

O.A. No. 406/2017.

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

Dated : 27th June 2017.

Heard Shri A.Z. Jibhkate, the learned counsel for the applicant and Shri M.I. Khan, the learned P.O. for the respondent No.1.

2. Vide impugned order dated 30th May 2017, the applicant has been promoted from the post of Jr. Clerk to the post of Assistant Co-operative Officer. He has been posted from Gondia to Chamorshi, District Gadchiroli on a vacant post. The applicant submits that the distance between Gondia and Chamorshi is about 350 Kms. The applicant is a physically handicapped person and was appointed in the said category. Not only that his brother is also a physically handicapped person and he is depending on the applicant. The applicant has placed on record various G.Rs which show that so far as employees who are physically handicapped, shall be adjusted nearby their native places.

3. It seems that the applicant has filed representations on 1.6.2017, 7.6.2017 and 12.6.2017 and requested that he be adjusted at the place of his choice. It is stated that his choice of posting was also obtained before promotion.

But the applicant has been posted at a far distance.

4. In view of the circumstances referred to above, issue notice to the other respondents returnable within **two weeks**.

5. Shri M.I. Khan, the learned P.O. waives notice for the 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.

10. The learned counsel for the applicant submits that the applicant has been relieved yesterday only from Gondia. Since the order says that if directions in the promotion order are not followed within 30 days from the date of the

order, promotion order will be cancelled, the respondents are directed not to take coercive steps to cancel the promotion order of the applicant, till further orders. The Ld. P.O. is requested to take instructions as regards the status of representation filed by the applicant and also within how many days decision thereon will be taken.

S.O. **two weeks.**

Vice-Chairman(J)

pdg.

O.A. No. 407/2017.

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

Dated : 27th June 2017.

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

2. Vide impugned order dated 21st June 2017, the appicnt has been transferred from Minor Irrigation Division, Zilla Paishad, Nagpur to the office of Executive Engineer, Chandrapur. It is stated that the said order is in the interest of administration and under the provisions of Rule 4 (5) 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+). However, it seems that it is

an admitted fact that the applicant was posted at Nagpur and had joined there just six months back. Whether the said order is as per the provisions of Rule 4 (5) of the Transfer Act, 2005 or whether to accommodate respondent No.4 will be considered on merit. Prima facie, it seems that the applicant's order of transfer is mid-term. But it is stated that the applicant has not yet been relieved from Nagpur.

3. In view thereof, the respondents are directed not to relieve the applicant from his present post at Nagpur till further orders.

4. issue notice to the other respondents returnable within **four weeks**.

5. Shri S.A. Deo, the learned C.P.O. waives notice for the 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.

S.O. four weeks.

Steno copy be provided to the learned CPO.

Vice-Chairman(J)

pdg.

O.A. No. 405/2017.

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

Dated : 27th June 2017.

Heard Shri N.R. Saboo, the learned counsel for the applicant and Shri A.M. Ghogre, the learned P.O. for the respondent No.1.

2. The applicant is serving as Deputy Engineer. He was placed under suspension vide order dated 6.11.2015. His suspension was, however, revoked vide order dated 24.3.2017. Immediately after revocation, the applicant filed representation on 11.4.2017 and thereafter on 23.5.2017, requesting that he may be posted after revocation at any of the place nearby Vidarbha. However, instate of considering his representation, the applicant has been posted at Mumbai vide impugned order dated 17.5.2017.

The applicant has challenged the order of his transfer, but prayed for modification of the said order.

3. According to the applicant, the chargesheet has been filed against the applicant in the Court of Sessions Judge, Chandrapur. A departmental enquiry is also initiated against the applicant simultaneously for which the applicant has to attend at Nagpur. However, he has been posted at Mumbai and that it becomes very difficult for him to attend the Court cases as well as departmental enquiry.

4. The learned counsel for the applicant submits that the O.A. can be disposed of with a direction to respondent No.1 to take a decision on his representation within a stipulated period.

5. In view of this discussion, I am satisfied that the O.A. can be disposed of with a direction to respondent No.1. Hence, the following order:-

ORDER.

- (i) Respondent No.1 is directed to take appropriate decision as

per rules and regulations and also considering the case that is made out by the applicant in his representation.

- (ii) Respondent No.1 is also directed to take a decision on the representations filed by the applicant on 11.4.2017 and 23.5.2017 within a period of **six weeks** from the date of this order and the same shall be communicated to the applicant in writing.
- (iii) No order as to costs.

Vice-Chairman(J)

pdg.

O.A. No.660 /2016.

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

Dated : 27th June 2017.

Heard Shri Y. Kinkhede, the learned counsel for the applicant and Shri A.M. Ghogre, the learned P.O. for the respondents.

The learned counsel for the applicant submits that the applicant does not want to file rejoinder.

Since pleadings are complete, O.A.is admitted and kept for final hearing in due course.

Vice-Chairman(J)

pdg.

O.A. No. 152/2017.

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

Dated : 27th June 2017.

Heard Shri P.P. Khaparde, the learned counsel for the applicant and Shri V.A. Kulkarni, the learned P.O. for the respondents.

The learned counsel for the applicant seeks two weeksq time for filing rejoinder.

S.O. two weeks.

Vice-Chairman(J)

pdg.

O.A. No. 302/2017.

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

Dated : 27th June 2017.

Heard Shri N.D. Thombre, the learned counsel for the applicant and Smt. M.A. Barabde, the learned P.O. for the respondent Nos. 1, 2 and 4. None for R.3.

2. The applicant is a Public Health Nurse and vide impugned order dated 31.5.2017, she has been transferred from Zilla Parishad, Nagpur to Zilla Parishad, Bhandara. In view of the observations made in the order dated 6.6.2017, the applicant has filed one representation for cancellation of her transfer. The applicant is a widow and is suffering from some disease and nobody is posted in her place.

4. The learned counsel for the applicant submits that the applicant has accordingly filed representation to the Deputy Director of Health Services, Nagpur (R.4) and the said authority has forwarded the said proposal for favourable consideration to the Director of Health Services, Mumbai (R.2.). The documents in this regard are placed on record, they are marked %%+ to X-5+for

the purpose of identification. The learned counsel for the applicant submits that the application be disposed of by giving directions to respondent No.2 to take a decision on her proposal and for her transfer within a stipulated period.

5. In view thereof, O.A. stands disposed of with a direction to respondent No.2 to take appropriate decision on the representation filed by the applicant and recommendation made by respondent No.4 on her representation as regards cancellation of her transfer. A decision in this regard be taken within a period of **four weeks** for the date of this order.

No order as to costs.

Vice-Chairman(J)

pdg.

O.A. No. 304/2017.

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

Dated : 27th June 2017.

Shri Bharat Kulkarni, Adv. holding for Shri S.P. Palshikar, the learned counsel for the applicant and Shri S.A. Sainis, the learned P.O. for the respondents.

The Ld. P.O. places on record the communication dated 27.6.2017 alongwith requisite order which are marked %%-1+ and %%-2+ for identification. It seems that vide order dated 23.6.2017, the impugned order of transfer of the applicant has been cancelled. In view thereof, nothing remains in the O.A. and, therefore, the O.A. stands disposed of.

Vice-Chairman(J)

pdg.

O.A. No. 297/2017.

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

Dated : 27th June 2017.

Shri S.A. Kalbande, the learned counsel for the applicant and Smt. S.V. Kolhe, the learned P.O. for the respondents.

The Ld. P.O. seeks time to file reply affidavit.

S.O. **three weeks.**

Vice-Chairman(J)

pdg.

O.A. No. 408/2017.

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

Dated : 27th June 2017.

Heard Shri M.R. Pati. the learned counsel for the applicant and Shri P.N. Warjekar, the learned P.O. for the respondent No.1.

2. The applicant has challenged his order of transfer dated 31.5.2017 whereby he has been transferred from Nagpur to Pune. Admittedly, the applicant was promoted to the post of Sanitary Inspector in 2010 and vide order dated 13.8.2014, there seems to be change of posting in the same office in different department. According to the learned counsel for the applicant, one Shri Choure has been posted in place of the applicant and only with intention to favour him, the applicant has been transferred to Pune. Shri Choure was appointed in December, 2016. Whether Shri Choure was favoured or not will have to be considered on merit. The said Shri Choure is not made party to the O.A. In any case, the applicant is working in the post of Sanitary Inspector at Nagpur since 2010. Considering all these aspects, I do not find that this is a fit case to issue ad interim relief.

3. Hence issue notice to R. 2 & 3 returnable after **four weeks.**

4. Shri P.N. Warjekar, the learned P.O. waives notice for the 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.

S.O. **four weeks.**

Vice-Chairman(J)

pdg.

O.A. No. 173/2016.

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

Dated : 27th June 2017.

Heard Shri S.N. Gaikwad, Adv. holding for Shri H.D. Futane, the learned counsel for the applicant and Smt. S.V. Kolhe, the learned P.O. for the respondents.

At the request of the learned counsel for the applicant, S.O. **7th July 2017**

Vice-Chairman(J)

pdg.

O.A. No.724/2011.

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

Dated : 27th June 2017.

Heard Shri S.P. Palshikar, the learned counsel for the applicant and Smt. M.A. Barabde, the learned P.O. for the respondents.

At the request of the learned counsel for the applicant, S.O. **10th July 2017**

Vice-Chairman(J)

pdg.

O.A. No.418/2016.

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

Dated : 27th June 2017.

Shri A.P. Adhe, Adv. holding for Shri M.R. Joharapurkar, the learned counsel for the applicant and Shri M.I. Khan, the learned P.O. for the respondents.

S.O. four weeks.

Vice-Chairman(J)

pdg.

O.A. No.770/2016.

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

Dated : 27th June 2017.

Shri S.P. Palshikar, the learned counsel for the applicant and Shri S.A. Sainis, the learned P.O. for the respondents.

The P.O. has filed rejoinder to the affidavit filed by the applicant on behalf of R.2.

S.O. **two weeks.**

Vice-Chairman(J)

pdg.

O.A. No.289/2017.

(Ramesh C. Wankar V/s State and one another)

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

Dated : 27th June 2017.

Oral order

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

2. The learned counsel for the applicant has filed rejoinder to the reply filed by R.2. It is taken on record and a copy thereof is supplied to the Ld. P.O.

3. Vide impugned order dated 15.5.2017, the applicant has been transferred from the post of Driver from the office of Senior Geologist, Groundwater Survey and Development Agency (GSDA), Chandrapur to the office of Senior Geologist, Groundwater Survey and Development Agency (GSDA), Gondia. Admittedly, the applicant is serving at Chandrapur w.e.f. 21.1.2004. It reveals from the argument advanced as well as from the documents placed on record that before transfer, the applicant submitted his option and in the said optional post, had given the places i.e. Gadchiroli, Gondia and Bhandara. The learned counsel for the applicant submits that the optional

form was submitted as a formality. Prior to the impugned order of transfer in the month of January, 2017, i.e. on 23.1.2017, the applicant filed representation and submitted that he was due for retirement in the month of February 2019 i.e. within 20 months and, therefore, he be retained at Chandrapur. In his representation, he has also given various grounds such as the fact that his son was to marry and that he had undertaken construction of his house which was required for his settlement after retirement. However, his representation was not considered and the applicant has been transferred.

4. Prima facie, it seems that the applicant was due for transfer and he has also given option at Gondia. Possibility that his representation might not have been placed before the competent authority. The Ld. P.O. however, submits that the said representation was rejected. There is no documentary evidence in this regard.

5. Vide order dated 2.6.2017, this Tribunal has stayed the order of transfer. Admittedly the applicant is still now serving at Chandrapur.

6. Whether the applicant's case is made out or not and whether he can be considered for 20 months extension at Chandrapur is a question to be decided by the competent authority. The learned counsel for the applicant submits that the O.A. can be disposed of by giving directions to the respondent No.2 to take proper decision on

the representation of the applicant within time frame. The Ld. P.O. submits that the respondent No.2 will take appropriate decision on the representation of the applicant within a week.

7. In view thereof, following order is passed:-

ORDER

- (I) O.A. stands disposed of with a direction to respondent No.2 i.e. the Deputy Director, Groundwater Survey and Development Agency (GSDA), Nagpur to take a decision on the representation filed by the applicant as per its own merit.
- (II) Decision shall be taken within a week from the date of receipt of this order and the same shall be communicated to the applicant in writing.
- (III) Respondent No.2 is directed to take into consideration various aspects of the representation as well as considering the fact that the applicant is going to retire within 20 months.
- (IV) It is needless to say that the applicant will be at liberty to approach this Tribunal, if his representation is not considered favourably.
- (V) No order as to costs.

Vice-Chairman(J)

pdg.

O.A. No.529/2016.

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

Dated : 27th June 2017.

Heard Shri Sudhir Malode, the learned counsel for the applicant and Smt. S.V. Kolhe, the learned P.O. for the respondents.

2. The applicant is seeking directions to respondent No.1 to consider his representation in view of guidelines issued in the Circulars dated 11.7.2000 and 6.8.2002 and also to consider his choice of posting as per his representation dated 5.7.2016. The respondent No.2 has filed reply affidavit. The Ld. P.O. submits that the representation of the applicant is to be considered by respondent No.1. The applicant admits that the O.A. can be disposed of, if directions are issued to respondent No.1 to take proper decision on the representation of the applicant dated 5.7.2016 within a stipulated period.

3. In view of aforesaid circumstances, O.A. stands disposed of with a direction to respondent No.1 to take appropriate decision as per rules and regulations on the representation of the applicant dated 5.7.2016 by considering the decision taken by this Tribunal in O.A. No. 629/2015 in case of Chandrajit Rajput V/s State

and others decided by Principal Bench of this Tribunal at Mumbai on 1.12.2015. Decision on the representation be taken within a period of six weeks from the date of receipt of this order and the same shall be communicated to the applicant in writing.

4. With these directions, O.A. stands disposed of with no order as to costs.

Vice-Chairman(J)

pdg.

O.A. No.501/2016.

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

Dated : 27th June 2017.

C.A.No.17/2017.

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

Reply to the application for condonation of
delay is already filed on record. So called delay,
though stated to be of 1 year and 36 days,
according to the respondents, there is a delay of
15 years.

Matter be kept for dismissal after **two**
weeks.

Vice-Chairman(J)

pdg.

O.A. No.185/2016.

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

Dated : 27th June 2017.

C.A.No.103/2017.

None for the applicants. Shri S.A. Deo,
the learned C.P.O. for the respondents.

S.O. **two weeks.**

Vice-Chairman(J)

pdg.

O.A. No.648/2016.

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

Dated : 27th June 2017.

None for the applicants. Shri M.I. Khan,
the learned P.O. for the respondents.

On the last date, the Ld. counsel for the
applicant sought one week's time to file an
application for amendment. But nobody appeared
for the applicant and the matter was kept after
one week for dismissal.

S.O. 12th July 2017.

Vice-Chairman(J)

pdg.

O.A. No.113/2017.

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

Dated : 27th June 2017.

C.A. 53/2017.

Shri G.K. Bhusari, Adv. holding for Shri R.V. Shiralkar, the Ld. counsel for the applicants and Shri V.A. Kulkarni, the learned P.O. for the respondents.

Ld. P.O. has filed reply on C.A. on behalf of the respondent No.2. It is taken on record and a copy thereof is supplied to the Ld. counsel for the applicant.

S.O. two weeks.

Vice-Chairman(J)

pdg.

O.A. No. 65/2017.

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

Dated : 27th June 2017.

None for the applicant. Shri H.K. Pande,
the learned P.O. for the respondent No.1.

Notice on respondent Nos. 2 and 3 are not
received. Applicant to file service affidavit of R. 2
and 3.

S.O. **four weeks.**

Vice-Chairman(J)

pdg.

O.A. No. 295/2017.

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

Dated : 27th June 2017.

Shri S.N. Gaikwad, the Ld. counsel for the applicant and Shri A.M. Khadatkar, the learned P.O. for the respondent No.1.

Await service to R. 2 to 4.

The Ld. counsel for the applicant seeks time to file service affidavit of respondents. Ld. P.O. also seeks time to file reply affidavit.

S.O. **two weeks.**

Vice-Chairman(J)

pdg.

O.A. No. 296/2017.

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

Dated : 27th June 2017.

Shri S.N. Gaikwad, the Ld. counsel for the applicant and Shri A.M. Khadatkar, the learned P.O. for the respondent No.1.

Await service to R. 2 to 4.

The Ld. counsel for the applicant seeks time to file service affidavit of respondents. Ld. P.O. also seeks time to file reply affidavit.

S.O. three weeks.

Vice-Chairman(J)

pdg.

O.A. No. 298/2017.

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

Dated : 27th June 2017.

Shri S.A. Marathe, the Ld. counsel for the applicant and Shri V.A. Kulkarni, the learned P.O. for the respondents.

The Ld. counsel for the applicant submits that he has already filed service affidavit. Ld. P.O. seeks time to file reply affidavit.

S.O. four weeks.

Vice-Chairman(J)

pdg.

O.A. No. 305/2017.

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

Dated : 27th June 2017.

Shri D.M. Upadhye, the Ld. counsel for the applicant and Shri A.M. Khadatkhar, the learned P.O. for the respondents 1 & 3.

Await service to R. 2 & 4.

The Ld. counsel for the applicant submits that he will file service affidavit and hence the matter be kept for filing an affidavit in reply by Ld. P.O.

S.O. 11th July 2017.

Vice-Chairman(J)

pdg.

O.A. No. 306/2017.

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

Dated : 27th June 2017.

Shri D.M. Upadhye, the Ld. 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.

The Ld. counsel for the applicant submits that he will file service affidavit and hence the matter be kept for filing an affidavit in reply by Ld. P.O.

S.O. 11th July 2017.

Vice-Chairman(J)

pdg.

O.A. No. 307/2017.

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

Dated : 27th June 2017.

Shri P.C. Marpakwar, the Ld. counsel for the applicant and Shri P.N. Warjekar, the learned P.O. for the respondent No.1.

Await service to R. 2 to 4.

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

Vice-Chairman(J)

pdg.

O.A. No. 185/2016.

(Dr. Lakhanlal J. Kesharwani V/s State and 3 others)

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

Dated : 27th June 2017.

Oral order

Heard Shri S.N. Gaikwad, the Ld. counsel for the applicant and Shri A.M. Ghogre, the learned P.O. for the respondents 1 to 3. Shri Sandeep Tatke, Advocate holding for Shri V.B. Bhise, the learned counsel for respondent no.4.

2. The applicant was appointed as Junior Medical Officer in Zilla Parishad, Yavatmal on 16.8.1985. The first time bound promotional pay scale was given to the applicant on 1.8.2001. The applicant stood retired voluntarily on 30.9.2013 from the post of Medical Officer, Group-B. The applicant filed number of representations for getting second time bound promotional pay scale to respondent No.2. But the same was not given to the applicant. The applicant has, therefore, claimed with a declaration that he is entitled to get second time bound promotional pay scale as per G.Rs dated 30.6.2010 and 5.7.2010 and, therefore, he is claiming directions to respondent No.2 for granting such benefit and consequential difference in the pension.

3. It is stated that respondents have deducted the amount of Rs. 3,47,598/- from the gratuity of the applicant and the said order of recovery is done. The applicant is claiming the refund of such amount which is wrongly deducted.

4. Respondent No.3 in para 3 of affidavit in reply has stated that respondent No.4 had submitted a proposal vide letter dated 24.6.2015 for grant of second time bound promotional pay scale and the same has been forwarded to respondent No.2 vide letter dated 16.7.2015, as the respondent No.2 is the competent authority to take a decision on it. The respondent No.2 is, therefore, directed to take a decision on the proposal for grant of second time bound promotional pay scale to the applicant as per letters dated 24.6.2015 and 16.7.2015 as mentioned in para 3 of the reply of respondent No.3. A decision in this regard shall be taken within two months from the date of this order.

5. So far as recovery of Rs. 3,47,598/- from the applicant is concerned, respondent No.3 tried to justify the recovery saying that it was wrongly paid to the applicant and that the said amount has been paid in excess.

6. Respondent No.4 also filed reply affidavit and submitted that the pay of the applicant was re-fixed after his voluntary retirement and in the said re-fixation, it was noticed that Rs. 3,47,598/- has been excess to

the applicant inadvertently and wrongly and, therefore, the same has been rightly recovered. Respondent No.4 has placed on record a chart showing as to why the amount has been wrongly paid to the applicant due to wrong fixation of pay. The said chart filed by respondents is at Annexure R-1 and it is at page Nos. 28 & 29 (both inclusive).

7. The Ld. counsel for the applicant submits that the applicant being a Class-III employee has retired long back i.e. in 2013. No show cause notice was given to the applicant before recovery of the amount and the amount was straightway recovered from his gratuity. The Ld. counsel for the applicant has placed reliance on the judgment of this Tribunal in **O.A. No. 162/2016 in case of Dr. Virendraprasad Rajendraprasad Shrivastava V/s State of Maharashtra and five others delivered on 15.6.2017.** In the said case, case of **State of Punjab and others etc. V/s Rafiq Masih (White Washer)** was referred in para 8 of the said judgment. The applicant is a Group-B employee. The amount has been recovered after his retirement and he was not at all responsible for such a wrong recovery. In para 9 of O.A. No. 162 & 163 of 2016, it has been observed that in view of the order passed in O.A. No. 1102/2015 decided on 14.6.2016, directions in the case of **Rafiq Masih** (supra) are applicable even to Group-B employees. In view of this, recovery of the excess amount cannot be ordered. Action of

the respondents in deducting the amount of Rs.3,47,598/- from the gratuity of the applicant is held illegal. The respondents are directed to repay the said amount to the applicant within a period of **two months** from the date of this order. If the amount is not paid to the applicant within two months, the applicant may file representation claiming interest.

8. No order as to costs.

Vice-Chairman(J)

pdg.

O.A.110/2017

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

Dated : 27.06.2017.

C.A.276/2017 .

Heard the applicant in person, Shri S.A. Deo, Id. CPO for R-1 to 3. None for R-4&5.

2. Vide order dated 4/5/2017 the respondents were directed not to convey DPC meeting. However, inadvertently without knowledge of said order, it is stated that the DPC meeting has been conducted on 15/5/2017. The respondent no.1 has accepted unconditional apology for the same. The said apology is accepted in the interest of justice though it is not otherwise acceptable. In para-3 of the application the respondent no.1 has stated that the Establishment Board has recommended 35 Officers including the applicant for promotion to the post of Additional Collector (Selection Grade) as he is found fit as per the grading of ACRs. In view of this, it is stated that there will be no hindrance in promoting the applicant any more. It is therefore expected that the promotion order of the applicant will be issued in due course. In such circumstances, there is no need to stay the promotions of other Officers and therefore the C.A. is allowed in terms of prayer clause.

3. The applicant in person has invited my attention to the representation filed on 6/4/2017

which is at Annex-A-27. He submits that the respondents be directed to deal with his representation and to take appropriate decision on the same. The learned CPO submits that he will take instructions that within how many days decision will be taken on the said representation and for the same he seeks time till 5/7/2017. Hence with the consent of both the parties, the matter be kept on 5/7/2017.

Vice Chairman (J)

dnk.

O.A.466/2002

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

Dated : 27.06.2017.

**MCA 34/2017 in CA 142/2016 in C.P. St.
576/2016 .**

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

2. The learned P.O. has placed on record the copy of the communication dated 21/12/2016 Exh-X in which it is stated that in case the amount is received by the applicant, she will withdraw the application of Contempt Petition. The learned P.O. submits that he will file receipt to show that the amount has been paid to the applicant.

S.O. 13/7/2017.

Vice Chairman (J)

dnk.

O.A.83/2017

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

Dated : 27.06.2017.

C.A.118/2017 .

None for the applicant. Shri V.A. Kulkarni, Id. P.O. for R-4 and Shri G.K. Bhusari, Id. Counsel for R-1 to 3.

2. The learned counsel for R-1 to 3 has placed on record the Xerox copy of the Service

Book of the applicant which is marked Exh-X and X1 for the purpose of identification from which it seems that the applicant was appointed as Junior Engineer with the office of Executive Engineer in Maharashtra Jeevan Pradhikaran and not in a Government Department. Since nobody appeared for the applicant the matter be kept after two weeks for hearing on the point of maintainability.

S.O. two weeks.

Vice Chairman (J)

dnk.

O.A.565/2015

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

Dated : 27.06.2017.

C.A.512/2016 .

None for the applicant.

Shri H.K. Pande, Id. P.O. for the respondents.

Ld. P.O. submits that he will file reply to C.A. during the course of day.

S.O. four weeks.

Vice Chairman (J)

dnk.

O.A.511/2016

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

Dated : 27.06.2017.

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

The Id. P.O. seeks time to file reply on behalf of R-2 to 7.

Await service of respondent no.1.

S.O. four weeks.

Vice Chairman (J)

dnk.

O.A.569/2016

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

Dated : 27.06.2017.

Shri R.S. Suryawanshi, Id. Counsel holding for Shri S.W. Sambre, Id. Counsel for the applicant and Shri M.I. Khan, Id. P.O. for R-1 to 5. Await service of R-6.

2. The Id. Counsel for the applicant seeks permission to amend in the O.A. within a week. Permission is granted.

3. After amendment issue notice to the newly added respondent returnable in **four weeks**. 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. **S.O. four weeks.**

Vice Chairman (J)

dnk.

O.A.665/2016

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

Dated : 27.06.2017.

None for the applicant.

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

Learned P.O. seeks time to file reply on behalf of respondent no.1.

On the last date last chance was granted to serve R-2 to 4 but as yet no steps are taken to serve R-2 to 4. The applicant to file service affidavit on behalf of R-2 to 4.

S.O. four weeks.

Vice Chairman (J)

dnk.

O.A.112/2017

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

Dated : 27.06.2017.

C.A.52/2017 .

Shri G.K. Bhusari, Id. Counsel holding for Shri R.V.Shiralkar, Id. Counsel for the applicant and Smt. S.V. Kolhe, Id. P.O. for the respondents.

Ld. P.O. files reply-affidavit on behalf of R-2 to C.A. as well as on O.A.. It is taken on record. Copy is served to the Id. Counsel for the applicant.

S.O. two weeks.

Vice Chairman (J)

dnk.

O.A.788/2016

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

Dated : 27.06.2017.

C.A.242/2017 .

Shri A.C. Dharmadhikari, Id. Counsel for the applicant and Shri S.A. Deo, Id. CPO for the respondents.

At the request of Id. P.O., **S.O. two weeks** for filing reply to the amendment application.

Vice Chairman (J)

dnk.

O.A.201/2016

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

Dated : 27.06.2017.

Shri G.K. Bhusari, Id. Counsel for the applicant and Shri H.K. Pande, Id. P.O. for R-1&2. None for R-3 to 5.

Since the pleadings are complete, the matter is admitted and kept for final hearing.

The Id. P.O. waives notice for R-1&2.

Matter be kept before regular Division Bench.

Vice Chairman (J)

dnk.

O.A.757/2016

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

Dated : 27.06.2017.

Shri G.K. Bhusari, Id. Counsel for the applicant and Shri H.K.Pande, Id. P.O. for the Respts.

The learned counsel for the applicant submits that there is no need to file rejoinder.

Heard. Admit.

Ld. P.O. waives notice for the respondents.

Put up before regular Division Bench.

Vice Chairman (J)

dnk.

O.A.791/2016

Coram : Hon. Shri J.D.Kulkarni,

Vice-Chairman (J).

Dated : 27.06.2017.

Shri Shrikant Saoji, Id. Counsel holding for Shri P.P. Thakare, Id. Counsel for the applicant and Shri H.K.Pande, Id. P.O. for the respondents.

Ld. P.O. files reply on behalf of R-2&3. It is taken on record. Copy is served to the Id. Counsel for the applicant.

The Id. P.O. submits that there is no need to file reply on behalf of other respondents.

Matter be kept for filing rejoinder, if necessary.

S.O. four weeks.

Vice Chairman (J)

dnk.

O.A.814/2016

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

Dated : 27.06.2017.

Smt. Prachi Joshi, Id. Counsel holding for
Shri P.B. Patil, Id. Counsel for the applicant and
Smt. M.A. Barabde, Id. P.O. for the Respts.

Ld. P.O. seeks time to file reply-affidavit.

S.O. four weeks.

Vice Chairman (J)

dnk.

O.A.13/2017

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

Dated : 27.06.2017.

Shri Bharat Kulkarni, Id. Counsel holding
for Shri S.P. Palshikar, Id. Counsel for the

applicant and Smt. M.A. Barabde, Id. P.O. for the Respts.

Ld. Counsel for the applicant seeks time to file rejoinder.

S.O. two weeks.

Vice Chairman (J)

dnk.

O.A.45/2017

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

Dated : 27.06.2017.

Shri Y.R. Kinkhede, Id. Counsel holding for Shri A.N. Ansari, Id. Counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the Respts.

At the request of Id. P.O., **S.O. four weeks** for filing reply.

Vice Chairman (J)

dnk.

O.A.241/2017

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

Dated : **27.06.2017.**

Shri Bharat Kulkarni, Id. Counsel for the applicant and Shri S.A. Deo, Id. C.P.O. for the Respts.

At the request of Id. C.P.O., **S.O. four weeks** for filing reply.

Vice Chairman (J)

dnk.

O.A.242/2017

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

Dated : 27.06.2017.

Shri Bharat Kulkarni, Id. Counsel for the applicant and Shri S.A. Deo, Id. C.P.O. for the Respts.

At the request of Id. C.P.O., **S.O. four weeks** for filing reply.

Vice Chairman (J)

dnk.

O.A.245/2017

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

Dated : 27.06.2017.

Shri G.R. Sadar, Id. Counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the Respts.

The Id. P.O. seeks six weeks time to file reply-affidavit. However, Id. Counsel for the applicant objected on the ground that the process of promotion may be undertaken. However, it cannot be without finalization of the seniority list. Hence, in the interest of justice, **S.O. 24/07/2017.**

Vice Chairman (J)

dnk.

O.A.411/2017

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

Dated : 27.06.2017.

Heard Shri Bharat Kulkarni, Id. Counsel holding for Shri S.P. Palshikar, Id. Counsel for the applicant and Shri S.A. Deo, Id. CPO for R-1.

2. Issue notice to R-2 and 3, returnable in **four weeks**. Learned C.P.O. waives notice for R-1. Hamdast allowed.

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

4. 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.

5. 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.

6. 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.

7. **S.O. four weeks.**

Vice Chairman (J)

dnk.