

O.A.No.890/2019 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :09/02/ 2021.

Heard Smt. P.T.Joshi, the Id. Counsel for the applicant and Shri A.M.Khadatkar, the Id. P.O. for the respondents.

2. At the request of Id. P.O., **S.O. three weeks to file reply.**

Vice Chairman

Date:-09/02/2021.
aps.

O.A.No.67/2020 (S.B.)

**Coram:Shri Shree Bhagwan, Vice Chairman
Dated :09/02/ 2021.**

Heard Shri A.B.Bambal, the Id. Counsel for the applicant, Shri A.M.Khadatkar, the Id. P.O. for the respondents and Shri S.G.Bhagat, the Id. counsel for the respondent no. 4.

2. At the request of Id. P.O., **S.O. 23.02.2021 to file reply.**

Vice Chairman

Date:-09/02/2021.
aps.

O.A.Nos.386&387/2020 (S.B.)

**Coram:Shri Shree Bhagwan, Vice Chairman
Dated :09/02/ 2021.**

Heard Shri A.Deshpande, the Id. Counsel for the applicant and Shri A.M.Khadatkar, the Id. P.O. for the respondents.

2. At the request of Id. P.O., **S.O. 20.02.2021 to file reply.**

Vice Chairman

Date:-09/02/2021.
aps.

O.A.No.869/2020 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :09/02/ 2021.

Heard Shri S.P.Palshikar, the Id. Counsel for the applicant and Shri A.M.Ghogre, the Id. P.O. for the respondents.

2. The matter was first heard on 10.12.2020 and in para no. 2 following directions were given:-

"It is submitted that the applicant was not due for transfer and there were no circumstances in existence to justify the mid-term transfer and therefore exercise of jurisdiction by the Transferring Authority is in violation of Section 22 (N), Sub Section 1&2. It is submitted that the applicant is not relieved till today from his post. In view of this, the parties to maintain status-quo as on today till further orders."

3. However, today the Id. counsel for the applicant submits that respondent no. 3 took one sided charge, so even though status-quo was granted in order dated 10.12.2020, applicant didn't get any relief. The Id. counsel for the applicant has pointed out facts about charge on P.B., Pg. Nos. 10 & 11 of the O.A. in para nos. XI and XII which are reproduced below:-

"XI It is further submitted that order impugned is dated 04.12.2020 on 5th and 6th were the Saturday and Sunday and applicant

has not yet relieved and he is holding the post of Thanedar Police Station, Bori. The respondent no. 3 has also not joined in place of the applicant. The applicant apprehends that since the respondent no. 3 has been transferred as per his choice he may take ex-parte charge as Thanedar Police Station, MIDC, Bori. It is further submitted that if respondent no. 3 takes ex-parte charge then it is clear violation of Rule 29 and 31 of the Maharashtra Civil Services (General Condition) Rules, 1981. The applicant craves leave of this Hon'ble Tribunal to read and rely upon this Rule during the course of hearing of this original application. Suffice to say that the applicant is not yet relieved as is still working as Thanedar Police Station, MIDC, Bori and therefore, the order impugned so far as the applicant is concerned is liable to be stayed during the pendency of the original application.

XII It is further submitted that from the aforesaid facts and circumstances applicant has pointed out that order impugned is illegal, bad in law and contrary to the Maharashtra Police Act particularly section 22(n)(1)(2). So far as service record is concerned is clean and unblemished and he has worked upto the mark. At this juncture order of transfer of the applicant from the present posting is illegal, the applicant has not yet been relieved and is still working as Police Station, MIDC, Bori. Under such circumstances applicant submits

that there is a prima facie good case in his favour and the balance of convenience also lies in his favour for grant of interim relief and therefore order impugned needs to be stayed during the pendency of the original application, otherwise applicant would suffer an irreparable losses apart from mental agony. "

4. The Id. counsel for the applicant has pointed out at P.B., Pg. No. 18, dated 10.09.2019 when applicant was posted on Control Room to Police Station, MIDC, Bori on Administrative Ground in that order also Section 22 (N), Sub Section 1&2 was used. Vide impugned order dated 04.12.2020 applicant has been transferred from MIDC, Bori to Aroli i.e. after 15 months only and in impugned order dated 04.12.2020 again Section 22 (N), Sub Section 1&2 have been mentioned. It is not clear in both the orders Section 22 (N), Sub Section 1&2 have been mentioned though applicant has been transferred otherwise.

5. The Id. counsel for the applicant further submits that in O.A. P.B., Pg. No. 6 (V) which is reproduced below:-

"It is further submitted that reasons assigned in the order impinged is that applicant has been transferred by taking recourse of Section 22(n)(1) and (2) of the Maharashtra Police Act, there is also a provisions in the said section that the State Government may transfer any Police Personnel prior to

completion of his normal tenure. Section 22 (n) reads as follows:-

Provided that, the State Government may transfer any Police Personnel prior to the completion of normal tenure if

- (A) Disciplinary proceeding are instituted or contemplated against the Police Personnel; or*
- (B) The Police personnel is convicted by the Court of Law; or*
- (C) There are allegations of corruption of Police personnel; or*
- (D) The Police Personnel is otherwise incapacitated from discharging his responsibility;*
- (E) The Police Personnel is guilty for dereliction of duties"*

In addition to the grounds mentioned in sub section 1 in exceptional cases, in public interest and on account of administrative exigency, the contempt authority shall make mid term transfer of any Police Personnel of the Police Force.

It is submitted that none of the above provision is applicable in the present case and on this ground also impugned order needs to be quashed and set aside.

6. In above circumstances Section 22(N)(1)&(2) can be waived in above A to E circumstances but contrary to that on P.B., Pg. Nos. 22, 23, 24; transferring authority i.e. respondent no. 2 has given appreciation letter to the applicant. The Id. counsel for the applicant further submits that on

04.01.2021 when matter was listed in M.A.T., the respondent no. 2 assured the applicant that within three weeks he will be transferred as per his choice posting and in that background specific dates were sought by the respondents.

7. The Id. P.O. has placed minutes of meeting of Civil Services Board which took place on 04.12.2020 which is marked exhibit "X" for the purpose of identification. In this minutes of meeting on P.B., Pg. Nos. 22, 23, 24 and 25 only. In this documents on P.B, Pg. No. 23 specific allegations have been made against the applicant and on P.B., Pg. No. 24, Civil Services Board has recommended transfer of the applicant from Bori to Allori. The recommendation of Civil Services Board is reproduced below:-

RI p R; klu R; k; k i RuitP; k vktkj i .kceGsvdksyk] cy<k.kk o
vejkorh xkeh.k ; fks cnyh gk; kckcr fourth vtZ i ksyI
egkl plyd] e-jk-epbz ; kuk ; k dk; ky; kekQr I knj dsys
vI Y; kus o I ?k fLFkrhr ukxi j xkeh.k ftYg; kr i ksyI
fufj {kdkps 03 i ns eatij I ; kcGki fkk vrfjDr vI Y; kus
R; k; k fourth ud kj ojhyi dh , dk fBdk.kh cnyh gk; kph
'kD; rk vI Y; kus izkkl dh; n"Vhclkuu R; kph vks kxcd o
I kelftdn"V; k I onuf'ky i k.V , evkbMhl hclgh ; fku i k.Vs
vjkyh ; fks cnyh dj . ; kpsl okUpersfu.kz ?s; kr vkyk-

On the same day transfer order has been also issued. By pleadings by both the counsels, it is apparent that though status-quo was granted by the Tribunal in the order dated 10.05.2020, respondent no. 3 took over charge through back door entry and since respondent no. 3 is occupying the position, applicant cannot occupy the same post because two persons cannot occupy the same position. It appears that when the matter was heard on 10.02.2020 and

whatever charges has been mentioned against the applicant on P.B, Pg. No. 23 of Minutes of Civil Services Board, the applicant was never given any chance to defend himself, no show cause notice is placed on record. It creates a very doubtful situation, and role of respondents are not seen to be as per natural justice towards applicant.

8. In view of this situation, following order:-

ORDER

1. O.A. is allowed.
2. The transfer order dated 04.12.2020 to the extent of applicant is quashed and set aside and respondent no.. 2 is directed to allow applicant to work as per the tenure provided in Section 22(N)(1)(2).
3. Respondent no. 2 is at liberty to conduct a free and fair enquiry against the applicant and take action as per existing rules and regulations, if any material is available about misconduct of the applicant.
4. S.O. two weeks for compliance of the order.
5. *Steno copy is granted.*

Vice Chairman

Date:-09/02/2021.
aps.

O.A.No.939/2020 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :09/02/ 2021.

Heard Shri I.Fidvi, the Id. Counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the respondents.

2. The Id. counsel for the applicant has relied on page no. 4 of the O.A. in para no. 4.2. However, as per the Transfer Act, tenure of posting is mentioned. Section 3 (1) has been divided between Ministerial and Non-Ministerial Candidates. The applicant is working as Junior Clerk and obviously he will be categorised as Secretariat Candidate. So as per statute, applicant will be shown as Secretariat candidate and he will not be covered by para no. 4.2 at P.B., Pg. No. 4 of the O.A.. It is made clear to the Id. counsel for the applicant.

3. At the request of Id. counsel for the applicant, **S.O. four weeks to take certain instructions from the Applicant.**

Vice Chairman

Date:-09/02/2021.

aps.

O.A.No.589/2020 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :09/02/ 2021.

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

2. The Id. counsel for the applicant has filed pursis dated 05.02.2021. It is taken on record. Copy is served to the other side. Accordingly, the Id. P.O. has filed document which is marked Exh. 'X' for the purpose of identification. It is also taken on record. Copy is served to the other side.

3. According to the P.B., Pg. No. 3, the Id. P.O. has submitted that from 01.07.2010 to 30.03.2014; salary, increment and allowances i.e. Rs. 10,11,486/- has been submitted to respondent no. 1 for sanctioning. As further submitted by Id. P.O., Commissioner has submitted the proposal to respondent no. 1. The respondent no. 1 is directed to decide the proposal **dated 15.01.2021 within four weeks from the date of this order.**

4. The Id. P.O. has invited my attention on documents at P.B., Pg. No. 12, this letter is written by District Health Officer Armori, District Gadchiroli, dated 28.05.2018.

5. The respondent no. 3, who is forwarded the proposal dated 15.01.2021 should ensure that proposal will get sanctioned and due be paid to the applicant. After four weeks, respondent no. 3; either

depute the person to file on affidavit about action taken or he himself present in the Tribunal to show the compliance of the order.

6. The Id. counsel for the applicant is further directed to amend the O.A. properly in terms of respondents and in terms of relief clause.

7. **S.O. 23.02.2021.**

8. *Steno copy is granted.*

Vice Chairman

Date:-09/02/2021.

aps.

O.A.No.1015/2019 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :09/02/ 2021.

Heard Shri S.A.Marathe, the Id. Counsel for the applicant, Shri S.A.Sainis, the Id. P.O. for the respondents and Smt. J.J.Alkari, the Id. counsel for the respondent nos. 2 & 3.

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

Vice Chairman

Date:-09/02/2021.
aps.

O.A.No.142/2020 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :09/02/ 2021.

Heard Shri S.R.Bhatkhore, the Id. Counsel for the applicant and Shri A.P.Potnis, the Id. P.O. for the respondents.

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

Vice Chairman

Date:-09/02/2021.
aps.

O.A.No.667/2020 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :09/02/ 2021.

C.A.No.40/2021:-

Heard Shri N.R.Saboo, the Id. Counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the respondents.

2. As pointed out by Id. counsel for the applicant, respondent no. 2 vide his letter dated 04.01.2021 directed to sent the documents for pay – fixation to pay fixation unit and same has been complied by District Ex-Servicemen, Welfare Officer, Nagpur vide his letter dated 22.01.2021, to pay fixation unit, Nagpur for verifying the pay fixation of the applicant. The respondent no. 3 i.e. Pay Fixation Unit Nagpur is directed to verify the pay fixation of the applicant **within 30 days from the date of this order and communicate to the applicant** as well as filed the same document before this Tribunal. If they are not able to verify than depute any responsible officer / personally present before this Tribunal during next date of hearing to explain the reason why it is so delay? Hence, C.A. is disposed of.

3. **S.O. 09.03.2021.**

4. *Steno copy is granted.*

Vice Chairman

Date:-09/02/2021.
aps.

O.A.Nos.734&735/2020 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :09/02/ 2021.

Heard Shri S.M.Khan, the Id. Counsel for the applicant and Shri A.M.Ghogre, the Id. P.O. for the respondents.

2. The Id. counsel for the applicant has relied upon the Judgment of this Tribunal in O.A. No. 71/2019 (Annexure-A-9, P.B. Pg. No. 41) delivered on dated 07.01.2020, Judgment in W.P. No. 255/2016 (Annexure-A-10, P.B., Pg. No. 47) delivered on dated 06.04.2016 and Judgment in O.A. No. 421/2017 (P.B., Pg. No. 57) delivered dated 28.09.2018.

3. The applicants are of Class-III employees and their pay fixation were done after first A.C.P.. The applicants were given first benefit as per the G.R. dated 08.06.1995 from 01.10.1994 vide order dated 27.10.2016 (Annexure-A-6, P.B., Pg. No. 30). As per P.B., Pg. No. 31, the applicant named Shri P.D.Juwar is appeared at Sr. No. 1 and he got first A.C.P. on 29.06.2015 and he was given benefits from 30.06.2015 and Shri D.R.Gosawi name was appeared at Sr. No. 2 and he got first A.C.P. on 29.06.2015 and he was given benefits from 30.06.2015. Suddenly, after a gap of more than five years, recovery order has been issued vide order dated 02.07.2020 (Annexure-A-1, P.B., Pg. No. 17 to 20) and vide order dated 23.07.2020 (Annexure-A-2, P.B., Pg. No. 21 to 22). These two orders have been passed for recovery

without hearing the applicants and without any fault of the applicants which is against the natural justice.

4. In view of natural justice and equity, order dated 02.07.2020 (Annexure-A-1, P.B., Pg. No. 17) and order dated 23.07.2020 (Annexure-A-2, P.B., Pg. No. 21) are stayed till further orders. Respondents are directed not to recover further till decision of the O.A..

5. **S.O. four weeks.**

Vice Chairman

Date:-09/02/2021.
aps.

O.A.No.735/2020 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :09/02/ 2021.

Heard Shri S.M.Khan, the Id. Counsel for the applicant and Shri , the Id. P.O. for the respondents.

2. At the request of Id. P.O., **S.O. four weeks to file reply.**

Vice Chairman

Date:-09/02/2021.
aps.

O.A.No.120/2021 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :09/02/ 2021.

Heard Shri N.R.Saboo, the Id. Counsel for the applicant and Shri A.P.Potnis, the Id. P.O. for the State.

2. As pointed out by the Id. counsel for the applicant, the applicant was promoted as Instructor vide order dated 19.09.1994 against quota of S.T. in I.T.I., Akot. Subsequently, as per letter dated 07.04.2011 (Annexure-A-5, P.B., Pg. No. 15) applicant's category of S.T. was withdrawn and he was put in Open Category and his seniority date was also changed from 29.11.1994 to 15.06.1995 as per various Government G.Rs. issued on that relevant time.

3. Applicant stood retired on 30.04.2016 and his last pay was shown as Rs.20,140/- at P.B., Pg. No. 18 and accordingly, pension was fixed. His reduced pension is Rs. 7362/- as calculation shown on P.B., Pg. No. 18. Certainly, after four years a letter was issued by Incharge Joint Director, Technical Education and Training, Amravati dated 02.07.2020 at P.B., Pg. No. 19 to 20-A and there is an order of reducing the pension. Aggrieved with this order dated 02.07.2020 which is impugned order in this O.A., applicant has approached to this Tribunal. It is very clear that applicant was issued this correspondence without any hearing and without going in the merit of letter dated 07.04.2011. In this

background, correspondence **dated 02.07.2020 (Annexure-A-7, P.B., Pg. No. 19) is stayed till further order.**

4. Issue notice to Respondents, returnable on four weeks. Learned 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.**
11. *Steno copy is granted.*

Date:-09/02/2021.
aps.

Vice Chairman

O.A.No.121/2021 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :09/02/ 2021.

Heard Shri A.R.Fule, the Id. Counsel for the applicant and Shri A.P.Potnis, the Id. P.O. for the State.

2. Issue notice to Respondents, returnable on four weeks. Learned 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. 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.**

Vice Chairman

Date:-09/02/2021.

aps.

O.A.No.778/2020 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :09/02/ 2021.

Heard Shri D.M.Kakani, the Id. Counsel for the applicant and Shri A.M.Ghogre, the Id. P.O. for the respondents.

2. The Id. P.O. has filed Rejoinder on behalf of the respondent nos. 1 to 3. It is taken on record. Copy is served to the other side.

3. The Id. counsel for the applicant submits that he is ready for arguments today only. However, Id. P.O. submits that as per order dated 01.02.2021 various irregularities has been pointed out on P.B., Pg. Nos. 70 and 71; this O.A. will require time; Shri M.I.Khan is pleading in this matter. The procedure adopted is against the rule of the Government.

4. Hence, the matter is **admitted** and kept for final hearing.

5. The Id. P.O. waives notices for the respondents.

6. The Id. C.P.O. is further directed that, if concerned P.O. will not available at next date, the Id. C.P.O. will arrange any P.O. for final hearing.

7. **S.O. 15.02.2021.**

Vice Chairman

Date:-09/02/2021.

aps.

O.A.No.129/2016 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :09/02/ 2021.

Heard Shri S.N.Gaikwad, the Id. Counsel for the applicant and Shri A.P.Potnis, the Id. P.O. for the respondents.

2. At the request of Id. counsel for the applicant, **S.O. three weeks.**

Vice Chairman

Date:-09/02/2021.
aps.

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

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :09/02/ 2021.

Heard Shri C.A.Joshi, the Id. Counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the respondents.

2. The Id. P.O. has filed written submission-cum-affidavit filed on behalf of the respondent no. 2. It is taken on record. Copy is served to the other side.

3. At the request of Id. counsel for the applicant, **S.O. 16.02.2021.**

Vice Chairman

Date:-09/02/2021.
aps.

O.A.No.767/2016 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :09/02/ 2021.

Heard Shri N.R.Saboo, the Id. Counsel for the applicant, Shri A.P.Potnis, the Id. P.O. for the respondents and Shri J.B.Kasat, the Id. counsel for the respondent no. 3.

2. At the request of Id. counsel for the applicant, **S.O. three weeks.**

Vice Chairman

Date:-09/02/2021.
aps.

O.A.No.230/2018 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :09/02/ 2021.

Heard Shri S.S.Ghate, the Id. Counsel for the applicant and Shri A.M.Khadatkar, the Id. P.O. for the respondents.

2. The Id. P.O. has filed letter dated 20.01.2020 by Director, Ayush, Maharashtra State. It is taken on record. Copy is served to the other side.

3. In view of this, the Id. counsel for the applicant submits that as per this letter my prayer clause at P.B., Pg. No. 10, para no. 8 (ii) be allowed. Hence, prayer **clause 8 (ii) is allowed.**

4. Communication submitted by Id. P.O. dated 20.01.2020 by Director of Ayush should be treated as a decision of such for all similarly placed candidates/employees, if they are otherwise eligible as per the other rules and regulations. The respondent no. 3 is further directed to extend the benefit of this letter to be extended to similarly placed employees without referring to anybody, If otherwise they are eligible. The order be **complied within 90 days.**

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

Vice Chairman

Date:-09/02/2021.

aps.

O.A.No.295/2018 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :09/02/ 2021.

Heard Shri P.S.Patil holding for Shri D.P.Dapurkar, the Id. Counsel for the applicant and Shri A.P.Potnis, the Id. P.O. for the respondents.

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

Vice Chairman

Date:-09/02/2021.
aps.

O.A.No.70/2019 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :09/02/ 2021.

Heard Ms.Aditi holding for Shri P.S.Patil, the Id. Counsel for the applicant, Shri A.M.Khadatkar, the Id. P.O. for the respondents and Shri V.S.Giramkar, the Id. counsel for the respondent no. 3.

2. At the request of Id. counsel for the applicant, **S.O. 23.02.2021.**

Vice Chairman

Date:-09/02/2021.
aps.

O.A.No.896/2019 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :09/02/ 2021.

Heard Shri S.N.Gaikwad, the Id. Counsel for the applicant and Shri A.P.Potnis, the Id. P.O. for the respondents.

2. At the request of Id. counsel for the applicant, **S.O. 23.02.2021.**

Vice Chairman

Date:-09/02/2021.
aps.

O.A.No.482/2020 (S.B.)

**Coram:Shri Shree Bhagwan, Vice Chairman
Dated :09/02/ 2021.**

Heard Shri S.N.Gaikwad, the Id. Counsel for the applicant and Shri A.P.Potnis, the Id. P.O. for the respondents.

2. At the request of Id. counsel for the applicant, **S.O. 12.02.2021.**

Vice Chairman

Date:-09/02/2021.
aps.

O.A.No.926/2017 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :09/02/ 2021.

Heard Shri J.C.Shukla, the Id. Counsel for the applicant, Shri H.K.Pande, the Id. P.O. for the respondents and Shri R.M.Padhaye, the Id. counsel for the respondent no. 5 to 8.

2. At the request of Id. counsel for the applicant, **S.O. 16.02.2021.**

Vice Chairman

Date:-09/02/2021.
aps.

Rev.No.03/2020inO.A.No.84/2019 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :09/02/ 2021.

Heard Shri S.P.Palshikar, the Id. Counsel for the applicant and Shri H.K.Pande, the Id. P.O. for the respondents.

2. At the request of Id. counsel for the applicant, **S.O. 22.02.2021.**

Vice Chairman

Date:-09/02/2021.
aps.

O.A. 926/2019 (D.B.)

**Coram: Shri Shree Bhagwan,
Vice-Chairman.**

Dated : 09/02/2021.

C.A. No. 458/2019 -

Shri S.G. Jagtap, 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. 23/2/2021** for filing reply on C.A.

Vice-Chairman

dnk.

O.A. 792/2020 (D.B.)

**Coram: Shri Shree Bhagwan,
Vice-Chairman.**

Dated : 09/02/2021.

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

2. In order dated 17/12/2020 in para-2 the following directions have been given on the part of interim relief of the applicant –

“(2) The Id. P.O. is yet to examine the issue. However, as submitted by Id. counsel for the applicant and prayed in C.A. No. 346/2020, respondents are directed not to fill the post of Joint Commissioner, Scheduled Caste Scrutiny Committee, Nagpur till the outcome of the original application. Hence, C.A. No. 346/2020 for direction is allowed”.

3. The learned P.O. seeks further two weeks time to file reply. However, the learned counsel for the applicant submits that the applicant has been relieved from the previous post. In this situation, the learned P.O. is directed to file reply within two weeks. However, it is made clear that the period from which the date, the applicant has been relieved from his post till joining on his next post, that period will be treated by the respondents as compulsory waiting period and the applicant will be entitled with full salary for that period.

S.O. 23/2/2021.

Vice-Chairman

dnk.

O.A. 905/2020 (D.B.)

**Coram: Shri Shree Bhagwan,
Vice-Chairman.**

Dated : 09/02/2021.

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

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

Vice-Chairman

dnk.

O.A. 906/2020 (D.B.)

Coram: Shri Shree Bhagwan,
Vice-Chairman.

Dated : 09/02/2021.

Heard Shri P.V. Thakre, Id. counsel for the applicants and Shri A.M. Khadatkar, Id. P.O. for R-1. Await service of R-2.

2. The learned counsel for the applicant submits that he will file service affidavit during the course of day. He further submits that the O.A. is covered by the Judgment of Principal Bench of M.A.T. However, the learned P.O. desires three weeks time to file reply.

3. At the request of Id. P.O., **S.O. 2/3/2021** for filing reply.

Put up the matter along with O.A. 20/2021.

Vice-Chairman

dnk.

O.A. 20/2021 (D.B.)

**Coram: Shri Shree Bhagwan,
Vice-Chairman.**

Dated : 09/02/2021.

Heard Shri V.B. Gawali, Id. counsel or the applicant and Shri A.M. Khadatkar, Id. P.O. for the respondents.

2. The learned counsel for the applicant submits that same issue is involved in O.A.906/2020, therefore, both the matters may be kept together.

3. In view of this, the matter be kept **on 2/3/2021** along with O.A. 906/2020.

Vice-Chairman

dnk.

O.A. 952/2020 (D.B.)

**Coram: Shri Shree Bhagwan,
Vice-Chairman.**

Dated : 09/02/2021.

Ms. R. Bondale, Id. counsel for the applicant and Shri A.M. Khadatkar, Id. P.O. for R-1. Await service of R-2 to 5.

At the request of Id. counsel for the applicant, **S.O. one week** for filing service affidavit.

Vice-Chairman

dnk.

O.A. 967/2020 (D.B.)

**Coram: Shri Shree Bhagwan,
Vice-Chairman.**

Dated : 09/02/2021.

Ms. R. Bondale, Id. counsel for the applicant and Shri A.M. Khadatkar, Id. P.O. for R-1. Await service of R-2 & 3.

At the request of Id. counsel for the applicant, **S.O. one week** for filing service affidavit.

Vice-Chairman

dnk.

O.A. 03/2021 (D.B.)

Coram: Shri Shree Bhagwan,
Vice-Chairman.

Dated : 09/02/2021.

Shri A.P. Chaware, Id. counsel for the applicant and Shri A.M. Khadatkar, Id. P.O. for R-1. Await service of R-2&3.

The learned counsel for the applicant submits that he will file service affidavit during the course of day.

The Id. P.O. submits that he will file reply till the next date.

S.O. four weeks.

Vice-Chairman

dnk.

O.A. 853/2019 (D.B.)

Coram: Shri Shree Bhagwan,
Vice-Chairman.

Dated : 09/02/2021.

Shri S.A. Marathe, Id. counsel for the applicant and Shri A.M. Khadatkar, Id. P.O. for R-1. Await service of R-2&3.

The learned counsel for the applicant submits that he will file service affidavit till next date.

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

Vice-Chairman

dnk.

O.A. 191/2020 (D.B.)

**Coram: Shri Shree Bhagwan,
Vice-Chairman.**

Dated : 09/02/2021.

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

The Id. P.O. files reply on behalf of R-1 to 5. It is taken on record. Copy is served on the applicant.

The matter is admitted and it be kept for final hearing.

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

S.O. in due course.

Vice-Chairman

dnk.

O.A. 192/2020 (D.B.)

Coram: Shri Shree Bhagwan,
Vice-Chairman.

Dated : 09/02/2021.

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

The Id. P.O. files reply on behalf of R-1 to 5. It is taken on record. Copy is served on the applicant.

The matter is admitted and it be kept for final hearing.

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

S.O. in due course.

Vice-Chairman

dnk.

O.A. 501/2020 (D.B.)

Coram: Shri Shree Bhagwan,
Vice-Chairman.

Dated : 09/02/2021.

C.A. No. 368/2020 -

Heard Shri A. P. Sadavarte, Id .counsel for the applicant and Shri A.P. Potnis, Id .P.O. for the respondents.

2. For the reasons stated in the application, the C.A.No. 368/2020 for amendment is allowed. Necessary amendment be carried out within one week and amended copy be supplied to the other side.

C.A. No. 369/2020 -

Heard Shri A. P. Sadavarte, Id .counsel for the applicant and Shri A.P. Potnis, Id .P.O. for the respondents.

The respondents are directed to file reply on C.A.No. 369/2020 within two weeks.

S.O. two weeks.

Vice-Chairman

dnk.

O.A. 537/2020 (D.B.)

Coram: Shri Shree Bhagwan,
Vice-Chairman.

Dated : 09/02/2021.

Shri A.P. Sadavarte, Id. counsel for the applicant and Shri H.K. Pande, Id .P.O. for R-1 to 3. None for other respondents.

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

Vice-Chairman

dnk.

O.A. 565/2020 (D.B.)

Coram: Shri Shree Bhagwan,
Vice-Chairman.

Dated : 09/02/2021.

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

The Id. P.O. is directed to file reply within two weeks.

S.O. 23/2/2021.

Vice-Chairman

dnk.

O.A. 08/2021 (D.B.)

**Coram: Shri Shree Bhagwan,
Vice-Chairman.**

Dated : 09/02/2021.

Shri A.P. Sadavarte, Id. counsel for the applicant and Shri A.M. Ghogre, Id. P.O. for the respondents.

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

Vice-Chairman

dnk.

O.A. 18/2021 (D.B.)

**Coram: Shri Shree Bhagwan,
Vice-Chairman.**

Dated : 09/02/2021.

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

2. As submitted by the learned counsel for the applicant, the applicant has not passed departmental examination in prescribed chances and prescribed period. However, the learned counsel for the applicant has relied upon the G.R. dated 24/8/1976 (A-3,P-17) in which one more chance and one more year to pass departmental examination is permissible to the Backward Category candidate.

3. The learned P.O. desires three weeks time to file reply. Three weeks time is granted as prayed for. However, considering the G.R. dated 24/8/1976 (A-3,P-17), the respondents are directed that if any decision is taken, the other employees to be made clear that decision will be subject to outcome of this O.A.

S.O. three weeks.

Vice-Chairman

dnk.

***O.A. 122/2021 (D.B.)**

Coram: Shri Shree Bhagwan,
Vice-Chairman.

Dated : 09/02/2021.

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

2. As submitted by the learned counsel for the applicant, the D.E. was started on 24/5/2017 (A-2,P-14) and no extension has been given. However, the inquiry is over and report is submitted to the disciplinary authority. The final order is yet to be issued.

3. As submitted by the Id. CPO final show cause notice was issued on 30/11/2020 after receiving the inquiry report and the applicant submitted his reply to the final show cause notice on 30/1/2021.

4. The respondents are directed to take decision as per direction of Hon'ble Supreme Court in Civil Appeal No.958/2010, dated 16/12/2015 in case of **Prem Nath Bali Vs. Registrar, High Court of Delhi & Ano., AIR 2016 SC 101.**

5. In view of this, issue notice to the respondents returnable **after four weeks.** Learned C.P.O. waives notice for State. 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. In the meanwhile, the Id. CPO to take instructions from the Department if any progress after 30/1/2021 and submit the report before the next date.

S.O. after four weeks.

Vice-Chairman

*dnk.

O.A. 123/2021 (D.B.)

Coram: Shri Shree Bhagwan,
Vice-Chairman.

Dated : 09/02/2021.

Heard Shri S.P. Palshikar, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for the State.

2. As submitted by the learned counsel for the applicant, the applicant stood retired on 31/5/2017

and charge sheet was served on 13/8/2019 as per the Annex-A-1,P-17. In the charge sheet, in first para it has been mentioned that the Department has taken permission under Section 27 (2) (b) of the Maharashtra Civil Services (Pension) Rules, 1982. However, as submitted by the learned counsel for the applicant this permission letter has not been supplied to the applicant.

3. The learned counsel for the applicant further pointed out that Inquiry Officer has been appointed by letter dated 3/12/2020 (A-3,P-25), i.e. after 16 months after serving charge sheet. Prima facie it appears that the respondents have violated direction of Hon'ble Supreme Court in Civil Appeal No.958/2010, dated 16/12/2015 in case of **Prem Nath Bali Vs. Registrar, High Court of Delhi & Ano., AIR 2016 SC 101** as relied by the learned counsel for the applicant at Annex-A-4,P-27. Considering the objection raised by the learned counsel for the applicant about inquiry which is prima facie. The issue of interim relief is kept open.

4. In the meantime, issue notice to the respondents returnable **after four weeks.** Learned C.P.O. waives notice for State. 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.

S.O. after four weeks.

Vice-Chairman

dnk.

C.P. 08/2021 in O.A. 187/2016 (D.B.)

Coram: Shri Shree Bhagwan,
Vice-Chairman.

Dated : 09/02/2021.

Heard Shri S.T. Harkare, Id .counsel for the applicant and Shri S.A. Sainis, Id. P.O. for the State.

2. Issue Notice to the respondents returnable **after four weeks** under Rule 8 of the MAT (Contempt of Courts) Rules, 1996 as to why they should not be proceeded for

committing contempt of this Tribunal's order and as to why they shall not be punished under the Contempt of Court Act.

3. The learned P.O. waives notice for State. Hamdast granted.

4. **S.O. after four weeks.**

Vice-Chairman

dnk.

O.A. 846/2012 with C.A. 258/2018 (D.B.)

**Coram: Shri Shree Bhagwan,
Vice-Chairman.**

Dated : 09/02/2021.

Smt. Nandini Thete, Id. counsel appears and submitted that Shri S. Borkar, Id. counsel for the applicant expired.

2. Shri A.M. Ghogre, Id. P.O. for the respondents.

3. As submitted by the learned counsel, issue notice to the applicant for engaging another Advocate in his matter.

S.O. After four weeks.

Vice-Chairman

dnk.

O.A. 113/2015 (D.B.)

**Coram: Shri Shree Bhagwan,
Vice-Chairman.**

Dated : 09/02/2021.

Heard Shri P.S. Sahare, Id. counsel for the applicant, Shri H.K. Pande, Id. P.O. for R-1 to 3, Shri S.N. Gaikwad, Id. counsel for R-5 to 7 and none for R-4.

2. The learned counsel for the applicant submits that he wants to file certain documents

on record and for that purpose he seeks one week time.

3. The Id. counsel for the applicant is directed to place on record all the relevant documents so that the matter can be heard before regular Division Bench as and when it is available.

S.O. one week.

Vice-Chairman

dnk.

O.A. 688/2017 (D.B.)

Coram: Shri Shree Bhagwan,
Vice-Chairman.

Dated : 09/02/2021.

Shri S.A. Marathe, Id. counsel for the applicants and Shri A.P. Potnis, Id. P.O. for R-1 to 3. None for other respondents.

2. It appears that on the last date Shri M.I. Khan, Id. P.O. was appeared. Today Shri M.I.

Khan, Id. P.O. is not available due to ill-health, therefore, the matter be kept on the next date.

3. In the meantime, Shri Potnis, Id. P.O. is directed to take necessary instructions in this matter so that the matter will be heard on the next date.

S.O. 18/2/2021.

Vice-Chairman

dnk.

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