

O.A. St. No. 1741/2018.

(D.B.)

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J) and
Shree Bhagwan, Member(A)**

Dated : 06th November 2018.

C.A.No.290/2018:-

Shri A.M.Borkar, the Id. counsel for the applicant, Shri H.K.Pande, the Id. P.O. for the State and Shri H.D.Marathe, the Id. counsel is going to file Vakalatnama on behalf of the respondent no. 2. None for the respondent no. 4.

2. There is a delay of only 30 days in filing the O.A.. For the reasons stated in the application, the said delay is condoned in the interest of justice and equity. Hence, C.A., therefore, **is allowed.**

O.A.St.No.1741/2018:-

1. Issue notice to R-2 to 4, returnable on 04/12/2018. Learned P.O. waives notice for R-1. Hamdast allowed.

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

3. 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.

4. 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.

5. 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.

6. 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.

7. **S.O. 04/12/2018.**

Member(A)

Vice-Chairman(J)

Date:-06/11/2018.

aps.

O.A. No. 654/2017.

(D.B.)

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J) and
Shree Bhagwan, Member(A)**

Dated : 06th November 2018.

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

At the request of Id. P.O., **S.O. After
Diwali Vacation.**

Member(A)

Vice-Chairman(J)

Date:-06/11/2018.

aps.

O.A. No. 761/2018.

(D.B.)

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J) and
Shree Bhagwan, Member(A)**

Dated : 06th November 2018.

Shri Manoj Jaiswal holding for Shri N.R.Saboo, the Id. counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the respondent nos. 1 & 2. None for the respondent nos. 3 to 5.

The Id. counsel for the applicant submits that all the respondents are served and the service affidavit has been submitted in the office. The Id. P.O. seeks time to file reply affidavit on behalf of the respondent nos. 1 and 2.

At his request, **S.O. four weeks.**

Member(A)

Date:-06/11/2018.

aps.

Vice-Chairman(J)

O.A. No. 185/2018.

(D.B.)

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J) and
Shree Bhagwan, Member(A)**

Dated : 06th November 2018.

C.A.No.165/2018:-

None for the applicant. Shri A.M.Khadatkar, the Id. P.O. for the respondents.

The Id. P.O. files the affidavit-in-reply on behalf of the respondent nos. 2 and 3. It is taken on record. He submits that he will serve the copy to the other side.

At his request, **S.O. four weeks.**

Member(A)

Vice-Chairman(J)

Date:-06/11/2018.

aps.

O.A. No. 877/2018.

(D.B.)

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J) and
Shree Bhagwan, Member(A)**

Dated : 06th November 2018.

C.A.No.345/2018:-

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

2. It is submitted that all the applicants have been promoted temporarily for 364 days vide an order dated 30/10/2017 (Annexure-A-2) from Laboratory Assistant post to Laboratory Technician post and they apprehend that they might be relieved from the said temporarily promoted posts before completion of 364 days from their date of joining to the promotional post. The cause of action arose for all the applicants are common. Hence, in the interest of justice and for the reason stated in the application, the application for sue jointly is allowed, subject to payment of requisite court fee, if not paid.

O.A.No.877/2018:-

1. Heard the Id. counsel for the applicant and the Id. P.O.. The applicants have been

promoted temporarily for the period of 364 days from the post of Laboratory Assistant to the Laboratory Technician. The common order has been issued on 30/10/2017, as per (Annexure-A-2). The Id. counsel for the applicant submits that all the applicants were not relieved immediately, so far as to join on promotional posts. However, considering the date of promotion as date of issuance of the order dated 30/10/2018, the applicants apprehend that they may be relieved from the promotional posts before completion of 364 days and there actual working in the promotional cadre. The orders of some of the applicants have been placed on record which are at Annexure-A-3 at P.B., Pg. Nos. 33, 34 & 36 from which it seems that, the applicants were promoted from the date of their joining to the promotional posts for 364 days. The applicants have not yet completed 364 days on the promotional posts.

2. We are therefore, satisfied that the applicant cannot be relieved from the promotional posts, before completion of 364 days from the date of their joining on the promotional posts. The respondents are therefore, directed not to relieve the applicant from their promotional posts before completion of 364 days from the date of their

joining for the post of Laboratory Technician.

Hence, the C.A. 3445/2018 is allowed.

3. Issue notice to R-2 to 8, returnable on 04-12-2018. 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. 04-12-2018.**

Member(A)

Date:-06/11/2018.

aps.

Vice-Chairman(J)

O.A. No. 876/2018 (SB)

**Coram : Hon. Shri A.D. Karanjkar,
Member (J).**

Dated : 06.11.2018

Heard Shri P.R. Agrawal, learned counsel for the applicant, Shri A.M. Ghogre, Id. P.O. for R-1 and none for R-2 and 3.

2. The learned P.O. had placed on record the order dated 30/10/2018 by which the applicant placed under suspension. The learned counsel for the applicant on instructions submits that he wants to withdraw the present O.A. with liberty to challenge the suspension order dated 30/10/2018 by filing fresh O.A.

3. In view of this, the applicant is allowed to withdraw the O.A. with liberty as prayed for.

4. In the result, the O.A. stands disposed of as withdrawn with no order as to costs.

Member (J)

dnk.

O.A. No. 226/2018 (SB)

**Coram : Hon. Shri A.D. Karanjkar,
Member (J).**

Dated : 06.11.2018

None for the applicant.

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

It appears that the amendment not carried out by the applicant.

S.O. 19/11/2018 for taking steps.

Member (J)

dnk.

O.A. No. 284/2018 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,
Member (J).**

Dated : 06.11.2018

C.A.106/2018

None for the applicant.

Shri A.M. Ghogre, Id. P.O. for R-1.
Await service of R-2 to 4.

S.O. four weeks.

Member (J)

dnk.

O.A. No. 256/2018 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,
Member (J).**

Dated : 06.11.2018

None for the applicant.

Shri A.M. Ghogre, Id. P.O. for R-1.
Await service of R-2 to 5.

S.O. four weeks.

Member (J)

dnk.

O.A. No. 306/2018 (SB)

**Coram : Hon. Shri A.D. Karanjkar,
Member (J).**

Dated : 06.11.2018

None for the applicant.

Shri A. M. Khadatkhar, Id. P.O. for R-1.
Await service of R-2 and 3.

S.O. four weeks.

Member (J)

dnk.

O.A. No. 882/2018 (SB)

**Coram : Hon. Shri A.D. Karanjkar,
Member (J).**

Dated : 06.11.2018

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

2. The learned counsel for the applicant was unable to point out me any G.R., Circular or legal provision by virtue of which a government servant who is promoted can insist for his retention at a particular station. Therefore, I think it suitable to hear the respondents before granting any interim relief. In the meantime, the applicant is permitted to make representation to his higher authorities for his posting at Chandrapur.

3. Issue notice to R-2 to 4, returnable on 19/11/2018. 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. 19/11/2018.**

Member (J)

dnk.

O.A. No. 884/2018 (SB)

**Coram : Hon. Shri A.D. Karanjkar,
Member (J).**

Dated : 06.11.2018

Heard Shri M.I. Dhattrak, learned counsel for the applicant and Shri M.I. Khan, learned P.O. for the State.

2. It is submitted that the applicant was posted as Chief Officer, Nagar Parishad, Saoner, District Nagpur by order dated 31/05/2017. Thereafter before completion of normal tenure she was transferred vide order dated 19/03/2018 to Nagar Parishad, Narkhed, District Nagpur. The transfer order dated 19/03/2018 was challenged in O.A.198/2018 and interim relief was granted. Thereafter the respondents in that matter informed this Tribunal that the transfer order of the applicant from Saoner to Narkhed was cancelled. Consequently, the O.A. came to be disposed of.

3. It is submission of the applicant that the respondents have played game and they mislead the Tribunal by cancelling earlier transfer order. It is grievance of the applicant that vide order dated 06/11/2018 which is passed just after a month. The applicant is again transferred from Saoner to the office of Divisional Commissioner, Nagpur Division, Nagpur. It is submitted that the transfer order is itself explanatory to show that there was no administrative

exigency for urgency for the transfer. In the transfer order itself it is mentioned that she was relieved from the post and she shall join a new post at Nagpur. The charge of the post is handed over to the Chief Officer, Nagar Parishad, Kalmeshwar.

4. According to the learned counsel for the applicant, the prima facie the case is established for staying the operation of this order.

5. The learned P.O. has invited my attention to the copy of charge taking certificate. It appears that one Harishchandra Takarkhede , Chief Officer, Nagar Parishad, Kalmeshwar has taken the charge of the post on 06/11/2018. Even in the transfer order itself it is mentioned that the Transferring

Authority relieved the applicant from the post. In such circumstances, the observations of the Hon'ble Apex Court are applicable. It is observed by the Hon'ble Apex Court it is duty of the government servant to obey the transfer order and even

after obeying the transfer order, the government servant is at liberty to challenge that order, therefore in this case it is suitable to issue notice to file reply within two weeks.

6. In the meantime, the respondent no.1 is directed not to fill the post of Chief Officer, Nagar Parishad, Saoner till further orders.

7. Issue notice to R-1, returnable **in two weeks**. Learned P.O. waives notice for R-1. Hamdast allowed.

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

9. 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.

10. 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.

11. 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.

12. 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.

13. **S.O. two weeks.**

Member (J)

O.A. No. 879/2018 (SB)

Coram : Hon. Shri A.D. Karanjkar,
Member (J).

Dated : **06.11.2018**

C.A.346/2018 –

Heard Shri G.B. Hemke, learned counsel for the applicant and Shri A.M. Ghogre, learned P.O. for the State.

2. By this C.A., the applicants are seeking leave to sue jointly. For the reasons stated in the C.A., leave to sue jointly as prayed for is granted, subject to the

applicants paying requisite court fees, if not already paid. C.A. stands disposed of accordingly.

O.A.879/2018 -

Heard Shri G.B. Hemke, learned counsel for the applicant and Shri A.M. Ghogre, learned P.O. for the State.

2. The RCA No.404/2005 was filed by respondent nos.1 and 2 for declaration that the applicant no.1 was legally wedded wife and the applicant no.2 legitimate daughter of deceased Pradip Mandre. In that suit the present respondent no.3 was defendant. Though the Court dismissed the suit but recorded finding that the applicant no.1 was legally wedded wife of Pradip Mandre and the applicant no.2 was legitimate child of Pradip Mandre. The applicant filed appeal no.431/2008, in District Court, Nagpur, the appeal was allowed and the suit was decreed. The respondent no.3 thereafter filed second appeal no.414/2010. In the second appeal the Hon'ble High Court restored the order passed by the Trial Court. As the order passed by the Trial Court is restored to the findings recorded that the applicant no.1 as legally wedded wife of deceased Pradip Mandre and applicant no.1 is legitimate daughter of Pradeep Mandre

are not disturbed. Therefore, there is prima facie case that the applicants have right to claim the amount in hands of the Forest Department to which legal representative of deceased Pradeep are entitled. On 5/10/2018 the Deputy Conservator of Forest wrote letter to the applicant and now it is apprehension of the applicant that the respondents will pay amount to the respondent no.3 to 5 and it will cause grave prejudice to the applicant. There is a substance in this contention as the applicant no.1 is legally wedded wife and the applicant no.1 legitimate daughter of deceased Pradeep. In this situation in order to avoid complications it is suitable in the interest of justice to grant interim relief in terms of prayer clause (1) and (2).

3. Issue notice to R-2 to 5, returnable **in four weeks**. 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. four weeks.**

Member (J)

dnk.

O.A. No. 880/2018 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,
Member (J).**

Dated : 06.11.2018

Heard Shri Bharat Kulkarni, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for the State.

2. The suspension order is in force, therefore it is suitable to hear the respondents before granting any interim relief.

3. Issue notice to R-1, returnable on 19/11/2018. 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. 19/11/2018.**

Member (J)

dnk.

O.A. No. 589/2018 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,
Member (J).**

Dated : 06.11.2018

Shri G.K. Bhusari, learned counsel for the applicant and Shri A.M. Ghogre, learned P.O. for R-1&2. None for R-3.

The Id. P.O. files reply on behalf of R-1. It is taken on record. Copy is served on the applicant.

Heard. Admit.

Learned P.O. waives notice for R-1&2.

S.O. four weeks.

Member (J)

dnk.

O.A. No. 776/2016 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,
Member (J).**

Dated : 06.11.2018

None for the applicant.

Shri A.M. Ghogre, Id. P.O. for the
respondents.

S.O. four weeks.

Member (J)

dnk.

O.A. No. 836/2016 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,
Member (J).**

Dated : 06.11.2018

None for the applicant.

Shri A.M. Ghogre, Id. P.O. for R-1 to
3. None for R-4.

S.O. four weeks.

Member (J)

dnk.