

**O.A.No.726/2018. (S.B.)**

**with O.A. No. 424/2018.**

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

**Dated : 22<sup>nd</sup> January 2019.**

Heard Shri P.S. Wathore, the learned counsel for the applicant and Shri S.A. Sainis, the learned P.O. for the respondent Nos.1,2,3 and 5. Shri N.D. Thombre, Ld. Adv. for R.9. None for R. 4,6,7, & 8.

Ld. P.O. has filed reply affidavit on behalf of respondent Nos.1,2,3 and 5. It is taken on record and copies thereof are supplied to the other sides.

The learned counsel for R.9 submits that he will file reply of R.9 within a week.

At the request of the applicant, matter is admitted and kept for final hearing on **28.1.2019.**

Shri S.A. Sainis, the learned  
P.O. waives notice for the respondent  
Nos.1,2,3 and 5.

Put up this O.A. with O.A.  
No.424/2018.

Vice-Chairman(J)

Dt. 22.1.2019.

pdg.

**O.A.No.734/2018.**

**(S.B.)**

**(Sanjay Changdeorao Sangale V/s  
State and one another)**

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

**Dated : 22<sup>nd</sup> January 2019.**

**Oral order**

Heard Shri S.P. Palshikar, the learned counsel for the applicant and Shri A.M. Ghogre, the learned P.O. for the respondents.

2. The applicant is claiming directions to the respondent No.2 i.e. the Director General of Police (M.S.), Mumbai to transfer him out of Gadchiroli District, since he has completed his normal tenure in Gadchiroli District. It is stated that as per G.R. dated 6.8.2002, the applicant is entitled to claim choice posting,

since he has worked in naxalite affected area and in view thereof, the applicant has given his choice (P.24) at Nashik, Jalgaon and Thane. The information regarding the applicant was also submitted by the Incharge Superintendent of Police, Gadchiroli to the respondent No.2 vide letter dated 12.2.2018 (A-3). In all, information as regards seven employees was submitted including the applicant, out of which, five are transferred at their choice postings. Applicant's case was, however, not considered and, therefore, the applicant has filed this O.A.

3. In reply affidavit, the respondent No.2 submitted that the applicant has not completed his normal tenure and, therefore, he was not considered. It is

further stated that his transfer will be considered at the time of Annual General Transfers of 2019. It is further stated that if request of the applicant is considered before Annual General Transfers of 2019, his post at Gadchiroli would remain vacant and may adversely affect the law and order situation in Gadchiroli District.

4. The learned P.O. has invited my attention to the relevant Section 22N (c) of Maharashtra Police Act, 1951 which reads as under:-

**“22N- Normal tenure of Police Personnel, and Competent Authority.**

(1) Police Officers in the police force shall have a normal tenure as mentioned below, subject to the promotion or superannuation :-

(a).....

(b).....

(c) For Police Officers of the rank of Police Inspector, Assistant Police Inspector and Police Inspector, a normal tenure shall be of two years at a Police station or Branch, four years in a District and eight years in the Range, however, for the Local Crime Branch and Special Branch in a District and the Crime Branch and Special Branch in a Commissionerate, a normal tenure shall be of three years.”

5. The learned counsel for the applicant submits that the normal tenure of a Police Inspector at Police Station is two years whereas at Branch, it may be extended to four years and, therefore, the applicant is not considered. From the aforesaid

clause, it is clear that the applicant has completed his normal tenure of two years at the Police Station, Gadchiroli and it is also a fact that his claim was not considered. Therefore, there is no application of mind as to whether he shall be transferred or not by the competent authority. The respondents, however, submit that they are ready to consider the applicant's case in Annual General Transfers of 2019, which generally and normally takes place in April or May every year. The Ld. counsel for the applicant has placed reliance on the Circular dated 16.1.2019, a copy of which is at Annexure-X. This circular has been issued by the Election Commission of India, whereby restrictions have been directed for transfers of officers

concerning with the election duties. The learned counsel for the applicant submits that if this G.R. is considered, there may be no likelihood of the applicant's transfer during the election period and in the said G.R., it has been stated that the transfers shall not be considered after 28<sup>th</sup> February 2019. It is stated that one post in Nashik Commissionerate is still vacant and, therefore, necessary order can be passed by the competent authority, if the applicant's case is considered prior to 28.2.2019.

6. Admittedly from the facts on record, it is clear that there was no application of mind to the request of the applicant, whereas the other persons' requests have been



considered by the competent authority. In view thereof, there is no reason as to why the applicant's case cannot be considered. Hence, I proceed to pass the following order:-

**ORDER**

- (i) The O.A. is partly allowed.
- (ii) The respondent No.2 is directed to take a decision as to whether the applicant shall be transferred on the given choice posting.
- (iii) Necessary order may be issued without being influenced by any of the observations made in this O.A. and a decision shall be taken on or before 25.2.2019 and shall be

communicated to the  
applicant in writing.

(iv) No order as to costs.

(J.D.Kulkarni)  
Vice-Chairman(J)

Dt. 22.1.2019.

pdg.

**O.A.No.702/2015.**

**(S.B.)**

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

**Dated : 22<sup>nd</sup> January 2019.**

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

Ld. P.O. submits that he will talk to the Resident Deputy Collector (RDC), Buldana and he assured that the record will be submitted. Such assurances cannot be accepted for the simple reason that the order was passed on 18.12.2018 and inspite of the fact that the matter has been kept thereafter also on 21.12.2018. But nobody appeared alongwith the record. Even today also, record is not produced. The concerned RDC, Buldana is directed to remain present before this Tribunal alongwith the record on 24.1.2019.

Ld. P.O. to inform the concerned RDC, Buldana accordingly.

**S.O. 24.1.2019.**

Vice-Chairman(J)

Dt. 22.1.2019.  
pdg.

**O.A.No.432/2017.**

**(S.B.)**

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

**Dated : 22<sup>nd</sup> January 2019.**

Heard Shri A.M. Ghogre, the Id. P.O. for the original respondents and Shri N.D. Thombre, the learned counsel for the original applicant.

The Ld. P.O. has relied upon some judgments. The learned counsel for the original applicant wants to go through it.

Mater be kept tomorrow.

**S.O. 23.1.2019.**

To be treated as part heard.

Vice-Chairman(J)

Dt. 22.1.2019.

pdg.

**O.A.No.498/2017.**

**(S.B.)**

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

**Dated : 22<sup>nd</sup> January 2019.**

Heard Shri A.M. Ghogre, the Id. P.O. for the original respondents and Shri N.D. Thombre, the learned counsel for the original applicant.

The Ld. P.O. has relied upon some judgments. The learned counsel for the original applicant wants to go through it.

Mater be kept tomorrow.

**S.O. 23.1.2019.**

To be treated as part heard.

Vice-Chairman(J)

Dt. 22.1.2019.

pdg.

**O.A.No.695/2018. (S.B.)**  
**(R.I. Donode V/s State and 3 others)**

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

**Dated : 22<sup>nd</sup> January 2019.**

**Oral order**

Heard Shri G.G. Bade, the learned counsel for the applicant and Shri M.I. Khan, the Ld. P.O. for the respondents.

2. It is the case of the applicant that he is working for more than three years in naxalite affected / tribal area and as per G.R. dated 11.7.2000, he is entitled to claim choice posting after completion of such tenure. In view of completion of his tenure, the applicant gave his choice at Gondia Division. However, the respondents did not consider his choice and transferred him in Wardha Division. Though, the respondents tried to justify that

Wardha Division is more convenient to the applicant than Gondia Division, it cannot be an issue, since it is for the applicant to decide as to which post is convenient to him. Admittedly, as per the G.R. dated 11.7.2000, a person who has completed his normal tenure in naxalite affected / tribal area, can claim choice posting. The respondents were directed to state as to whether any post is available in Gondia Division and the Ld. P.O. was directed to take instructions accordingly vide order dated 15.1.2019.

3. In response to the Tribunal's directions, Ld. P.O. has placed on record a communication dated 15.1.2019 (Annexure-X). From the said communication, it seems that the posts at Nawegaon (Regional) and Dongargaon Depot are vacant. The learned counsel for the applicant submits that the applicant is ready to be posted at either of the places. Considering this aspect, there is no reason as to why applicant's request

cannot be considered, in view of the G.R. dated 11.7.2000. I, therefore, proceed to pass the following order:-

**ORDER**

- (i) The impugned order dated 29.8.2018 so far as the applicant is concerned for his transfer to Bhamragarh, Distt. Gadchiroli to Talegaon in Wardha district is quashed and set aside.
- (ii) The respondents are directed to take a decision as regards applicant's transfer in Gondia Division. They are at liberty to transfer the applicant on a vacant post either at Nawegaon (Regional) or Dongargaon Depot, as per their convenience.
- (iii) Necessary order in this regard shall be passed



within **four weeks** from  
the date of this order.

(iv) No order as to costs.

(J.D.Kulkarni)  
Vice-Chairman(J)

Dt. 22.1.2019.

pdg.

**O.A.No.38/2019.**

**(S.B.)**

**(N.D. Sahare V/s State and two)**

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

**Dated : 22<sup>nd</sup> January 2019.**

Heard Shri N.R. Saboo, the learned counsel for the applicant and Shri S.A. Deo, the Ld. CPO for the respondent No.1.

2. The applicant in this case is District Soil Conservation Officer in Zilla Parishad, (Minor Irrigation), Nagpur and vide order dated 21.1.2019, he has been transferred from Nagpur to Gondia. Reason for transfer is shown as, as per Section 4 (4) (2) and 4 (5) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred to as the "Transfer Act of 2005"). From the history of the case, it seems that the applicant was earlier transferred from

Mumbai to Gondia vide order dated 31.5.2016 (A-1). But subsequently, said order was changed and the applicant came to be transferred to Nagpur instead at Gondia vide order dated 22.7.2016 (A-2). Admittedly the applicant has not completed three years' tenure at Nagpur nor transfer order is Annual General Transfer. The said order is mid-term and mid-tenure.

3. The applicant submits that his daughter is prosecuting her studies in 10<sup>th</sup> standard in ICSC Board and, therefore, he may be retained at Nagpur till academic session. In Annual General Transfers of 2019, he is ready to accept the posting on transfer. It is stated that the applicant has not yet been relieved from his post and nobody is posted in his place. In view of this, respondents are directed not to relieve him till further orders.

4. In the meantime, issue notice to R. 2 and 3 returnable in **three weeks.**

5. Shri S.A. Deo, the Ld. CPO waives notice for the respondent no.1. Hamdast granted.

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 **seven 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 **three weeks.**

Vice-Chairman(J)

Dt. 22.1.2019.

pdg.

**O.A.No. 967/2018. (D.B.)**

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

**Dated : 22<sup>nd</sup> January 2019.**

Shri W.G.Paunikar, 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 he has served the Collector, Gadchiroli, District- Gadchiroli i.e. respondent no. 1.

The Id. P.O. seeks one week time to file reply. At his request, **S.O. 29/01/2019.**

**Member(J)  
Date:-22/01/2019.  
aps.**

**Member(A)**

O.A.No. 950/2018. (D.B.)

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

**Dated : 22<sup>nd</sup> January 2019.**

None for the applicant. Shri S.A.Sainis,  
the Id. P.O. for the respondent nos. 1 & 3.  
Await service of respondent no. 2.

**S.O. two weeks.**

**Member(J)  
Date:-22/01/2019.  
aps.**

**Member(A)**





O.A.No. 722/2018. (D.B.)

**Coram: Shri Shree Bhagwan,  
Member (A) and  
Shri A.D.Karanjkar, Member(J)  
Dated : 22<sup>nd</sup> January 2019.**

Shri A.A.Syed, the Id. counsel for the applicant and Shri A.P.Potnis, the Id. P.O. for the respondents.

The Id. P.O. seeks one week time to file reply. He is directed to supply the copy of the reply to the Id. counsel for the applicant. If he so desires, he will file Rejoinder, if any.

**S.O. one week.**

**Member(J)**  
**Date:-22/01/2019.**  
aps.

**Member(A)**

O.A.No. 68/2016. (D.B.)

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

**Dated :** 22<sup>nd</sup> January 2019.

**M.C.A.Nos.01 & 02/2019:-**

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

The Id. P.O. submits that he requires  
four weeks time to file reply on condonation  
of delay.

**S.O. 05/02/2019.**

Member(J)  
Date:-22/01/2019.  
aps.

Member(A)

O.A.No. 316/2015. (D.B.)

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

**Dated : 22<sup>nd</sup> January 2019.**

**C.A.No.389/2018:-**

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

**C.A. No. 389/2018 for early hearing  
is allowed.**

**S.O. two weeks.**

**Member(J)  
Date:-22/01/2019.  
aps.**

**Member(A)**

O.A.No. 316/2015. (D.B.)

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

**Dated : 22<sup>nd</sup> January 2019.**

**C.A.No.389/2018:-**

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

**C.A. No. 389/2018 for early hearing  
is allowed.**

**S.O. two weeks.**

**Member(J)  
Date:-22/01/2019.  
aps.**

**Member(A)**

**O.A.Nos.712,714,715,716&717/14.(D.B.)**

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

**Dated : 22<sup>nd</sup> January 2019.**

**C.A.Nos. 381, 382, 383, 384 & 385 /2018:-**

Shri S.K.Tambde, the Id. counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the respondents.

The Id. P.O. seeks two weeks time to file reply on C.A.. The Id. P.O. is directed to supply the copy in advance to the Id. counsel for the applicant. So, he will file the Rejoinder, if any.

**S.O. 12/02/2019.**

**Member(J)  
Date:-22/01/2019.  
aps.**

**Member(A)**

O.A.No. 517/2018. (D.B.)

**Coram: Shri Shree Bhagwan,  
Member (A) and  
Shri A.D.Karanjkar, Member(J)**  
**Dated : 22<sup>nd</sup> January 2019.**

Shri V.S.Lokhande, the Id. counsel for the applicant and Shri P.N.Warjurkar, the Id. P.O. for the respondents.

2. Respondents have issued letter no. [lvk&9@vklFM@fo-pl&Mh,eykslkj@2018](mailto:lvk&9@vklFM@fo-pl&Mh,eykslkj@2018) dated 12-09-2018 by which it appears that the D.E. is under Rule 10 of The Maharashtra Civil Services (Discipline and Appeal Rules, 1979).

**C.A.No.30/2019:-**

1. The Id. counsel for the applicant filed certain documents on record. He is directed to file a separate C.A. for the same within a course of the day.

2. The respondents are directed to complete the enquiry and pass the final order **within two months** from the date of this order.

3. With this directions, **the C.A. along with O.A. is disposed of with no order as to costs.**

**Member(J)**  
**Date:-22/01/2019.**  
aps.

**Member(A)**

**O.A.No. 448/2018. (D.B.)**

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

**Dated : 22<sup>nd</sup> January 2019.**

**C.A.Nos.153, 224 & 273/2018:-**

Heard Shri S.K.Thengre, the Id. counsel for the applicant and Shri A.M.Ghogre, the Id. P.O. for the respondent nos. 1 to 5. None for the respondent nos. 6 & 7.

2. From the record, it seems that as per the Annexure-A-2, P.B., Pg. No. 37, matter has been decided by the Industrial Court, Chandrapur on 07/08/2013. The Id. counsel for the applicant has not preferred an appeal before Hon'ble High Court against the said order.

3. In view of this, the present O.A. is dismissed. The Id. counsel for the applicant is at liberty to file an appeal against the Industrial Court order dated 07/08/2013 before the Hon'ble High Court. Hence, **O.A. along with all the C.As. are dismissed with no order as to costs.**

**Member(J)**

**Member(A)**

**Date:-22/01/2019.**

aps.

**O.A.No. 570/2017. (D.B.)**



**Coram: Shri Shree Bhagwan,  
Member (A) and  
Shri A.D.Karanjkar, Member(J)**  
**Dated : 22<sup>nd</sup> January 2019.**

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

2. Matter was heard on 17/12/2018 in detailed and order has been passed. However, the Id. P.O. seeks further two weeks time to get necessary instructions regarding the order. **S.O. 05/02/2019.**

**Member(J)**  
**Date:-22/01/2019.**  
aps.

**Member(A)**

O.A.No. 416/2017. (D.B.)

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

**Dated : 22<sup>nd</sup> January 2019.**

Shri R.Joshi, the Id. counsel for the applicant and Shri A.M.Khadatkar, the Id. P.O. for the respondent nos. 1 to 4. None for the respondent no. 5.

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

**Member(J)**  
**Date:-22/01/2019.**  
aps.

**Member(A)**

O.A.No. 500/2015. (D.B.)

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

**Dated : 22<sup>nd</sup> January 2019.**

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

2. The Id. counsel for the applicant as well as Id. P.O. have invited our attention to P.B., Pg. No. 50 (Annexure-R-II) letter no. ~~iti I uk@vklFk&2@891&92@2016] fnukd~~ 08-02-2016, which is written by Divisional Animal Husbandry, Joint Director, Nagpur to Divisional Commissioner, Nagpur.

3. Divisional Commissioner, Nagpur is directed to take the decision on the said letter sent by the Divisional Animal Husbandry, Joint Director, Nagpur **within four weeks** from the date of this order, looking into all the vacancies and other conditions of services.

4. **S.O. five weeks.**

5. **Steno copy is granted.**

Member(J)

Member(A)

Date:-22/01/2019.

aps.

O.A.No. 30/2019.

(D.B.)

**Coram: Shri Shree Bhagwan,**  
**Member (A) and**  
**Shri A.D.Karanjkar, Member(J)**  
**Dated : 22<sup>nd</sup> January 2019.**

Shri P.B.Patil, the Id. counsel for the applicant and Shri S.A.Deo, the Id. C.P.O. for the State.

2. The appointment letter of applicant at Annexure-A-7 at P.B., Pg. No. 34 bearing no. vk'k&i e[A i ksy l &Hj r h@17@8475] f n u k d 09-09-17, it is not mentioned anything about his Caste. However, his impugned order at P.B., Pg. No. 42 bearing no. vk'k&1@t k-o\$ i e k. Ai =@9003@2018] f n u k d 29-12-2018 (Annexure-A-10), they are demanding Caste Validity Certificate from the candidate.

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.**

10. *Impugned order should not be implemented against the applicant till filing of the reply.*

**Member(J)**  
**Date:-22/01/2019.**  
aps.

**Member(A)**

O.A.No. 249/2016. (D.B.)

**Coram: Shri Shree Bhagwan,  
Member (A) and  
Shri A.D.Karanjkar, Member(J)  
Dated : 22<sup>nd</sup> January 2019.**

Shri S.P.Palshikar, the Id. counsel for the applicant and Shri H.K.Pande, the Id. P.O. for the respondents.

2. At the request of Id. counsel for the applicant, **S.O. 24.01.2019.**

**Member(J)**  
**Date:-22/01/2019.**  
aps.

**Member(A)**

**O.A.No. 997/2018. (D.B.)**

**Coram: Shri Shree Bhagwan,  
Member (A) and  
Shri A.D.Karanjkar, Member(J)**  
**Dated : 22<sup>nd</sup> January 2019.**

Shri Bharat Kulkarni, the Id. counsel for the applicant and Shri S.A.Deo, the Id. C.P.O. for the State.

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

Member(J)  
Date:-22/01/2019.  
aps.

Member(A)