

O.A. 840/2016 (SB)

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

Dated : 1.3.2018

Shri N. Autkar, Id. counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the respondents.

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

Vice Chairman (J)

dnk.

O.A. 920/2010 (DB)

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

Dated : 1.3.2018

C.A.542/2017 in Rev.St. 2916/17

Shri A.Subhan, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for the respondent no.1. Await service of R-2 to 4.

The learned counsel for the applicant submits that the respondent nos. 1 to 3 are served and only respondent no.4 is awaited. He further submits that he will file service affidavit of R-4.

At the request of learned P.O., **S.O. four weeks** for filing reply of R-1 to 3.

Vice Chairman (J)

dnk.

O.A. 83/2018 (DB)

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

Dated : 1.3.2018

C.A.25/2018

Shri S.R. Deshpande, Id. counsel for the applicants and Shri S.A. Deo, Id. CPO for the State. Await service to R-2 to 9.

The learned counsel for the applicants submits that he could not contact his client to take instructions regarding withdrawal of the application for sue jointly and therefore he wants time till Tuesday, i.e., 6/3/2018.

At the request of learned counsel for the applicant, **S.O. 6/3/2018.**

Vice Chairman (J)

dnk.

O.A. 90/2018 (DB)

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

Dated : 1.3.2018

Shri R.V. Shiralkar, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for the respondents.

The learned counsel for the applicant submits that the respondents are already served and he has filed service affidavit to that effect.

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

Vice Chairman (J)

dnk.

O.A. 95/2018 (DB)

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

Dated : 1.3.2018

None for the applicant. Shri S.A. Deo, Id. CPO for the respondent no.1. Await service of R-2.

The applicant to file service affidavit of R-2.

S.O. two weeks.

Vice Chairman (J)

dnk.

O.A. 141/2018 (DB)

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

Dated : 1.3.2018

Heard Shri G.N. Khanzode, Id. counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the State.

2. The learned counsel for the applicant undertakes to remove the office objections. He submits that notices may be issued.

3. In view thereof, issue notice to R-2 to 5, returnable in **four weeks**. Learned P.O. waives notice for R-1. Hamdast allowed.

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

5. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

6. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

7. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

8. **S.O. four weeks** along with other connected matter.

Vice Chairman (J)

dnk.

O.A. 142/2018 (DB)

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

Dated : 1.3.2018

Heard Shri G.N. Khanzode, Id. counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the State.

2. The learned counsel for the applicant undertakes to remove the office objections. He submits that notices may be issued.

3. In view thereof, issue notice to R-2 &3, returnable in **four weeks**. Learned P.O. waives notice for R-1. Hamdast allowed.

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

5. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

6. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules,1988, and the questions such as limitation and alternate remedy are kept open.

7. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

8. **S.O. four weeks** along with other connected matter.

Vice Chairman (J)

dnk.

O.A. 268/2017 (DB)

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

Dated : 1.3.2018

None for the applicant.

Heard Shri M.I. Khan, Id. P.O. for R-1&2 and Shri D.M. Kakani, Id. counsel for R-3.

No rejoinder is filed.

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

The learned P.O. as well as Id. counsel for R-3 waive respective notices.

Put up before regular D.B. as and when available.

Vice Chairman (J)

dnk.

O.A. 346/2017 (DB)

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

Dated : 1.3.2018

Shri Bharat Kulkarni, Id. counsel
for the applicant and Shri V.A. Kulkarni,
Id. PO for the respondents.

At the request of Id. PO, **S.O. two
weeks** for filing reply.

Vice Chairman (J)

dnk.

O.A. 688/2017 (DB)

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

Dated : 1.3.2018

Shri D.M. Khandait, Id. counsel for the applicants and Shri M.I. Khan, Id. P.O. for the respondent nos. 1 to 3. None for R-4 to 7.

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

Vice Chairman (J)

dnk.

O.A. 257/2018 (DB)

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

Dated : 1.3.2018

Heard Shri G.G. Bade, Id. counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the respondents.

2. Vide order dated 07/04/2017 the applicant has been reverted from the post of Office Superintendent to Tribal Development Inspector, but in the same order she has been shown as promoted and has been posted at Bhamragadh. The order of revision as well as the order of posting at Bhamragadh has been challenged in this O.A.

3. The learned counsel for the applicant submits that earlier also the applicant was reverted from the post of Superintendent and therefore the applicant has filed O.A.No. 146/2009. The said application came to be disposed of on 13/02/2017 and this Tribunal was pleased to quash the reversion order dated 17/04/2007 issued by respondent no.2 and the applicant was allowed to continue the work on the promotional post

i.e. Office Superintendent. The said order was however not complied and therefore the applicant filed contempt application. During the pendency of the contempt application the order was passed maintaining the seniority of the applicant and therefore the contempt application become infructuous. The applicant is therefore not pressing for relief clause no.(i). Her only grievance is that her representation for transfer shall be considered and her posting at Bhamragadh be cancelled. The learned counsel for the applicant submits that the applicant is widow and her daughter is taking education and she is suffering from medical illness and therefore her application is required to be considered on sympathetic ground. The learned counsel for the applicant submits that he will take instructions as to whether the applicant has joined at Bhamragadh or not. The learned P.O. may also take instructions as to within how many days the representation filed by the applicant for cancellation of transfer at Bhamragadh shall be considered and whether the applicant can be accommodated at Bhandara.

4. At the request of both the sides,
S.O. next week. (P.H.)

5. Steno copy be supplied to the
learned counsel for parties.

Vice Chairman (J)

dnk.

O.A. No. 567/2017. (S.B.)

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

Dated : 1st March 2018.

C.A. 09/2018.

Heard Shri A.Z. Jibhkate ,
the learned counsel for the
applicant, Shri P.N. Warjekar, the
Ld. P.O. for the respondent Nos. 1
and 2, Shri A. Parihar, Adv. for R. 3
and 4 and Shri D.M. Kakani, Adv.
for R.5.

2. Crux of the matter was that
the fact that two persons i.e. the
applicant and respondent No.5
seem to be working at Sadak
Arjuni. According to respondent
No.5, the applicant was not posted
by the Government and the Chief
Executive Officer, Zilla Parishad,
Gondia has no authority to post the

applicant at Sadak Arjuni. The learned counsel for the applicant submits that the applicant has been posted at Sadak Arjuni by the Govt. of Maharashtra and

not by the Chief Executive Officer, Zilla Parishad, Gondia. The Govt. has issued an order and posted the respondent No.5 at Sadak Arjuni in view of the fact that the post at Sadak Arjuni was vacant. If all the circumstances are considered, then there cannot be a post vacant at Sadak Arjuni or the applicant might have been posted / deputed at Sadak Arjuni by Chief Executive Officer, Zilla Parishad, Gondia without authority. The learned counsel for the applicant submits that he will file an order showing that the applicant was transferred to Sadak Arjuni by the Government, since he is working there for last more than four years.

The applicant to file necessary order within two weeks.

S.O. two weeks.

Vice-
Chairman(J)

pdg

O.A. No. 721/2017. (S.B.)

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

Dated : 1st March 2018.

C.A. 46/2018.

Heard Shri C.N. Funde, the learned counsel for the applicant and Shri V.A. Kulkarni, the Ld. P.O. for the respondents.

2. The applicant wants to amend the O.A. by adding ground No.VI whereby he has challenged the legality of order and procedure not followed by the S.D.O., Bhandara while terminating the the services of the applicant.

3. The proposed amendment seems to be legal ground which the applicant wants to make out before this Tribunal. The said amendment may not change the nature of relief claimed by the applicant. In view thereof, C.A. for amendment is allowed. Amendment to

be incorporated within a week. Copy of amended O.A. be given to the Ld. P.O. Ld. P.O. shall file reply to the amended O.A. within a further period of two weeks.

S.O. **three weeks.**

Vice-
Chairman(J)

pdg

O.A. No. 722/2017. (S.B.)

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

Dated : 1st March 2018.

C.A. 47/2018.

Heard Shri C.N. Funde, the learned counsel for the applicant and Shri V.A. Kulkarni, the Ld. P.O. for the respondents.

2. The applicant wants to amend the O.A. by adding ground No.VI whereby he has challenged the legality of order and procedure not followed by the S.D.O., Bhandara while terminating the the services of the applicant.

3. The proposed amendment seems to be legal ground which the applicant wants to make out before this Tribunal. The said amendment may not change the nature of relief claimed by the

applicant. In view thereof, C.A. for amendment is allowed. Amendment to be incorporated within a week. Copy of amended O.A. be given to the Ld. P.O. Ld. P.O. shall file reply to the amended O.A. within a further period of two weeks.

S.O. three weeks.

Vice-
Chairman(J)

O.A. No. 839/2017. (S.B.)

Coram: Shri J.D. Kulkarni,

Vice-Chairman(J)

Dated : 1st March 2018.

Heard Shri A.R. Manhare , the learned counsel for the applicant, Shri A.M. Ghogre, the Ld. P.O. for the respondent Nos.1 and 2 and Shri R.P. Ambarwele, Adv. for R. 3.

The Ld. P.O. has filed reply affidavit on behalf of R.2, it is taken on record and copies thereof are supplied to the other sides.

Ld. Adv. for R.3 has also filed reply affidavit on behalf of R.3, it is taken on record and copies thereof are supplied to the other sides.

S.O. one week for hearing on admission.

Vice-
Chairman(J)

pdg

O.A. No. 968/2017. (S.B.)

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

Dated : 1st March 2018.

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

The Ld. P.O. has filed reply affidavit on behalf of R. 1 and 2, it is

taken on record. Ld. P.O. submits that reply of R.3 is not necessary.

S.O. two weeks.

Vice-
Chairman(J)

pdg

O.A. No. 143/2018. (S.B.)

Coram: Shri J.D. Kulkarni,

Vice-Chairman(J)

Dated : 1st March 2018.

None for the applicant. Shri S.A. Deo, the Ld. C.P.O. for respondent Nos. 1 to 3. Shri A.Z. Jibhkate, Adv. for R..4.

The Ld. CPO was requested to take instructions as to whether the applicant can be adjusted for two months at Nagpur. In view of such standing instructions, the respondent authorities were directed not to relieve the applicant. Today, the Ld. CPO has filed on record the communication dated 28.2.2018 which is marked "X" for identification, from which it seems that the respondents are not ready to continue the applicant at Nagpur. Since out of 25 years of service, the applicant has served at Nagpur for about 23 years and is also doing private practice at Nagpur. That seems to be the reason

as to why the applicant may not be interested in joining at Gondia. The learned counsel for the applicant submits that today itself, respondent No.4 is filing an application for vacation of stay. In view thereof, matter be kept on **6.3.2018**.

Vice-
Chairman(J)

O.A. No. 840/2016. (S.B.)

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

Dated : 1st March 2018.

Heard Shri N. Autkar, the learned counsel for the applicant and Shri , the Ld. P.O. for the respondents.

S.O.

Vice-
Chairman(J)

pdg

O.A. No. 923/2017. (S.B.)

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

Dated : 1st March 2018.

Heard Mrs. V. Chimukar, the learned counsel for the applicant and Shri , the Ld. P.O. for the respondent Nos. 1 and 2 . Shri Sheikh Majid, Adv. for R. 3 and 4.

Adv. for R. 3 and 4 alongwith pursis filed some documents stating that the salary has been paid to the applicant in January 2018.

The learned counsel for the applicant, however, submits that she has not been paid full salary, though she has worked for full month. She, therefore, wants to file some documents on record. The applicant is allowed to file documents on record alongwith an affidavit. Copy of the said affidavit be supplied to the Ld. Adv. for R. 3 and 4.

S.O. **two weeks.**

Vice-Chairman(J)

pdg

O.A. No. 23/2018. (S.B.)

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

Dated : 1st March 2018.

None for the applicant. Shri A.M. Ghogre, the Ld. P.O. for the respondent Nos. 1 and 2. None for R. 3 i.e. Caveator.

S.O. **three weeks.**

Vice-
Chairman(J)

O.A. No. 121/2018. (S.B.)

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

Dated : 1st March 2018.

Heard Shri M. Rajkondawar, the learned counsel for the applicant and Shri A.M. Ghogre, the Ld. P.O. for the respondent No.1.

2. The applicant is a Child Development Project Officer (Urban), working at City No.II (New), Nagpur. Association of

Anganwadi Sevika under the name and control of Anganwadi Karmachari Sabha, Maharashtra having its branch at Nagpur has complained against the applicant and on the basis of such complaint, the Committee was formed to make an enquiry in respect of allegations against the applicant. The said Committee vide recommendation dated 22.12.2017 has recommended following punishment against the applicant:-

“1. अर्जदार व इतर अंगणवाडी सेविकांना सुरेश ठाकरे यांच्या गैर वागणुकीचा त्रास होऊ नये व कार्यालयात पोषक वातावरण महिलांना मिळावे म्हणून त्यांना प्रतिबंधात्मक विचार करून विदर्भ वगळता इतर ठिकाणी तात्काळ बदली करण्याबाबत शिफारस करण्यात येत आहे.

२. एक वेतन वाढ कायमस्वरूपी थांबविण्याची शिफारस समितीद्वारे करण्यात येत आहे.

३. तसेच अर्जदारास (सेविकेस) झालेल्या शारीरिक आणि मानसिक त्रासाची नुकसान भरपाई म्हणून श्रीमती नंदा चित्रीव यांना रु. ५०,०००/- देण्यात यावे अशी शिफारस समिती करित आहे.”

3. The learned counsel for the applicant submits that the recommendations of the Committee are arbitrary, illegal and the said recommendation has been passed without any evidence, with bias and, therefore, the same is required to be stayed. Considering the allegations against the applicant, I am of the view that the recommendation No.1 as regards transfer of the applicant out of region, cannot be stayed, since it will also be an harassment to the applicant to continue to work at the place where there are complaints against him and, therefore, recommendation No.1 cannot be stayed. So far as recommendation No.2 regarding stoppage of increments permanently and payment of cost of Rs.50,000/- is concerned, the same is stayed in the interest of justice till reply by the respondents is filed.

4. The learned P.O. invited my attention to Section 19 of the Administrative Tribunals Act, 1985 and submits that the applicant has not filed representation as required U/s19 of the Act and that he has not filed an order passed by the Committee. In reply to the said contention, the learned counsel for the applicant has invited my attention to Section 18 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. Section 18 reads as under:-

“18. Appeal.—(1) Any person aggrieved from the recommendations made under sub-section (2) of Section 13 or under clause (i) or clause (ii) of sub-section (3) of Section 13 or sub-section (1) of Section 14 or section 17 of non-implementation of such recommendations may prefer an appeal to the Court or Tribunal in accordance with the provisions of the service rules applicable to the said persons or where no such service rules exist then, without

prejudice to provisions contained in any other law for the time being in force, the persons aggrieved may prefer an appeal in such manner as may be prescribed.

(2) The appeal under subsection (1) shall be preferred within a period of ninety days of the recommendations.

This clause provides for appeal. It provides that any person aggrieved by the recommendations, may prefer an appeal to the court or tribunal in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist then, without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal in such manner as may be prescribed. It further provides that the appeal under this clause shall be preferred within ninety days of the recommendations.”

5. Plain reading of the aforesaid provision will clearly show that the Act provides an appeal to the

Tribunal against the recommendation made by the Committee appointed under the said Act and, therefore, *prima facie*, application seems to be tenable. However, the respondents will be at liberty to raise this point in reply affidavit.

6. In the meantime, issue notice to respondent Nos. 2 to 4 returnable within **three weeks**.

7. Shri A.M. Ghogre, the Ld. P.O. waives notice for the respondent No.1. Hamdast granted.

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

9. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A.

10. 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.

11. 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.

12. S.O. **three weeks.**

Vice-
Chairman(J)

O.A. No. 152/2018. (S.B.)

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

Dated : 1st March 2018.

None for the applicant. Shri S.A. Deo, the Ld. C.P.O. for the respondents.

Though the matter was circulated by the Ld. counsel for the applicant, none appeared for the applicant today. Hence, it be taken on regular board.

Vice-
Chairman(J)

pdg

O.A. No. 14/2018. (S.B.)

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

Dated : 1st March 2018.

C.A. No.19/2018.

Heard Shri G.G. Bade, the learned counsel for the applicant and Shri M.I. Khan, the Ld. P.O. for the respondents 1 and 2. Shri S.M. Khan, Adv. for R.3.

The Ld. P.O. has placed on record a copy of proceedings conducted on 5.8.2013 alongwith a letter dated 27.2.2018. Same is marked "X" for identification. Its copy be supplied to the other side.

At the request of the learned counsel for the applicant, S.O.
5.3.2018.

Vice-
Chairman(J)

pdg

O.A. No. 507/2016. (S.B.)

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

Dated : 1st March 2018.

Heard Shri Y.R. Sonkusare,
the learned counsel for the
applicant and Shri A.M. Khadatkhar,
the Ld. P.O. for the respondents.

S.O.5.3.2018.

Vice-
Chairman(J)

pdg

O.A. No. 591/2015. (S.B.)

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

Dated : 1st March 2018.

Heard Shri D.B. Walthare, the
learned counsel for the applicants

and Shri A.M. Ghogre, the Ld.
P.O. for the respondents.

At the request of the learned
counsel for the applicant, S.O.
7.3.2018.

Vice-
Chairman(J)

pdg

O.A. No. 494/2015. (S.B.)

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

Dated : 1st March 2018.

Heard Shri Anand
Deshpande, the learned counsel for
the applicant and Shri M.I. Khan,
the Ld. P.O. for the respondents 1
and 2. Shri R.V. Shiralkar, Adv. for
R.3

Closed for orders.

Vice-
Chairman(J)

O.A. No. 772/2014. (S.B.)

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

Dated : 1st March 2018.

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

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

Vice-
Chairman(J)

pdg

O.A. No. 755/2015. (S.B.)

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

Dated : 1st March 2018.

Heard Shri S.P. Palshikar, the learned counsel for the applicants and Shri S.A. Sainis, the Ld. P.O. for the respondents.

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

Vice-
Chairman(J)

**O.A. No. 75, 76 and 77 of 2013
and O.A.No.805/2014. (S.B.)**

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

Dated : 1st March 2018.

Heard Shri N.R. Saboo, the learned counsel for the applicants and Shri A.M. Ghogre, the Ld. P.O. for the respondents.

Put up before the regular D.B on **12.3.2018.**

Vice-
Chairman(J)

pdg

O.A. No. 828/2014. (S.B.)

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

Dated : 1st March 2018.

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

Nobody appeared for the applicant even on 1.9.2016, 29.9.2016, 6.10.2016, 4.1.2017 and 27.2.2018 and, therefore, matter has been kept for dismissal. Since nobody appeared for the applicant today also, O.A. stands dismissed in default.

Vice-
Chairman(J)

pdg

O.A. No. 773/2014. (S.B.)

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

Dated : 1st March 2018.

None for the applicant. Shri AM.Ghogre, the Ld. P.O. for the respondents.

A detailed order was passed on 27.2.2018 from which it seems that nobody appeared for the applicant on 6.10.2016 and thereafter on 23.12.2016 and also on 27.2.2018 and today the matter was kept for dismissal. In spite of such order, nobody appeared for the applicant. The applicant, therefore, does not seem to be interested in prosecuting the O.A. Hence, the O.A. stands dismissed with no order as to costs.

Vice-
Chairman(J)

pdg

O.A. No. 91/2018. (S.B.)

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

Dated : 1st March 2018.

Oral order

Heard Shri D.M. Kakani, the learned counsel for the applicant and Shri S.A. Deo, the Ld. C.P.O. for the respondents.

2. The applicant is a P.S.I. and is presently working at Pusad, District Yavatmal. The applicant has filed representation dated 6.2.2017 and thereafter on 23.1.2018 for his transfer, whereby he has requested for change of region. The learned counsel for the applicant submits that earlier also, the applicant has filed representation and requested for his transfer out of region, but his

request was not considered and, therefore, he apprehends that this time also, his representation may not be considered. In view thereof, he has sought directions by this Tribunal to respondent Nos. 1 and 2 to consider the representation filed by the applicant dated 23.1.2018 (Annexure A-2) at time of Annual General Transfers to be effected in April-May 2018.

3. The learned CPO has invited my attention to the G.R. dated 8.12.2009 and submitted that the applicant's case may not be covered by the provisions of the said G.R. However, this point may be considered by the competent authority while considering the representation of the applicant. There is no reason as to why the representation of the applicant shall not be considered by respondent Nos. 1 and 2 on its own merits. In view thereof, I pass the following order:-

ORDER

- (i) The O.A. stands disposed of with directions to respondent Nos. 1 and 2 to consider the representation filed by the applicant dated 23.1.2018 (Annexure A-2) as per rules and regulations on its own merits.
- (ii) A decision on his representation shall be taken as early as possible and in any case at the time of Annual General Transfers to be effected in April-May 2018.
- (iii) No order as to costs.

Vice-
Chairman(J)

pdg

O.A. No. 153/2018. (S.B.)

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

Dated : 1st March 2018.

Heard Shri S.D. Dharaskar, the learned counsel for the applicant and Shri S.A. Sainis, the Ld. P.O. for the respondents.

2. The applicant is a Police Patil and he is aged about 59 years. By this application, the applicant has prayed to quash and set aside the communication dated 17.1.2018 of Sub-Divisional Officer, Umarkhed, District Yavatmal (Annexure A-2) whereby his claim for correction in date of birth has been rejected. According to the applicant, his real date of birth is 1.9.1959 whereas the same has been recorded wrongly as 3.3.1958 in the service record. The said entry is admittedly recorded on the basis of

entry in the register of school leave certificate.

3. Perusal of the application shows that for the first time, the application has requested for correction in the date of birth in the service record on 16.1.2018 as per Annexure A-1 and in the said application, it is stated that in the Kotwal book, date of birth of the applicant has been recorded as 1.9.1958 and, therefore, the same is required to be corrected. It is not known as to how the applicant decided to apply for the entry in the Kotwal book. In the entry at Annexure A-5 (Page 14), it seems that the applicant for the first time applied for entry on 26.2.2018. Application is silent as regards knowledge of the applicant about his date of birth and it is not specifically mentioned as to why the applicant was required to file an application for obtaining a copy of

Kotwal book as regards his date of birth.

4. Admittedly the applicant has joined the service as Kotwal on 17.6.1995 and no application for change of his date of birth was filed till 16.1.2018.

5. Applicant is aged about 59 years. This shows that the application has been filed at the very fag end of his service.

6. It cannot be said that obtaining the copy of Kotwal book entry is the cause of action for filing this O.A., as the applicant himself has placed on record one communication issued by S.D.O., Pusad on 16.8.2011 wherein it was notified that the applicant was to retire on superannuation on 31.3.2018. This communication was never challenged by the applicant and the applicant did not apply even immediately after receiving this communication. The

learned counsel for the applicant has placed reliance on the judgment reported in the case of **Santenu Mitra V/s State of West Bengal, 1999 AIR (SC) 1587**. In the said judgment, it was observed by the Hon'ble Apex Court that 'the entry in the revenue records such as Kotwal register has to be accepted as it is'. There would be no dispute about this fact. Question is that the applicant has not immediately applied for correction of date of birth or at least before five years of service for correction of his date of birth. If after getting the knowledge he was to retire on 31.3.2018 as per communication dated 16.8.2010, he did not take any objection nor has filed an application for correction of his date of birth nor at the fag end of service, he has moved such application. The Hon'ble Apex Court the case of _____(Justice

Bhandari) has observed that, “application for change of date of birth shall not be accepted at the fag end of service.” In view of this, O.A. stands dismissed at the admission stage with no order as to costs.

Vice-
Chairman(J)