12.7.2018.</p> <p align="right">Sd/- (P.N. Dixit) Member (A) 28.6.2018</p> <p align="center">(sgj)</p>

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<p>DATE <u>28/6/18</u></p> <p>CORAM Hon'ble Shri P.N. DIXIT (Member) A</p> <p>APPEARANCE: Shri/Smt. : Punam Mahajan Advocate for the Applicant</p> <p>Shri/Smt. <u>N.K. Rajpurohit</u> C.P.O./P.O. for the Respondent/s</p> <p>Adj./S.O. to <u>24/7/18</u></p> <p><i>[Signature]</i></p>	<p>Date : 28.06.2018</p> <p>O. A. No.295 of 2017</p> <p>S. B. NandgaonkarApplicant</p> <p>Versus</p> <p>The State of Maharashtra & Ors.Respondents.</p> <p>1. Heard Smt. Punam Mahajana, the learned Advocate for the Applicant and Shri N.K.Rajpurohit, the learned Presenting Officer for the Respondents.</p> <p>2. Learned P.O. for the Respondents states that the case of the Petitioner was placed before Suspension Review Committee on 22.02.2018 and the Committee took the decision to continue his suspension.</p> <p>3. Learned Advocate for the Applicant seeks leave to amend the O.A. She requests three weeks time for the same.</p> <p>4. Liberty to amend the O.A. is granted.</p> <p>5. S.O. to 24.07.2018.</p> <p style="text-align: right;">Sd/- (P.N. DIXIT) MEMBER (A)</p> <p>VSM</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. of 20

IN

Original Application No. of 20

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p>DATE <u>28/6/18</u></p> <p>CORAM Hon'ble Shri P.N. DIXIT (Member) A</p> <p>APPEARANCE: Shri/Smt. <u>R.M. Kolge</u> Advocate for the Applicant</p> <p>Shri/Smt. <u>Archana B.K.</u> C.P.O/P.O. for the Respondent/s</p> <p>Adj./S.O. to <u>31/7/18</u></p> <p style="text-align: right;"><i>[Signature]</i></p>	<p>Date : 28.06.2018</p> <p>M.A. No.303 of 2017 in O. A. No.652 of 2017</p> <p>A.P. PatilApplicant</p> <p>Versus</p> <p>The State of Maharashtra & Ors.Respondents.</p> <p>1. Heard Shri R. M. Kolge, the learned Advocate for the Applicant and Smt. Archana B. K., the learned Presenting Officer for the Respondents.</p> <p>2. Learned Advocate for the Petitioner requests liberty to substitute the O.A. as well as M.A. He seeks three weeks time for doing the same.</p> <p>3. S.O. to 31.07.2018.</p> <p style="text-align: right;">Sd/- (P.N. DIXIT) MEMBER (A)</p> <p>VSM</p>


**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. _____ of 20 _____

I N

Original Application No. _____ of 20 _____

FARAD CONTINUATION SHEET No.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p>DATE <u>28/6/18</u></p> <p><u>CORAM</u> Hon'ble Shri P.N. DIXIT (Member) A</p> <p><u>APPEARANCE:</u> Shri/Smt. : Punam Mahajan Advocate for the Applicant</p> <p>Shri/Smt. <u>A.J. Chougale</u> C.P.O./P.O. for the Respondent/s</p> <p>Adj./S.O. to <u>31/7/18</u> Hamdast. </p>	<p align="center"><u>O.A. No.923 of 2017</u></p> <p>R.Z. Zople ..Applicant Vs. The State of Maharashtra & Ors. ..Respondents</p> <p>Heard Smt. Punam Mahajan, learned Advocate for the Applicant and Shri A.J. Chougale, learned Presenting Officer for the Respondents.</p> <p>2. Ld. PO requests for adjournment to obtain further progress in the matter.</p> <p>3. Ld. Advocate for the applicant states that decision regarding the same should be expedited</p> <p>4. S.O. to 31.7.2018. Hamdast.</p> <p align="right">Sd/- (P.N. Dixit) Member (A) 28.6.2018</p> <p>(sg)</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. of 20

I N

Original Application No. of 20

FARAD CONTINUATION SHEET No.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p>DATE <u>28/6/18</u></p> <p>CORAM Hon'ble Shri P.N. DIXIT (Member) A</p> <p>APPEARANCE: <u>Shri/Smt. : Punam Mahajan</u> Advocate for the Applicant</p> <p><u>Shri/Smt. : Ms. S. Suryawanshi</u> C.P.O./P.O. for the Respondents</p> <p>Adj./S.O. to <u>3/7/18</u></p>	<p align="center"><u>O.A. No.477 of 2018</u></p> <p>A.G. Patil ..Applicant Vs. The State of Maharashtra & Ors. ..Respondents</p> <p>Heard Smt. Punam Mahajan, learned Advocate for the Applicant and Miss Savita Suryawanshi, learned Presenting Officer for the Respondents.</p> <p>2. Ld. PO requests for one weeks time to file affidavit in reply.</p> <p>3. S.O. to 3.7.2018.</p> <p align="right">Sd/- (P.N. Dixit) Member (A) 28.6.2018</p> <p>(sgj)</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. _____ of 20 _____

IN

Original Application No. _____ of 20 _____

FARAD CONTINUATION SHEET No.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p>DATE <u>28/6/18</u></p> <p>CORAM Hon'ble Shri P.N. DIXIT (Member) A</p> <p>APPEARANCE: Shri/Smt. <u>A.R. Joshi</u> Advocate for the Applicant</p> <p>Shri/Smt. <u>Ms. S.P. Manchekar</u> C.P.O./P.O. for the Respondent/s</p> <p>Adj./S.O. to <u>4/7/18</u></p> <p align="right"><i>[Signature]</i></p>	<p align="center"><u>O.A. No.516 of 2018</u></p> <p>Dr. J.V. Nandanvankar ..Applicant Vs. The State of Maharashtra & Ors. ..Respondents</p> <p>Heard Shri A.R. Joshi, learned Advocate for the Applicant and Miss S.P. Manchekar, learned Chief Presenting Officer for the Respondents.</p> <p>2. Ld. Advocate for the applicant states that applicant has joined at the place of posting. He however, contends that his request for continuing at the same place has perhaps not been considered.</p> <p>3. S.O. to 4.7.2018. Ld. CPO to ensure that original record is produced on the next date.</p> <p align="right">Sd/- (P.N. Dixit) Member (A) 28.6.2018</p> <p>(sgj)</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. _____ of 20 _____

IN

Original Application No. _____ of 20 _____

FARAD CONTINUATION SHEET No.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p>DATE <u>28/6/18</u></p> <p>CORAM Hon'ble Shri P.N. DIXIT (Member) A</p> <p>APPEARANCE: Shri/Smt. <u>A.V. Bandiwadekar</u> Advocate for the Applicant</p> <p>Shri/Smt. <u>Ms. S.P. Manchekar</u> C.P.O./P.O. for the Respondent/s Adj./S.O. to <u>3/7/18</u></p> <p align="right"><i>(Signature)</i></p>	<p align="center"><u>O.A. No.541 of 2018</u></p> <p>P.N. Rathod ..Applicant Vs. The State of Maharashtra & Ors. ..Respondents</p> <p>Heard Shri A.V. Bandiwadekar, learned Advocate for the Applicant and Miss S.P. Manchekar, learned Chief Presenting Officer for the Respondents.</p> <p>2. Ld. CPO states that as mentioned in Exhibit G page 29 the applicant was directed to produce certain documents in support of his claim. She further contends that from 1979 till 25.5.2017 (Exhibit I page 32) the applicant did not provide the same. She, therefore, contends that the respondents need one weeks time. She undertakes to file reply during the course of the day.</p> <p>3. Ld. Advocate states that he will need some time to file rejoinder.</p> <p>4. S.O. to 3.7.2018. Issue of interim relief will be discussed on the next date.</p> <p align="right">Sd/- (P.N. Dixit) Member (A) 28.6.2018</p> <p align="center">(sgj)</p>

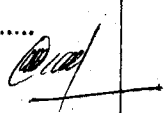
**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. _____ of 20 _____

IN

Original Application No. _____ of 20 _____

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p>DATE <u>28/6/18</u></p> <p><u>CORAM</u> Hon'ble Shri P.N. DIXIT (Member) A</p> <p><u>APPEARANCE:</u> Shri/Smt. <u>J. N. Kamble</u> Advocate for the Applicant</p> <p>Shri/Smt. <u>Ms. S. Suryawanshi</u> C.P.O./P.O. for the Respondent/s</p> <p>Adj./S.O. to <u>26/7/18</u></p> <p align="right"></p>	<p>Date : 28.06.2018</p> <p align="center">O. A. No.374 of 2017</p> <p>S. S. Kiwade & Ors.Applicants</p> <p>Versus</p> <p>The State of Maharashtra & Ors.Respondents.</p> <p>1. Heard Shri J. N. Kamble, the learned Advocate for the Applicant and Ms S. Suryawanshi, the learned Presenting Officer for the Respondents.</p> <p>2. Learned P.O. for the Respondents states that she will inform the respondents about the policy which has been evolved by the C. P. Navi Mumbai in respect of Constables who have been posted as Drivers. The C.P. Navi Mumbai in his circular has stated that after five years such Constables would be transferred from Drivers to Constables. She requests two weeks time to report progress.</p> <p>3. S.O. to 26.07.2018.</p> <p align="right">Sd/- (P.N. DIXIT) MEMBER (A)</p> <p align="center">VSM</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. of 20

IN

Original Application No. of 20

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders.
<p>DATE <u>28/6/18</u></p> <p><u>CORAM</u> Hon'ble Shri P.N. DIXIT (Member) A</p> <p><u>APPEARANCE:</u> Shri/Smt. <u>A.V. Bandiwadkar</u> Advocate for the Applicant</p> <p><u>Shri/Smt. Archana B.K.</u> <u>C.P.O. for the Respondent's No. 1.</u> <u>Kamlesh Y. Mali holding</u> <u>adj. S.O. to for A.R. Kapdnis</u> <u>for R. NO. 2.</u></p> <p>O.A. is disposed off. steno copy and hamdast is granted.</p>	<p><u>O.A. No.543 of 2018</u></p> <p>Dr. V.N. Dekate ..Applicant Vs. The State of Maharashtra & Ors. ..Respondents</p> <p>Heard Shri A.V. Bandiwadkar, learned Advocate for the Applicant, Smt. Archana B.K., learned Presenting Officer for Respondent No.1 and Shri Kamlesh Y. Mali, learned Advocate holding for Shri A.R. Kapdnis, learned Advocate for Respondent No.2.</p> <p>2. Ld. Advocate for the applicant has produced a communication dated 27.6.2018 from the Department of Health. The same is taken on record and marked 'X' for identification. It states that the applicant should be allowed to join on the said post with immediate effect.</p> <p>3. Ld. Advocate for respondent no.2 is present and states that as per his instructions the CEO is permitting him to join on the said post.</p> <p>4. Ld. Advocate for the applicant therefore prays that the OA may be disposed off.</p> <p>5. OA is disposed off accordingly.</p> <p>6. Steno copy and hamdast is granted. Ld. PO is directed to communicate this order to the respondents.</p> <p style="text-align: right;">Sd/- (P.N. Dixit) Member (A) 28.6.2018</p> <p>(sgj)</p>

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI**ORIGINAL APPLICATION No. 550 to 560 of 2017
with
O.A.578 of 2017**

P. P. Gengale & Ors.)Applicants

Versus

The State of Maharashtra & Ors.)Respondents.

Smt. Punam Mahajan, Advocate for Applicant.

Ms S. P. Manchekar, Chief Presenting Officer for the Respondents

CORAM : SHRI P. N. DIXIT, MEMBER (A)

DATE : 28.06.2018

ORDER

1. Heard Smt. Punam Mahajan, the learned Advocate for the Applicants and Ms S. P. Manchekar, the learned Chief Presenting Officer for the Respondents.

Admitted facts of the case are as follows:-

- (a) Twelve Applicants who were recruited as Constable in the year 2012 were posted as Driver in the office of S.P. Pune (Rural). They have prayed that they should be relieved from the duty of Driver and permitted to work as a Police Constable.
 - (b) In Affidavit-in-Reply filed by the Respondent No.2 had stated in para no.15 that the tenure of the Constable is five years.
2. Learned Advocate for the Applicant points out that the Applicants have completed more than five years as on date.

3. Learned C.P.O. for the Respondents has produced a copy of the Minutes of the Meeting held on 22.05.2015. Marked as 'X' for identification and taken on record, which states as under:-

“सदर बैठकीत या घटकातील मोटार परिवहन विभाग येथे कार्यरत असलेल्या खालीलप्रमाणे नमूद एकूण १२ पोलीस कर्मचा-यांचा मोटार परिवहन विभाग येथील ०५ वर्षे कार्यकाल पूर्ण झाल्यामुळे घटकांतर्गत प्रशासकीय बदल्या होणेकामी त्यांनी सादर केलेल्या अर्जाचे अवलोकन करण्यात आले. नमूद कर्मचारी हे बदलीकामी पात्र आहेत.”

4. Learned C.P.O. further states that even though they are due for transfer they are again likely to be posted as Driver considering the paucity of Drivers in the Unit. As the Applicants are no longer interested in working as Driver, their request should be considered on priority and suitable alternative needs to be identified.

5. S.P. Pune (Rural) should also evolve a policy in this regard as has been evolved by the C.P. Navi Mumbai. A copy of the same is produced by the learned C.P.O. and marked as 'X1' for identification.

6. Pending such evolution of the policy, S.P. Pune (Rural) to make sure that the Applicants are transferred suitably within a period of three months or earlier.

7. In view of several petitions from different units in Maharashtra are received by this Tribunal, the Director General of Police should evolve a policy for the entire State and circulate it to all units in a period of three months.

8. Learned C.P.O. to follow it up with the concerned.

9. Hamdast and steno copy is allowed.

10. S. O. to 09.10.2019.

Sd/-

(P.N. DIXIT)
MEMBER (A)

VSM

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION No.35 of 2018

D. J. Ambilwade) **....Applicant**

Versus

The State of Maharashtra & Ors.) **....Respondents**

Shri A. V. Bandiwadekar, Advocate for Applicant.

Ms S. Suryawanshi, Presenting Officer for the Respondents

CORAM : SHRI P. N. DIXIT, MEMBER (A)

DATE : 28.06.2018

ORDER

1. Heard Shri A. V. Bandiwadekar, the learned Advocate for the Applicant and Ms S. Suryawanshi, the learned Presenting Officer for the Respondents.
2. Learned P.O. for the Respondents states that she is filing her sur-Rejoinder during the course of the day.

Admitted facts of the case are as follows :-

- (a) The Applicant was suspended on 12.10.2017 as per the order issued by the Respondent No.1 (Exb. 'A', page 26), proposed departmental enquiry against the Applicant. Under suspension, the Headquarter of the Applicant was shown at Aurangabad while he was working at Pune. He has, therefore, prayed in Para No.9 (a) of the O.A. to quash the set aside suspension and requested that his headquarter should be at Nashik instead of Aurangabad. According to learned Advocate for the Applicant, the Applicant should have not been suspended even for whatever charge alleged against him. The Applicant is alleged to have drawn Rs.13,56,000/- in excess than his entitlement.

(b) Applicant who was working at Yashwantrao Chavan Open University, Nashik as Assistant Registrar, was appointed to the post of Chief Administrative Officer for two years on 23.03.2005.

(C) Learned Advocate for the Applicant draws attention to Synopsis Nos.1 to 25 as under:-

1] That between 2.3.1992 to 12.10.2000, the Petitioner worked as the Assistant Registrar, Class-I post in Yashwantrao Chavan Open University, Nashik.

2] 23.3.2005 - That, that the Respondent No. 1 appointed the Petitioner in the post of the Chief Administrative Officer on the probation period of 2 years by way of direct recruitment.

3] 3.10.2007 - That, the Respondent No. 1 terminated the probation period of 2 years of the Petitioner in view of successfully completion thereof by the Petitioner.

4] 17.10.2007 - That, the Petitioner came to be granted yearly increment by the Civil Surgeon, Nashik with effect from 1.3.2007 and entry to that effect is taken in his service book.

5] 17.12.2007 - That thereafter, that the Petitioner came to be transferred to Nashik from the office of the Respondent No. 2.

6] 6.1.2010 - That, a non-drawal certificate and pay drawn statement came to be forwarded to the Respondent No.2 by the Civil Surgeon, Nashik.

7] 27.10.2010 - That, the Respondent No. 2 fixed the pay of the Petitioner as per the 6th Pay Commission recommendations of which entry is taken in the service book of the Petitioner.

8] That since he completed regular service of 12 years in the post of Chief Administrative Officer, that he became eligible to claim monetary benefits of Assured Career Progression Scheme.

9] 5.11.2012 - That this was duly recommended by the aforesaid Head of the Office of the Petitioner at Pune to the Respondent No. 2. That, however, for long time nothing was heard in that behalf by this Petitioner.

10] 7.5.2015 - That, the pay fixation of the Petitioner, so also his service book came to be duly verified and the same was found correct by the Pay Verification Committee of the office of the Accountant General, (M.S.), Mumbai. That accordingly the entry to that effect came to be taken in the service book of the Petitioner.

11] 18.10.2016 - That the Respondent No.1 withdrawn from the Respondent No.2 the administrative and the financial powers with effect from 18.10.2016.

- 12] That vide same G.R., the new post came to be created, namely, that of the Commissioner of Health Service and Mission Director and came to be conferred upon him the administrative powers and financial powers.
- 13] 26.10.2016 - That, the Head of the Office of the Petitioner at Pune informed the Commissioner, health services, Mumbai, that since the Petitioner has completed his 12 years of regular service on 2.3.2004, that he may be given the benefits of time bound promotion / Assured Career Progression Scheme.
- 14] That, however, in April 2017, the Respondent No. 2 called for the service book of the Petitioner and accordingly the same was forwarded immediately.
- 15] That despite the aforesaid position, it is noticed by the Respondent No. 1 that the Respondent No. 2 has still been interfering in the administrative and financial matters by issuing administrative orders.
- 16] 3.5.2017 - That in view of this, the Respondent No. 1 issued Circular, thereby reiterating the aforesaid G.R. dated 18.10.2016 making it clear to the Respondent No.2 that his administrative and financial powers have been withdrawn and thus he is refrained from interfering with such matters and that he should look after only technical matters.
- 17] 31.7.2017 - That, the Respondent No. 2 issued order thereby directing the Head of the Office of the Petitioner at Pune to effect recovery of Rs.13,56,000/-[towards the alleged excess payment received by the Petitioner from April 2005 to July 2017] from the monthly salary of the Petitioner of July 2017 paid in August 2017 and also directed him to stop the annual increments of the Petitioner.
- 18] That on receipt of the aforesaid letter in August 2017, that the Head of the Office of the Petitioner found it difficult legally to implement the said order and therefore, referred the said matter back to the Respondent No. 2 for further decision.
- 19] 12.10.2017 - That, however, to his shock and surprise, the Respondent No. 1 passed the impugned order, thereby suspending the Petitioner in contemplation of the Departmental Enquiry and has fixed the Head Quarter of the Petitioner at Aurangabad, though the native place of the Petitioner is Nashik.
- 20] 12.10.2017 - That in the circumstances stated above, the Respondent No. 1, directed the Commissioner to forward immediately the proposal regarding the disciplinary action under Rule 8 of the said Rules.
- 21] 2.11.2017 - That, the Petitioner, requested the Respondent No. 2 to furnish to him the copy of the said letter, but to no avail.
- 22] 1.11.2017 - That in the circumstances stated above, the Petitioner made a detailed representation to the Respondent No. 1 thereby seeking revocation of the order of suspension for the reasons as stated therein.

23] 6.11.2017 - That similarly the Petitioner has also preferred Appeal before the Hon'ble Governor of Maharashtra against the said impugned order of suspension. That, however, till this date the Petitioner had not heard anything from the Respondent No. 1.

24] 10.11.2017 - That, however, the office of the Hon'ble Governor of Maharashtra has sought certain information from the Respondent No. 1 on the points mentioned therein, more particularly whether the order of suspension has been approved by the Minister-In-Charge.

25] 10.11.2017 - That thereafter separate communication, the office of the Hon'ble Governor of Maharashtra informed the Petitioner of having forwarded the said Appeal papers to the Respondent No. 1 for point wise information.

26] That, however, till this date he is not aware as to whether the aforesaid compliance has been made by the Respondent No. 1. That apart though by now a period of 3 months has passed from the date of suspension, that the Petitioner heard nothing in the matter from the Respondent No.1 and the Appellate Authority vis-a-vis his representation and Appeal.”

(d) Learned Advocate for the Applicant has challenged the impugned order on following grounds :-

- “1) Petitioner is under suspension for 5 months but no D.E. charge sheet filed.
(6.19)
- 2) As per G.R. dated 14.10.2011 Respondent has not conducted Review of Suspension.
- 3) Misconduct even if proved would not lead to major penalty no scope for Petitioner to temper with the record and evidence. (6.23)
- 4) Respondent No.2 has no authority and power to make report which is basis for suspension in view of withdrawal of powers.
(The Administrative and Financial) by the State Government. (6.25)
- 5) Impugned order is given retrospective effect, though the same is actually served upon the Petitioner on 6.11.2017. (6.28)+PG No.38 to 43
- 6) Petitioner legally justifies the receipt of 13 lacs. (6.29)
- 7) Malafide order in the light of background incident of March 2017 followed by my complaint dated 2.8.2017. (6.30)+PG No.53 (Bottom)

- 8) *Petitioner is Class I Officer. Hence suspension should have received prior approval of Hon'ble Minister.*
- 9) *The Head Quarter of the Petitioner while under suspension should have been kept at Nashik instead of Aurangabad.* (6.32)
- 10) *The reason for which Petitioner does not wish to wait for decision of his appeal dt.6.11.17 to the Hon'ble Governor. PG No.20(7)+PG No.52"*

3. According to the Applicant the department had issued the charge sheet in the departmental enquiry on 12.10.2018 and he received the same on 22.05.2018.

4. Learned Advocate for the Applicant refers to G.R. issued on 14.10.2011. In para no.7(A) of the same (page no.63) mentions that the suspension should be reviewed after three months. If the process of D.E. has been completed in six months, the concerned person may be considered for reinstatement. According to the learned Advocate for the Applicant, the same has been violated. In support of the same, learned Advocate relies on the judgment of this Tribunal in *O.A. No.611/2017 (Naresh A. Polani v/s. State of Maharashtra) dated 23.10,2017* (Exb. 'O', page 65). He, therefore, states that suspension should be set aside.

5. Learned Advocate for the Applicant further points out that though the order was served on 06.11.2017, he was suspended from 12.10.2017 with retrospective effect.

6. Learned Advocate for the Applicant contends that the order is issued with malafide as the Director of Health Services had sent the proposal (Exb. 'H', page 44 & 45) for his suspension though he was not competent to do so and refers to the Government Circular issued on 03.05.2017 (Exb. 'G', page 41),

mentioning that proposals to Government should not be sent by Director, but by the Commissioner.

7. Learned Advocate for the Applicant draws attention to the letter from department of Public Health, on 12.10.2017 (Exb. '1', page 46) which stated that a proposal for D.E. should be sent immediately as the Applicant had mentioned a wrong date regarding his prior services before joining as Chief Administrative Officer and fixed his pay wrongly. This resulted in his excess payment from the year 2005 to 2017 for approximately of Rs.13.56 lakhs. According to learned Advocate even though this direction was issued on 12.10.2017, the same was however implemented after considerable delay.

8. Learned Advocate for the Applicant contends that the pay fixation of the Applicant was done by the Civil Surgeon, Nashik (Exb. 'B', page 27). The said letter (Para No.2) mentions as under :-

“ मा.संचालक, आरोग्य सेवा, संचालनालय, मुंबई यांचे दि.१६.०३.२००७ रोजीच्या पत्राच्या अधिनराहून श्री दिलीप जगन्नाथ आंबिलवाडे यांना यशवंतराव चव्हाण मुक्त विद्यापिठ, नाशिक येथे कार्यरत अखेरचा कालावधी म्हणजे दिनांक १२.१०.२००० रोजी असलेले वेतनाप्रमाणे दिनांक २८.०३.२००५ पासून वेतन व भत्ते अदा करून वार्षिक वेतनवाढ आदेश खालीलप्रमाणे निर्गमित करण्यात येत आहे :

वेतन श्रेणी रु.८००० - २७५ - १३५००

- १) दिनांक २८/३/२००५ रोजीचे वेतन - रु.९,६५०/-
- २) वार्षिक वेतन वाढ रक्कम - रु. २७५/-
- ३) वेतन वाढ दिनांक १/३/२००६ रोजी -रु.९,९२५/-
वेतन वाढीनंतरचे वेतन. ”

The next increment to the Applicant was granted from 01.03.2006 (Page 28)

9. Learned Advocate further states that the Applicant joined on 03.10.2007 (Exb. 'C' page 29) and pay was fixed accordingly in the pay scale of Rs.8000-275-13500. He was provided salary of Rs.9,925/-. (Exb. 'D', page 30). He was

also provided the difference. (Exb. 'E', page 31). Learned Advocate states that there is malafide because of the altercation that the Applicant had with the Joint Director (Finance and Administration) as per his averments para no.6.30 of O.A. and page 53 of the O.A.

10. In Rejoinder (Page No.156, para 3) learned Advocate states that by attaching him at Aurangabad, the Respondents have made a mistake and he should have been at the last place of his posting namely Pune. He, further, states that the Applicant has not been paid subsistence allowance till date and same should be released to him. According to the learned Advocate, the excess amount drawn by him was earlier stated to be Rs.13,56,000/- but now it has been stated as Rs.9,21,707/- (Page 190 of Rejoinder), as per the document furnished by the Additional Director, Health Services. Learned Advocate feels that there was no material record before the respondents to come to the conclusion that the excess amount of Rs.13,56,000/- has been drawn by him. According to him, the Respondents also did not confirm this fact from the office of Civil Surgeon, Nashik and from their own office.

11. Learned P.O. for the Respondents seeks adjournment to reply.

12. S.O. to 02.07.2018.

Sd/-

(P.N. DIXIT)
MEMBER (A)

VSM