

**C.P.No.20/2021 in O.A.No.732/2015 (D.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman**  
**Dated :20/05/ 2021.**

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

2. The applicant has approached to this Tribunal with O.A. No. 732/2015 and order was passed on 26.09.2016, that the said order be complied till 31.12.2016. Now, the Id. counsel for the applicant willing to file Contempt Petition. However, the Id. P.O. has pointed out that for the Contempt Petition the time limit requires by various Judgments of Hon'ble High Court is only one year.

3. In view of the above, the Id. counsel for the applicant is at liberty to file separate O.A. within 30 days mentioning that time given in the said order was not complied till now and that will be heard.

4. With these directions, **C.P. stands disposed of with no order as to costs.**

**Vice Chairman**

**Date:-20/05/2021.**  
aps.

**O.A.No.387/2021 (D.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman**  
**Dated :20/05/ 2021.**

Heard Shri S.P.Palshikar, the Id. counsel for the applicant and Shri A.P.Potnis, the Id. P.O. for the State.

2. The matter was first challenged in O.A. No. 17/2021 and it was decided on 25.03.2021. At P.B., Pg. No. 44 the 'B' para of the order is "*Respondents are at liberty to proceed with Departmental Enquiry as per existing Rules and Regulations.*"

3. As pointed out by Id. counsel for the applicant, the applicant was served chargesheet on 01.03.2021 (Annexure-A-11, P.B., Pg. No. 46-51, both inclusive) and applicant was received the chargesheet on 16.03.2021 as mentioned on Annexure-A-12, P.B., Pg. No. 52. In the chargesheet itself on P.B., Pg. No. 47; in the last para Additional S.P.Buldana has appointed Enquiry Officer without waiting reply from applicant on the chargsheet. The Id. counsel for the applicant has pointed out Hon'ble Apex Court Judgment in case of State of Punjab, Appellant Vs. V.K.Khanna and Ors. Respondent with Sardar Prakash Singh Badal, Vs. V.K.Khanna and Ors. Respondents (Reported AIR 2001 Supreme Court 343) Judgment delivered on 30/11/2000. The Id. Counsel for the applicant has mainly relied on P.B., Pg. Nos. 53 and 54 and he mainly relied on Placitum E & F which are reproduced below:-

***“(E) Constitution of India, Art. 311- Disciplinary Enquiry – Interference at stage of issuance of chargesheet – Permissible if element of malice or mala fide is involved in issuance of chargesheet.***

*While it is true that justifiability of charges at stage of initiating a disciplinary proceeding cannot possibly be delved into by any court pending inquiry but is equally well settled that in the event there is an element of malice or mala fide motive involved in the matter of issue of a chargesheet or the concerned authority is so biased that the inquiry would be a mere farcical show and the conclusions are well known then and in that event law courts are otherwise justified in interfering at the earliest stage so as to avoid the harassment and humiliation of a public official. It is not a question of shielding any misdeed that the court would be anxious. It is the due process of law which should permeate in the society and in the event of there being any affection of such process of law that law courts ought to rise up to the occasion.*

*(Para 33)*

***“(F) Constitution of India, Art. 311- Disciplinary enquiry – Bias of disciplinary authority – Announcement of Inquiry Officer even before receipt of reply of delinquent employee to chargesheet – shows bias.***

*It is well settled in service Jurisprudence that the authority has to apply its mind upon receipt of reply to the chargesheet or show cause as the case may be, as to whether a further inquiry is called for. In*

*the event upon deliberations and due considerations it is in the affirmative- the inquiry follows but not otherwise. Thus where even before reply was filed by the delinquent chief secretary to the chargesheet issued against him, the Chief Minister made an announcement appointing an enquiry officer to go into the charges. Thus indicating its mindset that the inquiry shall proceed irrespective of the reply it cannot be said that the attitude of the authorities towards the delinquent was free and fair."*

*(Para 21.34)*

4. In this case also the appointment of Enquiry Officer has been granted without given any chance to applicant and without listening his side. This kind of application of mind does not suited.

5. However, by correspondence dated 01.03.2021; it is clear that chargesheet has been served to the applicant on 16.03.2021 and Enquiry Officer was also appointed on 16.03.2021; which also adheres to be bad in law.

6. In view of observations made by Hon'ble Apex Court in Placitum E and F, **respondents are directed to file reply before next date of hearing and till that time; Respondent no. 3 should not proceed with the Enquiry as per Chargesheet**

**dated 01.03.2021 in which Enquiry Officer has been also appointed.**

7. Issue notice to Respondents, returnable on six weeks. Learned P.O. waives notice for R-1. Hamdast allowed.

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

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

10. 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.

11. 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.

12. 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.

13. S.O. six weeks.

Date:-20/05/2021.  
aps.

**Vice Chairman**

O.A.No.220/2019 (D.B.)

**Coram:Shri Shree Bhagwan, Vice Chairman  
Dated :20/05/ 2021.**

**M.C.A.No.08/2021:-**

None for the applicant. Shri M.I.Khan, the Id. P.O. for the Respondents.

2. The Id. P.O. has filed M.C.A. No. 08/2021 for extension of time and he has put various reasons including pandemic Covid-19 situations prevailing in the State.

3. In view of this, in the interest of justice, **M.C.A. No. 08/2021 for extension of four months time is allowed.**

**Vice Chairman**

**Date:-20/05/2021.**  
aps.

O.A.No.257/2021 (S.B.)

**Coram:Shri Shree Bhagwan, Vice Chairman  
Dated :20/05/ 2021.**

Heard Shri N.R.Saboo, the Id. counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the Respondents.

2. The Id. P.O. submits that since file is not treasable and desires some time. However, in the interest of justice, matter will be taken up on Monday.

3. **S.O. 24.05.2021.**

**Vice Chairman**

**Date:-20/05/2021.**  
aps.



**O.A.No.384/2021 (S.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman**  
**Dated :20/05/ 2021.**

Heard Shri M.R.Khan, the Id. counsel for the applicant and Shri S.A.Deo, the Id. C.P.O. for the State.

2. The applicant was first transferred vide order dated 29.09.2020 (Annexure-A-2, P.B., Pg. No. 18) on request transfer; applicant name appears on Sr. No. 58; after that the impugned order dated 27.01.2021 (Annexure-A-1, P.B., Pg. No. 17) has been issued by Respondent no. 3 i.e. Superintendent of Police, Bhandara, without assigning any specific reason and without mentioning any legal backing for cancelling order dated 29.09.2020 and issuing fresh order.

3. In view of this, **respondents are directed to maintain status-quo with relation to impugned order dated 27.01.2021 (Annexure-A-1, P.B., Pg. No. 17) as on today till filing of the reply.**

4. Respondent no. 3 is directed to file reply alongwith justifiable reasons and legal provisions.

5. Issue notice to Respondents, returnable on four weeks. Learned C.P.O. waives notice for R-1. Hamdast allowed.

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

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

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

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

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

11. **S.O. four weeks.**

12. **Steno copy is granted.**

**Vice Chairman**

**Date:-20/05/2021.**  
aps.



O.A.No.388/2021 (S.B.)

**Coram:Shri Shree Bhagwan, Vice Chairman**  
**Dated :20/05/ 2021.**

Heard Shri R.M.Fating, the Id. counsel for the applicant and Shri S.A.Deo, the Id. C.P.O. for the State.

2. The impugned order dated 15.03.2021 has been issued for recovery of Rs. 03,07,888/- from the applicant, the reason mentioned is excess payment was made while granting Second A.C.P. which the Id. Counsel for the applicant says that it is second A.C.P. which was granted from 01.01.2016 to 28.02.2021. The recovery amount of Rs. 03,07,888/- is proposed to be recovered in 16 equal instalments of Rs. 19,243/- per month from March paid into April, 2021.

3. It is observed that A.C.P. was granted by respondents only and accordingly pay-slips was prepared by them only; it is presumed that it must have been verified by Pay Verification Unit also and in all these process, applicant was never the decision maker. Since, decision has been made by respondents and they themselves are making recovery without giving any notice without hearing the applicant which is injustice to the applicant and hence **further recovery of this letter dated 15.03.2021 is stayed till filing of the reply.** Meanwhile, respondents should also make enquiry why action should not be taken against the person who prepared the excess payment slips.

4. The Id. C.P.O. pointed out that order which is reproduced below:-

"mi jkDr I mfhk; vknskkUo; s; k foHkkxkarxZ dk; jr Jh , I -f0g-/kkMj} 'kk[kk vfHk; ark ; kauk fnukad 01-01-2016 i kl u I qkKjr I okarxZ vk'okl hr i xrh; lst upk 20 o"kkpk nq jk ykHk eatj dj.; kr vkyk vkgS R; k vuqflekus I ad/krkph fnukad 01-01-2016 i kl u oruLrj , I &20 : 56100&177500 e/; s: - 67000&oj orufuf'prh dj.; kr vkyh vkgS rRoiphzJh , I -f0g-/kkMj} 'kk[kk vfHk; ark gs, dLrj i nklurh varxZ oruLrj , I &20 e/; s: - 56100&177500 e/; soru ?kr glrs I mfhk; vknskkUo; sR; kauk I qkKjr I okarxZ vk'okl hr i xrh; lst upk nq jk ykHk eatj dj.; kr vky; kusegk- 'kkl u I keld; i z kkl u foHkkx fu.kZ daktad fVvkj , Q&2000@i:dz3@ckj@fnukad 6 vkkkLV 2002 uq kj R; kauk vk.k[khofj"B i nkp; k oruJskhpk ykHk vuqS ul Y; keGfnukad 01-01-2016 i kl u , dLrj i nklurh ; lst upk ykHk I a qVkr vkyk vkgS"

5. It appears that applicant was granted second A.C.P.. As pointed out by Id. Counsel for the applicant; career chart is at P.B., Pg. No. 6 which is below:-

Sr. No.	Post	Year	Remarks
1	Civil Engineering Assistant (S-8:25500-81100) As per 7 <sup>th</sup> Pay Level	01.01.1989	By way absorption (Initial appointment as Mustering Karkoon-20.12.1984)
2	Junior Engineer (S-14:38600-	20.12.1996	First time bound promotion (after 12

	<b>122800)</b>		<b>years)</b>
		<b>20.06.200</b>	<b>Promoted as Junior Engineer</b>
3	Sectional Engineer (S-15:41800-132300)	01.04.2006	"Upgradation" as per G.R. dated 16.04.1984, which is not a promotion, as decided by the Hon'ble High Court in W.P. 2605/17.
4.	<b>Sub-Divisional Officer (S-20:56100-177500)</b>	<b>20.12.2008</b>	<b>Entitle for second benefit of ACPS (Time bound) (After 24 years)</b>
5.	Executive Engineer (S-23:67700-208700)	01.01.2016	Entitle for third benefit of ACPS (Time Bound) (24+6=30 years)

6. According to this chart, applicant was given first time bound promotion on 20.12.1996 and accordingly, he became entitle for 2<sup>nd</sup> time bound promotion on 20.12.2008. However, applicant was eligible for third time bound promotion on 01.01.2016. Respondents are directed to clarify all these decisions.

7. Issue notice to Respondents, returnable on four weeks. Learned C.P.O. waives notice for R-1. Hamdast allowed.

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

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

10. 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.

11. 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.

12. 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.

13. **S.O. four weeks.**

14. **Steno copy is granted.**

**Vice Chairman**

**Date:-20/05/2021.**

aps.





O.A.No.320/2021 (S.B.)

**Coram:Shri Shree Bhagwan, Vice Chairman**  
**Dated :20/05/ 2021.**

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

2. As pointed out by Id. Counsel for the applicant, the applicant is a retired person as per Annexure-A-1, P.B., Pg. No. 8. Gratuity was sanctioned to the applicant by A.G. i.e. Rs. 1,43,820/-. Subsequently, as calculation shown on P.B., Pg. No. 9 (Annexure-A-2) correspondence dated 16.10.2020 in the middle portion it is written as below:-

1- egkyf[kcdkj ; kps dMuu eatj >kyys l dmi nkukph jDde&143820

2- ; k dk; kÿ; kps Lrjko: u vnk dj.; kr vkyys rRi jrh l dkuoRrhph jDde&132634

, duk mojh r 11186&

3. By their own admission vide letter dated 16.10.2020 (Annexure-A-2, P.B., Pg. No. 9 and 10, both inclusive) it appears that Respondent no. 3 has committed mistakes mentioned in last para of the said letter which is below:-

"mDr i dj.kh fourh dj.; kr ; rs dh] Jh jes k Hkmjko ekMGs ; kps l dmi nkukph di kr dj.; kr vkyyh jDde : 132634& psns d eatj dj.; kr ; koh- t'std: u Jh jes k Hkmjko ekMGs; kauk R; kps l dkuoRrh mi nkukph jDde vnk dj .ksl kbpsgkby-"

4. In this situation, the A.G. and Treasury should ensure that applicant Gratuity amount should

be paid and then whatever pension is fixed accordingly it should be fixed. The Respondent no. 3 should personally take follow up in this regard. However, as a matter of caution it is observed that action of Respondent no. 3 is very bad in the eyes of law. He should ensure that such mistake should not be committed in future.

5. The Id. Counsel for the applicant is directed to make A.G. office as respondent.

6. Issue notice to Respondents, returnable on four weeks. Learned C.P.O. waives notice for R-1. Hamdast allowed.

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

8. 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.

9. 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.

10. 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.

11. 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.

12. **S.O. four weeks.**

**Vice Chairman**

**Date:-20/05/2021.**

aps.

**O.A.No.382/2021 (D.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman**  
**Dated :20/05/ 2021.**

Heard Smt. S.J.Waldekar, the Id. counsel for the applicant and Shri S.A.Deo, the Id. C.P.O. for the State.

2. The Id. counsel for the applicant submits that she will file the second set of file on Monday. The relief claim in the O.A. is not urgent. Hence, it will be heard in the last week of June, 2021.

3. **S.O. last week of June, 2021.**

**Vice Chairman**

**Date:-20/05/2021.**  
aps.

**C.P.No.19/2021inO.A.No.324/2020 (D.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman**  
**Dated :20/05/ 2021.**

Heard Shri R.M.Fating, the Id. counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the State.

2. In O.A. No. 324/2020 the order was passed on 18.02.2021 and at Pg. No. 12, Para no. 3 it was mentioned that order be complied **within thirty days**. However, respondents have moved Miscellaneous Application and in para no. 3 in line no. 6; they have requires two-three days time of extension. However, Id. P.O. submits that it is typographical mistake and it was 2-3 months. In para no. 5 the Id. counsel for the applicant has mentioned that amount of arrears towards Pay Fixation arising out of second and third Assured Career Progressive Scheme (ACPS).

3. As per correspondence dated 04.05.2021, it is marked Exh. "X" for the purpose of identification, which is written by Deputy Secretary, Government of Maharashtra. It has been communicated that they have to approach Finance, Department and Law Department for their opinion for implementing the order dated 18.02.2021; for these they requires 2-3 months time.

4. In view of these situation, respondents are granted **three months time**. Order must be complied by 20.08.2021 and it should be communicated to the applicant and file on record through Id. P.O..

5. S.O. 23.08.2021.

**Date:-20/05/2021.**  
aps.

**Vice Chairman**

O.A.No.324/2020 (D.B.)

**Coram:Shri Shree Bhagwan, Vice Chairman  
Dated :20/05/ 2021.**

**M.C.A.No.06/2021:-**

Heard Shri R.M.Fating, the Id. counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the State.

2. **M.C.A.NO.06/2021 is allowed.**

**Vice Chairman**

**Date:-20/05/2021.**  
aps.



O.A.No.122/2021 (D.B.)

**Coram:Shri Shree Bhagwan, Vice Chairman  
Dated :20/05/ 2021.**

**M.C.A.No.07/2021:-**

None for the applicant. Shri M.I.Khan, the Id.  
P.O. for the Respondents.

2. **M.C.A.No.07/2021 is allowed and  
disposed of.**

**Vice Chairman**

**Date:-20/05/2021.**  
aps.