

O.A. No. 893/2018 (DB)

**Coram : Hon'ble Shri Shri Bhagwan,
Member (A) &
Hon. Shri A.D. Karanjkar,
Member (J).**

Dated : 08.02.2019

Shri S.G. Jagtap, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for R-1 to 4. None for R-5 to 8.

The matter was fixed today therefore it is taken on board.

At the request of learned counsel for the applicant, **S.O. 28/02/2019.**

Interim relief to continue till then.

Member (J)

Member (A)

dnk.

O.A. No. 932/2018 (DB)

**Coram : Hon'ble Shri Shri Bhagwan,
Member (A) &
Hon. Shri A.D. Karanjkar,
Member (J).**

Dated : 08.02.2019

Shri S.C. Deshmukh, Id. counsel
for the applicant and Shri S.A. Deo, Id.
CPO for R-1 &2. None for R-3 to 6.

The matter was fixed today
therefore it is taken on board.

S.O. 28/02/2019.

Member (J)

Member (A)

dnk.

O.A. St.No. 307/2018 (DB)

**Coram : Hon'ble Shri Shri Bhagwan,
Member (A) &
Hon. Shri A.D. Karanjkar,
Member (J).**

Dated : 08.02.2019

C.A. 41/2018

Shri Katkar, Id. counsel holding for
Shri N.R. Saboo, Id. counsel for the
applicant and Shri V.A. Kulkarni, Id. P.O.
for the respondents.

The Id. P.O. files reply on behalf of
R-2 on C.A. It is taken on record. Copy is
served on the applicant.

O.A.St. 307/2018 -

S.O. two weeks.

Member (J)

Member (A)

dnk.

O.A. No. 203/2016 (DB)

**Coram : Hon'ble Shri Shri Bhagwan,
Member (A) &
Hon. Shri A.D. Karanjkar,
Member (J).**

Dated : 08.02.2019

MCA 44/2018

Shri S.N. Gaikwad, Id. counsel for the applicants and Shri H.K. Pande, Id. P.O. for the respondents.

The learned P.O. submits that as per the order dated 11/01/2019 the Director had constituted the Committee and the committee report has been submitted to the Government. However, nothing is filed on record. The learned P.O. is directed to file on record about the progress of the Committee on the next date.

S.O. 12/02/2019.

Member (J)

Member (A)

dnk.

O.A. No. 507/2018 (DB)

**Coram : Hon'ble Shri Shri Bhagwan,
Member (A) &
Hon. Shri A.D. Karanjkar,
Member (J).**

Dated : 08.02.2019

Shri A.B. Bambal, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for the respondents.

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

Member (J)

Member (A)

dnk.

O.A. No. 981/2018 (DB)

**Coram : Hon'ble Shri Shri Bhagwan,
Member (A) &
Hon. Shri A.D. Karanjkar,
Member (J).**

Dated : 08.02.2019

Shri P.P. Pendke, Id. counsel for the applicant and Shri S.A. Sainis, Id. PO for R-1&2. None for R-3.

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

Member (J)

Member (A)

dnk.

O.A. No. 03/2019 (DB)

**Coram : Hon'ble Shri Shri Bhagwan,
Member (A) &
Hon. Shri A.D. Karanjkar,
Member (J).**

Dated : 08.02.2019

Shri S.G. Jagtap, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for R-1,3 & 4. Await service of R-6.

2. At the request of Id. counsel for the applicant, issue fresh notice to R-2 and 5, returnable in **two weeks**. 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. 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.

8. **S.O. four weeks.**

Member (J)

Member (A)

dnk.

O.A. No. 04/2019 (DB)

**Coram : Hon'ble Shri Shri Bhagwan,
Member (A) &
Hon. Shri A.D. Karanjkar,
Member (J).**

Dated : 08.02.2019

Shri N.D. Khamborkar, Id. counsel
for the applicant and Shri S.A. Deo, Id.
CPO for the respondents.

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

Member (J)

Member (A)

dnk.

O.A. No. 39/2019 (DB)

**Coram : Hon'ble Shri Shri Bhagwan,
Member (A) &
Hon. Shri A.D. Karanjkar,
Member (J).**

Dated : 08.02.2019

Heard Shri A.Z. Jibhkate, Id. counsel for the applicant and Shri A.M. Ghogre, Id. P.O. for the respondents.

2. The learned counsel for the applicant is directed to file affidavit of the applicant showing that he is continued in the service during the course of day.

3. The learned P.O. is also directed to file reply in this regard till the next date.

S.O. 11/02/2019.

Member (J)

Member (A)

dnk.

O.A. No. 60/2019 (DB)

**Coram : Hon'ble Shri Shri Bhagwan,
Member (A) &
Hon. Shri A.D. Karanjkar,
Member (J).**

Dated : 08.02.2019

Heard Shri A.J. Jibhkate, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for the State.

2. The learned counsel for the applicant has pointed out previous order of this Tribunal in O.A.No. 356/2015 dated 10/03/2017. In para-6 a specific order has been given which is as follows-

“(6) Considering all these facts, we are, of the opinion that respondent no.2 should conduct a detailed enquiry on the issue raised in the report of the Sub Divisional

Officer, Tiwasa Bhatkuli dated 13/12/2014 regarding the experience of respondent no.5. This enquiry should be completed as early as possible and preferably within three months from the date of this order. No doubt, if it is found that the Certificate submitted by respondent no.5 is not genuine, necessary action will be taken by respondent no.2. This Original Application is disposed of in these terms with no order as to costs.”

3. It appears that the compliance has not been done in a spirit.

4. In the meantime, issue notice to R-2 to 4, returnable **in four weeks**. Learned C.P.O. waives notice for R-1. Hamdast allowed.

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

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

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

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

9. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

10. **S.O. four weeks.**

Member (J)

Member (A)

dnk.

Dated – 08/02/2019.

O.A. No. 754/15 with CAs.381 & 466 of
2016 **(DB)**

**Coram : Hon'ble Shri Shri Bhagwan,
Member (A) &
Hon. Shri A.D. Karanjkar,
Member (J).**

Dated : 08.02.2019

Heard Shri V.A. Kothale, Id. counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the respondents.

2. After hearing the matter for sometime, the Id. P.O. files letter no.ike1@,e@258@2015] dated 02/02/2019. The copy of the same is taken on record and marked Exh-X for the purposes of identification.

3. The learned counsel for the applicant submits that the applicant has retired in July,2017.

4. **The matter is closed for orders.**

Member (J)

Member (A)

dnk.

O.A. No. 861/2012 (DB)

**Coram : Hon'ble Shri Shri Bhagwan,
Member (A) &
Hon. Shri A.D. Karanjkar,
Member (J).**

Dated : 08.02.2019

None for the applicant. Heard Shri V.A. Kulkarni, Id. P.O. for the respondents.

From the record it appears that on the earlier dates i.e. on 6/2/2019 and 07/02/2019 none appeared for the applicant. Today also none appeared for the applicant. Hence, the O.A. stands dismissed in default.

Member (J)

Member (A)

dnk.

Rev. A. 13/19 in O.A. No. 783/17 **(SB)**

**Coram : Hon'ble Shri Shri Bhagwan,
Member (A)**

Dated : 08.02.2019

Rev. App. 13/19 -

Heard Shri P.S. Patil, Id. counsel for the applicant and Shri S.A. Sainis, Id. P.O. for the respondents.

The Review Application is allowed and the Original Application be restored at the admission stage.

O.A. No. 783/2017 –

**S.O. 22/02/2019 at 3.00 p.m. in
Chamber at the admission stage**

Member (A)

dnk.

O.A. No.871/2017. (S.B.)

Coram:Shri J.D. Kulkarni,
Vice-Chairman (J)
Dated : 8th February 2019.

C.A. No. 358/2018.

Heard Shri S.N. Gaikwad, the Ld. counsel for the applicant and Shri H.K. Pande, the learned P.O. for the respondents.

Applicant is for amendment so as to add private respondents who are junior to the applicant and they were granted promotion prior to the applicant. The applicant has claimed deemed date of promotion from the date on which private respondents were promoted. No relief is claimed against the private respondents. Hence, there is no need to amend the O.A. and to add private respondents as parties. C.A., therefore, stands dismissed and disposed of accordingly.

Since pleadings are complete, matter be kept for final hearing in the last week of February 2019.

Vice-
Chairman(J)

Dt. 8.2.2019.

pdg.

O.A. No.297/2018.

(S.B.)

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

Dated : 8th February 2019.

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

Notices are not collected for respondent Nos. 2 and 3. Matter, therefore, be kept for dismissal after **two weeks.**

Vice-
Chairman(J)

Dt. 8.2.2019.

pdg.

O.A. No.593/2018.

(S.B.)

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

Dated : 8th February 2019.

Heard Shri R.G. Nitnaware,
the Ld. counsel for the applicant
and Shri M.I. Khan, the learned
P.O. for the respondents.

Ld. P.O. submits that reply of
respondent Nos. 1 to 3 is not
necessary. He has filed reply of

R.4, it is taken on record and a copy thereof is supplied to the Ld. counsel for the applicant.

S.O. 22.2.2019 for filing rejoinder.

Vice-
Chairman(J)

Dt. 8.2.2019.

pdg.

**O.A. No.626/2018.
(S.B.)**

**Coram:Shri J.D. Kulkarni,
Vice-Chairman (J)
Dated : 8th February 2019.**

Heard Shri Vishal Anand, the Ld. counsel for the applicant and

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

At the request of Ld. P.O.,
S.O. **two weeks** for filing reply of
R.2 as a last chance.

Vice-
Chairman(J)

Dt. 8.2.2019.

pdg.

O.A. No.691/2018.

(S.B.)

Coram:Shri J.D. Kulkarni,
Vice-Chairman (J)
Dated : 8th February 2019.

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

At the request of Ld. P.O.,
S.O. **one week** for filing reply as a
most last chance.

Vice-
Chairman(J)

Dt. 8.2.2019.

pdg.

O.A. No.781/2018. (S.B.)

Coram:Shri J.D. Kulkarni,
Vice-Chairman (J)
Dated : 8th February 2019.

None for the applicant.

Heard Shri H.K. Pande, the learned P.O. for the respondents.

Ld. P.O. has filed reply of R. 4 and 5, it is taken on record. Reply of other respondents is not necessary, as stated by Ld. P.O.

ADMIT.

Shri H.K. Pande, the learned P.O. waives notice for the respondents.

S.O. **after two weeks** for final hearing.

Vice-
Chairman(J)

Dt. 8.2.2019.

pdg.

O.A. No.827/2018.

(S.B.)

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

Dated : 8th February 2019.

Heard Shri A.S. Tiwari, Adv. holding for Shri S.A. Choudhari, the Ld. counsel for the applicant and Shri V.A. Kulkarni, the learned P.O. for the respondents.

Ld. P.O. has filed reply of R. 2, it is taken on record. Ld. P.O. submits that the reply of other respondents is not necessary.

S.O. **two weeks** for filing rejoinder, if any.

Vice-
Chairman(J)

Dt. 8.2.2019.

pdg.

O.A. No.952/2018.
(S.B.)

Coram:Shri J.D. Kulkarni,
Vice-Chairman (J)
Dated : 8th February 2019.

Heard Shri R.G. Nitnaware,
the Ld. counsel for the applicant
and Shri S.A. Sainis, the learned
P.O. for the respondent Nos. 1 and
2. None for R. 3 and 4.

S.O. **25.2.2019** for filing reply
by Ld. P.O.

Chairman(J) Vice-

Dt. 8.2.2019.

pdg.

O.A. No.973/2018.

(S.B.)

Coram:Shri J.D. Kulkarni,
Vice-Chairman (J)
Dated : 8th February 2019.

None for the applicant. Heard Shri M.I. Khan, the learned P.O. for the respondent Nos.1 to 3. Shri G.K. Bhusari, Adv. for R. 4.

Since the respondent No.4 is in hanging position and reply is already filed by the respondents, matter is admitted and kept for final hearing on **18.2.2019**.

Shri M.I. Khan, the learned P.O. waives notice for the respondent Nos.1 to 3.

S.O. 18.2.2019.

Interim relief to continue till further orders.

Vice-Chairman(J)

Dt. 8.2.2019.

pdg.

Lateron

Shri A.C. Dharmadhikari, the
Ld. counsel for the applicant
appeared before this Tribunal and
requested for his appearance.
Request is granted.

S.O. 18.2.2019.

Vice-Chairman(J)

Dt. 8.2.2019.

pdg.

O.A. No.92/2019.

(S.B.)

Coram:Shri J.D. Kulkarni,
Vice-Chairman (J)
Dated : 8th February 2019.

Heard Shri N.R. Saboo, the Ld. counsel for the applicant and Shri M.I. Khan, the learned P.O. for the respondent No.1.

2. The applicant, vide order dated 4.7.2015 was promoted to the post of Block Development Officer and was posted at Panchayat Samiti, Chikhaldara, Distt. Amravati on a vacant post. He accordingly took charge of the said post and was working there. Vide impugned order dated 29.1.2019, the Chief Executive Officer, Zilla Parishad, Amravati has relieved the applicant unilaterally on the pretext that the proposal to suspend the applicant is moved to the Government. It is not known as to under what provision the applicant has been relieved and whether

it is also disputed that as to whether the Chief Executive Officer, Zilla Parishad, Amravati has authority to do so, since the appointing authority of the applicant is the Government and the disciplinary authority is the Divisional Commissioner. It seems that earlier also, the Chief Executive Officer, Zilla Parishad, Amravati proposed to transfer the applicant. But the said proposal was rejected by the Government vide letter dated 12.4.2018. The impugned order dated 29.1.2019 issued by the Chief Executive Officer, Zilla Parishad, Amravati is, therefore, stayed and the Chief Executive Officer, Zilla Parishad, Amravati is directed to allow the applicant to continue on the post till further orders.

3. The Chief Executive Officer, Zilla Parishad, Amravati shall file an affidavit stating as to under what authority and legal provision, she is empowered to relieve the applicant.

4. In the meantime, issue notice to the remaining respondent Nos. 2 and 3 returnable in **four weeks.**

5. Shri M.I. Khan, the learned P.O. waives notice for respondent No.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.**

Vice-
Chairman(J)

Dt. 8.2.2019.

pdg.

O.A. Nos.432 & 498 of 2017.

(S.B.)

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

Dated : 8th February 2019.

Heard Shri A.M. Ghogre, the Ld. P.O. for the applicants (original respondents) and Shri N.D. Thombre, the learned counsel for the respondents (original applicants).

The applicants have challenged the recovery in both the O.As. It is stated that the applicants have been paid in excess due to wrong pay fixation and objection was taken to that effect by the Pay Verification Unit while perusing the service books of the applicants. Copies of objection taken by the Pay Verification Unit were not given to the applicants and, therefore, they have filed these O.As. It is stated that the applicants have also challenged the objection raised by the Pay Verification Unit by filing separate O.As through Association and the said O.A. is pending. The

learned counsel for the original applicants has undertaken to give the number of that O.A. Since recovery is based on the objection taken by the Pay Verification Unit and the very objection is under challenge, the fate of both the O.As will depend on the outcome of that O.A., in which objection taken by the Pay Verification Unit has been challenged. In view thereof, both the O.As shall be kept alongwith that O.A. suggested by Adv. Shri Thombre.

S.O. **one week.**

Vice-
Chairman(J)

Dt. 8.2.2019.

pdg.

O.A. No.542/2017.

(S.B.)

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

Dated : 8th February 2019.

Heard Shri Bharat Kulkarni, the Ld. counsel for the applicant and Shri P.N. Warjekar, the learned P.O. for the respondents.

The Ld. P.O. has filed reply on behalf of R.3, it is taken on record and a copy thereof is supplied to the Ld. counsel for the applicant. Ld. P.O. request for time. Granted.

S.O.11.2.2019.

Vice-
Chairman(J)

Dt. 8.2.2019.

pdg.

O.A. No.617/2018.
(S.B.)

Coram:Shri J.D. Kulkarni,
Vice-Chairman (J)
Dated : 8th February 2019.

Heard Shri Bharat Kulkarni, the Ld. counsel for the applicant and Shri A.P. Potnis, the learned P.O. for the respondents.

2. The applicant has claimed release of pensionary benefits including pension, gratuity, commutation of pension, GPS and GIS and further directions to the respondents to pay him interest on the delayed payment. Admittedly, the

applicant has received the amount of GPF and GIS. However, he has not received the amount of leave encashment and other benefits. It is stated that the departmental enquiry is initiated against the applicant and, therefore, regular pension is not paid to him. Vide order dated 11.9.2018, the respondents were directed to release the provisional pension to the applicant and accordingly the provisional pension has been released, but only for six months. The Ld. P.O. was directed to take instructions as to within how many days enquiry will be concluded and on instructions, he states that it will be concluded within six months. There is absolutely no reason as to why the provisional pension cannot be granted to the applicant till such enquiry is completed. The respondents are, therefore, directed to take steps to continue to grant provisional pension to the applicant till completion of departmental enquiry. The respondents are also directed to take steps so as to complete the departmental enquiry within six months as requested by them.

3. O.A. stands disposed of accordingly with liberty to the applicant to approach this Tribunal in case the departmental enquiry is not concluded within six months.

Vice-
Chairman(J)

Dt. 8.2.2019.

pdg.

O.A. No.704/2015. (D.B.)

**Coram:Shri J.D. Kulkarni,
Vice-Chairman (J) and
Shree Bhagwan, Member (A)**

Dated : 8th February 2019.

R.A. No. 21/2018.

Heard Shri S.C. Deshmukh, the Ld. counsel for the applicants and Shri P.N. Warjekar, the learned P.O. for the respondents.

At the request of Ld. P.O., S.O. **22.2.2019** for filing reply as a last chance.

Member (A)
Chairman(J)

Vice-

Dt. 8.2.2019.
pdg.

O.A. No.628/2018.

(S.B.)

(Dilip Narayan Bhagat V/s State &
2)

Coram:Shri J.D. Kulkarni,
Vice-Chairman (J)
Dated : 8th February 2019.

Heard Shri G.K.
Bhusari, the Ld. counsel for the
applicant and Shri M.I. Khan, the
learned P.O. for the respondent
No.1. Shri Manwatkar, Adv. for R.2.
None for R.3.

2. The applicant has
challenged the impugned order
dated 28.5.2018 (A-1) whereby he
has been transferred from the post
of Block Development Officer
(BDO), Class-I, Panchayat Samiti,
Kalmeshwar, District Nagpur to
Panchayat Samiti, Bhamragarh,
District Gadchiroli. He has also
challenged the order dated 30th July

2018 whereby private respondent No.3 Shri M.B. Dongre has been transferred in place of the applicant.

3. Against the impugned order of transfer of the applicant at Bhamragarh, he moved representation claiming that the applicant has already worked in naxalite affected area / rural area for more than three years and he has crossed the age of 50 years and, therefore, he cannot be posted at Bhamragarh which comes under naxalite affected area / rural area. Said representation was, however, rejected by respondent No.1 vide communication dated 17.9.2018 on the ground that the G.R. dated 6.8.2002 is not applicable to the case of the applicant. This communication is challenged by amending the O.A. According to the applicant, the said communication is in contravention

of the G.Rs dated 6.8.2002 and 11.7.2000.

4. The only grievance of the applicant as seems from the pleadings is that the applicant is aged about 56 years and he has already worked in naxalite affected area / rural area on two occasions and, therefore, as per the G.R. dated 6.8.2002, the applicant cannot be forced to work in such an area.

5. From reply affidavit of respondent No.1, it seems that the respondent No.1 is trying to justify the order. It is stated that the applicant has completed his tenure of three years at Kalmeshwar and, therefore, was transferred. There are 57 posts of Dy. C.E.Os / B.D.Os which are vacant either due to retirement or promotion and, therefore, on administrative ground, the applicant was transferred.

6. From the communication dated 17.9.2018 (P.66 A,B), it seems that the applicant was intimated that the provisions of the G.R. dated 6.8.2002 are not applicable to the applicant and, therefore, applicant's claim cannot be accepted.

7. Copy of the G.R. dated 6.8.2002 is placed on record at page Nos. 59 to 66 (both inclusive). Condition No.5 of the said G.R. and a decision taken by the Government reads as under:-

“वयाची ५० वर्ष पूर्ण झालेल्या अधिकारी / कर्मचारी यांची शक्यतो या भागात नियुक्ती करू नये.”

8. The further condition at Sr. No.2 (P.63) reads as under:-

“आदिवासी क्षेत्रात किमान २ वर्षे चांगले काम केलेल्या गट अ व ब च्या

अधिकाऱ्यांना देखील
त्यांच्या पसंतीच्या जिल्यात
सोयीनुसार नेमणुका देण्यात
याव्यात.”

9. From the aforesaid condition, it seems that the Govt. has taken a decision not to post an employee who has crossed the age of 50 years in the naxalite affected area / rural area and a person who has worked in such an area for more than three years is entitled to claim choice posting. The G.R. nowhere shows that it will not be applicable to Class-I officers like the applicant.

10. The learned counsel for the applicant has placed reliance on one judgment delivered by this Tribunal at Nagpur in **O.A. No. 445/2017 in case of Narendra Pandurang Wankhede V/s State of Maharashtra and others delivered on 7.10.2017** and in the

said judgment, it has been observed by this Tribunal that the G.R. prohibits an employee of more than 50 years of age to be posted in such an area and it is also stated that the person who has served in naxalite affected area / rural area is entitled to choice posting. Only difference in the present case is that the applicant was working at Kalmeshwar which is not naxalite affected area / rural area. But it is a fact that the applicant has been transferred in naxalite affected area / rural area and has worked in that area for more than three years prior to this posting at Kalmeshwar. Time and again, it has been observed by this Tribunal as well as by the Hon'ble High Court that the Govt. shall take efforts to see that the young employee shall be posted in naxalite affected area / rural area and that same officer shall not be

repeatedly posted in such an area. The communication, therefore, that the G.R. dated 6.8.2002 is not applicable to the case of the applicant, is not correct.

11. During the pendency of the O.A., a pursis was filed on 3.1.2019 by the applicant whereby it was stated that the post of Dy. C.E.O. (Water Supply and Sanitation), Zilla Parishad, Nagpur is still vacant and the post of B.D.O., Panchayat Samiti, Kamptee, Dist. Nagpur and the B.D.O., Panchayat Samiti, Saoner, Dist. Nagpur are likely to be vacant at the time of Annual General Transfers of 2019. In view thereof, this Tribunal was pleased to direct the learned P.O. to take instructions as to whether the applicant can be accommodated as Dy. C.E.O. within a stipulated period or whether the applicant's request

can be considered at the time of Annual General Transfers of 2019.

12. In view of the order dated 3.1.2019 passed by this Tribunal for taking instructions as aforesaid, the learned P.O. submits that he has contacted the concerned Secretary of respondent No.1 through the Desk Officer Shri Anand Shendge and it was intimated to him that the applicant can be accommodated at Nagpur during the Annual General Transfers of 2019, but not at a particular post of Dy. C.E.O. in Water Supply and Sanitation, Zilla Parishad, Nagpur.

13. Admittedly, this O.A. has been filed on 13.8.2018 and even though, there was no stay to the order of transfer, the applicant did not join the post at Bhamragarh. On 3.1.2019 applicant submitted that he was ready to join at

Bhamragarh under protest and requested that he be considered for transfer at any of the three places of his choice mentioned in the pursis at Annexure A.1. He has accordingly joined at Bhamragarh recently. Ld. P.O. submits that the post at Bhamragarh is vacant since long and if the applicant is transferred from Bhamragarh keeping the said post vacant, it may cause administrative inconvenience. Considering this fact coupled with the fact that the applicant did not join at Bhamragarh earlier I feel that it will be proper and in the interest of administration not to disturb the applicant immediately by transferring him to Nagpur immediately. However, his request can be considered at the time of Annual General Transfers of 2019 and the respondent is also ready to consider his request at that time. In

view thereof, O.A. can be disposed of. Hence, I proceed to pass the following order:-

ORDER

- (i) The O.A. is disposed of with direction to respondent No.1 to consider the applicant's transfer from Bhamragarh to Nagpur at any of the posts mentioned in the pursis Art.X or at any other post at Nagpur as per the administrative convenience at the time of Annual General Transfers of 2019.

Chairman(J)

Vice-

Dt. 8.2.2019.
pdg.