

O.A. No. 40/2018 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 14.12.2018**

Shri S. Kothwale, Id. counsel for the applicant, Shri S.A. Sainis, Id. P.O. for R-1&2 and Shri R.A. Jaiswal, Id. counsel holding for Shri H.D. Marathe, Id. counsel for R-3.

At the request of learned counsel for R-3, **S.O. 18/12/2018**.

**Member (J)**

dnk.

O.A. No. 61/2017 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 14.12.2018**

Shri D.Rupnarayan, Id. counsel holding for Shri S.U. Nemade, Id. counsel for the applicant and Shri S.A. Sainis, Id. P.O. for the respondents.

At the request of Id. counsel for the applicant, **After Vacation**.

**Member (J)**

dnk.

O.A. No. 794/2017 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 14.12.2018**

Shri K.N. Dadhe, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for R-1 to 4. None for R-5&6.

At the request of Id. counsel for the applicant, **S.O. After Vacation** for filing rejoinder.

**Member (J)**

dnk.

O.A. No. 702/2016 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 14.12.2018**

Shri Manoj Jaiswal, Id. counsel holding for Shri N.R. Saboo, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for the respondents.

At the request of Id. counsel for the applicant, **S.O. After Vacation.**

**Member (J)**

dnk.

O.A. No. 175/2018 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 14.12.2018**

Shri M.V. Joshi, Id. counsel for the applicant and A.M. Khadatkar, Id. P.O. for the respondents.

The learned P.O. files reply of R-4. It is taken on record. Copy is served to the learned counsel for the applicant.

At the request of Id. P.O., **S.O. After Vacation** for filing reply of other respondents.

**Member (J)**

dnk.

O.A. No. 197/2018 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 14.12.2018**

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

2. The Id. counsel for the applicant submits that respondent no.4 is served and he will file service affidavit to that effect.

3. The learned P.O. seeks time to file reply. At his request, **S.O. four weeks.**

**Member (J)**

dnk.

O.A. No. 356/2018 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 14.12.2018**

Shri A.P. Sadavarte, Id. counsel for  
the applicant and Shri A.M. Khadatkar, Id.  
P.O. for R-1&2. None for R-3.

At the request of Id. P.O., **S.O.**  
**After Vacation** for filing reply of R-1&2.

**Member (J)**

dnk.

O.A. No. 737/2018 (SB)

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 14.12.2018**

Shri M.R. Khan, Id. counsel for the applicant and Shri A.M. Khadatkar, Id. P.O. for the respondents.

2. Shri M.R. Khan, Id. counsel files rejoinder on behalf of the applicant. It is taken on record. Copy is served to the other side.

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

4. The Id. P.O. waives notice for the respondents.

**S.O. 04/01/2019.**

Interim relief to continue till then.

**Member (J)**

dnk.



O.A. No. 743/2018 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 14.12.2018**

Shri S.N. Gaikwad, Id. counsel for  
the applicant and shri A.M. Khadatkar, Id.  
P.O. for the respondents.

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

**Member (J)**

dnk.

O.A. No. 855/2018 (SB)

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 14.12.2018**

Shri A.B. Bambal, Id .counsel for the applicant and Shri S.A. Deo, Id. CPO for R-1&3. Await service of R-2.

2. The learned counsel for the applicant submitted that respondent no.3 is served and he will file service affidavit to that effect. He also submits that notice to respondent no.2 is sent by RPAD and he seeks further time to serve R-2.

3. **S.O. After Vacation.**

**Member (J)**

dnk.

O.A. No. 857/2018 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 14.12.2018**

Heard Shri A.P. Sadavarte, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for the respondents.

2. The learned CPO requested time to submit reply on behalf of the respondents. He also prayed that this matter may be kept along with other similar matters which are pending.

3. Put up this matter along with O.A.789,790,802,803,804,805,809,810, and 811 of 2018.

**Member (J)**

dnk.

O.A. No. 889/2018 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 14.12.2018**

Shri S.S. Duhilani, Id. counsel for the applicant and shri H.K. Pande, Id. P.O. for R-1. Await service of R-2 to 4.

**S.O. After Vacation** for filing service affidavit of R-2 to 4.

**Member (J)**

dnk.

O.A. Nos.422,431,432,433,434 & 473 of  
2016 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 14.12.2018**

Heard Shri S.. Gaikwad, Id.  
counsel for the applicants and Shri S.A.  
Sanis, Id. P.O. & other P.Os. for the  
respondents.

2. The learned counsel for the  
applicants is directed to inform this Bench  
as to how many persons the relief on the  
basis of G.R. 20/07/2001 is extended  
though they had not passed the qualifying  
examination. Similarly, the learned P.O.  
is directed to make submission on the  
statement produced by the learned  
counsel for the applicants before this  
Bench today.

3. **S.O. three weeks (P.H.)**

**Member (J)**

dnk.

O.A. No. 526/2017 (SB)

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 14.12.2018**

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

2. It is submitted on behalf of the applicant that proposal dated 30/12/2016 is forwarded to respondent no.2 and it is pending for decision. The father of the applicant died on 8<sup>th</sup> June,2010. As the proposal is already forwarded and is pending with respondent no.2, it is suitable to direct the respondent no.2 to decide the proposal within three months from the date of this order.

3. In view thereof, the O.A. stands disposed of with no order as to costs.

**Member (J)**

dnk.

O.A. No. 887/2017 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 14.12.2018**

Shri S.N. Gaikwad, Id. counsel holding for Shri S.M. Khan, Id. counsel for the applicant and Shri S.A. Sainis, Id. P.O. for the respondents.

**S.O. four weeks** for further orders.  
(P.H.).

Put up along with O.A.944/2017.

**Member (J)**

dnk.

O.A. No. 944/2017 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 14.12.2018**

Shri S.N. Gaikwad, Id. counsel for  
the applicant and Shri S.A. Sainis, Id.  
P.O. for the respondents.

**S.O. four weeks** for further orders.  
(P.H.).

Put up along with O.A.887/2017.

**Member (J)**

dnk.



O.A. No. 263/2017 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 14.12.2018**

Shri S.N. Gaikwad, Id. counsel holding for Shri S.A. Pathak, Id. counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the respondents.

At the request of learned counsel for the applicant, **S.O. After Vacation.**

**Member (J)**

dnk.

O.A. No. 304/2018 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 14.12.2018**

Shri G.G. Bade, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for the respondents.

At the request of Id. counsel for the applicant, **S.O. 19/12/2018**.

**Member (J)**

dnk.

O.A. No. 365/2018 (SB)

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 14.12.2018**

**C.A.325/2018 –**

Heard Shri R.A. Haque, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for the respondents.

2. This application is now relocated in view of C.A.374/2018.

3. In view thereof, the C.A. 325/2018 stands disposed of.

**C.A.374/2018 –**

Heard Shri R.A. Haque, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for the respondents.

2. The dispute is regarding the correction of date of birth in the service record. It is contention of the applicant that within 5 years after joining the service, he submitted the application for correction of his date of birth along with the required documents, but unfortunately that application came to be rejected. Thereafter, the applicant made

representation to the higher authorities, but again no relief was granted, therefore the applicant is intending to add para nos.7 (f), 7 (g) & 7 (h) in the O.A.

3. In view of the fact that the new circumstance arose during pendency of the O.A., therefore the applicant is permitted to effect the proposed amendment in the O.A. The applicant is permitted to add respondents 1-A and 1-B in the O.A.

4. The applicant is directed to make necessary amendment immediately and supply the amended copies of the O.A. to the respondents.

5. After amendment, issue notice to the newly added respondents returnable **in four weeks**. 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.**

**Member (J)**

dnk.

**O.A.No. 185/2018. (D.B.)**

**Coram: Shri Shree Bhagwan,  
Member (A) and  
Shri A.D.Karanjkar, Member(J)  
Dated : 14<sup>th</sup> December 2018.**

**C.A.No.165/2018:-**

Shri M.G.Burde, the Id. counsel for the applicant and Shri A.M.Khadatkar, the Id. P.O. for the respondents.

The Id. counsel for the applicant is submitted the C.A. No. 165/2018 and pursis dated 14/12/2018. As per submission of Id. P.O., it appears that the other candidates were appointed and they had also passed the examination in March only like applicant.

As submitted by Id. P.O. in his reply from Pg. No. 74, it appears that Deputy Director, Public Health Services, Nagpur has issued notices to these appointed candidates in July, 2018. The Id. P.O. is directed to take instructions, what action has been taken against these candidates after this show cause notice filed alongwith reply.

**S.O. one week.**

**Steno copy is granted.**

**Member(J)  
Member(A)  
Date:-14/12/2018.  
aps.**

**O.A.No. 151/2018. (D.B.)**

**Coram: Shri Shree Bhagwan,  
Member (A) and  
Shri A.D.Karanjkar, Member(J)**  
**Dated : 14<sup>th</sup> December 2018.**

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

As per the order dated 07/12/2018, the Id. P.O. has placed on record some documents. However, it is not sufficient, according to the order no. [i km i vk@okfo@vklFLk@cMrQ&i h-dsi h@17&2984](#)] fnukd 08-09-2017, it is observed that para no. 3 of the said order is not as per the Rule and Natural Justice. It seems that there is not sufficient material to dispense with the proper departmental enquiry in keeping decision as per letter dated no. [i km i vk@okfo@vklFLk@cMrQ&i h-dsi h@17&2984](#)] fnukd 08-09-2017.

After submitting all the documents by Id. P.O., we feel that there is no sufficient material to dispense with the departmental enquiry.



In view of this, impugned order no. ~~ikmivk@okfo@vklFLk@cmrQ&ih-dsith@17&2984]~~ fnukd 08-09-2017 is quashed and set aside and department may continue procedure and action.

With the above directions, **the O.A. is disposed of with no order as to costs.**

**Member(J)**

**Member(A)**

**Date:-14/12/2018.**

aps.

**O.A.No. 932/2018. (D.B.)**

**Coram: Shri Shree Bhagwan,  
Member (A) and  
Shri A.D.Karanjkar, Member(J)**  
**Dated : 14<sup>th</sup> December 2018.**

Shri S.C.Deshmukh, the Id. counsel for the applicant, Shri S.A.Deo, the Id. C.P.O. for the respondent nos. 1 & 2 & Shri S.R.Bhongade, the Id. Counsel for the respondent nos. 3, 4 & 5. Await service of respondent no. 6.

2. As per the request of Id. counsel for the applicant issue fresh notice to the respondent no. 6. The Id. C.P.O. submits that he will file the reply during the course of the day today.

3. Issue notice to R-6, returnable on 19/12/2018. Learned C.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. 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.

9. **S.O. 19-12-2018.**

10. *Put up this matter alongwith the O.A. No. 893/2018.*

**Member(J)**  
**Member(A)**  
**Date:-14/12/2018.**  
aps.  
**O.A.No. 893/2018. (D.B.)**

**Coram: Shri Shree Bhagwan,**  
**Member (A) and**  
**Shri A.D.Karanjkar, Member(J)**  
**Dated : 14<sup>th</sup> December 2018.**

Shri S.G.Jagtap, the Id. counsel for the applicant, Shri A.M.Khadatkar, the Id. P.O. for the respondent nos. 1 to 4 and Ms. V.V.Tiwari, the Id. Counsel for the respondent nos. 5 to 8.

The Id. P.O. filed the affidavit-in-reply on behalf of the respondent nos. 1 and 2. The same is taken on record. Copy is served to the other side.

The Id. Counsel for the respondent nos. 5 to 8 submits that she will file the reply during the course of the day today.

**S.O. 19/12/2018 for final disposal**  
**(I.R. is continued till that time).**

*Put up this matter alongwith the O.A.No.932/2018.*

**Member(J)**  
**Member(A)**  
**Date:-14/12/2018.**  
aps.

O.A.No. 612/2017. (D.B.)

**Coram: Shri Shree Bhagwan,  
Member (A) and  
Shri A.D.Karanjkar, Member(J)**  
**Dated : 14<sup>th</sup> December 2018.**

Shri P.S.Sahare, the Id. counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the respondent nos. 1 & 2. None for the respondent no. 3.

The Id. P.O. filed the affidavit-in-reply on behalf of the respondent nos. 1 and 2. The same is taken on record. Copy is served to the other side.

The Id. Counsel for the respondent nos. 5 to 8 submits that she will file the reply during the course of the day today.

**S.O. 19/12/2018 for final disposal  
(I.R. is continued till that time).**

*Put up this matter alongwith the  
O.A.No.932/2018.*

**Member(J)**  
**Member(A)**  
**Date:-14/12/2018.**  
aps.



**O.A.No. 151/2018. (D.B.)**

**Coram: Shri Shree Bhagwan,  
Member (A) and  
Shri A.D.Karanjkar, Member(J)**  
**Dated : 14<sup>th</sup> December 2018.**

Heard Shri A.S.Deshpande, the Id. counsel for the applicant and Shri H.K.Pande, the Id. P.O. for the respondents.

The applicant is dismissed from the service on the ground that the applicant was involved in crime under Section 302 and 397 of IPC. The Id. Disciplinary Authority held that as the applicant was serving as Police Constable committed serious crime in a cruel manner, therefore, it was not suitable to keep the applicant in service of the Police Department. The Disciplinary Authority was of the view that it was not practicable and suitable to conduct the Disciplinary Enquiry, therefore, exercising the power under Article 311 (2) (b) dismissed the applicant from the service.

The impugned order (Annexure-A) dated 08.09.2017 is under attack on the ground that holding Departmental Enquiry



is a rule and Article 311 (2) of the Constitution of India is an exception. It is submitted that the case is not covered by the exception therefore, the impugned order is illegal.

The Id. P.O. has strongly justified the order on the ground that the applicant is involved in serious offence, therefore, the Disciplinary Authority after recording special reasons decided to dismiss the applicant from service after dispensing with the enquiry, therefore, no interference is required.

In case of **Prithivipal Singh Vs. State of Punjab (2006) Vol. 13 SCC Pg. 314** the law is laid down as under:-

*"Holding of a departmental proceeding is the rule. The second proviso appended to Article 311(2) of the Constitution of India provides for an exception. It is a trite law that existence of such an exceptional situation must be shown to exist on the basis of relevant materials. In this case, even such a question did not arise as a departmental proceeding had been held and the appellant was not found guilty therein. Once he was exonerated of the*

*charges, the question of issuing an order of dismissal against him and that too, upon dispensation of a formal inquiry, did not arise. The Judgment of the High Court as also of the first appellate court are set aside and that of the trial court is restored. In the peculiar facts*

*and circumstances of the case the appellant shall be entitled to the costs, which is quantified at Rs. 10,000."*

Thus the law is established that in order to bring a case under second proviso to Article 311(2) the Authority is bound to record substantial and cogent reasons for not conducting the enquiry. In this case after perusing the note-sheet produced before the bench by the Id. P.O. which is at Pg. No. 50 – 56 (both inclusive), it seems that no reason was recorded why it was not practicable or suitable to conduct disciplinary enquiry. Therefore, if the submission of the Id. P.O. is accepted, the result would be every Police Officer

involved under either Section 302 or 376 of IPC is required to be dismissed from the service before conclusion of the Criminal Trial, without holding disciplinary enquiry. In our view, in present case no special reasons are recorded by the disciplinary authority to bring the case under second proviso to Article 311(2) of the Constitution of India. The protection of law given to the Government servant can not be taken easily, therefore, recording of special reasons is not empty formality, it must be supported by specific circumstances. Mere reproduction of the words "not practicable to hold enquiry" without recording the actual reasons is not true import of Article 311 (2) of the Constitution of India, therefore, in our opinion the impugned order is illegal and cannot be sustained. Hence the following order:-

### **ORDER**

1. The impugned order dated 08<sup>th</sup> Sep., 2017 dismissing the applicant from service is set aside. The respondents are at liberty to initiate the departmental proceedings against

the applicant as per the service rules.

2. No order as to costs.

**Member(J)**

**Member(A)**

**Date:-14/12/2018.**

aps.

O.A.No. 612/2017. (D.B.)

**Coram: Shri Shree Bhagwan,  
Member (A) and  
Shri A.D.Karanjkar, Member(J)  
Dated : 14<sup>th</sup> December 2018.**

Shri P.S.Sahare, the Id. counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the respondent nos. 1 & 2. None for the respondent no. 3.

The Id. P.O. filed the affidavit-in-reply on behalf of the respondent nos. 1 & 2. The same is taken on record. Copy is served to the other side.

**S.O. After Winter Vacation.**

*Liberty is granted to file Rejoinder, if any and supply the same to the Id. P.O..*

**Member(J)  
Member(A)  
Date:-14/12/2018.  
aps.**

O.A.No. 516/2018. (D.B.)

**Coram: Shri Shree Bhagwan,  
Member (A) and  
Shri A.D.Karanjkar, Member(J)  
Dated : 14<sup>th</sup> December 2018.**

None for the applicant. Shri P.N.Warjurkar, the Id. P.O. for the respondents.

The Id. P.O. seeks three weeks time to file reply. At his request, **S.O. three weeks.**

**Member(J)  
Member(A)  
Date:-14/12/2018.  
aps.**

O.A.No. 856/2018. (D.B.)

**Coram: Shri Shree Bhagwan,  
Member (A) and  
Shri A.D.Karanjkar, Member(J)  
Dated : 14<sup>th</sup> December 2018.**

Shri S.M.Khan, the Id. counsel for the applicant and Shri S.A.Deo, the Id. C.P.O. for the State. Await service of respondent nos. 2 & 3.

The Id. Counsel for the applicant submits that applicant has preferred to approach this Tribunal against the order of dismissal i.e. on P.B., Pg. No. 10 and 11 (both inclusive) i.e. v/LF#018@iZd@dk&1¼2½2834] fnukd 03@04@2018- The Id. Counsel for the applicant is not aware, whether the applicant has preferred appeal against this order or not. The applicant is directed to prefer an appeal and if appeal is rejected or if he feels aggrieved with the order of the appeal, the applicant is at liberty to approach this Tribunal.

With this directions, **the O.A. is disposed of with no order as to costs.**

Member(J)  
Member(A)  
Date:-14/12/2018.  
aps.  
O.A.No. 723/2018. (D.B.)

**Coram: Shri Shree Bhagwan,  
Member (A) and  
Shri A.D.Karanjkar, Member(J)  
Dated : 14<sup>th</sup> December 2018.**

Shri Jaiswal holding for Shri N.R.Saboo, the Id. counsel for the applicant and Shri H.K.Pande, the Id. P.O. for the State. Await service of respondent nos. 2 & 3.

The Id. Counsel for the applicant submits that he is yet to file service affidavit and he has requested for some time. **S.O. After Winter Vacation for filing service affidavit.**

*Put this matter alongwith the O.A.Nos. 646, 647 & 648/2018.*

Member(J)  
Member(A)  
Date:-14/12/2018.  
aps.





O.A.Nos. 913 & 914/2018. (D.B.)

**Coram: Shri Shree Bhagwan,  
Member (A) and  
Shri A.D.Karanjkar, Member(J)  
Dated : 14<sup>th</sup> December 2018.**

Shri Jaiswal holding for Shri N.R.Saboo, the Id. counsel for the applicant and Shri H.K.Pande, the Id. P.O. for the State. Await service of respondent nos. 2 & 3.

The Id. Counsel for the applicant submits that he is yet to file service affidavit and he has requested for some time. **S.O. After Winter Vacation for filing service affidavit.**

**Member(J)  
Member(A)  
Date:-14/12/2018.  
aps.**

**O.A.Nos. 646, 647 & 648/2018. (D.B.)**

**Coram: Shri Shree Bhagwan,  
Member (A) and  
Shri A.D.Karanjkar, Member(J)  
Dated : 14<sup>th</sup> December 2018.**

Shri Jaiswal holding for Shri N.R.Saboo, the Id. counsel for the applicant and Shri P.N.Warjurkar, the Id. P.O. for the respondents.

The Id. P.O. submits that the reply has already been filed. Hence, the matter is **admitted** and kept for final hearing.

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

**S.O. After Winter Vacation.**

*Put this matter alongwith the O.A.No. 723/2018.*

**Member(J)  
Member(A)  
Date:-14/12/2018.  
aps.**

**O.A.No. 972/2018. (D.B.)**

**Coram: Shri Shree Bhagwan,  
Member (A) and  
Shri A.D.Karanjkar, Member(J)**  
**Dated : 14<sup>th</sup> December 2018.**

Shri G.G.Bade, the Id. counsel for the applicant and Shri S.A.Deo, the Id. C.P.O. for the State.

2. The Id. C.P.O. has pointed out details about the chargesheet and its background. In view of this issue notices to the respondents.

3. Issue notice to R-2 to 4, returnable on four weeks. Learned C.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. 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.

9. **S.O. four weeks.**

**Member(J)**

**Member(A)**

**Date:-14/12/2018.**

aps.

**O.A.Nos. 212 & 213/2013. (D.B.)**

**Coram: Shri Shree Bhagwan,  
Member (A) and  
Shri A.D.Karanjkar, Member(J)  
Dated : 14<sup>th</sup> December 2018.**

Shri R.V.Shiralkar, the Id. counsel for the applicant and Shri P.N.Warjurkar, the Id. P.O. for the Respondents.

The Id. Counsel for the applicant has invited my attention regarding G.R. No. 1109@i:dz1@09@l dk3] fnukd 15@10@2009 at P.B., Pg. No. 59-G (Annexure-A-19) and notification thereon bearing no. oru1109@i:dz1@l dk3] fnukd 21@05@2010 at P.B., Pg.No. 59(I) (Annexure-A-20).

The respondents are directed to consider the applicant's claim as per the modified G.R. i.e. G.R.No. oru1109@i:dz1@l dk3] fnukd 21@05@2010 at P.B., Pg.No. 59(I) (Annexure-A-20) within two months from the date of this order.

With these directions, **the O.A. is disposed of with no order as to costs.**

**Member(J)**  
**Member(A)**

**Date:-14/12/2018.**  
aps.

O.A.No. 494/2014. (D.B.)

**Coram: Shri Shree Bhagwan,  
Member (A) and  
Shri A.D.Karanjkar, Member(J)**  
**Dated : 14<sup>th</sup> December 2018.**

Shri G.G.Bade, the Id. counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the Respondents.

It appears as per reply filed by respondent no. 2 on P.B., Pg. Nos. 54 to 57 (both inclusive) in para no. 5, it had been clarified that the applicant was promoted on adhoc basis on 23/07/2003 bearing no. ueup@975@03. His regular promotion order was issued on 30/01/2010 bearing no. ikel@5@10@vgrk&2002@68@2001, in this promotion order at P.B., Pg. No. 51 clause nos. 3 and 4:-

"3- iLrq vknsAkrthy ts vgrki klr ikshl gokyngj@l gk; d ikshl mi fufj{Ad f'AK HAsr vl rhy rl p fuy@ukr vl rhy rj R; kuk i nklurh u nrk rl k vgoky ; k clk; ky; kl I Roj I knj djkok-  
4- iLrq vknsAkrthy T; k vgrki klr ikshl gokyngj@l gk; d ikshl mi fufj{Adkfo: /n U; k; ky; kr xlgk nkAy vlg%vsl hchvFok vU; ½ R; kukgh i nklurh u nrk R; kckcrpk I foLrj vgoky ; k clk; ky; kl I Roj I knj djkok"



It is cleared that, if employees were under suspension or facing criminal cases they should not be promoted. It seems that the benefit of this order was not taken by the applicant because applicant was under suspension since 2006 and his suspension was revoked on 11/03/2013. So applicant was never given benefit to the order 30/01/2010 bearing no. ikl #5@10@vgrk&2002@68@2001. However, again by respondent no. 3 letter dated 04/04/2012, intimated to D.G. of Police on 04/04/2012 about the suspension and cases against the applicant. According to this information and G.R. dated 27/05/2014 bearing no. iMlb&1013@i:dz: &80@iky&6v] G.A.D. order was issued on 20/04/2012 and promotion order of the applicant was cancelled.

With the above facts, it appears that the applicant never worked on promotional post of P.S.I.. However, the Id. Counsel for the applicant seeks time to placed on record whether the applicant ever get the benefit of promotion and worked on the promotional post.

**S.O. one week.**

**Matter to be treated as P.H.**

**Member(J)**  
**Member(A)**  
**Date:-14/12/2018.**  
**O.A.No. 724/2014. (D.B.)**

**Coram: Shri Shree Bhagwan,  
Member (A) and  
Shri A.D.Karanjkar, Member(J)**  
**Dated : 14<sup>th</sup> December 2018.**

Shri S.D.Malke, the Id. counsel for  
the applicant and Shri A.M.Ghogre, the Id.  
P.O. for the Respondents.

At the request of Id. Counsel for the  
applicant, **S.O. after winter vacation.**

**Member(J)**  
**Member(A)**  
**Date:-14/12/2018.**  
aps.

**O.A.No. 448/2018. (D.B.)**

**Coram: Shri Shree Bhagwan,  
Member (A) and  
Shri A.D.Karanjkar, Member(J)  
Dated : 14<sup>th</sup> December 2018.**

**C.A.Nos.153, 224, 273/2018:-**

Shri N.N.Thengre, the Id. counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the Respondent nos. 1 to 5. None for the respondent nos. 6 & 7.

At the request of Id. P.O., **S.O. one week.**

**Member(J)  
Member(A)  
Date:-14/12/2018.  
aps.**

**O.A.No. 105/2016. (D.B.)**

**Coram: Shri Shree Bhagwan,  
Member (A) and  
Shri A.D.Karanjkar, Member(J)  
Dated : 14<sup>th</sup> December 2018.**

**C.A.No.297/2018:-**

Heard Shri G.R.Sadar, the Id. counsel for the applicant, Shri M.I.Khan, the Id. P.O. for the Respondent nos. 1 & 2. Leave note of Shri S.P.Palshikar, the Id. Counsel for the respondent no. 3.

The Id. Counsel for the applicant has pointed out that the chart at P.B., Pg. No. 37 and 38 (both inclusive). As per his contention on Pg. No. 38 in confidential report it is mentioned that A.C.Rs. of the applicant are not available since 2008-2009 to 2013-2014. However, he has taken information under R.T.I. and C.Rs. of applicant is shown on Pg. No. 49, which shows as A+ . He also submits that Respondent no. 3 i.e. Shri Gajendra S/o Rajaram Shinde though promoted and as per seniority list, he was above the applicant i.e. the respondent no. 3 has taken V.R.S..

So, post is vacant now. The Id. P.O. is directed to take instructions from the Government that since the applicant has A+ in C.R. than why he should be deny for promotion and file the same on record alongwith the minutes of meeting of D.P.C. in which Shri Borkhade name was placed. If, the Id. P.O. fails to produce the record, the matter will be heard on merits.

**Steno copy is allowed.**

**S.O. 07/01/2019.**

**To be treated as P.H.**

**Member(J)**

**Member(A)**

**Date:-14/12/2018.**

aps.