

O.A.St.2666/2017 (DB)

**Coram : Hon. Shri Shree Bhagwan,
Member (A).**

Dated : 10.10.2018

C.A.493/2017 -

Shri G.G. Bade, Id. counsel for the applicant and Shri A.P. Potnis, Id. P.O. for the respondents.

2. The learned counsel for the applicant has already filed reply-affidavit on behalf of R-1 to 3 to the C.A. The learned counsel for the applicant desires to file rejoinder and for that purpose he seeks time.

3. At the request of Id .counsel for the applicant, **S.O. two weeks** for filing rejoinder.

Member (A).

dnk.

O.A.St.3154/2017 (DB)

**Coram : Hon. Shri Shree Bhagwan,
Member (A).**

Dated : 10.10.2018

C.A.583/2017 -

Shri P.P. Khaparde, Id. counsel holding for Shri P.V. Thakre, Id. counsel for the applicant and Shri S.A. Sainis, Id. P.O. for the respondents.

The learned counsel for the applicant seeks one week time. At his request, **S.O. one week.**

Member (A).

dnk.

O.A. 442/2016 (DB)

**Coram : Hon. Shri Shree Bhagwan,
Member (A).**

Dated : 10.10.2018

None for the applicant.

Shri P.N. Warjurkar, Id. P.O. for
R-1 to 3. Await service of R-4.

Service affidavit of R-4 is awaited.

S.O. one week.

Member (A).

dnk.

O.A. 830/2017 (DB)

**Coram : Hon. Shri Shree Bhagwan,
Member (A).**

Dated : 10.10.2018

None for the applicant.

Shri M.I. Khan, Id. P.O. for the
respondents.

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

Member (A).

dnk.

O.A. 213/2018 (DB)

**Coram : Hon. Shri Shree Bhagwan,
Member (A).**

Dated : 10.10.2018

None for the applicant.

Shri M.I. Khan, Id. P.O. for the respondents.

2. The learned P.O. submits that the respondent nos.2 and 3 are not responsible for any cause. However they have been made party in this O.A.

3. The learned P.O. is requested to file the facts on record.

4. **S.O. two weeks.**

Member (A).

dnk.

O.As. 242 & 272 of 2018 (DB)

**Coram : Hon. Shri Shree Bhagwan,
Member (A).**

Dated : 10.10.2018

Shri U.D. Mokasdar, Id .counsel for
the applicants and Shri P.N. Warjurkar,
Id. P.O. for R-1&2. None for R-3.

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

Member (A).

dnk.

O.A. 580/2015 (DB)

**Coram : Hon. Shri Shree Bhagwan,
Member (A).**

Dated : 10.10.2018

None for the applicant.

Heard Shri A.M. Ghogre, Id. P.O.
for R-1 and 2. None for R-3&4.

The learned P.O. submits that the
pleadings are complete and hence the
matter may be admitted.

In view thereof, since the
pleadings are complete the matter is
admitted and be kept for final hearing.

The learned P.O. waives notice for
R-1 and 2.

S.O. in due course.

Member (A).

dnk.

O.As. 243 & 244 of 2016 (DB)

**Coram : Hon. Shri Shree Bhagwan,
Member (A).**

Dated : 10.10.2018

Shri I.N. Choudhari, Id. counsel for
the applicants and Shri P.N. Warjurkar,
Id. P.O. for respondents.

At the request of both the sides,
S.O. one week.

Put up along with other connected
matters.

Member (A).

dnk.

O.As. 245 & 246 of 2016 (DB)

**Coram : Hon. Shri Shree Bhagwan,
Member (A).**

Dated : 10.10.2018

Shri I.N. Choudhari, Id. counsel for the applicants and Shri P.N. Warjurkar, Id. P.O. for R-1 to 3. None for other respondents.

At the request of both the sides,
S.O. one week.

Put up along with other connected matters.

Member (A).

dnk.

O.A.No.438/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 10.10.2018.

Shri S.A.Marathe, the Id. counsel for the applicant, Shri V.A.Kulkarni, Id. P.O. for the respondent nos. 1 to 3 and Shri P.N.Kadao, the Id. counsel for the respondent no. 4. None for the respondent no. 5.

The Id. P.O. submits the affidavit-in-reply on behalf of the respondent nos. 2 & 3. It is taken on record. Copy is served to the other sides.

At the request of Id. counsel for the respondent no. 4, **S.O. one week i.e. 17/10/2018.**

Member (A)

aps.

O.A.No.567/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 10.10.2018.

Shri S.P.Palshikar, the Id. counsel for the applicant and Shri V.A.Kulkarni, Id. P.O. for the respondents.

The applicant was suspended vide order no. ~~del~~ dated 07/07/2018 (Annexure-A-1).

The Principal Bench of this Tribunal has delivered one Judgment in O.A. 35/2018 dated 11/09/2018 by Hon'ble Chairman, M.A.T. Mumbai, the following observations are made in para no. 23 of the Judgment:-

23. *This Tribunal took a view in Shri Naresh Alwandar Polani Vs. State of*

Maharashtra, O.A.611 of 2017, by order dated 23/10/2017, relying on the Judgment of Hon'ble Supreme Court in the case of Ajay Kumar Choudhary Vs. Union of India & Ors., (2015) 7 SCC 291 and also in view of observations contained in Dr. Narendra Omprakash Bansal Vs. The State of Maharashtra & Ors., W.P.11987/2015 as follows:-

"9. It is now well settled by virtue of Judgment in Ajay Kumar Choudhary (supra) that notwithstanding the language as may have been employed in the conditions of service, now it is not open to the Government to continue the suspension beyond three months as a mandatory rule of precedent."

In para nos. 24 & 25 of the said Judgment following observations have been made:-

24. Learned advocate for the applicant has in addition placed reliance on the Judgment of Hon'ble Supreme Court in State of Tamil Nadu Vs. Pramod Kumar IPS & Anr., Civil

Appeal No. 8427-8428 of 2018, wherein it is held as follows:-

“23. This Court in Ajay Kumar Choudhary Vs. Union of India, (2015) 7 SCC 291 has frowned upon the practice of protracted suspension and held

that suspension must necessarily be for a short duration.....

25. Thus, now the ratio laid down in Ajay Kumar Choudhary's case is reiterated in case of State of Tamil Nadu Vs. Pramod Kumar Supra and the view taken by this Tribunal in Shri N.A.Polani's case (O.A.611/2017) is required to be followed without making an exception, being based on a mandatory precedent.

Para No. 23 of the Judgment dated 21/08/2018 passed by the Hon'ble Apex Court in Civil Appeal No. 8427/8428 of 2018 in State of

Tamil Nadu Vs. Pramod Kumar IPS & Another it is held as under-

“This Court in Ajay Kumar Choudhary Vs. Union of India, (2015) 7 SCC 291 has frowned upon the practice of protracted suspension and held that suspension must necessarily be for a short duration. On the basis of the material on record, we are convinced that no useful purpose would be served by continuing the first respondent under suspension any longer and that his reinstatement would not be a threat to a fair trial. We reiterate the observation of the High Court that the Appellant State has the liberty to appoint the first respondent in a non sensitive post”.

In view of the above Judgments of Hon'ble Supreme Court and Judgment of MAT, Principal Bench, Mumbai in O.A.No.35/2018 delivered on 11/09/2018 are applicable to the present O.A. and applicant is still under suspension which is more than 90 days, as per the calculation it comes for more than 93 days.

The Id. P.O. submits that Anti Corruption Bureau case is going on, as directed by Hon'ble Supreme Court Judgment the suspension is required to be revoked and he may be posted at a Non-Sensitive post. In that case, applicant will not interfere in the trial.

Considering all the facts, the following order is passed:-

The suspension order of the applicant
dated 13/06/2018 (Annexure-A-018@5938] dated 07/07/2018 (Annexure-A-1) is revoked from the date of this order. The respondents are at liberty to post at Non-Sensitive post as per observations

made in Hon'ble Supreme Court Judgment mentioned above.

With the above directions, **the O.A. is disposed of with no order as to costs.**

Member (A)

aps.

O.A.No.476/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 10.10.2018.

Shri S.M.Khan, the Id. counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the respondents.

The Id. P.O. has submitted one document bearing number [redacted] dated 31/08/2018, it is the minutes of meeting of the Civil Service Board and it appears that Committee has discussed the issue of applicant and accordingly the decision is taken as per the requirement of administration. On the last page, it is mentioned that in Nagpur District, Field Assistants posts are required to complete the administrative work and applicant is recommended to be posted at Nagpur. The

Id. counsel for the applicant is also not very much reluctant to the proposal.

As per the minutes of meeting dated 27/08/2018, the applicant should be given posting at Nagpur and applicant should join at Nagpur at earliest.

In view of this, it appears that the applicant's grievances has been considered and it is redressed. **Hence, O.A. is disposed of with no order as to costs.**

Steno copy is granted.

Member (A)

aps.

O.A.No.797/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 10.10.2018.

Heard Shri S.P.Palshikar, the Id. counsel for the applicant and Shri H.K.Pande, Id. P.O. for the State.

2. The applicant retired on 30/11/2017 as per P.B., Pg. No. 37 bearing no. PR-1/2131748981/5/P/18/10/60216056 dated 28/06/2018 (Annexure-A-7) it appears that commutation of pension payment order has been issued. As submitted by Id. P.O., pension has been sanctioned by Accountant General.

3. However, as per the record on P.B., Pg. No. 34 to 36, it seems that Director of Medical Education and Research, Mumbai has written to respondent no. 1 on 03/01/2018 vide letter No.

th, l, l @, el h@uk&ns] uk&pkd'Ah ijpM@fo-'Asv@ukxij@3c 144- Now this certificate is required from respondent no. 1.

4. However, the Id. counsel for the applicant points out that from 01/06/2018 even the provisional pension is not paid to the applicant.

In view of this:-

A. *The respondent no. 1 is directed to take a decision on letter by respondent no. 2 dated 03/01/2018 bearing number th, l, l @, el h@uk&ns] uk&pkd'Ah ijpM@fo-'Asv@ukxij@3c 144 **within two weeks** from the date of this order and communicate to the respondent no. 2-*

B. *Provisional Pension of the applicant must be started **within two weeks** from the date of this order.*

C. *The Id. P.O. seeks time to file affidavit-in-reply. At his request, **S.O. 24/10/2018.***

5. Issue notice to R-2 & 3, returnable on two weeks. Learned P.O. waives notice for R-1. Hamdast allowed.

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 O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

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 affidavit of compliance in the Registry within one week. 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. 24/10/2018.**

Member (A)

aps.

O.A.No.343/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 10.10.2018.

C.A.No. 166/2018:-

Shri A.P.Sadavarte, the Id. counsel for the applicant and Shri H.K.Pande, the Id. P.O. for the respondents.

The Id. counsel for the applicant filed the pursis to withdraw the O.A. Hence, the C.A. for amendment is disposed of.

Hence, the O.A. is disposed of as withdrawn, liberty is given to file the fresh O.A., if applicant is aggrieved.

Member (A)

aps.

O.A.No.450/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 10.10.2018.

Shri A.S.Tiwari, the Id. counsel for the applicant and Shri A.M.Ghogre, the Id. P.O. for the respondents.

The Id. counsel for the applicant did not want to file Rejoinder. The matter is **admitted** and kept for final hearing. **S.O. Monday i.e. 15/10/2018.**

Member (A)

aps.

O.A.No.489/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 10.10.2018.

Shri G.G.Bade, the Id. counsel for the applicant and Shri A.P.Potnis, the Id. P.O. for the respondents.

The P.O. filed the affidavit-in-reply on behalf of the respondent nos. 2 to 5. The same is taken on record. Copy is served to the other side.

Since, the pleadings are completed. The matter is **admitted** and kept for final hearing.

S.O. one week. Meanwhile, the Id. counsel for the applicant is at liberty to file Rejoinder, if any.

Member (A)

aps.

O.A.No.628/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 10.10.2018.

Shri G.K.Bhusari, the Id. counsel for the applicant, Shri M.I.Khan, the Id. P.O. for the respondent no. 1 and Shri S.N.Gaikwad, the Id. counsel for the respondent no. 2. None for the respondent no. 3.

At the request of Id. counsel for the respondent no. 2, **S.O. one week and if reply is not filed, the matter is heard on merit.**

Member (A)

aps.

O.A.No.695/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 10.10.2018.

Shri G.G.Bade, the Id. counsel for the applicant and Shri H.K.Pande, the Id. P.O. for the respondents.

The Id. P.O. seeks three weeks time to file reply. At his request, **S.O. three weeks.**

In order dated 04/09/2018, the stay granted is continued till next date of hearing.

Member (A)

aps.

O.A.No.716/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 10.10.2018.

Shri N.R.Saboo, the Id. counsel for the applicant, Shri P.N.Warjurkar, the Id. P.O. for the respondent nos. 1 & 2 and Smt. Shilpa Kharapkar, the applicant in person for the respondent no. 3.

The Id. P.O. filed the affidavit-in-reply on behalf of the respondent no. 1 and the applicant in person for the respondent no. 3 has also filed the affidavit-in-reply on behalf of the respondent no. 3. It is taken on record. Copy is served to the other sides.

The applicant in person for the respondent no. 3 submits that she is only affected in the whole process. So, the Id. counsel for the applicant can file Rejoinder, if necessary.

The Id. counsel for the applicant pointed out that during the pendency of this O.A., he has received the transfer order dated 10/09/2018, he is permitted to amend the O.A., if necessary.

S.O. 17/10/2018 for final disposal.

Member (A)

aps.

O.A.No.720/2017 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 10.10.2018.

Shri V.R.Choudhari, the Id. counsel for the applicant and Shri A.M.Khadatkar, the Id. P.O. for the respondents.

At the request of both the counsels the matter is **admitted** and kept for final hearing. Meanwhile, the Id. counsel for the applicant is at liberty to file Rejoinder, if any.

S.O.30/10/2018.

Member (A)

aps.

O.A.No.328/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 10.10.2018.

Shri G.K.Bhusari, the Id. counsel for the applicant and Shri A.P.Potnis, the Id. P.O. for the respondent nos. 1 & 2. None for the respondent no. 3.

The Id. counsel for the applicant invited my attention on P.B., Pg. No. 99 where the applicant has submitted application dated 05/10/2018 to Principal Secretary, Public Health, Department. In this application, the applicant has mentioned in the last line of para 1 that she has already served in Naxal Affected and Tribal Area for 19 years and 05 months.

In view of this, as per the Government G.R. No. 1443, Q&2000@i7d7 3@ckk] fnukd 06@08@2002- The applicant is entitled for choice posting.

In para no. 2, she has indicated for choice and made request to Principal Secretary, Public Health, Department.

In view of above facts, the respondent no. 1 is directed to consider the request of applicant dated 05/10/2018 **within 03 months** from the date of this order.

With the above directions the **O.A. stands disposed of with no order as to costs.**

In order dated 04/06/2018, in para no. 2:- *The ld. counsel for the applicant pointed out the document at P.B., Pg. No. 40 about the five years service. Considering all the issue in the impugned order regarding the applicant part and the respondent no. 4 is stayed till the decision is communicated to applicant on application dated 05/10/2018.*

The above same relief is continued
till the decision.

Member (A)

aps.

O.A.No.436/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 10.10.2018.

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

At the request of Id. counsel for the
applicant, **S.O. one week.**

*Put up this matter along with the
O.A.437/2018.*

Member (A)

aps.

O.A.No.437/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 10.10.2018.

Shri J.S.Wankhede, the Id. counsel
for the applicant and Shri M.I.Khan, the Id.
P.O. for the respondents.

At the request of Id. counsel for the
applicant, **S.O. one week.**

*Put up this matter along with the
O.A.436/2018.*

Member (A)

aps.

O.A.No.798 & 799/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 10.10.2018.

Shri S.C.Deshmukh, the Id. counsel for the applicant and Shri V.A.Kulkarni, the Id. P.O. for the State.

2. Since, the matter is listed for the first time. The matter is regarding the powers of each level regarding taking such action. The reply must clarify, whether Deputy Conservator of Forest is empowered to take such action against the applicant or not? If, so under which rule, must be clarified in reply.

3. Issue notice to R-2 & 3, returnable on 25-10-2018. 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. 25-10-2018.**

Member (A)

aps.