

O.A. 143/2018 (SB)

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

Dated : 14.03.2018

C.A. 51/2018 -

Shri A.M. Sudame, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for R-1 to 3. None for R-4.

O.A. No. 143/2018 -

The learned CPO submits that he will file reply-affidavit in O.A. during the course of day.

S.O. 22/03/2018.

Till then I.R. to continue.

Vice Chairman (J)

dnk.

O.A. 50/2017 (DB)

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

Dated : 14.03.2018

C.A. 27/2018 -

Shri P.S. Khubalkar, Id. counsel for
the applicant and Shri H.K. Pande, Id.
P.O. for R-1&2. None for R-3.

S.O. 11/04/2018.

Vice Chairman (J)

dnk.

O.A. 110/2018 (DB)

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

Dated : 14.03.2018

None for the applicant.

Shri S.A. Deo, Id. CPO for R-1.
Await service of R-2 to 6.

The learned CPO makes objection regarding maintainability of the application considering the prayer clause submitted in the application in the nature of public interest litigation. Since nobody is present for the applicant, the matter will be heard on the point of maintainability.

S.O. 11/04/2018.

Vice Chairman (J)

dnk.

O.A. 768/2016 (DB)

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

Dated : 14.03.2018

Smt. K.N. Saboo, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for the respondents.

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

The learned P.O. waives notice for the respondents.

Put up before regular D.B. **on 12/04/2018.**

Vice Chairman (J)

dnk.

O.A. 45/2017 (DB)

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

Dated : 14.03.2018

Shri A.N. Ansari, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for the respondents.

2. The learned counsel for the applicant has filed service in respect of R-5.

3. The learned P.O. files reply-affidavit on behalf of R-5. It is taken on record. Copy is served on the applicant. The learned P.O. submits that reply of R-1 is not necessary.

S.O. 04/04/2018.

Vice Chairman (J)

dnk.

O.A. 598/2017 (DB)

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

Dated : 14.03.2018

Shri S.N. Gaikwad, Id. counsel holding for Shri V.B. Gawali, Id. counsel for the applicant and Shri A.M. Khadatkar, Id. P.O. for R-1 to 4. None for R-5.

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

The learned P.O. waives notice for R-1 to 4.

In the meantime, the applicant is at liberty to file rejoinder, if any.

S.O. 11/04/2018.

Vice Chairman (J)

dnk.

O.A. 651/2017 (DB)

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

Dated : 14.03.2018

Shri S.D. Chande, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for the respondents.

At the request of learned counsel for the applicant, **S.O. 28/03/2018** for filing rejoinder.

Vice Chairman (J)

dnk.

O.A. 172/2018 (DB)

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

Dated : 14.03.2018

Heard Shri S.A. Marathe, Id. counsel for the applicant Shri S.A. Deo, Id. CPO for the State.

2. Issue notice to R-2 and 3, returnable on **11/04/2018**. 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. 11/04/2018.**

Vice Chairman (J)

dnk.

O.A. No. 61/2017. (S.B.)

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

Dated : 14th March 2018.

None for the applicant. Shri V.A. Kulkarni, the Ld. P.O. for the respondent Nos. 1 to 4.

Await service to R.5.

S.O. **6.4.2018.**

Vice-
Chairman(J)

pdg

O.A. No. 705/2017. (S.B.)

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

Dated : 14th March 2018.

C.A. 469/2017.

Heard Shri G.G. Bade, the Ld. Counsel for the applicants and Shri V.A. Kulkarni, the Ld. P.O. for the respondents.

At the request of the Ld. Counsel for the applicants, S.O. **23.3.2018.**

Chairman(J) Vice-

pdg

O.A. No. 762/2017. (S.B.)

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

Dated : 14th March 2018.

Heard Shri S.N. Gaikwad, the Ld.
Counsel for the applicant and Shri V.A.

Kulkarni, the Ld. 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 of R. 2 and 3.

Ld. P.O. submits that he will take instructions within a week regarding reply to be filed on behalf of R. 2 and 3.

S.O. **5.4.2018.**

Chairman(J) Vice-

pdg

O.A. No. 881/2017. (S.B.)

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

Dated : 14th March 2018.

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

Ld. P.O. submits that he has received instructions from all the respondents and seeks time.

S.O. **6.4.2018.**

Vice-
Chairman(J)

pdg

O.A. (St.) No. 140/2018. (S.B.)

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

Dated : 14th March 2018.

C.A. 21/2018.

Heard Shri B.N. Jaipurkar, the Ld. Counsel for the applicant and Shri H.K. Pande, the Ld. P.O. for the respondents.

Ld. P.O. seeks time to file reply to the C.A.

S.O. 5.4.2018.

Vice-
Chairman(J)

pdg

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

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

Dated : 14th March 2018.

C.A. 51/2018.

Heard Shri M.M. Sudame, the Ld. Counsel for the applicant and Shri , the Ld. P.O. for the respondents 1 to 3. Shri A.Z. Jibhkate, Adv. for R.4.

S.O.

Chairman(J) Vice-

pdg

O.A. No. 116/2018. (S.B.)

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

Dated : 14th March 2018.

Heard Shri S.M. Khan, the Ld. Counsel for the applicant and Shri A.M. Khadatkar, the Ld. P.O. for the respondent No.1.

Ld. counsel for R. 2 and 3 is going to file Vakalatnama within a week and seeks four weeks' time for filing reply. P.O. also seeks time to file reply.

S.O. 11.4.2018.

Vice-
Chairman(J)

pdg

O.A. No. 556/2017. (S.B.)

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

Dated : 14th March 2018.

None for the applicant. Shri V.A. Kulkarnli, the Ld. P.O. for the respondents.

The Ld. P.O. has filed reply on behalf of the respondents 1 to 3, it is taken on record. S.O. **2.4.2018.**

Vice-
Chairman(J)

pdg

O.A. No. 175/2018. (S.B.)

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

Dated : 14th March 2018.

Heard Shri M.V. Joshi, the Ld.
Counsel for the applicant and Shri S.A. Deo,
the Ld. C.P.O. for the respondent No.1.

2. Vide order dated 12.2.2018, the respondents have decided to recover the amount of Rs. 1,76,579/- on the ground that the same has been paid to the applicant in excess. The applicant has retired long back i.e. on 30.11.2013 and recovery pertains to more than five years i.e. prior to retirement of the applicant i.e. from 1.1.1996. In the interest of justice till reply is filed by the respondents, recovery vide impugned order is stayed.

3. Issue notice to the respondent Nos. 2 to 4 returnable on **11.4.2018**.

4. Shri S.A. Deo, the Ld. C.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.

9. S.O. 11.4.2018.

Vice-
Chairman(J)

pdg

O.A. No. 123/2014. (S.B.)

Coram: Shri J.D. Kulkarni,

Vice-Chairman(J)

Dated : 14th March 2018.

R.A. 01/2018.

Heard Shri P.V. Thakre, the Ld. Counsel for the applicant and Shri A.M. Ghogre, the Ld. P.O. for the respondents.

2. in this Review Application, the applicant is claiming correction in the typographical mistake in para No.10 of the judgment in which it is stated that the applicant got retired on superannuation on 30.6.2016 as Naib Tehsildar. According to the Ld. Counsel for the applicant, this date should be "30.6.2011" instead of 30.6.2016. The mistake seems to be a clearly typographical mistake and, therefore, in the interest of justice the same stands corrected. Instead of 30.6.2016, the date of superannuation of the applicant shall be read as "30.6.2011".

3. The Ld. Counsel for the applicant submits that the applicant has been granted first time bound promotion on 1.10.1994 and, therefore, he was entitled to second time

bound promotion in the year 2006 after completion of 12 years' of service and, therefore, there is a necessity to correct this mistake. However, perusal of the judgment shows that this point has been discussed on merit and if the applicant is aggrieved by any illegality al alleged or claimed, he may approach the higher authority either by filing an appeal or writ petition, whatever the case

may be. In view of this, following order is passed:-

ORDER

- (i) The Review Application is partly allowed.
- (ii) The dated 30.6.2016 in para 11 in the judgment as regards superannuation of the applicant be corrected and it be replaced by date "30.6.2011".
- (iii) The Registrar of this Tribunal to take necessary correction and accordingly issue certified copy, if not supplied.
- (iv) The Review Application stands disposed of accordingly.

Vice-
Chairman(J)

pdg

O.A. No. 177/2018. (S.B.)

Coram: Shri J.D. Kulkarni,

Vice-Chairman(J)

Dated : 14th March 2018.

Heard Shri G.G. Bade, the Ld. Counsel for the applicant and Shri S.A. Deo, the Ld. C.P.O. for the respondent No.1.

2. The applicant is claiming directions to respondent Nos. 2 and 3 to allow him to join in view of joining letter date d 21.2.2018. The learned CPO is, therefore, directed to take instructions in this regard and to make a statement as to why the applicant is not being allowed to join the duty and whether the respondent Nos. 2 and 3 are not allowing him to join and why ?

3. Issue notice to the respondent Nos. 2 and 3 returnable on **28.3.2018**.

4. Shri S.A. Deo, the Ld. C.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.

9. S.O. 28.3.2018.

Vice-
Chairman(J)

pdg

O.A. No. 594/2017. (S.B.)

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

Dated : 14th March 2018.

Heard Shri Bharat Kulkarni, the Ld. Counsel for the applicant and Shri V.A. Kulkarni, the Ld. P.O. for the respondents.

The Ld. P.O. has filed reply on behalf of the respondents, it is taken on record and a copy thereof is supplied to the other side.

S.O. **23.3.2018.**

Put up with O.A.No.689/2017.

Vice-
Chairman(J)

pdg

O.A. No. 689/2017. (S.B.)

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

Dated : 14th March 2018.

Heard Shri Bharat Kulkarni, the Ld. Counsel for the applicant and Shri V.A. Kulkarni, the Ld. P.O. for the respondents.

The Ld. Counsel for the applicant submits that the matter is covered by the judgment delivered by this Tribunal and confirmed by the Hon'ble High Court.

S.O. **23.3.2018** for hearing on admission.

Put up with O.A.No.594/2017.

Vice-
Chairman(J)

pdg

O.A. No. 680/2017. (S.B.)

Coram: Shri J.D. Kulkarni,
Vice-Chairman(J)
Dated : 14th March 2018.

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

The Ld. P.O. has filed reply on behalf of the respondent No.2, it is taken on record and a copy thereof is supplied to the other side.

S.O. **28.3.2018**. for filing rejoinder by the applicant.

Vice-
Chairman(J)

pdg

O.A. No. 681/2017. (S.B.)

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

Dated : 14th March 2018.

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

The Ld. P.O. has filed reply on behalf of the respondent No.2, it is taken on record and a copy thereof is supplied to the other side.

S.O. **28.3.2018**. for filing rejoinder by the applicant.

Vice-
Chairman(J)

pdg

O.A. No. 838/2017. (S.B.)

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

Dated : 14th March 2018.

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

The Ld. P.O. has filed reply on behalf of the respondent No.2, it is taken on record.

S.O. **12.4.2018.**

Chairman(J) Vice-

pdg

O.A. No. 895/2017. (S.B.)

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

Dated : 14th March 2018.

Shri Barun Kumar, the Ld. counsel for the applicant and Shri M.I. Khan, the Ld. P.O. for the respondents 1 and 2. Mrs. A. Lanjewar, Adv. for R.3.

The Ld. P.O. and Ld. Adv. for R.3 seek time to file reply affidavit.

S.O. **3.4.2018** as a last chance.

Vice-
Chairman(J)

pdg

O.A. No. 974/2017. (S.B.)

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

Dated : 14th March 2018.

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

At the request of Ld. P.O., S.O.

5.4.2018.

Chairman(J) Vice-

pdg

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

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

Dated : 14th March 2018.

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

At the request of Ld. P.O., S.O.

5.4.2018.

Vice-
Chairman(J)

pdg

O.A. No. 120/2018. (S.B.)

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

Dated : 14th March 2018.

Shri G.G. Bade, the learned counsel
for the applicant and Shri S.A. Deo, the Ld.
C.P.O. for the respondents.

S.O. 11.4.2018.

Chairman(J) Vice-

pdg

O.A. No. 444/2015. (S.B.)

Coram: Shri J.D. Kulkarni,

Vice-Chairman(J)

Dated : 14th March 2018.

Heard Shri N.B. Bargat, the Ld. counsel for the applicant and Shri V.A. Kulkarni, the Ld. P.O. for the respondents.

At the request of P.O., S.O.
22.3.2018.

Vice-
Chairman(J)

pdg

O.A. No. 445, 446 & 447 of 2015. (S.B.)

Coram: Shri J.D. Kulkarni,

Vice-Chairman(J)

Dated : 14th March 2018.

Heard Shri N.B. Bargat, the Ld. counsel for the applicants and Shri V.A. Kulkarni, the Ld. P.O. for the respondents 1,2,3 and 5. None for R.4.

At the request of the Ld. counsel for the applicant, S.O. **22.3.2018.**

Chairman(J) Vice-

pdg

O.A. No. 539/2016. (S.B.)

Coram: Shri J.D. Kulkarni,

Vice-Chairman(J)

Dated : 14th March 2018.

Heard Shri P.V. Thakre, the Ld. counsel for the applicants and Shri M.I. Khan, the Ld. P.O. for the respondents.

2. Vide order dated 16.2.2018, the concerned respondent was directed to take quick decision and in case corrective steps are not taken for any other available mode or for any other reason then, to file a short affidavit explaining the reason to be filed on record. The Ld. P.O. submits that the respondents will take necessary decision within a period of two weeks and seeks two weeks' time.

S.O. **3.4.2018.**

Vice-
Chairman(J)

pdg

O.A. No. 540/2016. (S.B.)

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

Dated : 14th March 2018.

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

On 5.1.2018 and 14.2.2018, none appeared for the applicants. Therefore, the matter be kept for dismissal in the next week.

S.O. **23.3.2018** for dismissal.

Vice-
Chairman(J)

pdg

O.A. No. 431/2017. (S.B.)

Coram: Shri J.D. Kulkarni,

Vice-Chairman(J)

Dated : 14th March 2018.

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

The learned counsel for the applicant seeks time to take instructions from the applicant as regards withdrawal of the O.A.

S.O. **26.3.2018.**

To be treated as part heard.

Chairman(J) Vice-

pdg

O.A. No. 85/2017. (S.B.)

(Smt. Vijayshree wd/o Kamlakar Kulkarni V/s
The Commissioner, ESIS, Mumbai & 2)

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

Dated : 14th March 2018.

Heard Shri D.N. Mathur, the learned counsel for the applicant and Shri M.I. Khan, the Ld. P.O. for the respondents.

2. The applicant Smt. Vijayshree wd/o Kamlakar Kulkarni, aged about 80 years has filed this application whereby she has claimed for release of family pension in her favour which was granted vide order dated 14.1.2004 as per Annexure A-4 at the rate of Rs. 330/- per month and further claiming directions to the respondents to pay her family pension every month. During the pendency of the O.A., after reply affidavit of respondent No.2 was filed and in view of certain documents placed on record, it came to the knowledge that the respondent No.1 has passed an order (Annexure A-10) dated 18.3.2016 whereby rejecting her claim on flimsy grounds and, therefore, by way of amendment, the applicant has challenged the said order also.

3. From the facts pleaded by the applicant, it seems that her husband was removed from service w.e.f. 9.12.1989 and as

per Rules 100 and 101 of the M.C.S. (Pension) Rules, 1982, pension was granted w.e.f. 19.12.1989. This order was passed as per Annexure A-4 by Administrative Medical Officer, Nagpur. Time and again, the applicant was asked to submit legal heir certificate and necessary documents and it was intimated to her that her claim was under active consideration. Since no action was taken, the applicant was constrained to file this O.A.

4. As already stated, vide communication dated 18.3.2016, it has been intimated to the applicant that her husband was dismissed from service due to his habitual absence for a longer period in 1992 after following due procedure and since the applicant has approached after 24 years, she was not entitled for terminal benefits. Perusal of the order dated 18.3.2016 seems to be prima facie illegal. From the documents on record, it seems that the applicant was removed from service and was also held entitled to compassionate pension under Rules 100 and 101 of the M.C.S. (Pension)

Rules, 1982. The learned P.O. submits that the Administrative Medical Officer was having no authority to pass such an order. It was the prerogative of respondent No.1 and the respondent No.1 has passed necessary order on 18.3.2016. Even considering the fact that respondent No.2 was not authorized, fact remains that time and again the applicant was directed to comply certain formalities which she has complied and the applicant has been removed from service and not dismissed from service. In fact the compassionate pension was also made applicable to the applicant. All these facts, however, are not considered by the competent authority while rejecting applicant's claim vide order dated 18.3.2016. The said impugned order, therefore, is illegal and stands quashed and set aside. The claim for pension and pensionary benefits is a continuing action and merely because the applicant approached after 24 years as stated by the respondents, her claim cannot be rejected, as it seems from the record that the earlier correspondence is going on since

2004 and time and again the applicant has been assured. Considering all these aspects and without going into the merits of the case, at this stage, the O.A. can be disposed of with directions to respondent No.1 i.e. the Commissioner of Employees State Insurance Scheme, Mumbai. The learned P.O. submits that the applicant shall co-operate. There is no reason as to why she will not co-operate in the enquiry. However, it is expected that the applicant will co-operate the department for enquiry. Hence, I pass the following order:-

ORDER

- (i) The O.A. is partly allowed.
- (ii) The impugned order dated 18.3.2016 passed by respondent No.1 stands quashed and set aside.
- (iii) The respondent No.1 is directed to consider the claim of the applicant from all pros and cons, considering the legal provisions under Rules 100 and 101 of the Pension Rules, 1982 and also taking into consideration the previous

order passed by respondent No.2 in this regard and to take a decision as per its own merits of the case. Considering the age of the applicant, the claim of the applicant shall be considered within a period of two months from the date of this order and a decision shall be communicated to the applicant in writing.

- (iv) It is needless to mention that the applicant will be entitled to approach this Tribunal, incase her claim is not considered with proper perspective.
- (v) The applicant shall be given full opportunity of hearing while considering her claim.
- (vi) It is expected that the applicant will co-operate the department.
- (vii) No order as to costs.

Vice-
Chairman(J)

