

O.A. No. 452/2017.

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 2nd August 2017.**

Heard Shri S.N. Gaikwad, Adv. holding for Shri V.B. Gawali, the learned counsel for the applicant and Shri V.A. Kulkarni, the learned P.O. for respondent No. 1.

S.O. **one week** for filing service affidavit of R. 2 to 4.

Vice-Chairman(J)

Pdg

O.A. No. 299/2017.

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 2nd August 2017.**

Heard Smt. K.N. Saboo, the learned counsel for the applicant and Shri H.K. Pande, the learned P.O. for respondent No. 1.

The learned counsel for the applicant seeks time to file service affidavit of R. 2 to 4.

S.O. one week.

Vice-Chairman(J)

pdg

O.A. No. 31/2016.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).

Dated : 2nd August 2017.

C.A.No.358/2017.

Heard Shri Shashikant Borkar, the learned counsel for the applicant and Shri P.N. Warjekar, the learned P.O. for respondent No. 1. None for R. 2 and 3.

Considering the fact that the matter pertains to family pension. It is expedited.

Since the O.A. is already admitted, it be kept for final hearing on the next week.

S.O. one week.

Vice-Chairman(J)

pdg

O.A. No.504 /2015.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).

Dated : 2nd August 2017.

C.A.No.37/2016.

Heard Shri S.P. Palshikar, the learned counsel for the applicant and Shri M.I. Khan, the learned P.O. for the respondents.

It seems that on 29.3.2016, this Tribunal was pleased to pass the order that the C.A. as well as the O.A. shall be heard together.

In view thereof, matter is admitted subject to the fact that point of limitation will be kept open and it shall be kept for final hearing after two weeks.

S.O. two weeks.

Vice-Chairman(J)

pdg

O.A. (St.) No.364 /2016.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).

Dated : 2nd August 2017.

M.C.A.No.45/2017.

Heard Shri K.R. Shukla, the learned counsel for the applicant and Shri A.M. Khadatkar, the learned P.O. for the respondent No.1.

Await service to R. 2 and 3.

For the reasons stated in the application for restoration, application for restoration of the O.A. is allowed in the interest of justice and equity. C.A. stands disposed of. O.A. stands restored to file.

C.A.No.116/2016.

At the request of the learned counsel for the applicant, S.O. **one week** on the point of condonation of delay.

Vice-Chairman(J)

pdg

O.A. No. 111/2017.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 2nd August 2017.

Heard Shri S.N. Gaikwad, the learned counsel for the applicant and Shri A.M.Ghogle, the learned P.O. for the respondents.

The Ld. P.O. seeks time to file affidavit in reply. He shall file reply within one week and the matter be tagged with O.A.No. 52/2017.

S.O. **one week.**

Vice-Chairman(J)

Pdg

O.A. No. 540/2017.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 2nd August 2017.

Heard Shri P.S. Sahare, the learned counsel for the applicant and Shri S.A.Deo, the learned C.P.O. for the respondents 1,2 and 4. None for R.3.

The learned counsel for the applicant submits that the applicant is going to file representation for cancellation of his transfer with the appropriate authority for which he seeks one week's time.

S.O. **one week.**

Vice-Chairman(J)

pdg

O.A. No. 561/2017.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 2nd August 2017.

Heard Shri S. Khandekar, the learned counsel for the applicant and Shri S.A.Deo, the learned C.P.O. for the respondent No.1.

2. The applicant has been appointed on contract basis as Professor. The last appointment order is dated 28.9.2016 and it for 364 days or till a regular candidate is appointed through proper channel, whichever is earlier.

3. The learned counsel for the applicant has invited my attention to one letter dated 13.6.2017 whereby it has been directed that hereinafter only those Professors shall be appointed on contract basis who have completed 62 years of age. In view of this communication, the applicant apprehends that his services may be terminated prior to his period of appointment. However, the said letter does not state that those who are already appointed, shall be terminated. In such circumstances, I do not find any urgency in the matter so as to pass ad-interim order. Reply of the respondents will be necessary in the O.A.

4. Hence issue notice to respondent Nos.2 and 3 returnable after **three weeks**.
5. Shri S.A.Deo, the learned C.P.O. waives notice for respondent No.1. Hamdast granted.
6. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need 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.
8. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunals (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 or courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within three weeks. Applicant is directed to file Affidavit of compliance and notice.

Vice-Chairman(J)

O.A. No. 562/2017.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 2nd August 2017.

Heard Shri S. Khandekar, the learned counsel for the applicant and Shri S.A.Deo, the learned C.P.O. for the respondent No.1.

2. The applicant has been appointed on contract basis as Professor. The last appointment order is dated 28.9.2016 and it for 364 days or till a regular candidate is appointed through proper channel, whichever is earlier.

3. The learned counsel for the applicant has invited my attention to one letter dated 13.6.2017 whereby it has been directed that hereinafter only those Professors shall be appointed on contract basis who have completed 62 years of age. In view of this communication, the applicant apprehends that his services may be terminated prior to his period of appointment. However, the said letter does not state that those who are already appointed, shall be terminated. In such circumstances, I do not find any urgency in the matter so as to pass ad-interim order. Reply of the respondents will be necessary in the O.A.

4. Hence issue notice to respondent Nos.2 and 3 returnable after **three weeks.**

5. Shri S.A.Deo, the learned C.P.O. waives notice for respondent No.1. Hamdast granted.

6. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need 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.

8. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunals (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 or courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within three weeks. Applicant is directed to file Affidavit of compliance and notice.

Vice-Chairman(J)

pdg

O.A. No. 563/2017.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 2nd August 2017.

Heard Shri G.N. Khanzode, the learned counsel for the applicant and Shri S.A.Deo, the learned C.P.O. for the respondent Nos.1 to 3. Shri S.M. Khan, Adv. for R.3.

Closed for orders.

Vice-Chairman(J)

pdg

O.A. No. 557/2013.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 2nd August 2017.

None for the applicants. Shri A.M.
Ghogre, the learned P.O. for the respondents.

Matter be kept for dismissal on 4th August
2017.

Vice-Chairman(J)

pdg

O.A. No. 563/2017.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 2nd August 2017.

Heard Shri G.N. Khanzode, the learned counsel for the applicant, Shri S.A. Deo, the learned C.P.O. for respondent Nos.1 to 3 and Shri S.M. Khan, the learned counsel for respondent No.4.

2. The applicant is a Range Forest Officer and at the time of impugned order dated 20th May 2017, he was serving as Range Forest Officer (Territorial) at Aheri, District Gadchiroli. Vide impugned order dated 20th May 2017, respondent No.4 Manoj Chavan is shown to have been posted at Aheri in place of the applicant, though, it has been shown that Shri Manoj Chavan is posted on the vacant post. The applicant, therefore, apprehends for his transfer.

3. It is stated that the applicant has not completed his tenure of three years at Aheri and, therefore, he cannot be transferred. The applicant has, therefore, claimed that the order dated 20th May 2017 issued by respondent No.1 transferring respondent No.4 at Aheri, be quashed and set aside, being violative of the provisions of the Maharashtra Government

Servants Regulation of Transfer and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred to as, %Transfer Act, 2005+).

4. The learned counsel for the applicant has invited my attention to the earlier order of transfer dated 4.8.2014 from which it seems that the applicant was posted at Aheri in 2014 i.e. on 4.8.2014. Thus admittedly the applicant is completing three years of his tenure on 3.8.2017. Vide impugned order dated 20th May 2017, the applicant has not been transferred.

5. From the record, it seems that the applicant has filed W.P. No.3112/2017 against his proposed order of transfer and in the Writ Petition, the Hon^{ble} Bombay High Court, Bench at Nagpur was pleased to pass the order on 23.5.2017 and parties were directed to maintain *status quo* until further orders. The learned counsel for the applicant submits that the applicant has withdrawn the said Writ Petition on 31st July 2017. Considering this aspect, therefore, no status quo order is there after 31st July 2017.

6. The learned C.P.O. has appeared for respondent No.1 and submitted that the Writ Petition was filed before the Hon^{ble} High Court taking disadvantage of the fact that the Bench of Tribunal was not available during the vacation and notice was issued for final disposal in the said Writ Petition on 6.6.2017. The petitioner,

however, did not supply second set of the Writ Petition and let the matter remained in objection and, therefore, the same was not listed before the Hon'ble High Court. He deliberately did not get the matter disposed of immediately after vacation nor approached the Tribunal and ultimately got withdrawn the Writ Petition after getting interim relief.

7. The learned C.P.O. has placed on record a copy of affidavit in reply filed by respondent Nos. 2 and 3 before the Hon'ble High Court in W.P. No. 3112/2017 which is marked %1+ for the purpose of identification. In the said affidavit in reply, detailed reasons were given as to why the transfer of the applicant was necessary and objection as already taken about deliberate attitude of the applicant in not getting the matter listed before the Hon'ble High Court.

8. The Ld. C.P.O. has also placed on record a copy of the order dated 1.8.2017, wherefrom it seems that the applicant's transfer was under consideration before the competent authority and the competent authority vide order dated 1.8.2017 which is marked %-1+ for identification, was pleased to transfer the applicant from Aheri Forest Division, Alapalli to R.F.O. at Gadchiroli. The learned C.P.O. submitted that the said order has been implemented yesterday only and the applicant has been relieved on 1.8.2017 which is marked %-2+ for the purpose of identification and

respondent No.4 has joined the post at Aheri. Admittedly, there was no stay or *status quo* order in existence on 1.8.2017.

9. The learned counsel for the applicant submits that since the applicant has not completed his tenure of three years at Aheri, he was not due for transfer. However, it is material to note that, the applicant has almost completed three years of tenure at Aheri and he is due for transfer after completion of his tenure on 4.8.2017. Even as per the provisions of the Transfer Act, 2005, the competent authority can issue transfer order at any time for administrative exigencies or for in the interest of administration subject to approval of the competent authority.

10. From the perusal of the order (X-1), it seems that the proposal of transfer of the applicant was under consideration before the competent higher authority and the competent authority has given approval for such transfer as per the provisions of Sections 4 (4) (2) and 4 (5) of the Transfer Act, 2005. The applicant will be at liberty to challenge the transfer order dated 1.8.2017 by filing appropriate proceedings before the competent authority. But the very reason on which this O.A. has been filed seems to be not existing at this juncture. Since the applicant has already been relieved from Aheri and since respondent No.4 has already joined at Aheri in place of the applicant, there is no question of

granting any interim relief or continuing the *status quo* granted by the Hon^{ble} High Court. That *status quo* has already come to an end on 31st July 2017 when the applicant withdrew the Writ Petition.

11. Considering the facts and circumstances referred to above, the applicant is given option to think over as to whether he wants to withdraw the O.A. with liberty to challenge the transfer order dated 1.8.2017 or whether he wants to insist to pursue the matter.

12. Matter be kept tomorrow i.e. **3rd August 2017.**

Vice-Chairman(J)

Pdg

O.A. No. 442/2016.

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).**

Dated : 02nd August 2017.

C.A.232/2017:-

None for the applicant. Shri P.N.Warjurkar,
the learned P.O. for the Respondents no. 1 to 3.

The Respondent no. 4 is not yet served.
The Id. P.O. seeks time to file reply affidavit in
C.A., **S.O. three weeks.**

Vice-Chairman(J)

aps

O.A. No. 100/2017.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).

Dated : 02nd August 2017.

C.A.67 & 223 of 2017:-

None for the applicant. Shri A.P.Potnis,
the learned P.O. for the Respondents.

Vide C.A.223/2017, the applicant wants to delete prayer clause IV, for the reasons stated in the application, C.A. is allowed. Applicant is allowed to delete prayer clause IV in O.A. Since the reply is already filed in the O.A., therefore, O.A. is admitted and kept for final hearing, whenever D.B. is available.

Vice-Chairman(J)

aps

O.A. No. 480/2017.

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).**

Dated : 02nd August 2017.

Shri A.M.Sudame, Id. counsel for the applicant and Shri Khadatkar, the learned P.O. for the State. Await service of R-1.

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

Vice-Chairman(J)

aps

O.A. No. 742/2016.

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).**

Dated : 02nd August 2017.

Shri S.P.Kshirsagar, Id. counsel for the applicant and Smt. S.V.Kolhe, the learned P.O. for the Respondents.

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

Vice-Chairman(J)

aps

O.A. No. 451/2017.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).

Dated : 02nd August 2017.

Heard Shri T.G.Bansod, the learned counsel for the applicant and Shri A.P.Potnis, the learned P.O. for the respondent No.1 & 3.

2. The Id. counsel for the applicant submits that acknowledgement of Respondent no. 2 is not received. Hence, await service of Respondent no. 2. The envelop of Respondent no. 4 has been received without any endorsement. The Id. Counsel for the applicant seeks permission to serve the Respondent no. 2 & 4 with fresh notice. Hence, issue fresh notice to Respondent no. 2 & 4. The Id. P.O. files the reply affidavit on behalf of Respondent No. 3. It is taken on record. Copy is served to the other side.

3. Issue fresh notice to respondent No. 2 & 4 returnable within **two weeks.**

4. Shri A.P.Potnis, the learned P.O. for waives notice for respondent No.1. Hamdast granted.

5. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need 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.

7. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunals (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 or courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within three weeks. Applicant is directed to file Affidavit of compliance and notice.

9. S.O. **two weeks.**

Vice-Chairman(J)

aps

O.A. No. 338/2015.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).

Dated : 02nd August 2017.

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

Closed for order.

Vice-Chairman(J)

aps

O.A. No. 695/2016.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).

Dated : 02nd August 2017.

Shri S.N.Gaikwad holding for Shri M.R.Pillai, Id. counsel for the applicant and Shri Kulkarni, the learned P.O. for the Respondents.

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

Vice-Chairman(J)

aps

O.A. No. 522/2017.

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).**

Dated : 02nd August 2017.

Shri G.Agrawal, Id. counsel for the applicant and Smt. Kolhe, the learned P.O. for the Respondents.

The Id. P.O. seeks time to file reply affidavit, **S.O. four weeks.** *Interim relief will continue.*

Vice-Chairman(J)

aps

O.A. No. 606/2015.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).

Dated : 02nd August 2017.

Shri S.M.Khan, Id. counsel for the applicant and Smt. Kolhe, the learned P.O. for the Respondents.

S.O. two weeks.

Vice-Chairman(J)

aps

O.A. No. 282, 283, 284, 352 & 353 of 2017.

**Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).**

Dated : 02nd August 2017.

Shri A.P.Sadavarte, Id. counsel for the applicant and Smt. Kolhe, the learned P.O. for the Respondents.

The Id. P.O. seeks time to file reply affidavit, **S.O. four weeks.**

Vice-Chairman(J)

aps

