

O.A. 918/2019 (S.B.)

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

Dated : 07/06/2021.

Heard Shri N.D. Thombre, Id .counsel for the applicant and Shri S.A. Deo, Id. CPO for the respondents.

2. The learned counsel for the applicant has filed Pursis dated 7/6/2021 mentioning that the applicant wants to withdraw the O.A. He is permitted to do so. The pursis is taken on record and marked Exh-X for the purpose of identification.

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 In view thereof, the O.A. stands disposed of as withdrawn.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

Vice-Chairman

dnk.

O.A. 861/2019 (S.B.)

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

Dated : 07/06/2021.

Heard Shri G.G. Bade, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for the respondents.

At the request of Id. counsel for the applicant, **S.O. 14/6/2021.**

Vice-Chairman

dnk.

***O.A. 408/2021 (S.B.)**

(Shri Narayan G. Ghormare Vs. State of Mah.)

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

Dated : 07/06/2021.

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

2. The applicant was initially appointed as Muster Assistant on 5/2/1981 and then he was working with Deputy Sub Divisional Engineer B&C Division at Bramhapuri. Vide order dated 27/6/2003 of Sub Divisional Engineer B&C, Bramhapuri he was relieved on 30/6/2003 and he joined as Forest Guard as per letter of Conservator of Forest, North Chandrapur Circle dated 26/6/2003 (P-53). The applicant came to be retired on attaining age of superannuation on 31/10/2015. As pointed out by the learned counsel for the applicant, the respondent no.5 has made correspondence to respondent no.4 vide letter dated 14/1/2021(A-3,P-52&53) to seek guidance regarding fixation of pension of applicant and has suggested that there is no objection in treating the period from 1/10/1988 to 29/6/2003 as in service period though during that time he was working with Deputy Sub Divisional Engineer B&C Division at Bramhapuri. The learned counsel for the applicant submits that when Muster Assistants were absorbed in other department their services were counted

from 1/10/1988 for pensionary benefits. However in this case the respondent no.5 has requested for guidance from the respondent no.4 whether to take the date from 1/10/1988 or 29/6/2003 to count for pensionary benefit of the applicant..

3. The learned counsel for the applicant pointed out correspondence letter dated 4/5/2021 (A-1,P-11) written by respondent no.4 to the respondent no.5. In the last para of the letter the respondent no.4 has directed to the respondent no.5 to take final decision as per opinion of Law and Judiciary Department.

4. In this situation, the respondent nos.4&5 are directed to decide the issue related to the pension of the applicant as per their own letter dated 14/1/2021(A-3,P-52&53) and letter dated 4/5/2021 (A-1,P-11). They are directed to follow personally with the Law and Judiciary Department for seeking opinion and after receipt of the opinion decide the issue within 45 days so that the applicant gets pension at the earliest.

5. With this direction, the O.A. stands disposed of. No order as to costs.

Steno copy is granted...

Vice-Chairman

dnk.

***O.A. 407/2021 (S.B.)**

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

Dated : 07/06/2021.

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

2. The applicant was compulsory retired vide order dated 8th September,2015 (A-4,P-33) after departmental inquiry. The punishment is mentioned at page no.43. Aggrieved with the punishment order, the applicant preferred O.A.No.732/2015 before this Tribunal. The O.A. was decided on 26/9/2016 wherein para-5 following operative order was passed –

“ (5) Consequently, the O.A. is allowed. The impugned order dated 8/9/2015 is set aside and the respondent to proceed from the stage of receipt of the inquiry report according to law and pass the necessary order. This exercise be done before 31/12/2016.”

3. The order was not complied within a stipulated time and the applicant preferred the Contempt Petition No.20/2021. In order sheet dated 20/5/2021 following observations have been made in para-2 :

“ (2) The applicant has approached to this Tribunal with O.A. 732/2015 and order was passed on 26/9/2016 that the said order be

complied till 31/12/2016. Now, the learned counsel for the applicant willing to file Contempt Petition. However, the learned 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."

4. In view of above observations, the applicant has filed fresh O.A. No.407/2021. All the legal issues have been examined while deciding O.A.732/2015 and order was passed 26/9/2016. As pointed out by the learned CPO as on today the Tribunal is not aware about stage of implementation of order in O.A.732/2015 pronounced on 26/9/2016. The learned CPO desires time to take instructions in this regard and also seeks time to file reply.

5. Issue notice to the respondents returnable on 5/7/2021. 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.

S.O. 5/7/2021

Vice-Chairman

dnk.

***O.A. 263/2021 (S.B.)**

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

Dated : 07/06/2021.

Heard Shri N.R. Saboo, Id. Counsel for the applicant and Shri S.A. Deo, Id. CPO for the respondents.

2. The matter was heard on 30/3/2021 and in para-2 following observation has been made –

“ (2) As submitted by Id. Counsel for the applicant, the applicant was suspended vide order dated 19/11/2020 (A-1,P-10) while he was working as Revenue Assistant, in Z.P., District, Nagpur. As submitted by Id. Counsel for the applicant, no charge sheet has been served till now by the respondents”.

3. The Id. CPO submits that he requires more time to file reply. He is not sure about serving of charge sheet. Since pandemic situation for more than one year and involvement of Revenue Department in problem of pandemic. In the interest of justice time is granted to Id. CPO to file reply and status of charge sheet. The learned counsel opposed for granting time.

4. The Id CPO submits that he will file reply by 14/6/2021. He is directed to supply copy to the learned counsel also in advance.

S.O. 16/6/2021.

Vice-Chairman

*dnk....

O.A.No.310/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 07/06/ 2021.

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

2. At the request of Id. C.P.O., **S.O. 14.06.2021** to file some documents on record.

Vice Chairman

Date:-07/06/2021.

aps.

O.A.No.858/2019 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 07/06/ 2021.

Heard Shri N.D.Thombre, the Id. Counsel for the applicant and Shri S.A.Deo, the Id. C.P.O. for the respondents.

2. The Id. counsel for the applicant has filed pursis dated 07.06.2021 and pointed out that applicant had been asked to attend D.E. on 08.06.2021 which is held at Nagpur. The Id. counsel for the applicant pleads that enquiry should be stopped. However, it is not desirable to stop the enquiry. Respondents are directed not to issue any final order in the enquiry till decision of the O.A..

3. O.A. will be listed for final hearing; **S.O. 1st Week of July, 2021.**

Vice Chairman

Date:-07/06/2021.
aps.

O.A.No.416/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 07/06/ 2021.

C.A.No. 144/2021:-

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

2. C.A. No. 144/2021 for Jt. O.A. is allowed.

3. The applicant had taken benefit of Government G.A.D. G.R. dated 25.05.2004 and benefit of Reservation. Now, applicant is Range Forest Officer, Category and due for promotion for Assistant Conservator of Forest. The G.R. dated 25.05.2004 was cancelled by Hon'ble High Court, Bombay Bench and it is pending in Hon'ble Apex Court with S.L.P. No. 28306/2017 (P.B., Pg. No. 3 of O.A. in last line). Now, Government has issued fresh policy vide G.R. dated 07.05.2021 and decided to fill all the posts subject to decision in the S.L.P. by Hon'ble Apex Court. Applicant has submitted representation to the Respondent no. 1 dated 07.05.2021 and to Respondent no. 2 dated 07.05.2021.

4. In view of this situation, Respondent nos. 1 & 2 are directed to decide the representation dated 07.05.2021 as per Government policy and directions vide G.R. dated 07.05.2021 **within six weeks from the date of this order.**

5. Issue notice to Respondents, returnable on six 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. after six weeks.**

Vice Chairman

Date:-07/06/2021.

aps.

O.A.No.417/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 07/06/ 2021.

Heard Shri N.D.Thombre, the Id. Counsel for the applicant and Shri S.A.Deo, the Id. C.P.O. for the State.

2. The applicant was promoted vide order dated 15.09.2020 (Annexure-A-1, P.B., Pg. No. 16) to the cadre of District Health Officer i.e. Civil Surgeon. The applicant was suffering from Covid-19 as per the application dated 20.09.2020 (Annexure-A-2, P.B., Pg. No. 26); the certificate is also attached on P.B., Pg. No. 27. Subsequently, applicant had submitted application dated 03.10.2020 (Annexure-A-4, P.B., Pg. No. 35) to Respondent no. 2 and pointed out that she is further suffering from Anaemia and due to that she is not able to join to the new posting. However, Respondents vide order dated 27.05.2021 (Annexure-A-5, P.B., Pg. NO. 37) were applicant is at Sr. No. 1 presumed that applicant had refused promotion. There is no document showing that applicant has refused promotion. However, it was because of poor health i.e. firstly because of Covid-19 and secondly because of Anaemia. So, at this stage it is impossible for any employee to join the new posting.

3. In view of this situation, **order dated 27.05.2021 is stayed to the extent of applicant till filing of the reply.**

4. Issue notice to Respondents, returnable on six weeks. Learned C.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. six weeks.**

Vice Chairman

Date:-07/06/2021.
aps.

C.P.No.01/2021 in O.A.No.879/2017 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 07/06/ 2021.

Heard Shri S.P.Palshikar, the Id. Counsel for the applicant and Shri V.A.Kulkarni, the Id. P.O. for the Respondents.

2. The Id. P.O. has filed reply on behalf of the respondent no. 2. It is taken on record. Copy is supplied to the other side.

3. The Id. counsel for the applicant wants to go through it. Hence, **S.O. 14.06.2021.**

Vice Chairman

Date:-07/06/2021.
aps.