

O.A. 380/2021 (S.B.)

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

Dated : 03/09/2021.

C.A. 262/2021 -

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

2. Vide impugned order dated 28/4/2021 (A-8,P-37) the applicant was transferred from Gadchiroli to Nagpur City police. His name appears at Sr.No.325 on page no.39. This order was under challenged by O.A. No.380/2021. Today the Id. counsel has filed C.A. for amendment and along with that he has filed order dated 14/8/2021 (A-10P-7) in which the applicant's name appears at Sr.No.40 and he has been transferred from Nagpur City to Gadchiroli Range. Apparently, there is hardly gap of 4 months between two orders i.e. 28/4/2021 and 14/8/2021.

3. In view of this, the learned counsel has filed C.A.No. 262/2021 for subsequent changes on record.

4. In view thereof, the C.A. is allowed and disposed off. No order as to costs.

O.A. 380/2021 -

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

2. The learned counsel desires to amend the prayer clause in the O.A. also. He is permitted to do so.

3. After amendment, issue notice to the newly added respondents returnable **on 15/9/2021** 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.

S.O. 15/9/2021.

Vice-Chairman

dnk.

O.A. 463/2021 (S.B.)

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

Dated : 03/09/2021.

None for the applicant. Shri A.M. Ghogre, Id. P.O. for R-1 to 3 and Shri M.R. Patil, Id. counsel for R-4.

2. The learned P.O. has submitted that the same applicant has filed O.A.Nos. 423/2019 & O.A. 720/2020. As suggested by the Id. P.O. these two O.As. and present O.A. be kept together and the matter be kept in next week.

S.O. 15/9/2021.

Vice-Chairman

dnk.

O.A. 581/2021 (S.B.)

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

Dated : 03/09/2021.

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

The learned P.O. files reply of R-2. It is taken on record. Copy is served to the Id. counsel for the applicant.

The matter is admitted and kept for final hearing.

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

S.O. 8/9/2021 high on board.

Vice-Chairman

dnk.

O.A. 591/2021 (S.B.)

(A.G. Dhapate Vs. State of Mah. & ors.)

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

Dated : 03/09/2021.

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

2. As submitted by the Id. counsel, the applicant was placed under suspension vide order dated 25/5/2017 (A-1,P-14&15) and his suspension period was revoked by this Tribunal vide order dated 2/8/2021. So remained under suspension for atleast four years. Now the applicant is agitating for grant of suspension allowance as he should have been paid during his suspension period.

3. As pointed out by Id. P.O., the documents at Annex-A- & page os.32,33 & 34 are filed by the applicant himself and on page no.32 as per Chart from 11/3/2007 to 28/2/2018 50% subsistence allowance was paid to the applicant and it is signed by Agriculture Officer, Z.P., Washim. Again on page no.33 from 1/3/2018 to 31/1/2019, 50% subsistence allowance was paid to the applicant then on page no.34 from 1/2/2019 to 30/6/2019, 75% subsistence allowance was paid to the applicant. However, it is not cleared that whether as per rules the subsistence allowance was paid or not.

4. The learned P.O. seeks three weeks time to file reply. Time is granted. The Id. P.O. is directed to file details regarding total suspension period and payment of subsistence allowance during that period.

S.O. three weeks.

Steno copy is granted....

Vice-Chairman

dnk.

O.A. 736/2021 (S.B.)

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

Dated : 03/09/2021.

C.A. 261/2021 -

Heard Smt. Saboo, Id. counsel for the applicant and Shri S.A. Deo, Id. C.P.O. for the respondents.

2. The learned counsel has filed C.A. and submits that during the pendency of the O.A. another transfer order has been issued by the respondents on 23/8/2021 (A-6,P-8) of C.A.

3. For the reasons stated in the application, the C.A. for amendment is allowed. Necessary amendment be carried out within one week.

O.A. 736/2021 -

Heard Smt. Saboo, Id. counsel for the applicant and Shri S.A. Deo, Id. C.P.O. for the respondents.

S.O. two weeks for filing reply on amended portion, if any. The Id. counsel is at liberty to file rejoinder, if any.

Vice-Chairman

dnk.

Rev. A. 18/2021 in O.A. 94/2021 (S.B.)

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

Dated : 03/09/2021.

Heard Shri V.A. Kulkarni, Id. P.O. for the applicants (Org. Respondents PWD Dept.) and Shri S.C. Deshmukh, Id. counsel for the respondent no.1(Org. applicant).

At the request of Id. counsel for the respondent no.1(Org. applicant), **S.O. two weeks** for filing reply.

Vice-Chairman

dnk.

O.A. 366/2018 (S.B.)

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

Dated : 03/09/2021.

Heard Shri D.M. Surjuse, Id. counsel for the applicants, Shri A.. Khadatkar, Id. P.O. for R-1&2 and Shri U.K. Bisen, Id. counsel for R-3.

The learned counsel for R-3 has filed copy of order dated 23/6/2021 in O.As.414,415,416,417 & 629 of 2018 passed by this Tribunal. He is directed to supply the copy to the other sides.

S.O. two weeks.

Put up along with Rev. A. Nos. 10, 11,12,13 & 14 of 2021.

Vice-Chairman

dnk.

O.A. 766/2018 (S.B.)

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

Dated : 03/09/2021.

Heard Shri S.D. Malke, Id. counsel for the applicants, Shri V.A. Kulkarni, Id. P.O. for R-1 and Shri U.K. Bisen, Id. counsel for R-3. Await service of R-2.

The learned counsel for R-3 has filed copy of order dated 23/6/2021 in O.As.414,415,416,417 & 629 of 2018 passed by this Tribunal. He is directed to supply the copy to the other sides.

S.O. two weeks.

Put up along with Rev. A. Nos. 10, 11,12,13 & 14 of 2021.

Vice-Chairman

dnk.

O.A. 586/2021 (S.B.)

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

Dated : 03/09/2021.

Heard Shri K.D. Badole, Id. counsel for the applicant and Shri P.N. Warjurkar, Id. PO for the State.

2. Issue notice to the respondents returnable **after four weeks**. Learned P.O. waives notice for State. 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.

S.O. after four weeks.

Vice-Chairman

dnk.

O.A. 677/2021 (S.B.)

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

Dated : 03/09/2021.

Heard Shri M.R. Patil, Id. counsel for the applicant and Shri V.A. Kulkarni, Id. PO for the State.

2. Issue notice to the respondents returnable **after four weeks**. Learned P.O. waives notice for State. 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.

S.O. after four weeks.

Vice-Chairman

dnk.

O.A. 714/2021 (S.B.)

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

Dated : 03/09/2021.

Heard Shri P.V. Thakre, Id. counsel for the applicant and Shri A.P. Potnis, Id. PO for the State.

2. Admittedly, the applicant retired on 30/04/2016 and vide impugned order dated 21/06/2021 (A-11,P-28 to 31) the respondents have issued notice of recovery of Rs. 10,59,739/- as per page no.30. This recovery has been issued without giving chance to the applicant and without any inquiry.

3. In view of this situation, **the impugned order dated 21/06/2021 (A-11,P-28 to 31) is stayed till filing of reply.**

4. Issue notice to the respondents returnable **after four weeks**. Learned 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.

O.A. 774/2021 (S.B.)

(Rajendra M. Bhoyar Vs. State of Mah.)

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

Dated : 03/09/2021.

Heard Shri G.K. Bhusari, Id. counsel for the applicant and Shri A.M. Ghogre, Id. PO for the State.

2. The applicant was first transferred vide order dated 8/3/2019 (A-2,P-27 to 37) from PWD, Wardha to PWD Division No.1, MLA Hostel Sub-Division, Nagpur and his name appears at Sr.No.53 (P-34) on vacant post. Again vide order dated 30/8/2021 (A-1,P-16 to 26) the applicant has been transferred from PWD, MLA Hostel Sub-Division, Nagpur to PWD, World Bank Project Division Nagpur and his name appears at Sr. No.49 (P-25). In the order dated 30/8/2021 in para-1 it is mentioned that these transfers are on administrative ground as well as on request.

3. The learned counsel submits that between first transfer order dated 8/3/2019 and second transfer order dated 30/8/2021 there is a gap of 2 years and 6 months only and the applicant has not completed normal tenure. The learned counsel submits that the applicant has not yet been relieved. However, the Id. P.O. submits that he is not aware the position.

4. In view of this situation, **the status-quo is granted as on today to the order dated 30/8/2021 (A-1,P-16 to 26) to the extent of applicant till filing of reply.**

5. Issue notice to the respondents returnable **after four weeks**. Learned 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. after four weeks.

Steno copy is granted...

Vice-Chairman

dnk.

O.A. 759/2021 (S.B.)

(Ganraj V. Kadu Vs. State of Mah)

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

Dated : 03/09/2021.

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

2. As submitted by the learned counsel as per order dated 29/10/2009 (A-3,P-24) in which the applicant's name appears at Sr.No.4 and he was granted two advance increments in the year 2007 considering his previous five years C.Rs. Along with the order at page no.27 it appears that the applicant was granted two increments in 2007 and next date of increment is 1/7/2008 after giving two increments. The learned counsel has also relied on order dated 5/9/2018 (A-5,P-28) issued by office of respondent no.2. In that letter case of State of Punjab & Ors. Vs. Rafiq Masih (White Washer) has been mentioned and main contention of the letter is reproduced as below –

Appellate Jurisdiction Civil Appeal No.11527 of 2014 (Arising out of SPL (C) No. 11684 of 2012) State of Punjab and others etc Appellants Vs. Rafiq Masih (White Washer) etc. Respondents

3. The applicant retired on 31/7/2021 and correspondence has been made by office of respondent no.3 dated 13/8/2021 (A-6,P-29) and recovery order has been issued to the applicant to the tune of Rs. 35,414.06 which was paid to the applicant as advance increments in 2007. In the said letter in para-3 two G.Rs. are mentioned one G.R. GAD dated 3/7/2009 and another G.R. GAD dated 24/8/2017. The learned counsel has relied on Judgments of the Hon'ble High Court Bench at Aurangabad in W.Ps. Nos. 12699/2018, 14950/2017, 15110/2017 & 15119/2017 (A-7,P-31) decided on 3/4/2019 and in para-3 the Hon'ble High Court has observed as follows-

" (3) The G.R. dated 24/8/2017 will have prospective effect and not retrospective and in that case benefit that was accorded to petitioners of excellent work in the year 2006,2007 and 2008, shall not

be withdrawn and if any recovery is made pursuant to the same, same shall be refunded to the petitioners. “

4. It appears that the applicant's case is squarely covered by the said Judgment of Hon'ble High Court. The learned counsel has relied on Judgment of Hon'ble High Court Bench at Aurangabad in various W.Ps. which is marked Exh-X i.e. W.P.Nos. 10993/2019, 10995/2019, 11000/2019, 11004/2019, 11006/2019, 11010/2019, 11011/2019, 11026/2019, 11032/2019, 11042/2019 & 11048/2019 decided on 5/9/2019. In this Judgment also the Hon'ble High Court has observed in para-5 which is as follows –

“ III) The G.R. dated 24/8/2017 will have prospective effect and not retrospective and if benefit was accorded to petitioners of excellent work in the year 2006,2007 and 2008, shall not be withdrawn and if any recovery is made pursuant to the same, same shall be refunded to the petitioners.. “

5. The applicant's case is squarely both these Judgments of Hon'ble High Court. In view of this, **the impugned order dated 13/8/2021 (A-6,P-29) is stayed till outcome of the O.A.**

6. Issue notice to the respondents returnable **after four weeks**. Learned C.P.O. waives notice for State. 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.

S.O. after four weeks.

Steno copy is granted...

Vice-Chairman

dnk.

O.A. 773/2021 (S.B.)

(Nikhil M. Thakare Vs. State of Mah. & Ors.)

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

Dated : 03/09/2021.

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

2. Vide transfer order dated 9/8/2021 (A-3,P-18 to 41) the applicant has been transferred from PHC, Badhona Bazar, Dist. Yavatmal to PHC, Burkoni, Dist. Wardha and his name appears at Sr.No.291 (P-33). The applicant has submitted first representation dated 17/8/2021 (A-4,P-42) and second representation dated 29/8/2021 (A-5,P-43&44) to the District Health Officer, Z.P., Yavatmal for relieving him along with his LPC and copy of his service book with all entries. However, he has not been relieved till now. Aggrieved with this, the applicant has approached to this Tribunal.
3. The respondents are directed to consider the applicant's representations and act as per order dated 9/8/2021 (A-3,P-18 to 41).
4. Issue notice to the respondents returnable **after two 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 two weeks.

Steno copy is granted....

Vice-Chairman

dnk.

O.A. 775/2021 (S.B.)

(Rajesh R. Deshmukh Vs. State of Mah.)

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

Dated : 03/09/2021.

Heard Shri S.N. Gaikwad, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for the State.

2. As submitted by the learned counsel, the applicant has submitted request application for transfer as per Annex-2,P-13. He further submits that the applicant has given three choices out of that choice at Item no.5 is Deputy Superintendent, Land Record, Bhatkuli, Dist. Amravati is still vacant. The learned counsel submits that list for transfer of due employees was published on 17/8/2021 (A-3,P-17) in which the applicant's name appears at Sr.No.43 on page no.20. He further submits that Sr.Nos. 44,47, & 51 though they are juniors, their requests have been considered.

3. The learned counsel submits that the respondents may be directed to consider the representation dated April,2021 (A-2,P-13 to 16).

4. In view of this situation, the respondents are directed to consider and decide the applicant's grievances as per his request application dated April,2021 (A-2,P-13 to 16)

within 30 days from the date of receipt of this order.

5. In view of above, the O.A. stands disposed off. No order as to costs.

Vice-Chairman

dnk.

O.A. 776/2021 (S.B.)

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

Dated : 03/09/2021.

Heard Shri S.N. Gaikwad, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for the State.

The learned counsel for the applicant submits that the applicant has been relieved and he is going to join on transferred place, therefore, he wants to withdraw the O.A. However, the Id. counsel has not filed Pursis. The Id. counsel submits that he will file Pursis and therefore requested for time.

The matter be kept on **Monday i.e. on 6/9/2021**

Vice-Chairman

dnk.

O.A. 982/2018 (S.B.)

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

Dated : 03/09/2021.

Heard Ms. Aarti Singh, Id .counsel holding for Shri P.D. Meghe, Id. counsel for the applicant and Shri A.M .Khadatkar, Id. P.O. for the respondents.

The respondent no.4 has filed Pursis dated 10/8/2021 along with document. It is taken on record. Copy is served to the Id. counsel for the applicant.

S.O. 17/9/2021.

Vice-Chairman

dnk.

O.A. 280/2020 (S.B.)

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

Dated : 03/09/2021.

Heard Smt. K.N. Saboo, Id. counsel holding for Shri N.R. Saboo, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for the respondents.

The Id. P.O. files relevant documents on record and copies are served to the Id. counsel for the applicant. The Id. counsel wants to go through the same.

S.O. 17/9/2021.

Vice-Chairman

dnk.

O.A. 970/2020 (S.B.)

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

Dated : 03/09/2021.

Heard Shri G.G. Bade, Id. counsel for the applicant and Shri S.A. Sainis, Id. P.O. for the respondents.

At the request of Id. counsel for the applicant, **S.O. 6/9/2021.**

The matter be kept high on board.

Vice-Chairman

dnk.

O.A. 308/2017 (S.B.)

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

Dated : 03/09/2021.

Heard Shri R.V. Shiralkar, Id. counsel for the applicant and Shri Potnis, Id. P.O. for the respondents.

At the request of Id .counsel for the applicant, **S.O. 8/9/2021.**

Vice-Chairman

dnk.

O.A. 124/2019 (S.B.)

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

Dated : 03/09/2021.

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

At the request of Id .counsel for the applicant, **S.O. 15/9/2021.**

Vice-Chairman

dnk.

O.A. 49/2020 (S.B.)

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

Dated : 03/09/2021.

Heard Shri D.M. Surjuse, Id. counsel for the applicant and Shri A.P. Potnis, Id. P.O. for the respondents.

At the request of Id .counsel for the applicant, **S.O. 6/9/2021.**

Vice-Chairman

dnk.

O.A. 782/2021 (S.B.)

(Dr. Mahesh S. Manwar Vs. State of Mah.)

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

Dated : 03/09/2021.

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

2. The applicant has challenged the first order of suspension dated 4/2/2021 (A-8,P-34) issued by the respondent no.2 and second order dated 30/8/2021 (A-1,P-20 to25) pertaining to transfer of respondent no.4 at the place of applicant. The learned CPO objected that both the reliefs in filing one O.A. cannot be pressed by the applicant. The learned counsel agreed and he submits that he will file separate O.A. for challenging suspension order dated 4/2/2021 (A-8,P-34). He is at liberty to file separate O.A. for challenging suspension order dated 4/2/2021 (A-8,P-34).

3. Vide order dated 24/8/2021 (A-15,P-44 to 48) the applicant has been transferred from the post of Medical Officer, PHC, Bhamhora, Tq. Ghatanji, Dist. Yavatmal to Epidemic Medical Officer, DHO Office, Yavatmal on request and accordingly he joined on 25/8/2021 (A-16,P-49) the transferred place.

4. In the previous order dated 24/8/2021(A-15,P-44 to 48) the respondent no.4 who appears at Sr.No.26 and has been posted from Ayurvedic Hospital, Jiwanapur, Tq. Kuhi, Dist. Nagpur to PHC, Mardi, Tq. Maregaon, Dist. Yavatmal on her own request. Now vide impugned order dated 30/8/2021 (A-1,P-20 to 25) the respondent no.4 appears at Sr.No.6 and she has been transferred from PHC Mardi in place of applicant to the DHO Office, Yavatmal.

5. The applicant and the respondent no.4 both were transferred by previous order dated 24/8/2021 (A-15,P-44 to 48). However, vide order 30/8/2021 (A-1,P-20 to 25) the respondent no.4 has been transferred in place of applicant. Indirectly the applicant has been displaced within six days. This appears to be injustice to the applicant. Though the specific transfer order of applicant has not been issued by the respondent no.1, but the respondent no.4 has been transferred in place of applicant. Since the applicant has already joined as per order dated 24/8/2021, the respondent

no.4 has been transferred in place of applicant by modifying the order dated 30/8/2021. The learned CPO submits that he is not aware whether the respondent no.4 is relieved or not.

6. In view of this situation, **the status-quo is granted as on today to the order 30/8/2021 (A-1,P-20 to 25) so far as the respondent no.4 is concerned, so that the applicant will continue on his present posting** and the respondents are directed to consider both the orders and take necessary action in relation to respondent no.4 and regarding order dated 30/8/2021.

7. Issue notice to the respondents returnable **after four weeks**. Learned P.O. waives notice for State. 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.

S.O. after four weeks.

Steno copy is granted...

Vice-Chairman

dnk.**

O.A.No.865/2018 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 03/09/ 2021.

Heard Shri J.S.Wankhede, the Id. Counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the State.

2. At the request of Id. counsel for the applicant, Issue fresh 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:-03/09/2021.

aps.

O.A.No.710/2019 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 03/09/ 2021.

C.A.No.192/2021:-

Heard Shri G.K.Bhusari, the Id. Counsel for the applicant and Shri P.N.Warjekar, the Id. P.O. for the Respondents.

2. The Id. P.O. has filed reply for respondent nos. 1 & 2. It is taken on record. Copy is served to the other side.

3. In reply para nos. 3 & 4; respondents have clarified that if anybody is coming from Kotwal to Group-D post by way of promotion; it would be treated as first appointment and the persons who are already working as kotwal they will have to comply and go through the procedure for the appointment of Group-D post. Only difference is that respondents will ensure that out of sanctioned post of Group-D 25% posts will be kept for such candidates who have already worked as Kotwal.

4. The Id. counsel for the applicant seeks certain time to go through the reply, **S.O. one week.**

5. Matter be treated as P.H..

Vice Chairman

Date:-03/09/2021.
aps.

O.A.No.53/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 03/09/ 2021.

Heard Shri S.M.Pande, the Id. Counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the Respondents.

2. At the request of Id. P.O., **S.O. 22.09.2021 to file reply.**

Vice Chairman

Date:-03/09/2021.
aps.

O.A.Nos.188,189&456/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 03/09/ 2021.

Heard Shri C.A.Babrekar, the Id. Counsel for the applicant and Shri S.A.Sainis, 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:-03/09/2021.

aps.

O.A.No.248/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 03/09/ 2021.

C.A.No.143/2021:-

Heard Shri M.R.Patil, the Id. Counsel for the applicant and Shri S.A.Deo, the Id. C.P.O. for the Respondents.

2. **C.A.No.143/2021 for documents on record is allowed.**

3. The Id. C.P.O. should also have liberty to file reply on the above said documents, if required. As submitted by the Id. C.P.O. reply is not attached to the file, hence office is directed to attached reply filed by Id. C.P.O..

4. Hence, O.A. is **admitted** and kept for final hearing.

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

6. However, question of interim relief is also keeping open and will heard at the time of final hearing.

7. **S.O. four weeks.**

Vice Chairman

Date:-03/09/2021.
aps.

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

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 03/09/ 2021.

Heard Shri R.M.Fating, the Id. Counsel for the applicant and Shri S.A.Sainis, 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:-03/09/2021.

aps.

O.A.No.600/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 03/09/ 2021.

Heard Shri S.S.Sarda, the Id. Counsel for the applicant and Shri P.N.Warjekar, 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:-03/09/2021.

aps.

O.A.No.727/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 03/09/ 2021.

Heard Shri S.C.Deshmukh, the Id. Counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the State.

2. The Id. P.O. has placed the compilation of Judgments on record. It is taken on record. Copy is served to the other side.

3. The matter was heard earlier on 09.01.2020 in O.A. No. 958/2019 at P.B., Pg. No. 62 and it was pointed out that since chargesheet has been served on 21.08.2015 (A-2, Pg. No. 15); considering the inordinate delay for completion of D.E.; the Bench directed the respondents to complete the D.E. within a period of six months. Then respondents filed M.C.A. 04/2021 and asked for more time; M.C.A. No. 04/2021 was heard on 12.03.2021 and respondents were directed to complete the D.E. at an earliest to avoid contempt proceedings.

4. Today, the Id. P.O. submitted that D.E. is still in progress. In view of this situation, **respondents are directed not to proceed against the applicant in D.E..**

5. Issue notice to Respondents, returnable on four weeks. Learned 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:-03/09/2021.

aps.

O.A.No.123/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 03/09/ 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. The matter was heard on 01.09.2021, today the Id. P.O. submits that he has received parawise reply of respondent no. 1 and he file the same during the course of the day. He is further directed that he should supply the copy of reply today only to the other side; so matter could be heard on Monday.

3. **S.O. 06.09.2021.**

Vice Chairman

Date:-03/09/2021.
aps.

O.A.No.728/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 03/09/ 2021.

Heard Shri D.M.Surjuse, the Id. Counsel for the applicant and Shri H.K.Pande, the Id. P.O. for the State.

2. At the request of Id. counsel for the applicant, Re-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.**

9. *Office is further directed to supply the true copy of order dated 25 & 27.08.2021.*

Vice Chairman

Date:-03/09/2021.

aps.

O.A.No.768/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman

Dated : 03/09/2021.

Heard Shri R.V.Shiralkar, the Id. Counsel for the applicant and Shri H.K.Pande, the Id. P.O. for the State.

2. The applicant belongs to S.T. Female Category. She was appointed vide order dated 02.12.2017 (A-7, Pg. No. 40) for appearing in P.G. examination, she has applied on 29.10.2020 (A-9, Pg. No. 130) to the respondent no. 2. As per documents on Pg. No. 43; admit card was to be issued on 09.12.2020 and examination date was 16.12.2020, declaration of date result is 31.12.2020.

3. The Id. counsel for the applicant submits that applicant's application for permission in appearing the examination as per letter dated 29.10.2020 (A-9, Pg. No. 130) was not replied by respondent no. 2 before examination. As submitted by Id. counsel for the applicant, applicant did not received any reply from respondent no. 2 regarding letter dated 29.10.2020 (A-9, Pg. No. 130) till declaration of result i.e. dated 31.12.2020 (A-10, Pg. No. 131). The applicant was communicated vide letter dated 30.12.2020 (A-1, Pg. No. 19) by respondent no. 2 rejecting her request for appearing in the NEET MDS examination by letter dated 30.12.2020 which is received at Tumsar on 31.12.2020 i.e. date of declaration of result.

4. Subsequently, as submitted by Id. counsel for the applicant, result was declare as per A-10, Pg. No. 131 and applicant scored 282 in NEET Score. The Id. counsel for the applicant further submits that applicant was only S.T. Female departmental candidate in the State. The Id. counsel for the applicant further submits that on Pg. No. 131 (A-10) result was declared and in column no. XI following observation is made which is below:-

"XI-Result-Qualified to participate in online All India 50 % Quota Counselling."

5. The Id. counsel for the applicant submits that applicant again made representation dated 31.12.2020 (A-14, Pg. Nos. 157). However Pg. No. 157 is not legible and Id. counsel for the applicant is directed to file on record typed copy of the said letter before next date of hearing. As per submission of Id. counsel for the applicant though the applicant's appointment letter was issued on 02.12.2017 (A-7, Pg. NO. 40) applicant joined in service on 30.12.2017. The Id. counsel for the applicant submits that respondent no. 2 has counted year of service of applicant as per letter dated 26.08.2021 (19 Months at Rural Hospital, Bhokardan, Dist. Jalna and 15 Months at Sub District Hospital, Tumsar, Dist. Bhandara) her total period counted is 02 years and 11 months only. It appears that counting of 02 years and 11 months has been done as per application dated 15.11.2020 (Pg. No. 43).

6. The Id. counsel for the applicant has also filed G.R. dated 19.03.2019 (A-2, Pg. No. 20) on which respondent no. 2 has relied on counting of period of service of applicant on Pg. No. 23 and at para nos. 4.2 & 4.4 which are reproduced below:-

“4-2 oSkdh; vf/kdk& kph fu; fDrh fofgr i) rtus>kyyh vl koh] r l p l ok dkyko/kh cakif=r@vLFkk; h @ da=kh l oSk dkyko/kh oxGu fu; fer Lo: i kr fdeku 3 o"kk>kyyk vl kok-

4-4 ukefunzkukufu; fDrh >kyy; k oSkdh; vf/kdk& kpk i fjfo{kk/khu dkyko/kh i osk i fj{kk; k (NEET PG) fnukadkl l ek/kkudkj djhr; k l ektr dj.; kr vkyyk vl kok- rtk=d dkj.kkeGs T; k oSkdh; vf/kdk& kpk i fjfo{kk/khu dkyko/kh l ektr dY; kckcrps 'kk l ukps vkk pkjhd vkns k fuxfer dj.; kr vkysulghr] i jarqR; kph 3 o"kkph l ek/kkudkj d l ok >kyh vkg] v'kk menokj kulk rsi fjfo{kk dkyko/kh l ektr dj.; k l kkh vko'; d vl yY; k vVhph i rZrk djhr vl rhy rjp R; kulk (NEET PG) i osk i fj{kk cl.; k l l ad/kr mi l pkyd] vljk; l ok] i fjeMG gsi jokuxh nrhy-”

7. The Id. counsel for the applicant further submits that the chart given by him which is marked Exh. X-1 where candidate at Sr. No. 2 i.e. Ms. Deepali Subhash Kulkarni was also given appointment on the same date when applicant was given i.e. 02.12.2017. However, her service is counted as 03 years and 08 months by her Deputy Director.

8. The Id. counsel for the applicant has also filed documents dated 27.08.2021 by Director of Health Services by which M.B.B.S. counselling 2021 has been put on hold after the Judgment in Hon'ble High Court in W.P. No. 1814 of 2018. Accordingly, Respondent No. 3 has issued letter dated 27.08.2021 which is marked Exh-X-2 it is also taken on record.

9. Meanwhile if counselling starts, **Respondent No. 3 is directed to examine the case of the applicant in view of G.R. dated 19.03.2019 (A-2, Pg. No. 20).**

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

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

12. 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.

13. 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.

14. 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.

15. 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.

16. **S.O. four weeks.**

Vice Chairman

Date:-03/09/2021.
aps.

C.P.No.28/20inO.A.No.877/2018 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 03/09/ 2021.

Heard Shri N.D.Thombre, the Id. Counsel for the applicant and Shri A.M.Ghogre, the Id. P.O. for the Respondents.

2. The Id. P.O. has produced letter dated 20.08.2021 by Government Medical College, Nagpur by which it appears that Law and Judiciary, Nagpur is going in appeal and Dean, Medical College, Nagpur has been authorised to take necessary action for the same. Since, order of M.A.T. is going to be challenged before Hon'ble High Court.

3. The Id. counsel for the applicant is opposing for granting time to the Id. P.O.. However, since respondents are in the process of challenging the order before Hon'ble High Court; they should be given chance. Hence, two weeks time is granted for filing appeal before Hon'ble High Court.

4. **S.O. two weeks.**

Vice Chairman

Date:-03/09/2021.
aps.

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

**Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 03/09/ 2021.**

Heard Shri R.M.Fating, the Id. Counsel for the applicant and Shri A.M.Ghogre, the Id. P.O. for the Respondents.

2. The Id. P.O. submits that he requires time only till Monday to take instructions regarding implementation of order dated 20.05.2021.

3. **S.O. on Monday i.e. 06.09.2021.**

Vice Chairman

Date:-03/09/2021.

aps.

O.A.No.813/2019 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 03/09/ 2021.

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

2. At the request of Id. P.O., **matter be put up before D.B. as and when available.**

Vice Chairman

Date:-03/09/2021.
aps.

O.A.No.574/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 03/09/ 2021.

Heard Shri R.V.Shiralkar, the Id. Counsel for the applicant and Shri H.K.Pande, the Id. P.O. for the Respondents.

2. At the request of Id. P.O., **matter be put up before D.B. as and when available.**

Vice Chairman

Date:-03/09/2021.

aps.