

C.A.56/20 in O.A.58/20 with C.A.57/20 in

**O.A.59/20 with C.A.58/20 in O.A.61/20 with
C.A.59/20 in O.A.62/20 with C.A.60/20 in
O.A.63/20 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 20/02/2020.**

Heard Smt. P.Rane, the Id. Counsel for the applicant and Shri S.A.Deo, the Id. C.P.O. for the State.

2. As suggested by Id. C.P.O., it will be better if matter is placed on Monday before regular D.B. for modification of order. The Id. counsel for the applicant agreed with this proposal so matter will be placed on 24.02.2020.

3. S.O. 24.02.2020.

4. Matter be kept high on board.

Vice Chairman

Date:-20/02/2020.

aps.

O.A. No.120/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 20/02/ 2020.

C.A.No.61/2020:-

Heard Shri V.B.Gawali, the Id. Counsel for the applicant and Shri A.M.Khadatkar, the Id. P.O. for the State.

2. The Id. counsel for the applicant has filed C.A. No. 61/2020 for adding more respondents on Monday. He desires to add respondent nos. 5 to 9.

3. **C.A. No. 61/2020 is allowed.** The Id. counsel for the applicant is directed to carry out the amendment forthwith.

4. Issue notice to newly added respondents, returnable on 28-02-2020. 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. 28-02-2020.**

Vice Chairman

Date:-20/02/2020.

aps.

O.A. No.121/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 20/02/ 2020.

Heard Shri S.M.Khan, the Id. Counsel for the applicant and Shri S.A.Deo, the Id. C.P.O. for the State.

2. The impugned order dated 15.02.2020 is at Annexure-A-1, P.B., Pg. No. 11. Admittedly, applicant is an Account Officer and he has been directed by The Director, Maharashtra Remote Sensing, Nagpur to perform the work of Accountant. The Id. counsel for the applicant has also pointed out Finance Department direction dated 25.01.2007 by Secretary, Finance (Accounts and Treasury) in para no. (vii) following observations are given :-

"(vii)-The Maharashtra Finance & Accounts Service (Group-B, Non Gazetted) (Assistant Accounts Officers) and above are supervisory officers and they should not be asked to perform clerical or ministerial work, such as writing of cash book etc., since it can seriously affect the checks and balance mechanism which is envisaged in the system. Further, they should not be asked to perform non-finance and non-accounts functions since it can dilute their focus and result in a compromise."

3. *Prima-facie* the impugned order appears to be violative of provisions of direction dated 25.01.2007 and its clause (vii). The Id. C.P.O. desires time to file reply. Till filing of the reply, order dated 15.02.2020 by Director, Maharashtra Remote Sensing, Nagpur is stayed and be kept in abeyance. If

respondents are in necessity they may file reply before three weeks and circulate for early hearing.

4. Issue notice to Respondents, returnable on three weeks. Learned C.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. three weeks.

11. Steno copy is granted.

Date:-20/02/2020.
aps.

Vice Chairman

O.A.No.760/2019 (S.B.)

**Coram:Shri Shree Bhagwan, Vice Chairman
Dated :20/02/ 2020.**

Heard Shri S.C.Deshmukh, the Id. Counsel for the applicant and Shri A.M.Khadatkar, the Id. P.O. for the respondents.

2. The Id. P.O. seeks time to file reply. At his request, **S.O. two weeks as a last chance.**

Vice Chairman

Date:-20/02/2020.

aps.

O.A.No.739/2016 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :20/02/ 2020.

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

2. As per the order dated 13.02.2020, the Id. counsel for the applicant was to take instructions from the applicant. However, since applicant is bedridden and he could not take the instructions. As submitted by Id. counsel for the applicant, matter is **admitted** and kept for final hearing.

3. The Id. P.O. waives notices for the respondents.

4. **S.O. 05.03.2020.**

Vice Chairman

Date:-20/02/2020.

aps.

O.A.No.13/2020 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :20/02/ 2020.

Heard Shri G.G.Bade, the Id. Counsel for the applicant and Shri V.A.Kulkarni, the Id. P.O. for the respondents.

2. The Id. P.O. has filed the reply on behalf of the respondent no. 4. It is taken on record. Copy is served to the other side. He further submits that the reply of respondent no. 4 is sufficient to decide the O.A..

3. In this situation, O.A. is **admitted** and kept for final hearing.

4. The Id. P.O. waives notices for the respondents.

5. **S.O. 27.02.2020.**

6. *Put up along with the Rev. Appl. 19/17 in O.A. No. 710/2014.*

Vice Chairman

Date:-20/02/2020.

aps.

Rev.Appl.19/17inO.A.No.710/14(S.B.)

**Coram:Shri Shree Bhagwan, Vice Chairman
Dated :20/02/ 2020.**

Heard Shri G.G.Bade, the Id. Counsel for the applicant and Shri V.A.Kulkarni, the Id. P.O. for the respondents.

2. **S.O. 27.02.2020.**

3. *Put up along with the O.A. No. 13/2020.*

Vice Chairman

Date:-20/02/2020.
aps.

Rev.02/20 in O.A.No.626/16 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :20/02/ 2020.

Heard Smt. Saboo, the Id. Counsel for the applicant and Shri V.A.Kulkarni, the Id. P.O. for the respondents.

2. At the request of Id. P.O., **S.O. three weeks.**

Vice Chairman

Date:-20/02/2020.
aps.

O.A.No.34/2020 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :20/02/ 2020.

Heard Smt. Saboo, the Id. Counsel for the applicant and Shri V.A.Kulkarni, the Id. P.O. for the respondents.

2. The Id. counsel for the applicant submits that she will file service affidavit within two days. The Id. P.O. is requested three weeks time to file reply.

3. **S.O. three weeks.**

Vice Chairman

Date:-20/02/2020.
aps.

O.A.No.1047/2019 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :20/02/ 2020.

Heard M.M.Sudame, the Id. Counsel for the applicant and Shri A.M.Khadatkar, the Id. P.O. for the respondents.

2. The Id. counsel for the applicant has submitted that applicant was put under suspension vide letter dated 25/09/2019 (Annexure-A-4, P.B., Pg. No. 32) on the basis of A.C.B. case and since applicant was taken in custody, the date of suspension has been treated on 20/09/2019; when he was taken in custody. However, in view of various Judgments which are below:-

(i) The Apex Court in Civil Appeal No. 1912 of 2015 (arising out of SLP No.31761 of 2013) in the case of Ajay Kumar Chaudhary Vs. Union of India through its Secretary and another in its Judgment dated 16/02/2015 in para no. 14, it has observed that :-

14 We, therefore, direct that the currency of a Suspension Order should not extend beyond three months if within this period the Memorandum of Charges/Chargesheet is not served on the delinquent officer/employee; if the Memorandum of Charges/Chargesheet is served a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the concerned person to any Department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and

documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognize that previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time limits to their duration. However, the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us.

(ii) The Hon'ble Apex Court in its Judgment in Civil Appeal No. 8427-8428 of 2018 (Arising out of S.L.P. (Civil) No. 12112-12113 of 2017) in the case of **State of Tamil Nadu Vs. Pramod Kumar IPS and Anr. delivered on 21/08/2018** in its para no. 23 had observed as follows:-

*23. This Court in **Ajay Kumar Choudhary v. 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.*

(iii) The Principal Bench of Maharashtra Administrative Tribunal Mumbai Bench in O.A. No. 35/2018 Judgment delivered on 11/09/2018 has also rejected continuation of suspension beyond 90 days.

3. Subsequently, in view of various judgments, Government has taken decision on 09/07/2019 (P.B., Pg. No. 72). The Id. counsel for the applicant

further submits that as per the provisions contained in the G.R. decision para no. 1 (ii); charge sheet has not been served till now. Subsequently, the Id. P.O. has not filed the reply till now.

4. Hence, suspension order dated 25/09/2019 is quashed and set aside. Respondents are directed to issue revocation order of applicant's suspension forthwith and consequent to that it is also directed to give suitable posting to the applicant as per Rules and Regulations.

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

Vice Chairman

Date:-20/02/2020.
aps.

O.A.No.961/2019 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :20/02/ 2020.

Heard Shri S.C.Deshmukh, the Id. Counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the respondents.

2. The Id. counsel for the applicant submits that the matter is covered by M.A.T., Nagpur Bench Judgment i.e. O.A. No. 35/2019 delivered on 26/07/2019 in which Judgment of Hon'ble Madras High Court has also relied.

3. The Id. counsel for the applicant has mainly relied on **W.P. No. 15732 of 2017 of the Hon'ble High Court of Madras in case of Shri P.Ayyamperumal Vs. The Registrar, Central Administrative Tribunal, Madras Bench, High Court Complex, Chennai-600 105 delivered on 15/09/2017 at Annexure-A-4, P.B., Pg. No. 12.**

4. In the same Judgment in para no. 5 following observations have been made:-

"The Petitioner retired as Additional Director General, Chennai on 30.06.2013 on attaining the age of Superannuation. After the Sixth Pay Commission, the Central Government fixed 1st July as the date of increment for all employees by amending Rule 10 of the Central Civil Services (Revised Pay) Rules, 2008. In view of the said amendment, the petitioner was denied the last increment, though he completed a full one year in service, i.e. from 01.07.2012 to 30.06.2013.

Hence, the petitioner filed the original application in O.A. No. 310/00917/2015 before the Central Administrative Tribunal, Madras Bench, and the same was rejected on the ground that an incumbent is only entitled to increment on 1st July if he continued in service on that day"

5. In the same Judgment in para no. 7 Hon'ble High Court has observed following points:-

"The petitioner herein had completed one full year service as on 30.06.2013, but the increment fell due on 01.07.2013, on which date he was not in service. In view of the above judgment of this Court, naturally he has to be treated as having completed one full year of service, though the date of increment falls on the next day of his retirement. Applying the said judgment to the present case, the writ petition is allowed and the impugned order passed by the first respondent – Tribunal dated 21.03.2017 is quashed. The petitioner shall be given one notional increment for the period from 01.07.2012 to 30.06.2013, as he has completed one full year of service, though his increment fell on 01.07.2013, for the purpose of pensionary benefits and not for any other purpose. No costs."

6. It appears that applicant should be granted increment dated 01.07.2018 and consequent pensionary benefits only.

7. However, Id. P.O. is requesting for two weeks time as a last chance. **S.O. 05.03.2020.**

Vice Chairman

Date:-20/02/2020.

aps.

O.A.No.992/2019 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :20/02/ 2020.

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

2. The Id. P.O. has filed reply on behalf of the
respondent no. 3. It is taken on record. He submits
that he will serve the copy to the other side. He
further submits that it is sufficient to decide this O.A.

3. The matter is **admitted** and kept for final
hearing.

4. The Id. P.O. waives notices for the
respondents.

5. **S.O. due course.**

6. *The Id. counsel for the applicant is at liberty
to file Rejoinder, if so desires.*

Vice Chairman

Date:-20/02/2020.
aps.

O.A.No.268/2019 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :20/02/ 2020.

Shri P.V.Thakre, the Id. counsel for the applicant and Shri A.M.Ghogre, the Id. P.O. for the respondents.

2. As per the reply of respondent nos. 2 & 3 dated 16.11.2019 at P.B., Pg. No. 27, para no. 10, they have mentioned in last line :-

"The applicant's proposal in respect of applicant presented to respondent no. 2 by the respondent no. 3 is under consideration."

3. In view of their own reply respondent no. 2 is directed to take decision **within three weeks** from the date of this order and communicate the same to the Id. counsel for the applicant and Tribunal through Id. P.O..

4. **S.O. 12.03.2020.**

5. *STENO COPY IS GRANTED.*

Vice Chairman

Date:-20/02/2020.

aps.

O.A.No.71/2017 with C.A.41/2017 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :20/02/ 2020.

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

2. The Id. P.O. has placed on record certain documents on records. It is taken on record. Copy is supplied to the other side.

3. The issue is that applicant wants deemed date of promotion from 2002. However, he has been promoted in 2012. The Id. P.O. has placed a chart on P.B., Pg. No. 2, where again on dated 24.12.1991, 12.03.2000 and 06.01.2001 on the right side it is written NO+YET; the meaning is not clear. Hence, the Id. P.O. is requested to place on record the same chart. Clear opinion regarding C.R. of applicant of the year 1991, 2000, 2001; at the same time 1992 is not mentioned.

4. Similarly, the Id. P.O. is also directed to take instruction regarding the date of C.Rs. i.e. from 01st April to 31st March. Considering the case of the applicant, the period of C.Rs. have to be mentioned and then it can be comprehended about the issue.

5. S.O. 04.03.2020.

Vice Chairman

Date:-20/02/2020.
aps.

O.A.No.57/17 with O.A.763/18 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :20/02/ 2020.

Shri R.A.Haque, the Id. counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the respondents.

2. As submitted by Id. P.O. reply in O.A. No. 57/2017 is already filed. However, they have not filed reply in O.A. No. 763/2018; it has been filed shortly.

3. At his request, **S.O. 28/02/2020.**

Vice Chairman

Date:-20/02/2020.
aps.

O.A.No.744/2016 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :20/02/ 2020.

Smt. K.N.Saboo, the Id. counsel for the applicant, Shri V.A.Kulkarni, the Id. P.O. for the State and Shri P.Rathi holding for Shri P.D.Meghe, the Id. counsel for the respondent no. 5. None for the respondent nos. 2, 3 & 4.

2. In the order dated 22/01/2020, it has been made very clear that now role of Z.P., Amravati is over; they are supply all the documents to the Z.P., Wardha. Now this is the responsibility of Z.P., Wardha to do all the payments of the applicant.

3. The Id. counsel for the Z.P., Wardha submits that he requires one more week time to file on record; what payments has been done and what are pending for what reason?

4. **S.O. one week.**

Vice Chairman

Date:-20/02/2020.

aps.

O.A.No.119/2020 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :20/02/ 2020.

Shri S.N.Gaikwad, the Id. counsel for the applicant and Shri S.A.Deo, the Id. C.P.O. for the State.

2. The Id. counsel for the applicant has sought relief clause at P.B., Pg. No. 6 para nos. 8 (i), (ii) & (iii):-

“(i) allow the instant original application with costs;

(ii) be pleased direct the respondent no. 3 i.e. The Deputy Director of Land Record, Nagpur Region to consider the applicant for appointment under scheme of compassionate appointment;

(iii) further be pleased to direct the no. 3 i.e. The Deputy Director of Land Record, Nagpur Region to identify the vacant post of Group-D and further offer the appointment to the applicant immediately.”

3. In relief clause, it seems to be very logical and respondents should not find any problem in fulfilling the relief clause. However, Id. C.P.O. desires ten days time to take decision to file reply. In view of that, if reply is not filed within ten days directions will be given to decide the matter.

4. Issue notice to R-2 to 4, returnable on 03-03-2020. Learned C.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. 03-03-2020.**

Vice Chairman

Date:-20/02/2020.

aps.