

O.A. No. 514/2017

(S.B.)

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

Dated : 5th October 2018.

Heard Shri S.R. Chakravati, the
Ld. counsel for the applicant and Shri
M.I. Khan, the learned P.O. for the
respondent No. 1. None for R.2 & 3.

The applicant has filed a pursis
at page No.43 and submits that he
wants to withdraw the O.A. He is
seeking permission to withdraw the
O.A. Permission is granted and O.A.
stands withdrawn with no order as to
costs.

Vice-Chairman(J)

Dt. 5.10.2018.

O.A. No. 117/2018

(S.B.)

(Mukundrao Anandrao Kuralkar V/s
State of Mah. and five others.)

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

Dated : 5th October 2018.

Oral order

Heard Shri P.S. Patil,
the Ld. counsel for the applicant and
Shri P.N. Warjekar, the learned P.O.
for the respondents.

2. The learned P.O. has
filed on record reply affidavit of R. 6. It
is taken on record and a copy thereof
is supplied to the Ld. counsel for the
applicant. The applicant in this case
is claiming following reliefs:-

“(i) Direct the respondent
No.4 i.e. Taluka
Agriculture Officer, Warud
to submit no enquiry / no

due certificate in proper format to the office of respondent No.5 i.e. Analytical Chemist, Insecticide Testing Laboratory, Amravati with immediate effect and respondent No.5 i.e. Analytical Chemist, Insecticide Testing Laboratory, Amravati be directed to forward the same immediately to the office of respondent No.6 i.e. Accounts Officer, PR-4, office of Accountant General (Accounts and Entitlement)-II, Nagpur in the interest of justice.

(ii) Direct the respondent No.6 i.e. Accounts Officer, PR-4, office of Accountant General (Accounts and Entitlement)-II, Nagpur to release provisional pension which was discontinued by his

communication dated
2.1.2018 (A-13) in the
interest of justice.”

3. Admittedly the applicant was paid provisional pension for six months and thereafter a proposal was sent to the Accountant General (Accounts and Entitlement)-II, Nagpur for grant of pension. Pension is not, however, paid only on the ground that the respondent No.4 has not issued no due certificate. The Ld. counsel for the applicant invited my attention to a letter dated 1.7.2016 (Page 30-A) alongwith a receipt (Page 30-B), from which it seems that whatever due claimed by the respondents was paid. The respondent Nos. 1 to 5 have filed reply affidavit. From the said reply, it seems that the amount has been paid by the applicant. The applicant has

also given undertaking that if in future there is some recovery, same may be deducted from his pensionery benefits.

4. The Ld. P.O. submits that during the duty period of the applicant, the issue as regards whether the applicant is required to pay Rs. 84,000/- towards the loss caused to Taluka Sahakari Shetkari Kharei Vikri Samiti, Warud. However, admittedly no enquiry is initiated in this regard. In such circumstances, even if for argument sake, it is accepted that such an amount is to be recovered from the applicant, the applicant has already given undertaking that he has no objection to pay the said amount from his pensionery benefits. In view of

this, there is absolutely no reason as to why the respondents should not grant regular pension to the applicant. The respondents may take action, if admissible under Rule 27 of the M.C.S. (Pension) Rules, 1982 against the applicant, if such amount is to be recovered. In view thereof, following order is passed:-

ORDER

- (i) The O.A. is allowed in terms of prayer clause (i) and (ii).
- (ii) The respondents shall take necessary action within four weeks from the date of this order.
- (iii) With this directions, O.A. stands disposed of with no order as to costs.

Vice-Chairman(J)

Dt. 5.10.2018.

pdg.

O.A. No. 783/2018

(S.B.)

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

Dated : 5th October 2018.

C.A. 292/2018.

Heard Shri P.V. Thakre, the Ld. counsel for the applicants and Shri A.P. Potnis, the learned P.O. for the respondent No.1.

For the reasons stated in the application, C.A. for joint O.A. is allowed.

O.A. No. 783/2018

1. Issue notice to R. 2 to 7 returnable in four weeks.
2. Shri H.K. Pande, the learned P.O. waives notice for the respondent No.1. Hamdast granted.
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 **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.

8. S.O. **four weeks.**

Vice-Chairman(J)

Dt. 5.10.2018.

pdg.

O.A. No. 781/2018

(S.B.)

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

Dated : 5th October 2018.

Heard Shri V.K. Gulhane, the Ld. counsel for the applicant and Shri H.K. Pande, the learned P.O. for the respondent No.1.

2. The applicant got retired on superannuation as a Peon on 30.6.2018 and on 6.7.2018, he has received impugned letter whereby he has been directed that the amount of Rs. 1,91,414/- will be recovered from

his pensionary benefits in *lump sum*. Recovery seems to be for the period from July 1996 onwards. The applicant is a Class-IV employee and has already retired and, therefore, if such amount is recovered in *lump sum*, he will face great difficulty. Such recovery is against the directions issued by the Hon'ble Apex Court in case of **Rafiq Messiah V/s Union of India and others**. In view thereof, impugned recovery is stayed till further orders.

O.A. No. 781/2018

1. Issue notice to R. 2 to 5 returnable in four weeks.
2. Shri H.K. Pande, the learned P.O. waives notice for the respondent No.1. Hamdast granted.
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 **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.

8. S.O. four weeks.

Vice-Chairman(J)

Dt. 5.10.2018.

pdg.

O.A. No. 782/2018

(S.B.)

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

Dated : 5th October 2018.

1. Heard Shri V.K. Gulhane, the Ld. counsel for the applicant and Shri H.K. Pande, the learned P.O. for the respondent No.1.

1-A. Issue notice to R. 2 to 4 returnable in four weeks.

2. Shri H.K. Pande, the learned P.O. waives notice for the respondent No.1. Hamdast granted.

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 **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.

8. S.O. **four weeks.**

Vice-Chairman(J)

Dt. 5.10.2018.

pdg.

O.A. No. 801/2015

(S.B.)

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

Dated : 5th October 2018.

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

The Ld. counsel for the applicant wants to take instructions from his client.

Hence, at his request, S.O.
23.10.2018.

Vice-Chairman(J)

Dt. 5.10.2018.

pdg.

O.A. No. 794/2017

(S.B.)

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

Dated : 5th October 2018.

Heard Shri K.N. Dadhe, the Ld. counsel for the applicant and Shri M.I. Khan, the learned P.O. for the respondent Nos. 1 to 4. Shri P.A. Kadu, Adv. for R.6. None for R.5.

S.O. one week.

Vice-Chairman(J)

Dt. 5.10.2018.

pdg.

(D.B.)

Coram: J.D. Kulkarni,
Vice-Chairman(J) and
Shree Bhagwan,Member(A)

Dated : 05/10/2018

C.P.No.30/2018 in O.A.290/2013,
C.P.No.31/2018 in O.A.304/2014,
C.P.No.32/2018 in O.A.305/2014 and
C.P.No.33/2018 in O.A.306/2014.

Heard Mrs. K.N. Saboo, learned counsel for the applicants and Shri S.A. Sanis, learned P.O. for the respondents.

2. Shri P.G. Rahurkar, Chief Conservator of Forests (Territorial), Yavatmal is present today. He submits that the bills will be submitted to the Treasury on or before 10/10/2018 and the amount will be deposited in the accounts of the applicants on or before 15/10/2018. He is filing such affidavit during the course of day.

3. In view thereof, the matter be kept **on 22/10/2018** to see as to whether compliance has been made or not.

Member(A)

Vice-Chairman(J)

dnk.

Dated :- 05/10/2018.

O.A.437/2017 (D.B.)

Coram: J.D. Kulkarni,

Vice-Chairman(J) and

Shree Bhagwan,Member(A)

Dated : 05/10/2018

Shri P.S. Patil, learned counsel for the applicants and Shri A.P. Potnis, learned P.O. for R-1. Await service of R-2 to 4. None for R-5.

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

Member(A)

Vice-Chairman(J)

dnk.

O.A.639/2018 (D.B.)

Coram: J.D. Kulkarni,

Vice-Chairman(J) and

Shree Bhagwan,Member(A)

Dated : 05/10/2018

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

At the request of learned counsel for the applicant, the matter be kept on **23/10/2018**.

Member(A)

Vice-Chairman(J)

dnk.

O.A.Nos.212 & 213/2013 (D.B.)

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

Dated : 05.10.2018.

C.A.Nos.238 & 239/2018:-

Shri R.V.Shiralkar, the Id. counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the respondents.

Amendment suggested by the Id. counsel for the applicant in C.A. No. 238/2018 is allowed. The Id. counsel for the applicant is directed to carry out the amendment within week time. **S.O. four weeks.**

Member

(A)

aps.

O.A.No.616/2015 (D.B.)

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

Dated : 05.10.2018.

C.A.No.253/2018:-

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

The Id. P.O. seeks four weeks time to
file affidavit-in-reply on amended portion.

S.O. four weeks.

The C.A. No. 253/2018 is allowed.

The Id. counsel for the applicant is directed to
carry out the amendment within one week.

*The matter will be kept for final hearing
before the regular Division Bench.*

Member

(A)

aps.

O.A.No.49/2016 (D.B.)

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

Dated : 05.10.2018.

C.A.No.176/2018:-

Ms. Pathak, the Id. counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the respondents.

The Id. counsel for the applicant submits that amendment proposed, vide C.A. No. 176/2018 is mainly to add one party, inserting one para and so also in prayer clause.

The C.A. No. 176/2018 is allowed.

The Id. counsel for the applicant is directed to carry out the amendment within one week.

*The matter is **admitted** and kept for final hearing before the regular Division Bench.*

S.O. four weeks.

Member

(A)

O.A.No.516/2017 (D.B.)

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

Dated : 05.10.2018.

C.A.No.288/2018:-

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

The C.A.No. 288/2018 is allowed.

The matter is kept for final hearing in due course of time. **S.O. due course.**

Member

(A)

aps.

O.A.No.293/2018 (D.B.)

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

Dated : 05.10.2018.

Shri A.P.Sadavarte, the Id. counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the respondents.

The Id. P.O. seeks two weeks time to file affidavit-in-reply. At his request, **S.O. two weeks.**

Member

(A)

aps.

O.A.No.141/2018 (D.B.)

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

Dated : 05.10.2018.

Smt. P.T.Joshi, the Id. counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the Respondent nos. 1 & 4. Await service of respondent no. 2, 3 & 5.

The Id. P.O. submits the affidavit-in-reply on behalf of the respondent no. 4. The same is taken on record. Copy is served to the other side. He further submits that the affidavit-in-reply on behalf of the respondent nos. 2 & 3 is not required.

The Id. counsel for the applicant desires time to file service affidavit. At her request, **S.O. four weeks.**

Put up along with the O.A. 142/2018.

Member

(A)

O.A.No.142/2018 (D.B.)

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

Dated : 05.10.2018.

Smt. P.T.Joshi, the Id. counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the State. Await service of respondent nos. 2 & 3.

The Id. counsel for the applicant do not seem to be prepared about the case. The Id. counsel for the applicant granted time to file service affidavit. As per her request, **S.O. four weeks.**

Put up along with the O.A. 141/2018.

Member

(A)

aps.

O.A.No.346/2018 (D.B.)

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

Dated : 05.10.2018.

C.A.No.208/2018:-

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

The Id. P.O. seeks two weeks time to file affidavit-in-reply. At his request, **S.O. two weeks.**

Member

(A)

aps.

O.A.No.516/2018 (D.B.)

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

Dated : 05.10.2018.

Smt. Dongare, the Id. counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the respondents.

The Id. P.O. seeks two weeks time to file affidavit-in-reply. At his request, **S.O. two weeks.**

Member

(A)

aps.

O.A.No.542/2018 (D.B.)

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

Dated : 05.10.2018.

C.A.No.265/2018:-

Smt. Saboo, the Id. counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the respondents.

The Id. P.O. submits that matter is under process and he requires two weeks time so that order dated 05/09/2018 can be complied.

The Id. counsel for the applicant filed pursis dated 03/10/2018. The same is taken on record. Copy is served to the other side. The respondents are directed to take into consideration, the request made in the pursis also, while deciding the issue of the applicant.

Interim relief granted in order dated 05/09/2016 in para no. 2 and 4 which is under:-

2. As stated by the Id. counsel for the applicant, the applicant is now going to retire on 31/01/2019 as per the order dated 09/10/2017 (Annexure-A-3) at P.B., Pg. No. 19 bearing no. tk-dz-vLFM&2@HA-fu-fu@2378 of Civil Application. As per the letter of Deputy Director, Health Services, Nagpur at P.B., Pg. No. 11 (Annexure-A-3) on dated 01/10/2018, the applicant is going to retire after 60 yrs. i.e. on 31/01/2019. However, the Id. counsel for the applicant pointed G.R. bearing no. cnyh @ 2018@i:dz:37@l dk&3] fnukd 31@05@2018 in which applicant is transferred to Gumathi from Nagpur. He is left with only four months of service, at this stage transferring the applicant is not justified. In the interest of justice to the applicant, it is directed that the applicant should be adjusted at Nagpur at any vacant post.

4. The respondents are further directed not to force the applicant to join at Gumathi as per the order dated 31/05/2018 (Annexure-A-9) till filing of the reply.

The above order is continued till next
date of hearing.

S.O. two weeks.

Member

(A)

aps.

O.A.No.110/2017 (D.B.)

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

Dated : 05.10.2018.

None for the applicant. Shri H.K.Pande,
Id. P.O. for the respondents.

In this O.A., in last occasion, the applicant himself has pleaded the case before the regular Division Bench. The Id. P.O. submits that grievances of the applicant has been redressed.

The Id. P.O. has placed on record, the document which is marked Exh.-X for the purposes of identification bearing number d/ U; k; ki z 1418@i z d z 155@2018@b7l dated 05/10/2018 from Health Officer alongwith the covering letter. The Id. P.O. has also attached one G.R. having number , I hvkj&2016@01@i z d z 07@b1] dated 25/05/2018, in para no. 4 of the said G.R., it is mentioned that the applicant's C.R. for the period 06/08/2012 to 31/03/2013 & 01/04/2013 to

21/01/2014, both the periods C.Rs. has been upgraded from B+ to A+. Alongwith that notification he has also attached one letter which is issued by the Department of Personnel and Training, Government of India bearing number No. AIS-1318/C.R.38/2018/X, dated 28/08/2018 and finally the Id. P.O. has attached one G.R. of General Administration Department bearing number ,b7k1018@i7d733@2018@ngk] dated 26/09/2018, in which the name of the applicant is at Sr. No. 11 and has been awarded as Commissioner, Employees State Insurance Corporation, Mumbai, 1999 batch. He has been placed below Dr. B.N.Patil, IAS, 1999 batch.

After going through all the documents, it seems that the grievances of the applicant is

redressed. However, it will be kept **before the regular Division Bench i.e. on 23/10/2018.**

Member

(A)

aps.

O.A.No.733/2017 (D.B.)

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

Dated : 05.10.2018.

Shri S.M.Bhangde, the Id. counsel for the applicant and Shri H.K.Pande, Id. P.O. for the respondent nos. 1 to 4. None for the respondent no. 5.

The Id. counsel for the applicant has pointed out, that the respondent no. 4 i.e. Deputy Director, Directorate of Sports & Youth Services, Nagpur has certified the sports certificate of the applicant i.e. the certificate of the applicant is valid.

Since the pleadings are completed, the matter is **admitted** and kept for final hearing before the regular Division Bench. **S.O.**
23/10/2018.

Member

(A)

aps.

O.A.No.863/2017 (D.B.)

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

Dated : 05.10.2018.

Shri S.Borkute, the Id. counsel for the applicant and Shri A.P.Potnis, Id. P.O. for the respondent nos. 1 to 4. None for the respondent no. 5.

The Id. P.O. has submitted in affidavit-in-reply on behalf of the respondent no. 3 i.e. Dy. Director of Health Services, Nagpur in para no. 2, he has pointed out that as per the request of the applicant, the transfer order has been changed and the applicant has joined at Chandrapur.

In view of this nothing survives in this O.A. However, it will be kept before the **regular Division Bench i.e. on 23/10/2018.**

Member

(A)