

O.A.No.345/2019 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :27/11/ 2019.

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

2. The Id. counsel for the applicant submits that letter file on last hearing by respondent i.e. by Jt. Director, Public Health, Pune dated 07/11/2019 is misleading and it does not solved the grievances of the applicant. The Id. counsel for the applicant desires to argue the matter. However, reply is not filed and Id. P.O. seeks time.

3. The Id. P.O. is directed to file reply within three weeks and supply the copy of the same in advance to the other side. So that if the Id. counsel for the applicant wants to file Rejoinder, he can file the same before next date of hearing.

4. **S.O. 18/12/2019.**

Vice Chairman

Date:-27/11/2019.
aps.

O.A.No.642/2019 (S.B.)

**Coram:Shri Shree Bhagwan, Vice Chairman
Dated :27/11/ 2019.**

Heard Shri V.Anand, 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 as a last chance. **S.O. 18/12/2019.**

Date:-27/11/2019.
aps.

Vice Chairman

O.A.No.797/2019 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :27/11/ 2019.

Heard Shri B.B.Pantawane, the Id. Counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the State. Notice is yet not collected for respondent nos. 2 to 4.

2. S.O. in due course.

Vice Chairman

Date:-27/11/2019.
aps.

O.A.No.936/2019 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :27/11/ 2019.

C.A.No.439/2019:-

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

2. C.A.No.439/2019 for Jt. O.A. is allowed.

3. Issue notice to R-2 & 3, returnable on four weeks. Learned 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.**

Vice Chairman

Date:-27/11/2019.
aps.

O.A.No.314/2019 (S.B.)

**Coram:Shri Shree Bhagwan, Vice Chairman
Dated :27/11/ 2019.**

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

2. At the request of Id. P.O., **S.O. three weeks as a last chance.**

3. *If the reply is not file till next date of hearing, the matter be heard on merit.*

Vice Chairman

Date:-27/11/2019.
aps.

O.A.No.793/2016 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :27/11/ 2019.

Heard Shri R.V.Shiralkar, the Id. Counsel for the applicant and Shri A.M.Ghogre, the Id. P.O. for the respondents.

2. The issue involves is only to the extent that the Id. counsel for the applicant submitted that applicant was working since 27/11/1995. However, applicant's name appeared at Sr. No. 25 in G.R. dated 13.03.2015 (Annexure-A-9, P.B., Pg. No. 78), the applicant is at Sr. No. 25 and his D.O.J. is mentioned as 27/11/1995.

3. The Id. P.O. submits that he has received instructions from the department but department is making some correction. However, Id. P.O. is not aware about the same. However, he seeks two weeks time to file the same on record.

4. **S.O. 12/12/2019.**

Vice Chairman

Date:-27/11/2019.
aps.

O.A.Nos.836 & 837/2017 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :27/11/ 2019.

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 dispute is between Warden/Superintendent in the Social Welfare Department and Superintendent in the Tribal Development Department. The Id. counsel for the applicant argue that pay-scale of Superintendent in Tribal Department is not equal to Superintendent in the Social Welfare Department. It was directed to file on the record pay scale of all the posts i.e. Superintendent in the Social Welfare, Warden in Tribal Department and Superintendent in the Tribal Department (Ashram School).

3. Today, the Id. P.O. submits that he is yet to receive the instructions from the Tribal Department, for that he needs two weeks time to file on record.

4. As submitted by Id. counsel for the applicant, post which is called Superintendent in the Social Welfare Department is Warden in the Tribal Development.

5. However, Id. P.O. will file comparative chart within two weeks. **S.O. two weeks.**

Vice Chairman

Date:-27/11/2019.
aps.

O.A.No.696/2019 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :27/11/ 2019.

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

2. At the request of Id. counsel for the applicant, **S.O. 04/12/2019.**

Vice Chairman

Date:-27/11/2019.

aps.

O.A.No.70/2016 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :27/11/ 2019.

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

2. At the request of Id. counsel for the applicant, **S.O. 04/12/2019.**

Vice Chairman

Date:-27/11/2019.

aps.

O.A.No.936/2018 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :27/11/ 2019.

Heard Shri U.K.Bisen, the Id. Counsel for the applicant, Shri A.M.Khadatkar, the Id. P.O. for the respondent nos. 1 & 2 and Shri M.Shaikh, the Id. counsel for the respondent no. 3.

2. As submitted by Id. counsel for the applicant, applicant was serving in District Health Office, Z.P., Nagpur. The applicant was on maternity leave from 30/10/2016 to 02/04/2017. The applicant has not been paid salary for that period stating two reasons:-

A. One is that applicant was a temporary employee.

B. Secondly, applicant has not completed two years of service as per G.R. dated 15/01/2016 at P.B., Pg. No. 15.

3. The Id. counsel for the applicant relied on the Judgment of M.A.T., Nagpur Bench in O.A. Nos. 204, 255 & 256/2016 in which order was delivered on 21/12/2016. In these O.As., the order has been passed at P.B., Pg. No. 70 which is reproduced below:-

"A)The O.As. are allowed.

B)The impugned communications directing the recovery of the salary for the period of maternity from Dr. Rajnitai I. Gajbhiye in O.A. No. 254/2016, Dr. Yogita Vilas Deshbhratar in O.A. No. 255/2016 and Dr.

Hemlata E. Sonkusare in O.A. No. 256/2016 are quashed.

C)The amount of Rs. 55,292/- recovered from Dr. Hemlata E. Sonkusare in O.A. No. 256/2016 be returned to her.

D)The amount be refunded to Dr. Hemlata E. Sonkusare in O.A.No. 256/2016 before 31/03/2017.

E)No order as to costs."

4. The Id. counsel for the applicant further relied on G.R. dated 15/01/2016 at P.B., Pg. No. 58 in which at P.B., Pg. No. 59 Government decision is mentioned and in that Government decision it is written that M.C.S. (Leave) Rule, 1981 in that Rule 74(2)(A)B(B) will not be applicable for minimum service and it has been revoked. In view of that it appears that respondents are bound to pay salary to the applicant for the maternity leave period which is from 03/10/2016 to 02/04/2017.

5. The Id. counsel for the respondent nos. 3, 5 & 6 points out that they have written a letter to Deputy Director, Public Health, Nagpur seeking guidance to make payment to the applicant and it is pointed out in reply at P.B., Pg. No. 79 (Annexure-R-3-1) letter written by Deputy Director, Health, Nagpur dated 16/01/2019. They have been asked not to pay. Considering all these facts, letter written by Deputy Director, Public Health, Nagpur against Justice to the applicant dated 16/01/2019 at P.B., Pg. No. 79 is bad in law. Hence, the letter is quashed and set aside.

6. Respondents are directed to pay the applicant for the maternity leave period **within two months** from the date of this order.

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

Vice Chairman

Date:-27/11/2019.
aps.

O.A.No.14/2019 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :27/11/ 2019.

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

2. The Id. counsel for the applicant is directed to file the appointment letter of applicant as a "Vanmajoor", so also the order of regularization. The Id. P.O. is directed to file latest G.R. of 2019 based on appointment on compassionate ground.

3. S.O. day after tomorrow i.e. 29/11/2019.

4. Matter is treated as P.H.

Vice Chairman

Date:-27/11/2019.
aps.

O.A.No.930/2017 (S.B.)

**Coram:Shri Shree Bhagwan, Vice Chairman
Dated :27/11/ 2019.**

Heard Shri N.S.Warulkar, the Id. Counsel for the applicant and Shri V.A.Kulkarni, the Id. P.O. for the respondents.

2. **S.O. day after tomorrow i.e. 29/11/2019.**

Vice Chairman

Date:-27/11/2019.
aps.

O.A. No. 162/2019 **(SB)**

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

Dated : 27.11.2019

Heard Shri A.P. Tathod, Id. counsel for the applicant, Shri A.M. Khadatkar, Id. P.O. for R-1&2, Shri S.N. Gaikwad, Id. counsel for R-3&4 and Shri A.P. Sadavarte, Id. counsel for R-5.

2 It is submitted that fresh representation is made by the applicant to the Government for his re-transfer to Amravati. The copy of representation dated 26/11/2019 is placed on record. The respondents are directed to decide the representation within two months from the date of receipt of the same.

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

Member (J)

dnk.

O.A. No. 374/2019 with C.A. 219/2019 **(SB)**

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

Dated : 27.11.2019

Heard Shri S.M. Bhagde, Id. counsel for the applicant, Shri M.I. Khan, Id. P.O. along with Vishal Anand, Id .counsel for the respondents.

2. The learned P.O. files reply on behalf of R-3 to the C.A. It is taken on record. Copy is served on the applicant.

3. The learned P.O. submitted that the order passed by the respondent no.4 is under challenge, therefore, the O.A. can be decided. The O.A. is admitted and it be kept for final hearing.

4. The Id. P.O. waives notice for the respondents. In the meantime, the applicant is at liberty to file rejoinder, if any.

S.O. 09/12/2019.

Member (J)

dnk.

O.A. No. 461/2019 **(SB)**

Coram : Hon. Shri A.D. Karanjkar,

Member (J).

Dated : 27.11.2019

Shri A.P. Chaware, Id. counsel for the applicants and Shri A.P. Potnis, Id. P.O. for the respondents.

The Id .P.O. submitted that he has received parawise comments and two weeks time is required to file reply. At his request, **S.O. two weeks** for filing reply.

Member (J)

dnk.

O.A. No. 618/2019 **(SB)**

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

Dated : 27.11.2019

Shri B. Lahiri, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for the respondents.

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

Member (J)

dnk.

O.A. No. 801/2019 **(SB)**

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

Dated : 27.11.2019

None for the applicant. Shri A.P. Potnis,
Id. P.O. for the respondents.

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

Member (J)

dnk.

O.A. No. 831/2019 **(SB)**

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

Dated : **27.11.2019**

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

The Id .P.O. submitted that he has received parawise comments and two weeks time is required to file reply. At his request, **S.O. two weeks** for filing reply.

Member (J)

dnk.

O.A. No. 511/2017 **(SB)**

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

Dated : 27.11.2019

Shri A. Dhore, 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. two weeks**.

Member (J)

dnk.

O.A. No. 541/2017 **(SB)**

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

Dated : **27.11.2019**

Shri R.V. Shiralkar, 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. two weeks**.

Member (J)

dnk.

O.A. No. 630/2019 **(SB)**

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

Dated : **27.11.2019**

Shri R.V. Shiralkar, Id. counsel holding for Shri M.M. Sudame, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for R-1 to 3 and none for respondent no.4.

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

Member (J)

dnk.

O.A. No. 974/2017 **(SB)**

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

Dated : 27.11.2019

Shri N.S. Warulkar, Id. counsel for the applicants and Shri V.A. Kulkarni, Id. P.O. for the respondents.

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

Member (J)

dnk.

O.A. No. 420/2019 **(SB)**

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

Dated : 27.11.2019

Heard Shri N.S. Warulkar, Id .counsel for the applicant and Shri V.A. Kulkarni, Id. P.O. for the respondents.

The Id. P.O. is directed to give information as to whether the order dated 9/10/2019 is complied with or not.

S.O. one week.

Member (J)

dnk.

O.A. No. 452/2019 **(SB)**

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

Dated : 27.11.2019

Heard Shri A.S. Dhore, Id. counsel for the applicant, Shri S.A. Sainis, Id. P.O. for R-1

to 6 & 9, Shri T.M. Zaheer, Id. counsel for R-7 and Ms. S.M. Saware, Id. counsel for R-8.

2. Today the respondent no.6 in person is present. The respondent no.8 is personally present. He is directed to produce before the Bench the relevant record relating to service of the applicant, regarding payment of the salary, the muster roll and the last correspondence by the office of the respondents to the higher authorities relating absence of the applicant.

S.O. two weeks.

Member (J)

dnk.

O.A. No. 938/2019 **(SB)**

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

Dated : 27.11.2019

Heard Shri G.G. Bade, Id. counsel for the applicant and Shri S.A. Sainis, Id. CPO for the State.

2. Earlier O.A.No.326/2018 was filed by the applicant. The applicant was directed to submit

10 options of choice posting, but without complying that order options were submitted by the applicant on 6/11/2019 and only two choice posts were given. Apparently, the applicant himself did not obey the order passed in previous O.A. No.326/2018. The liberty is given to the applicant to make fresh representation as per the order dated 28/8/2019 in O.A.326/2018. The respondents to consider the representation and decide the same within two months from the date of receipt of this order.

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

Member (J)

dnk.

O.A. Nos. 770 & 771 of 2018 **(SB)**

Coram : Hon. Shri A.D. Karanjkar,

Member (J).

Dated : 27.11.2019

Heard Shri V.S. Tunkikar, Id. counsel holding for Shri S.D. Khati, Id .counsel for the applicants and Shri S.A. Deo, Id. CPO for the respondents.

2. In both the applications it is grievance of the applicants that they were transferred, therefore they challenged the transfer orders in a proceeding before this Bench. In both the

applications interim relief was not granted to the applicants. They remained absent from the duty. Thereafter the applicant in O.A.771/2018 withdrawn the application and in O.A. 770/2018 liberty was given to the applicant to make representation. The applicant Shri K.B. Chauhan was absent from the duty after 22/7/2016 to 26/2/2017 and the applicant Y.M. Kamble was absent from the duty from 1/6/2016 to 6/1/2017. As both the applicants remained absent from the duty, therefore, their Controlling Officers decided not to pay them salary. During course of argument it is submitted that till today both the applicants did not apply for the leave or extra ordinary leave for the period of their absence from the duty. It is grievance of the applicants that salary is not paid to them for their absence.

3. As per the law as the applicants did not perform duty, they are not entitled to claim wages for the period they were absent from the duty. However in the interest of justice, it is necessary to give liberty to the applicants to make application to the office for grant of leave and the Competent Authority shall decide the leave application keeping in view of the provisions of M.C.S. (leave) Rules and M.C.S. (Pay) Rules and M.C.S. (Pension) Rules.

4. In views of this discussion, both the O.As. stand disposed of. No order as to costs.

Member (J)

dnk.

O.A. No. 520/2019 **(SB)**

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

Dated : 27.11.2019

Heard Ms. S.Mudliar, Id. counsel for the applicant, Shri S.A. Sainis, Id. P.O. for R-1&2, Smt. J.J. Alkari, Id. counsel for R-2,3&4 and Shri K.S. Motwani, Id .counsel for R-5.

2. The learned counsel submitted counter reply on behalf of the applicant. It is taken on record. The learned counsel for R-2,3&4 requested for time to file counter reply and learned counsel for R-5 submitted that he is intending to file reply.

S.O. three weeks.

Member (J)

dnk.

O.A. No. 382/2019 (SB)

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

Dated : 27.11.2019

Heard Shri G.R. Sadar, Id .counsel for the applicant and Shri V.A. Kulkarni, Id. P.O. for the respondents.

2. It came to my notice that the applicant was posted at Amravati vide order dated 7/3/2013. The applicant is challenging the impugned transfer order dated 27/5/2019 merely on the ground that he was not considered for transfer at the time of general transfers of 2019. In this regard, I would like to point out that Section 3 (1) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (In short "Transfers Act, 2005") mandates that the normal tenure in a post shall be three years and proviso to Section 3 (1) of

the Transfers Act,2005 mandates that no employee shall be continued in the same post after completion of two tenures. In the present matter apparently as the applicant has completed two normal tenures at Amravati, therefore, even the respondents had no right in view of the mandatory language of Section 3 of the Transfers Act,2005 to retain the applicant at Amravati.

3. Without entering into other merits of this application, it can be decided only on the basis of mandate under Section 3 of the Transfers Act,2005. The learned counsel for the applicant submitted that the Officer who is posted at Akola is ready to work at Amravati on transfer and the applicant is ready to work at Akola. In this situation, liberty is given to the applicant to make representation to the respondent no.1&2 to consider the request of the applicant and give him suitable posting. The representation shall be decided within two months from the date of receipt of the same

4. In view of this discussion, the O.A. stands disposed of. No order as to costs.

Steno copy is granted.

Member (J)

dnk.
