

O.A. (St.) No.12/2019.

(S.B.)

Coram:Shri J.D. Kulkarni,
Vice-Chairman (J)
Dated : 19th March 2019.

C.A. No. 18/2019.

Heard Shri N.W. Almelkar, the Ld. counsel for the applicant and Shri A.P.Potnis, the learned P.O. for the respondents.

The Ld. counsel for the applicant submits that all the respondents are served and he has already filed service affidavit in the office. He seeks time to file reply.

S.O. **two weeks.**

Vice-Chairman(J)

Dt. 19.3.2019.

pdg.

O.A. No.873/2018.

(S.B.)

Coram:Shri J.D. Kulkarni,
Vice-Chairman (J)
Dated : 19th March 2019.

Shri V.D. Raut, the Ld. counsel for the applicant and Shri A.P.Potnis, the learned P.O. for the respondent Nos. 1 to 3. Shri N.W. Almelkar, the Ld. counsel for R. 4 and 5.

The Ld. P.O. has filed reply affidavit on behalf of R.1 to 3, it is taken on record and a copy thereof is supplied to the Ld. counsel for the applicant and other respondents.

ADMIT.

Shri A.P.Potnis, the learned P.O. waives notice for the respondent Nos. 1 to 3 and Shri N.W. Almelkar, the Ld. counsel waives notice for R. 4 and 5.

S.O. **four weeks** for final hearing.

Vice-Chairman(J)

Dt. 19.3.2019.

pdg.

O.A. No.883/2018.

(S.B.)

Coram:Shri J.D. Kulkarni,
Vice-Chairman (J)
Dated : 19th March 2019.

Heard Shri L. Limaye, the Ld. counsel for the applicant and Shri S.A. Deo, the learned C.P.O. for the respondents.

The Ld. counsel for the applicant has filed pursis alongwith acknowledgement of receipt of service by the respondents, it is taken on record.

Ld. CPO seeks three weeks' time to file reply. Granted.

S.O. **three weeks.**

Vice-Chairman(J)

Dt. 19.3.2019.

pdg.

O.A. No.94/2019.

(S.B.)

Coram:Shri J.D. Kulkarni,
Vice-Chairman (J)
Dated : 19th March 2019.

None for the applicant. Shri S.A. Deo, the learned C.P.O. for the respondents.

At the request of Ld. CPO, S.O.
four weeks.

Vice-Chairman(J)

Dt. 19.3.2019.

pdg.

O.A. No.742/2018.

(S.B.)

**(Abdul Naim Sheikh Maksud V/s
State and 4 others.)**

**Coram:Shri J.D. Kulkarni,
Vice-Chairman (J)**

Dated : 19th March 2019.

Heard Shri Vishal Anand,
the Ld. counsel for the applicant and
Shri S.A. Sainis, the learned P.O. for
the respondents.

2. The applicant is working
as a Police Constable at the Head-
quarters, Yavatmal since 2016.
According to him, he was transferred
from Wadki to Yavatmal on false
ground that he was taking part in the
political affairs. The said enquiry is
still pending against him. However,
he was transferred to Yavatmal by
way of punishment. The applicant
submits that he has filed
representation on 16.1.2018 and
requested that he may be transferred
at the Police Stations Wadi, Sirpur,
Maregaon, Mukutban or Patan, since

he wants to perform the marriage of his daughter. However, the said representation has been rejected vide impugned communication dated 4.9.2018. It is stated that the applicant's request has been rejected on administrative ground.

3. In the reply affidavit, it has been stated that the Sub Divisional Police Officer, Pandharkawada conducted preliminary enquiry and submitted his report on 22.2.2017 and

it is stated that the applicant has remained absent on 23.10.2016 illegally without intimating the Police Station Incharge and was absent from duty on 3.10.2016 and 9.11.2016 and, therefore, possibility that the applicant may campaign at Wani for AIMIM political party, cannot be ruled out. If this is accepted, then the applicant seems to have been transferred to Yavatmal in view of complaint. The said transfer on complaint cannot be legalised. However, it is clear that

the applicant has already joined at Yavatmal since 2016 and is working there since 2016 and, therefore, there is no reason as to why his request cannot be considered at the time of Annual General Transfers of 2019. The Ld. counsel for the applicant submits that the respondents be directed to consider the case of the applicant at the time of Annual General Transfers of 2019 and the O.A. can be disposed of with such directions.

The applicant has claimed that the order dated 4.9.2018 issued by respondent No.4 whereby the applicant's request has been rejected, be quashed and set aside. The said order shows that the reason for rejection is shown as "administrative reason". However it seems that the applicant's representations have not been considered with proper perspective. In view thereof, said order will not come in the way for considering the applicant's request for transfer out of Yavatmal. In view

thereof, I proceed to pass the following order:-

ORDER

- (i) The O.A. is partly allowed and disposed of with directions to respondent No.4 i.e. S.P., Yavatmal, to consider the case of the applicant for transfer in view of his representations dated 16.1.2018, 22.3.2018 and 27.4.2018 as per its own merits, at the time of Annual General Transfers of 2019.
- (ii) No order as to costs.

Vice-Chairman(J)

Dt. 19.3.2019.
pdg.

O.A. No.741/2018.

(S.B.)

**(Ramesh Shriram Pidurkar V/s
State and 4 others.)**

Coram:Shri J.D. Kulkarni,
Vice-Chairman (J)

Dated : 19th March 2019.

Heard Shri Vishal Anand,
the Ld. counsel for the applicant and
Shri S.A. Sainis, the learned P.O. for
the respondents.

2. Vide impugned order
dated 29.5.2018, the applicant has
been transferred from the post of
Police Constable, Police Station,
Wadki to Mahagaon on administrative
ground and the said order has been
challenged in this O.A. The applicant
has requested that the said order may
be modified and the applicant may be

posted at any of the three places of his choice given by him i.e. Police Station, Wani, Sirpur or Maregaon. His request has been rejected by communication dated 4.9.2018 on administrative ground. The applicant has claimed that the said communication be quashed, since the respondent authorities have not considered the applicant's request with a proper perspective.

3. From the representations filed by the applicant for modification of his posting order, it seems that the applicant has claimed transfer at Wani, Maregaon and Shirpur on the ground that he was suffering from heart problem and was admitted in Shrikrishna Hospital, Nagpur on 19.4.2018. However, this was not considered.

4. In the reply affidavit, the respondent Nos. 3 and 4 submit that the applicant has already served at Wani and Shirpur and, therefore, he cannot be re-considered at these

places. It is further stated that, the S.D.P.O., Pandharkawada filed confidential report on 27.12.2017 against the applicant giving details of his misconduct and indiscipline. The applicant is in habit of not following the order of his superior officers and action on the part of the applicant is becoming of a Govt. servant and is gross misconduct. He used to remain absent on important Bandobast and he was also involved in accepting gratification from the businessmen and he has maligned the image and reputation of Police Department. He has also completed his tenure and, therefore, he was transferred to Mahaaon and, therefore, his representation was rejected.

5. The Ld. P.O. has placed on record the minutes of the meeting whereby the applicant's representation has been rejected. A copy of the said representation is marked "X" for the purpose of identification. From the said minutes of the meeting, it seems that the

applicant's claim was rejected on administrative ground and on the ground that he has served for 10 years in Wani Division. It is, however, true that the medical ground stated by the applicant has not been considered. However, only on that ground, it cannot be said that the rejection was illegal. The applicant, however, will be at liberty to file separate representation on medical ground alongwith documents in support thereof, if he desires to do so and if such representation is filed, his request may be considered at the time of Annual General Transfers of 2019 by the department. In view of this liberty, I do not find any merit in this O.A. Hence, the following order:-

ORDER

The O.A. stands dismissed with no order as to costs.

Vice-Chairman(J)

Dt. 19.3.2019.
pdg.

O.A.St.No. 1852/2018

(D.B.)

**Coram: Shri Shree Bhagwan,
Member (A) and
Shri A.D.Karanjkar, Member(J)
Dated : 19th March 2019.**

C.A.No.308/2018:-

Shri S.P.Palshikar holding for Shri C.V.Jagdale, the Id. Counsel for the applicant and Shri A.P.Potnis, the Id. P.O. for the State. Await service of respondent nos. 2 & 3.

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

**Member(J)
Date:-19/03/2019.
aps.**

Member(A)

O.A.No. 653/2017

(D.B.)

**Coram: Shri Shree Bhagwan,
Member (A) and
Shri A.D.Karanjkar, Member(J)**

Dated : 19th March 2019.

C.A.No.95/2019:-

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

The Id. P.O. is directed to clarify from the department, the role of Assistant Project Officer (Education) over Headmasters and Teachers.

S.O. two weeks.

Member(J)

Date:-19/03/2019.

aps.

Member(A)

O.A.No. 520/2017

(D.B.)

**Coram: Shri Shree Bhagwan,
Member (A) and
Shri A.D.Karanjkar, Member(J)**

Dated : 19th March 2019.

Shri D.Karnik, the Id. Counsel for the applicant, Shri V.A.Kulkarni, the Id. P.O. for the State and Shri V.Dahat, the Id. Counsel for the respondent nos. 2 & 3.

The Id. counsel for the applicant is directed to take instructions from the applicant regarding receipt of joining letter.

S.O. two weeks.

**Member(J)
Date:-19/03/2019.
aps.**

Member(A)

O.A.Nos.705 &708/2018 (D.B.)

**Coram: Shri Shree Bhagwan,
Member (A) and
Shri A.D.Karanjkar, Member(J)**

Dated : 19th March 2019.

Ms. S.A.Tiwari, the Id. Counsel for the applicant and Shri A.M.Khadatkar, the Id. P.O. for the Respondents.

The Id. P.O. filed the reply on behalf of the respondent nos. 2 & 3, it be taken on record. Copy is served to the other side.

The matters are **admitted** and kept for final hearing.

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

S.O. 02/04/2019.

Put up this matter along with the O.A. Nos. 706 & 707/2018.

Member(J)
Date:-19/03/2019.
aps.

Member(A)

O.A.Nos. 706 & 707/2018 (D.B.)

**Coram: Shri Shree Bhagwan,
Member (A) and
Shri A.D.Karanjkar, Member(J)**

Dated : 19th March 2019.

Ms. S.A.Tiwari, the Id. Counsel for the applicant and Shri A.M.Khadatkar, the Id. P.O. for the Respondents.

S.O. 02/04/2019.

Put up this matter along with the O.A. Nos. 705 & 708/2018.

**Member(J)
Date:-19/03/2019.
aps.**

Member(A)

O.A.No. 724/2018

(D.B.)

**Coram: Shri Shree Bhagwan,
Member (A) and
Shri A.D.Karanjkar, Member(J)**

Dated : 19th March 2019.

Shri G.K.Iyer, the Id. Counsel for the applicant and Shri A.M.Ghogre, the Id. P.O. for the Respondents.

2. The Id. P.O. filed the reply on behalf of the respondent nos. 1 to 3, it be taken on record. Copy of the same is supplied to the other side.

3. However, the Id. counsel for the applicant seeks two weeks time to file Rejoinder, if any. **S.O. two weeks.**

Member(J)
Date:-19/03/2019.
aps.

Member(A)

O.A.No. 709/2018

(D.B.)

**Coram: Shri Shree Bhagwan,
Member (A) and
Shri A.D.Karanjkar, Member(J)**

Dated : 19th March 2019.

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

2. In spite of repeated chances, the respondents avoided to file the reply. We have heard submissions of the Id. counsel for the applicant, our attention is invited to the Judgment delivered by the Hon'ble Bombay High Court, Bench at Nagpur in the Criminal Appeal No. 351 of 2000 decided on 23/08/2017. It is submitted that by this Judgment, the order of conviction passed by the Session Judge is quashed and the applicant is acquitted of the offences punishable under the prevention of Corruption Act.

3. It is submitted that after acquittal, request letter was sent by the applicant to the respondent no. 2 and request was made that as he was acquitted by the Hon'ble High Court and in the mean time he stood retire from the service, therefore, necessary action be taken for giving him his retirement benefits. It is submitted that inspite of this letter no. vkLFkk&c@l sfu ykHA@8794] dated 01/11/2017, no

action was taken, therefore, on 30/05/2018 another letter was written by the applicant expressing his difficulties and other Financial as well as Family Problems and he requested to release his Retiral Benefits, but no action was taken.

4. It appears from the correspondence between the respondent no. 1 and other offices i.e. Deputy Director Education, Nagpur Division and Deputy Director Education, Kolhapur Division. There was dispute as to who shall examine and prepare the pension case. It is made clear that the respondent no. 2, being a Disciplinary Authority, it is his sole responsibility to decide this matter with priority, as the applicant is now acquitted by the Hon'ble High Court and is retired from the service. The respondent no. 3 was under obligation to decide various applications and representations made by the applicant within reasonable time, but it was not done, therefore, we are issuing the following direction:-

The respondent no. 2 is directed to decide the representations at Pg. Nos. 39 and

40 within the period of three months from the date of this order.

5. **S.O. three months.**

6. **Steno copy is granted.**

Member(J)
Date:-19/03/2019.
aps.

Member(A)

O.A.No. 721/2018

(D.B.)

**Coram: Shri Shree Bhagwan,
Member (A) and
Shri A.D.Karanjkar, Member(J)**

Dated : 19th March 2019.

Shri D.M.Surjuse, the Id. Counsel for the applicant and Shri A.P.Potnis, the Id. P.O. for the Respondents.

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

Member(J)

Date:-19/03/2019.

aps.

Member(A)

O.A.No. 821/2018

(D.B.)

**Coram: Shri Shree Bhagwan,
Member (A) and
Shri A.D.Karanjkar, Member(J)**

Dated : 19th March 2019.

None for the applicant. Shri S.A.Deo,
the Id. C.P.O. for the State. Await service of
respondent nos. 2 to 5.

S.O. three weeks.

Member(J)

Date:-19/03/2019.

aps.

Member(A)

O.A.No. 831/2018

(D.B.)

**Coram: Shri Shree Bhagwan,
Member (A) and
Shri A.D.Karanjkar, Member(J)**

Dated : 19th March 2019.

Shri D.T.Shinde holding for Shri M.R.Khan, the Id. Counsel for the applicant and Shri S.A.Deo, the Id. C.P.O. for the Respondents.

At the request of Id. C.P.O., **S.O. three weeks.**

**Member(J)
Date:-19/03/2019.
aps.**

Member(A)

O.A.No. 197/2019

(D.B.)

**Coram: Shri Shree Bhagwan,
Member (A) and
Shri A.D.Karanjkar, Member(J)**

Dated : 19th March 2019.

Heard Shri D.T.Shinde, the Id. Counsel for the applicant and Shri V.A.Kulkarni, the Id. P.O. for the State.

2. The matter is listed for the first time, prima facie, it appears that the impugned order is contrary to **Section 47(i) of The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. Secondly, the provisions under Rule 11 - Note 5 (i) of (Maharashtra Civil Services, General Conditions of Services) Rules, 1981** are not followed. It is submitted that till today the termination order is not served on the applicant and he is on duty. In view of these facts, we direct the parties to maintain status quo till filing of the reply. Issue notice to the respondent no. 2 returnable after two weeks.

3. Issue notice to R-2, returnable on two 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. two weeks.**

Member(J)
Date:-19/03/2019.
aps.

Member(A)

O.A.No. 553/2012

(D.B.)

**Coram: Shri Shree Bhagwan,
Member (A) and
Shri A.D.Karanjkar, Member(J)**

Dated : 19th March 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. As per the affidavit filed by the respondents at P.B., Pg. No. 65, Para no. 4, which reads as follows:-

"The answering respondents submit that since the year, 2006 the abovementioned draft rules were followed as an administrative instruction for the purpose of recruitment to the post of physical training instructors in the Medical Colleges by the Medical Education and Research Department, Government of Maharashtra. It is necessary to mention here that on several occasions the appointments were made in accordance with the abovementioned draft rules. It is the settled law that in the absence of any statutory rules the draft rules can be implemented as the administrative instructions. In view of the above the abovementioned draft rules are considered to be the condition of service of the government employees".

3. At P.B., Pg. No. 69, at Annexure-R-I, in para no. 3 (a) it is clear that only by nomination from the candidates, recruitment will be done to the post of Physical Training Instructor. As per the para no. 3 (a) posts are to be filled by nomination only.

4. In view of above discussions, the post cannot be filled by promotional quota.

5. Hence, **O.A. is dismissed with no order as to costs.**

Member(J)
Date:-19/03/2019.
aps.

Member(A)

O.A.No. 249/2016

(D.B.)

**Coram: Shri Shree Bhagwan,
Member (A) and
Shri A.D.Karanjkar, Member(J)**

Dated : 19th March 2019.

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

Closed for orders.

Member(J)

Date:-19/03/2019.

aps.

Member(A)

O.A.No. 253/2016

(D.B.)

**Coram: Shri Shree Bhagwan,
Member (A) and
Shri A.D.Karanjkar, Member(J)**

Dated : 19th March 2019.

Smt. K.N.Saboo, the Id. Counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the Respondents.

The Id. counsel for the applicant submits that she will file the pursis during the course of the day. Matter will be listed after one week.

S.O. one week.

**Member(J)
Date:-19/03/2019.
aps.**

Member(A)

O.A.No.554/16 with C.A.No.386/17 (D.B.)

**Coram: Shri Shree Bhagwan,
Member (A) and
Shri A.D.Karanjkar, Member(J)
Dated : 19th March 2019.**

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

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

Member(J)
Date:-19/03/2019.
aps.

Member(A)

O.A.No. 714/2013

(D.B.)

**Coram: Shri Shree Bhagwan,
Member (A) and
Shri A.D.Karanjkar, Member(J)
Dated : 19th March 2019.**

Shri D.T.Shinde, the Id. Counsel for the applicant, Shri H.K.Pande, the Id. P.O. for the Respondent nos. 1 to 3. None for the respondent no. 4.

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

Member(J)
Date:-19/03/2019.
aps.

Member(A)

O.A.No. 706/2014

(D.B.)

**Coram: Shri Shree Bhagwan,
Member (A) and
Shri A.D.Karanjkar, Member(J)**

Dated : 19th March 2019.

Shri D.M.Kakani, the Id. Counsel for the applicant and Shri A.M.Ghogre, the Id. P.O. for the Respondent nos. 1 to 3. None for the respondent nos. 4 to 8.

2. The Id. counsel for the applicant has placed on record, the zerox copy of the Service Book, which is marked Exh. "X" for the purpose of identification, it be taken on record.

3. The Id. P.O. is directed to produce the Original Service Book of the applicant, till next date of hearing.

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

Member(J)
Date:-19/03/2019.
aps.

Member(A)

O.A.No. 601/2016

(D.B.)

**Coram: Shri Shree Bhagwan,
Member (A) and
Shri A.D.Karanjkar, Member(J)**

Dated : 19th March 2019.

Shri D.M.Surjuse holding for Shri R.Joshi, the Id. Counsel for the applicant and Shri H.K.Pande, the Id. P.O. for the Respondents.

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

Member(J)
Date:-19/03/2019.
aps.

Member(A)

O.A.No. 754/2016

(D.B.)

**Coram: Shri Shree Bhagwan,
Member (A) and
Shri A.D.Karanjkar, Member(J)**

Dated : 19th March 2019.

Smt. K.N.Saboo, the Id. Counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the Respondents.

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

Member(J)

Date:-19/03/2019.

aps.

Member(A)

O.A.No. 197/2017

(D.B.)

**Coram: Shri Shree Bhagwan,
Member (A) and
Shri A.D.Karanjkar, Member(J)**

Dated : 19th March 2019.

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

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

Member(J)

Date:-19/03/2019.

aps.

Member(A)

O.A.No. 932/2018

(D.B.)

Coram: Shri Shree Bhagwan,
Member (A) and
Shri A.D.Karanjkar, Member(J)
Dated : 19th March 2019.

Shri S.C.Deshmukh, the Id. Counsel for the applicant, Shri S.A.Deo, the Id. C.P.O. for the Respondent nos. 1 & 2 and Shri S.R.Bhongade, the Id. Counsel for the respondent nos. 3 to 6.

2. The Id. C.P.O. has been directed to file affidavit regarding order no. 3477@i fj@i fy@2005] dated 17/05/2005, P.B., Pg. No. 74 (Annexure-A-8), that candidates promoted under O.B.C. quota. Whether, they were been covered under the G.R. dated 25/04/2005 or not, in which respondent no. 5 i.e. Sau.L.M.Kathane will be covered. Specific notice should be mention about Sau.L.M.Kathane.

3. **Matter be treated as P.H.**

4. **S.O. 10/04/2019.**

Member(J)
Date:-19/03/2019.
aps.
O.A.No. 783/2017

Member(A)
(S.B.)

**Coram: Shri Shree Bhagwan,
Member (A)**

Dated: 19th March 2019.

Shri P.S.Patil, the Id. Counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the Respondents.

2. On last hearing, matter was heard in chamber on 08/03/2019 at 3.00 p.m.. As records placed by the Id. Counsel for the applicant was given to the Id. P.O. and the Id. P.O. was asked to clarify between Junior Receptionist and Karkoon posts.

3. As pay-slips were presented by the Id. Counsel for the applicant today and reply has been filed by the Id. P.O. on behalf of the respondent no. 2. Both are taken on records and copies are supplied to each other.

4. The Id. Counsel for the applicant wants to go through the reply and file the Rejoinder, if any.

5. However, the Id. P.O. is directed to file recruitment Rules of the Karkoon and Junior Receptionist, that whether the recruitment rules, pay-slips and candidates are same?

6. **S.O. 02.04.2019.**

Member(A)

Date:-19/03/2019.

aps.