

O.A.No.927/2019 (D.B.)

**Coram** : Shri Shree Bhagwan, Vice Chairman  
**Dated** : 22/03/ 2021.

**C.A.No.80/2021:-**

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

2. The applicant was awarded punishment by Government as per Annexure-A-1, P.B., Pg. No. 194 on 01<sup>st</sup> July, 2019 and as per punishment operative part is on P.B., Pg. No. 202 following punishment was awarded to the applicant:-

v- Jherh vpluk e/tpj ikybkj] uxj jpukdkj  
¼xV&v@vjktif=r½; kpsl /; kpsoru] i qhy rhu o"kk; k dkyko/kh kBh  
oru l e; Jskhr ¼orucll : - 15600&39100+ xM is: - 5400½  
fnukcl 01-01-2006 jkst h?kr vl yY; k Vli koj [kkyh vk.k.; kr ; kos

c- mDr 03 o"kk; k dkyko/khr R; kuk oruok<h vuKs gkskkj  
ulghr vkf.k vl k f'k{kpk dkyko/kh l ektr >KY; kurj ; k i fj. kkeh R; kb; k  
Hkkoh oruok<h i q<cdyY; k tkrhy-

3. As per this punishment applicant was brought to the scale of Rs. 15600-39100 + G.P. Rs. 5400/- on 01.01.2006 for three years and without giving any increment and it is clear by G.R. dated 01.07.2019. The punishment period extended from 01.07.2019 to 01.07.2020, 01.07.2020 to 01.07.2021 and 01.07.2021 to 01.07.2022. So punishment period comes to the end on 01.07.2022.

4. The Id. counsel for the applicant relied on recent G.R. regarding such issue dated 30.08.2018 (P.B., Pg. No. 204).

5. The Id. counsel for the applicant has relied decision in the G.R. in para no. 2 (4) (d). In para no. (d) including provision of G.R. dated 15.12.2017. It is mentioned that after completion of the punishment period when D.P.C. will take place the sealed envelope will be opened. Since, applicant punishment periods end on 01.07.2022; there is no question of opening of sealed envelope before 01.07.2022 as per punishment order dated 01.07.2019. The Id. counsel for the applicant submits that matter may be kept in May, 2021; so that if till that time D.P.C. takes place any decision; his grievances will be satisfied, otherwise he will take date after 01.07.2022. So if in May, 2021 grievances will not solved that matter will be heard in July 2021.

6. In view of above discussion, **C.A. No. 80/2021 is disposed of. S.O. after summer vacation.**

7. *In any case, applicant cannot compel to open sealed envelope.*

**Vice Chairman**

**Date:-22/03/2021.**  
aps.

**O.A.No.409/2020 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman**  
**Dated : 22/03/ 2021.**

**C.A.Nos.193,360,361,362&369/20&61/21:-**

Heard Smt. K.N.Saboo, the Id. Counsel for the applicant, Shri M.I.Khan, the Id. P.O. for the respondents, Shri S.G.Jagtap, the Id. counsel for the Intervenor, Shri G.K.Bhusari, the Id. counsel for the Intervenor and Shri R.M.Vaidhya, the Id. counsel for the Intervenor.

2. **C.A.No.193/2020 for Jt. O.A. is allowed. C.A. Nos. 360 to 362 & 369/2020 and 61/2021 are allowed and disposed of.** The Id. counsel for the applicant is directed to carry out the amendment within one week and supply the amended copy to the other side.

3. **Matter be put up before regular D.B..**

**Vice Chairman**

**Date:-22/03/2021.**  
aps.

**C.P.No.18/2019inO.A.No.123/2017 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman**  
**Dated : 22/03/ 2021.**

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

2. The order passed in the Contempt Petition is on P.B., Pg. No. 23 which is reproduced below:-

*"(i) The application is allowed in terms of prayer clause 8 (i) and 8 (ii) and amended prayer clause no. 8 (i) (a).*

*(ii) The respondents are directed to refund the amount of gratuity to the applicant within three months from the date of this order, failing which the applicant will be entitled to claim interest as per Maharashtra Civil Services (Pension) Rules, 1982 by filing representation to that effect. No order as to costs."*

3. The Id. P.O. submits that pension and gratuity have been paid to the applicant and respondents are ready to pay interest as per opinion of Law and Judiciary it should be filed on record and what problem they are facing that should also file on record.

4. **S.O. immediately after summer vacation.**

**Vice Chairman**

**Date:-22/03/2021.**

aps.

O.A.No.242/2021 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman**  
**Dated : 22/03/ 2021.**

Heard Ms. A.Singh, the Id. Counsel for the applicant and Shri A.M.Ghogre, the Id. P.O. for the State.

2. The Id. P.O. has pointed out relief clause on P.B., Pg. No. 17; nos. A and B which are below:-

*"A. Quash and set aside the impugned charge sheet dated 17.10.2020 issued by respondent no. 3 which is at Annexure-A-1.*

*B. Quash and set aside the impugned order dated 15.12.2020 to extent of ordering the posting of applicant under respondent no. 6 which is at Annexure-A-2."*

3. As per the Id. P.O. both the prayer clauses cannot be claims in one O.A.. So, the Id. counsel for the applicant is requested to file separate O.A. for separate claim.

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

**Vice Chairman**

**Date:-22/03/2021.**

aps.

**O.A.Nos.246&247/2021 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman**  
**Dated : 22/03/ 2021.**

Heard Shri R.V.Shiralkar, the Id. Counsel for the applicant and Shri A.P.Potnis, the Id. P.O. for the State.

2. It is contention of the applicant that he is in service since long and thereafter G.R. dated 21/12/2019 is issued by the Government and in pursuance of the G.R., the respondent no. 1 has passed the order dated 11.02.2021 giving appointment to the applicant only for a period of 11 months. The said order has been passed without giving an opportunity of hearing to the applicant. It is submitted that in similar matters interim relief is granted to the applicants. In view of the facts on the ground of parity the interim **stay is granted to the order dated 11.02.2021 till filing of the reply.**

3. Issue notice to Respondents, returnable on four weeks. Learned C.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.**

**Vice Chairman**

**Date:-22/03/2021.**

aps.

**C.P.No.17/2021inO.A.No.667/2020 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman**  
**Dated : 22/03/ 2021.**

Heard Shri N.R.Saboo, the Id. Counsel for the applicant and Shri A.M.Khadatkar, the Id. C.P.O. for the State.

2. At the request of Id. counsel for the applicant, **S.O. 05.04.2021.**

**Vice Chairman**

**Date:-22/03/2021.**  
aps.



**O.A.No.892/2020 (S.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman**  
**Dated :22/03/ 2021.**

**C.A.No.82/2021:-**

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

2. The Id. counsel for the applicant has filed letter dated 19.03.2021 and Id. P.O. has filed letter dated 22.03.2021 by District Treasury Office, Chandrapur. The letter filed by Id. P.O. has been supplied to the Id. counsel for the applicant and grievances of the applicant has been solved and Treasury has ensured by this letter that they will take precaution to clear the bills as per directions of this Tribunal order dated 05.02.2021.

3. In view of this, C.A. No. 82/2021 is becomes infructuous. Hence, **C.A. No. 82/2021 is disposed of.**

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

**Vice Chairman**

**Date:-22/03/2021.**  
aps.

**O.A.No.243/2021 (S.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman**  
**Dated :22/03/ 2021.**

Heard Shri B.B.Pantawane, the Id. counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the State.

2. The applicant joined on duty as Malaria Technician vide order No. 34504 APpt. Lab Technician in the scale of Rs. 365-15-5000-20-600 extn. 20-76 order issued by Director of Health Services (Maharashtra) on 04.07.1980. The applicant retired on superannuation on 31.12.2009 and he was getting pension as per 6<sup>th</sup> Pay Commission. After 11 years; Assistant Treasury Officer, Chandrapur has issued letter dated 04.06.2020 and recovery of Rs. 1,13,735/- was started from the pension of applicant in 23 instalments; Rs. 5000/- each of 22 instalments and last instalment is of Rs. 3,735/-. It is also mentioned that in the recovery amount of Rs. 11,210/- is also included. This order has been passed after 09 years of retirement of applicant and without giving any chance of hearing to the applicant. Since, order dated 04.06.2020 is issued without hearing to the applicant; the impugned order dated 04.06.2020 (Annexure-A-2, P.B., Pg. No. 14) is stayed till filing of reply.

3. Issue notice to Respondents, returnable on 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 on 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.**

**Vice Chairman**

**Date:-22/03/2021.**

aps.

**O.A.No.249/2021 (S.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman**  
**Dated :22/03/ 2021.**

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

2. As submitted by Id. counsel for the applicant, the applicant was first appointed vide letter dated 21.07.2006 (Annexure-A-1, P.B., Pg. No. 20) by S.P., Gondia. The applicant name appeared at Sr. No. 14 and Section 12 of appointment letter says that if applicant is appointed as Police Constable he has to work for 10 years in concerned district and applicant worked for 10 years in Gondia District as Police Constable. Secondly, applicant appeared in P.S.I. examination direct recruitment and he was appointed as P.S.I. vide letter dated 02.02.2018 (Annexure-A-2, P.B., Pg. No. 23) and vide order dated 29.10.2020 (Annexure-A-3, P.B., Pg. No. 25) where applicant name appeared at Sr. No. 62 and was posted from Amravati Range to Gadchiroli Range.

3. The applicant made a representation to Director General of Police, Mumbai vide his letter dated 03.11.2020 (Annexure-A-4, P.B., Pg. No. 31). However, as per impugned order dated 29.10.2020; the applicant was posted to Gadchiroli. Vide second impugned order dated 30.10.2020 applicant was relieved from Amravati Range; to join at Gadchiroli. Vide third impugned order dated 15.03.2021 Police

Control Room, Yavatmal asked applicant to get relieved on 15.03.2021 from Yavatmal to Join Gadchiroli.

4. As submitted by the Id. counsel for the applicant in Control Room applicant can be accommodated. Since, applicant has already worked for 10 years in Gondia District and as per Government Policy and various G.Rs. in which main G.R. is dated 06.08.2002; where it is mentioned that policy of the Government is that if any employee is posted to Naxal/Tribal affected area; he is entitled for choice posting after three years. In this case applicant has already worked for 10 years in Gondia District which is Naxal and Tribal affected area and posting back to Naxal and Tribal area will be injustice to the applicant. Hence, all the three orders i.e. dated 29.10.2020 (Annexure-A-3, P.B., Pg. No. 25), 30.10.2020 (Annexure-A-5, P.B., Pg. No. 32) and 15.03.2021 (Annexure-A-6, P.B., Pg. No. 33) are stayed till filing of the reply and respondents are directed to either continue the applicant at the present posting or decide his representation dated 03.11.2020 (Annexure-A-4, P.B., Pg. No. 31) to avoid injustice to the applicant.

5. It was pointed by bench that in some of the cases it has been seen that appointment order of P.S.I. is initially issued by D.I.G. and Joint Director Academy, Nashik, Maharashtra Police and after successful completion of probation period or extended probation period D.G. Police issues order which is called as "fu; fer ue. knd vknk". In this case that kind of order is not seen. If the Id. counsel for the

applicant produce that letter than that will clear the position of appointment order of the applicant before returnable date. During probation period at MPA Nashik also if probation period is to be extended it only done by D.G., Police.

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

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

8. 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.

9. 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.

10. 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.

11. 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.

12. **S.O. four weeks.**

13. **Steno copy is granted.**

**Date:-22/03/2021.**  
aps.

**Vice Chairman**

**Rev.Appl.05/2021inO.A.No.532/2020 (S.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman**  
**Dated :22/03/ 2021.**

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

2. As pointed out by the Id. counsel for the applicant; the order dated 08.09.2020 (Annexure-A-1, P.B., Pg. No. 7) by respondent no. 3 mentioned in para no. 3 that applicant was deputed at some other place considering the urgency of work at specific place. Since, it was not a regular transfer order. Hence, it does not require provisions of Maharashtra Transfer Act, 2005 to be complied upon. On this ground applicant was relieved; there was no question of giving interim relief during first hearing.

3. When the matter was first heard on 21.09.2020; the Id. counsel for the applicant submitted that till now applicant is still working at Kodsapally and the temporary arrangement shown in order dated 08.09.2020 is continued. Respondent nos. 2 to 4 had filed reply on 25.11.2020 and in para no. 3 of the reply at P.B., Pg. NO. 16 they have mentioned following remarks :-

*"Without going to the merits of the case the answering respondent raising preliminary issue of maintainability of the present original application on the ground that the impugned order dated 08.09.2020 is not a transfer and only the temporary posting given to the applicant as a stop gap arrangement and*



*therefore the norms of transfer would not be applicable and on this count only the original application deserves to be dismissed with heavy costs."*

4. If for the sake of argument; para no. 3 of the respondent nos. 2 and 4 is accepted than they need to clarify also that for how much time this period will extend otherwise it appears that respondents have tried to circumvent provisions contained in Maharashtra Transfer Act, 2005 and issue this order dated 08.09.2020. Since, now for six months applicant is working at that place; this cannot be treated as temporary arrangements, this is final transfer order and respondents should follow the transfer order procedure and its provisions if they so desires without circumventing Law. Passing such order is very much Bad in Law and also in Administration. As a responsible officer they should avoid misleading Tribunal in such manner. **Meanwhile, the respondent no. 3 is directed to decide the representation to avoid further complication within a period of three weeks.**

5. Issue notice to Respondents, returnable on four 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. four weeks.**

12. **Steno copy is granted.**

**Vice Chairman**

**Date:-22/03/2021.**

aps.

**O.A.No.896/2020 (S.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman**  
**Dated :22/03/ 2021.**

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

2. The Id. counsel for the applicant has pointed out that applicant was posted to Gondia vide letter dated 05.10.2019 (Annexure-A-1, P.B., Pg. No. 15). However, applicant has some family medical problem; wife is bedridden and his son is medically challenged which is placed on record at P.B., Pg. Nos. 17 to 21.

3. The Government polices are that in cases of concerned employee should be considered and posted to such place where he can get treatment to his family members or ward. Applicant has made representation dated 17.06.2020 (Annexure-A-4, P.B., Pg. No. 29) which has been recommended by S.P., Gondia vide letter dated 26.06.2020 (Annexure-A-7, P.B., Pg. No. 29) to Director General of Police, Maharashtra State. Considering the Government policy and recommendation made by S.P., Gondia. The respondent no. 2 is directed to consider the applicant's case as per his representation and recommendation made by S.P., Gondia during the coming season of transfer.

4. In view of above, **O.A. stands disposed of with no order as to costs.**

**Vice Chairman**

**Date:-22/03/2021.**  
aps.

**O.A.No.257/2021 (S.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman**  
**Dated :22/03/ 2021.**

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

2. The applicant has been put under suspension under A.C.B. case vide letter dated 16.10.2020 (Annexure-A-1, P.B., Pg. No. 7) and F.I.R. has also been lodged as per (Annexure-A-2, P.B., Pg. No. 9). There are various Judgements of Hon'ble Apex Court and Hon'ble High Court regarding continuation of suspension.

3. In view of these Judgments, respondents are directed to decide applicant's representation dated 14.01.2021 and 09.03.2021 at P.B., Pg. Nos. 12 and 13 by the returnable date.

4. Issue notice to Respondents, returnable on four weeks. 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. four weeks.**

**Vice Chairman**

**Date:-22/03/2021.**

aps.

**O.A.No.126/2017&665/2019 (S.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman  
Dated :22/03/ 2021.**

Heard Shri I.S.Charlewar, the Id. counsel for the applicant and Shri A.M.Ghogre, the Id. P.O. for the Respondents. None for the respondent nos. 2 & 3.

2. **Closed for orders.**

**Vice Chairman**

**Date:-22/03/2021.**

aps.