

O.A. 488/2020 (S.B.)

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

Dated : 30/08/2021.

Shri S.U. Ghude, Id. counsel for the applicant, Shri P.N. Warjurkar, Id. P.O. for R-1 and A.M. Kolhe, Id. counsel for R-2 to 4.

Put up before the D.B.

Vice-Chairman

dnk.

O.A. 882/2020 (S.B.)

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

Dated : 30/08/2021.

Heard Shri K.S. Malokar, Id. counsel for the applicant and Shri S.A. Sainis, Id. P.O. for R-1. Await service of R-2&3.

2. At the request of learned counsel for the applicant, issue fresh notice to the respondent nos.2&3 returnable **after three weeks.** 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 three weeks

Vice-Chairman

dnk.

O.A. 47/2021 (S.B.)

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

Dated : 30/08/2021.

Shri N.D. Thombre, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for the respondents.

At the request of Id. P.O., **S.O. four weeks** for filing reply.

Vice-Chairman

dnk.

O.A. 158/2021 (S.B.)

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

Dated : 30/08/2021.

Shri R.D. Karode, Id. counsel for the applicant and Shri V.A. Kulkarni, Id. P.O. for the respondents.

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

Vice-Chairman

dnk.

O.A. 452/2021 (S.B.)

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

Dated : 30/08/2021.

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

At the request of Id. P.O., **S.O. 20/9/2021** for filing reply.

Vice-Chairman

dnk.

O.A. 501/2021 (S.B.)

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

Dated : 30/08/2021.

Shri D.R. Rupnarayan, Id. counsel for the applicant and Shri V.A. Kulkarni, Id. P.O. for the respondents.

At the request of Id. P.O., **S.O. four weeks** for filing reply.

Vice-Chairman

dnk.

O.A. 564/2021 (S.B.)

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

Dated : 30/08/2021.

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

At the request of Id. P.O., **S.O. four weeks** for filing reply.

Vice-Chairman

dnk.

O.A. 638/2021 (S.B.)

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

Dated : 30/08/2021.

Shri S.A. Marathe, Id. counsel for the applicant and Shri A.M. Khadatkar, Id. P.O. for R-1. Await service of R-2 to 4.

2. The learned counsel for the applicant desires to file certain documents on record which have been issued lateron. He is directed to file the same on record and copies be supplied to the learned P.O.

S.O. Next week.

Vice-Chairman

dnk.

O.A. 640/2021 (S.B.)

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

Dated : 30/08/2021.

C.A. 230/2021 -

Heard Shri Y.P. Kaslikar, Id. counsel for the applicant, Shri A.P. Potnis, Id. P.O. for R-1 to 3 and Shri G.R. Sadar, Id .counsel for R-4.

The learned counsel for R-4 submits that he has filed vakalatnama in the office.

The Id. P.O. submits that he has filed reply of R-4 in C.A. in office and copy is supplied to the learned counsel.

O.A. 640/2021 -

Heard Shri Y.P. Kaslikar, Id. counsel for the applicant, Shri A.P. Potnis, Id. P.O. for R-1 to 3 and Shri G.R. Sadar, Id .counsel for R-4.

The learned counsel for R-4 submits that he has filed vakalatnama in the office.

The Id. P.O. submits that he has filed reply of R-4 in O.A. in office and copy is supplied to the learned counsel.

S.O. 13/9/2021.

Vice-Chairman

dnk.

O.A.St. 495/2018 (S.B.)

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

Dated : 30/08/2021.

C.A. 78/2018 -

Heard Shri M.M. Sawang, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for the respondents.

2. The learned P.O. has already filed reply of R-3 in C.A. and in para-2 of the reply, the respondents agreed that “ *the issue as to whether the applicant is superseded by the two juniors namely Shri Khade and Sonone who were considered by the DPC held on 31/10/2008 is to be decided on merit.*” This statement has been given by the respondent no.3, i.e. the Collector, Akola in his reply.

3. In view of admitted position by the respondent no.3, the matter is remanded back to the respondent no.3 for deciding the applicant's grievances on merit as per affidavit-in-reply filed in the C.A. application.

4. In view of above ,the C.A. stands disposed off. The O.A.(St.) also stands disposed off accordingly.

Vice-Chairman

dnk.

O.A. 941/2018 (S.B.)

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

Dated : 30/08/2021.

Shri A.S. Dhore, Id. counsel for the applicants and Shri M.I. Khan, Id. P.O. for the respondents.

At the request of Id. P.O., **S.O. Next week** for filing reply.

Vice-Chairman

dnk.

O.A. 700/2021 (S.B.)

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

Dated : 30/08/2021.

Shri S.G. Jagtap, Id. counsel for the applicant and Shri A.M. Ghogre, Id. P.O. for the respondents.

At the request of Id. P.O., **S.O. next weeks.** I.R. to continue till then.

Vice-Chairman

dnk.

O.A. 711/2021 (S.B.)

(I.D. Pawar Vs. State of Mah. & Ors.)

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

Dated : 30/08/2021.

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

2. The learned counsel for the applicant is challenging recovery order dated 15/6/2019 (A-5,P-29) issued by the respondent no.3, i.e., the Project Officer, Integrated Tribal Development Project, Pandharkawda, Dist. Yavatmal from the applicant on the ground that pay fixation done on 20/6/2006 was wrong and therefore the applicant was paid excess amount of Rs. 5,01,233/- since the applicant's pay was fixed when he was working as Junior Clerk. The said pay fixation was scrutinized by the Pay Verification Unit and the Pay Verification Unit has taken objection to that pay fixation and due to this recovery order dated 15/6/2019 was issued by the respondent no.3 for Rs. 8,000/- in 62 instalment and last 63 instalment for Rs. 5,233/-. By these documents, it appears that first instalment of Rs.8,000/- was started from June,2019. There are various Judgments of the Hon'ble Apex Court which need to be examined for deciding this O.A. after reply of the respondents. Till that time, **recovery order**

15/6/2019 (A-5,P-29) regarding further recovery from the applicant is stayed till filing of reply.

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

Steno copy is granted...

Vice-Chairman

dnk.

O.A. 738/2021 (S.B.)

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

Dated : 30/08/2021.

Heard Mrs. S.V. Kolhe, Id. counsel for the applicant and Shri A.M. Ghogre, Id. PO for the State.

2. The applicant was working as Javan-cum-Driver in State Excise, Gondia and he was charged under various Sections of IPC. He was also arrested. In view of that, the applicant was suspended vide order dated 12/6/2020 (A-2, P-21&22). The applicant filed O.A. No. 221/2021 which was decided on 23/7/2021 (A-6,P-28) and after that the applicant was reinstated vide order dated 6/8/2021 (A-1, P-36A) and posted at Khamgaon, Dist. Buldana. The applicant is Driver and Class-III employee. The learned counsel is relying on the G.R. dated 20/4/2013 (A-1,P-31&32) and on page no.32 in para-d following decision has been taken by the Government which is reproduced as below-

1/2 ft Ygk l oxhz; depk&; kuk i q% Fkfi r djrkuk R; kpk eG rkydk o T; k rkyD; kr dk; jr vl rkuk fuyicr dsys vl y rkrkydk oxGu vU; rkyD; ke/; svdk; Bkjh i nkoj fu; Dh dj.; kr ; koh-**

3. As per the said G.R. the applicant was to be posted in other Taluka in the same district i.e. Gondia District, but he was posted in other district i.e. Buldana District. In fact, if he would have been posted in other Taluka in the same district, it was easy to co-operate with the departmental inquiry. Aggrieved with this posting order dated 6/8/2021 (A-11,P-36A), the applicant has approached to this Tribunal. Apparently, order dated 6/8/2021 (A-11) is in violation of the G.R. dated 20/4/2013 (A-1,P-31&32). The applicant has made representation dated 17/8/2021 (A-10,P-35). However, in the interest of justice, the respondents are directed to decide the applicant's representation dated 17/8/2021 (A-10,P-35) before filing the reply of the respondents.

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. 747/2021 (S.B.)

(Dr. Geeta S. Shende Vs. State of Mah. & Ors.)

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

Dated : 30/08/2021.

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

2. As submitted by the learned counsel for the applicant, the list of Medical Officers, Group-B who are eligible for transfer issued by the respondent no.2 vide letter dated 26/7/2021 (A-1,P-19 to 35) in which the applicant's name appears at Sr.No.25, i.e., Dr. Geeta S. Shende and the respondent no.5's name i.e. Dr. V.N. Bhandikar, Medical Officer, Primary Health Centre, Karwahi, Tq. Ramtek, Dist. Nagpur was not in this list. As per procedure, the list was placed before Civil Services Board, before that the applicant has given representation dated 26/02/2021 (A-2,P-36) and in last para she has given five choices for posting. Out of that 5th choice was Ayurvedic Hospital, Dighori. The documents regarding recommendation of Civil Services Board dated 28/7/2021 (A-3,P-44 to 52) are placed on record in which the applicant's name appears at Sr.No.159 and Civil Services Board has recommended the applicant's name for posting at Ayurvedic Hospital, Dighor which was vacant as per one of the choice given by the applicant in the representation. The respondent no.5's name appears at Sr.No.139 at page no.48 and she has also requested for posting at Ayurvedic Hospital, Dighori, but reason is given that her husband is working at Mumbai. The respondent no.5's request for posting to Nagpur will not be covered as per policy of husband and wife to be placed together. The Civil Services Board has not accepted the request of respondent no.5 and it is written as "वेळी"; **in the last column. However, transfer order dated 24/8/2021 (A-4,P-53 to 57) has been issued by the respondent no.1 in which the applicant's name appears at Sr.No.36 and she has been posted at Alo Hospital, Kargaon, Tq. Bhiwapur and the respondent no.5 whose name appears at Sr.No.33 has been posted at Ayurvedic Hospital, Dighor, Tq. Kamptee, Dist. Nagpur. No relevant document is filed on record for considering the request of respondent no.5 and rejecting the request of the applicant.

3. The learned counsel for the applicant submits that the applicant is not relieved and not joined new place of posting also. The learned CPO is not sure whether the respondent no.5 is relieved or not.

4. In this situation, **the transfer order dated 24/8/2021 (A-4,P-53 to 57) is stayed to the extent of applicant only and further status-quo regarding respondent no.5 be maintained till filing of reply.**

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

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

7. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

8. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules,1988, and the questions such as limitation and alternate remedy are kept open.

9. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

10. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

S.O. after four weeks

Steno copy is granted...

Vice-Chairman

dnk.

O.A. 749/2021 (S.B.)

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

Dated : 30/08/2021.

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

2. The applicant has been posted vide order dated 13/5/2015 (A-1,P-12) as Deputy Accountant, District Treasury Office, Amravati since then the applicant has been working on that post and after more than 6 years and the applicant was due for transfer, therefore, vide order dated 6/8/2021 (A-6,P-23) the applicant has been transfer on the post of Deputy Accountant, Rehabilitation Branch, Collector Office, Amravati. Aggrieved with this order, the applicant has approached to this Tribunal. The applicant has given only 4 choices as per page no.22 and out of that her 3rd choice was considered. Though the applicant was to submit 10 choices as per the G.R. dated 9/4/2018, but she has given only 4 choices and the applicant has been posted on the 3rd choice of posting. The applicant has submitted representation dated 9/8/2021 (A-8,P-27) and requested for posting as per first choice. When any employee joined Government duty it is understood that transfer will be a part of her/his career and as per G.R. dated 9/4/2018 all the guidelines have been issued and in this case though the applicant has not given 10 choices for posting, the applicant's 3rd choice posting at Amravati is considered by the respondent no.3 and the applicant has made representation and requested for first choice of posting which is also in Amravati only. In this situation, the respondents are at liberty to decide the applicant's representation dated 9/8/2021 (A-8,P-27) before filing of reply by the respondents. As submitted by the Id. CPO the employee who has been transferred at the place of applicant has not been made party to the O.A. The learned counsel is directed to make him party in the O.A.

3. After amendment issue notice to the respondents returnable **after four weeks**. Learned C.P.O. waives notice for State. 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. after four weeks

Vice-Chairman

dnk.

O.A. 750/2021 (S.B.)

(R.M. Wankhade Vs. State of Mah. & Ors.)

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

Dated : 30/08/2021.

Heard 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 for the applicant, vide transfer order dated 6/8/2021 (A-5,P-21&22) the applicant has been transferred from the post of Deputy Accountant, Senior Geologist, Water Survey & Development Agency, Amravati to the post of Deputy Accountant, Deputy Treasury Officer office, Kalamb, Dist. Yacatmal. The learned counsel submits that the applicant was suffering from Kidney problem and to that effect he has submitted representation dated 9/8/2021 (A-8,P-53&54) in which he has clearly mentioned that one Kidney has been removed and he is under treatment of Dr. Mundhada at Amravati. The respondents have published the list of employees who were due for transfer vide order dated 15/7/2021 (A-2,P-11 to 19) in which the applicant's name appears at Sr.No.12 at page no.14.and in 6th column the date of retirement is mentioned as 30/9/2022. The applicant has completed normal tenure at the present post and he was due for transfer. As on today the applicant has just one year to retire and also suffering from Kidney problem. The learned counsel has relied on the G.R. dated 9/4/2018 (A-6,P-23 to 44) and he mainly relied on provision of clause (3) at page no.36 which is reproduced as below –

^ ¼3½ ts 'kkI dh; deþkjL Lor%ddjLxkus ¼dWl j½ vktkjhe i {kk?kkrkusvktkjhe e#fi M jki .k 'kL=fdz; k fclok Mk; yfI I I # vl yy# cu V; #j fclok enþjhy 'kL=fdz; k@fu' prukolFLk ¼dkeW/e eukfodirhusxLr@gn; jLxkusvktkjL vkgr] v'kk 'kkI dh; deþk&; kulk ojhy vktkjLkckr vLsk/ksI plj pkyqvl Y; kckcrpsoþkdh; i æk.ki = fnukad 30 , fi y i phzcnyh i kf/kdk&; kdMsI knj dY; kl R; kph iz kkl dh; I ks huq kj o in mi yC/krud kj R; k@; k I ks tP; k fBck.khcnyh dj.; kr ; koh>**

3. As submitted by the learned counsel, the applicant's representation was recommended by the respondent no.3, i.e. the Senior Geologist, Water Survey & Development Agency, Amravati as per letter dated 19/7/2021 (A-4,P-20) to the respondent no.2 i.e. the Joint Director, Accounts & Treasury, University Road, Amravati in which in para-2 he has mentioned about applicant's health problem and also about his outstanding work and in the last para recommended to extend his tenure further one year. Considering the applicant's health problem and provisions of the G.R. and

recommendation letter of the respondent no.3 it will be in the interest of justice, the representation dated 9/8/2021 should be considered by the respondents sympathetically on priority basis. If there are more one representation, it should be considered for relevant posting on priority basis considering the need of the applicant. The learned counsel submits that till date the applicant has not been relieved.

4. In view of this, **the transfer order dated 6/8/2021 (A-5,P-21&22) is stayed till filing of reply.**

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

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

7. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

8. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules,1988, and the questions such as limitation and alternate remedy are kept open.

9. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

10. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

S.O. after four weeks

Steno copy is granted...

Vice-Chairman

dnk.

O.A. 927/2017 (S.B.)

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

Dated : 30/08/2021.

Heard Shri P.P. Kotwal, Id. counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the respondents.

By consent of both the learned counsel for parties, **S.O. 27/9/2021.**

Vice-Chairman

dnk.

O.A. 173/2019 (S.B.)

(Dr. Anil N. Wankhede Vs. State of Mah. & Ors.)

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

Dated : 30/08/2021.

Heard Shri N.D. Thombre, Id. counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the respondents.

2. The learned P.O. has filed letter dated 25/8/2021 received from the Government and submitted that final show cause notice has been issued to the applicant. The learned counsel submitted that the reply is submitted by the applicant on 23/8/2021. The learned P.O. desires three weeks time to comply the order dated 9/8/2021, however, the learned counsel is opposing for grant of three weeks time. In this situation, two weeks is granted to comply the order. The learned P.O. is directed to ensure that final order is issued within two weeks. The matter be kept **on 15/9/2021.**

Steno copy is granted...

Vice-Chairman

dnk.

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

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

Dated : 30/08/2021.

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

By consent of both the learned counsel for parties, **S.O. 03/09/2021.**

Vice-Chairman

dnk.

O.A. 892/2019 (S.B.)

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

Dated : 30/08/2021.

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

By consent of both the learned counsel for parties, **S.O. 6/9/2021.** The matter be kept high on board.

Vice-Chairman

dnk.

*

O.A.No.450/2017 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/08/ 2021.

C.A.Nos.308/17 & 203/21:-

Heard Shri I.G.Meshram, 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., **S.O. 08.09.2021 to file reply.**

Vice Chairman

Date:-30/08/2021.
aps.

O.A.No.160/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/08/ 2021.

Heard Shri B.Kulkarni, 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., **S.O. 06.09.2021 to file reply.**

Vice Chairman

Date:-30/08/2021.
aps.

O.A.No.385/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/08/ 2021.

Heard Shri R.V.Shiralkar holding for Shri S.P.Palshikar, the Id. Counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the respondents.

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

Vice Chairman

Date:-30/08/2021.
aps.

O.A.Nos.97&98/2019 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/08/ 2021.

Heard Shri R.V.Shiralkar holding for Shri S.P.Palshikar, the Id. Counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the respondents. None for the applicant in O.A. No. 98/2019.

2. At the request of Id. counsel for the applicant in O.A. No. 97/2019, **S.O. three weeks.**

Vice Chairman

Date:-30/08/2021.
aps.

O.A.No.205/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/08/ 2021.

Heard Shri R.V.Shiralkar holding for Shri S.P.Palshikar, the Id. Counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the respondents.

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

Vice Chairman

Date:-30/08/2021.

aps.

O.A.No.578/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/08/ 2021.

Heard Ms. S.Thakur holding for Shri S.P.Palshikar, the Id. Counsel for the applicant and Shri A.P.Potnis, 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:-30/08/2021.

aps.

O.A.No.385/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/08/ 2021.

Heard Shri R.V.Shiralkar holding for Shri S.P.Palshikar, the Id. Counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the respondents.

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

Vice Chairman

Date:-30/08/2021.
aps.

O.A.No.869/2017 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/08/ 2021.

Heard Shri S.N.Gaikwad holding for Shri D.G.Patil, the Id. Counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the respondents.

2. At the request of Id. P.O., **matter be put up before regular D.B..**

Vice Chairman

Date:-30/08/2021.
aps.

O.A.St.No.2387/2019 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/08/ 2021.**

C.A.Nos.501,502&503/2019:-

Heard Shri A.S.Shukla, the Id. Counsel for the applicant and Shri A.M.Ghogre, the Id. P.O. for the respondents.

2. At the request of Id. counsel for the applicant, **S.O. 20.09.2021.**

Date:-30/08/2021.
aps.

Vice Chairman

O.A.No.559/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/08/ 2021.

Heard Shri M.R.Patil, the Id. Counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the respondents.

2. The Id. counsel for the applicant has filed pursis dated 24.08.2021 to withdraw the O.A.. Along with the pursis he has submitted that respondents vide order dated 23.07.2020 (A-A-1, Pg. No. 14) has declared applicant to be voluntarily retired from 01.06.2020 (A.N.).

3. In view of this order, the Id. counsel for the applicant desires to withdraw the O.A., he is permitted to withdraw the O.A.. Hence, **O.A. is disposed of as withdrawn.**

Vice Chairman

Date:-30/08/2021.

aps.

O.A.No.479/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/08/ 2021.

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

2. **S.O. four weeks.**

Vice Chairman

Date:-30/08/2021.
aps.

O.A.No.508/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/08/ 2021.

None for the applicant. Shri M.I.Khan, the Id.
P.O. for the respondents.

2. **S.O. four weeks.**

Vice Chairman

Date:-30/08/2021.
aps.

O.A.No.702/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/08/ 2021.

Ms. S.Thakur, 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 has filed pursis dated 30.08.2021; by which it appears that applicant retired on 31.01.2019; since then he has not received any pension for the last two years. All his pensionary benefits have been stopped deliberately by the respondents.

3. However, the Id. P.O. has filed letter dated 23.07.2021. It is taken on record. Copy is supplied to the other side.

4. By the above said letter it appears that the D.E. was proposed against applicant on 19.10.2019 but it has been received to the respondents on 31.10.2019 i.e. the same date of retirement of applicant. The issue for which D.E. was proposed was eight years old. Considering these aspects, Urban Development Department decided not to proceed with the Enquiry and it has been confirmed by Revenue and Forest Department also. After this decision department has paid as per last line of second para the G.I.S., G.P.F., E.L. and other retiral benefits amount to the applicant, as full pension is concerned process is going on. After sanctioning of Regular Pension by A.G. and Treasury, the full

pension will be paid. They have also mentioned in the para no. 3 of the said letter that from 01.11.2019 to 30.04.2021 provisional pension was paid to the applicant.

5. The above all details are not brought by Id. counsel for the applicants on record while starting the pleading.

6. Respondents are directed to follow the proposal and ensure that applicant get the pension **within three months** from the date of receipt of this order.

7. **S.O. after three months.**

Vice Chairman

Date:-30/08/2021.
aps.

O.A.No.538/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/08/ 2021.

C.A.No.253/2021:-

Smt. M.Chandurkar, the Id. counsel for the applicant and Shri A.M.Ghogre, the Id. P.O. for the respondents.

2. The Id. counsel for the applicant has filed C.A. No. 253/2021 for deletion of the name of applicant from Sr. Nos. 8 to 13. Hence, **C.A. No. 253/2021 is allowed.** She further submits that after deletion of name of Sr. Nos. 8 to 13; she wants to withdraw the O.A. to the extent of Sr. Nos. 8 to 13 and liberty may be given to approach before appropriate forum. Her prayer is allowed.

3. At the request of Id. P.O., **S.O. four weeks to file reply.**

Vice Chairman

Date:-30/08/2021.

aps.

O.A.No.38/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/08/ 2021.

Smt. M.Chandurkar, the Id. counsel for the applicant and Shri A.M.Ghogle, the Id. P.O. for the respondents.

2. The Id. counsel for the applicant is directed to file both the C.As. in the office first. **S.O. Wednesday i.e. 01.09.2021.**

Vice Chairman

Date:-30/08/2021.
aps.

O.A.No.713/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/08/ 2021.

Shri M.M.Sudame, the Id. counsel for the applicant and Shri V.A.Kulkarni, the Id. P.O. for the State.

2. The Id. counsel for the applicant has bring my attention on letter dated 13.03.2020 (A-A-1, Pg. No. 20) and submitted that till now this D.E. has not been finalized. However, Id. P.O. is also willing to take latest position of D.E.. Since, chargesheet was served on 13.03.2020; so ideally as per direction of "Hon'ble Apex Court in case of **Prem Nath Bali Vs. Reg., High Court of Delhi & Anr. decided on 16 December, 2015 in Civil Appeal No. 958 of 2010.**" The D.E. should have been completed on or before 13.03.2021 which does not appear to have been done.

3. Meanwhile, the Id. P.O. is directed to take instructions from the department the stage of D.E. and further how much time is required to complete the D.E..

4. Issue notice to Respondents, returnable on after three weeks. Learned P.O. waives notice for R-1. Hamdast allowed.

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

6. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

7. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules,1988, and the questions such as limitation and alternate remedy are kept open.

8. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

9. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

10. **S.O. after three weeks.**

11. **Steno copy is granted.**

Vice Chairman

Date:-30/08/2021.

aps.

C.P.No.46/2020inO.A.No.815/2019 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/08/ 2021.

Shri N.D.Thombre, the Id. counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the Respondents.

2. Matter was heard on 09.08.2021 and in para no. 2 following observation has been made:-

"2. The Id. P.O. submits that he has received instructions from the department that suspension period of the applicant has been regularized but it is yet to be treated as duty period and for that he seeks three weeks time to file it on record the recent updates."

3. The suspension period of applicant has been regularized but it was not treated as duty period as submitted by Id. P.O. He had asked instructions from the department but he yet to receive the instructions from the department.

4. **S.O. 15.09.2021 as a last chance.**

Vice Chairman

Date:-30/08/2021.

aps.

C.P.No.49/2020inO.A.No.505/2018 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/08/ 2021.

None for the applicant. Shri A.P.Potnis, the
Id. P.O. for the Respondents.

2. **S.O. four weeks.**

Vice Chairman

Date:-30/08/2021.

aps.

O.A. 444/2015 (S.B.)

(Dr. Arvind N. Bhure Vs. State of Mah.& Ors.)

Coram: Shri Shree Bhagwan,
Vice-Chairman.

Dated : 30/08/2021.

Heard Shri M.M. Sudame, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for the respondents.

2. The learned counsel has mainly relied on appointment order dated 16/12/1994 (P-33) and main point of contention in para-2 use of word in marathi "वहकौर ¼Fortuituos½**"- The learned counsel for the applicant has relied on the Maharashtra Civil Services (Regularisation of Seniority) Rules,1982 and para-3 (f) which is reproduced as below –

“(3) (f) “fortuitous appointment” means a temporary appointment made pending a regular appointment in accordance with the provisions of the relevant recruitment rules”.

3. He has further relied on Rule 6 (P-780) of the Maharashtra Civil Services (Regularisation of Seniority) Rules,1982 which is reproduced as below –

“(6) Determination of fortuitous appointment– *Whenever an appointment is made to a post, cadre or service, the competent authority shall determine whether the appointment is fortuitous and record a certificate accordingly where the appointment is fortuitous:*

Provided that, omission to record such a certificate shall not confer right on any person to have his appointment treated as not fortuitous on the facts of the case it is found on any subsequent date that the appointment was fortuitous”.

4. After perusing the order dated 16/12/1994 (P-33) in para-2 it is written as follows –

^ rRi qh R; kph fu; Dri vHkour ¼Fortuituos ½ Bfo.; kr ; s v l u r h l ok t s B r d k B h Qk; nk feG.; kl i k= B j .kkj ukgh.**

5. However, specific mention about whether the period will be counted for pensionary benefits or not that has not been mentioned in the appointment letter.

6. The learned counsel has relied on the Maharashtra Civil Services (Pension) Rules, 1982 on page 543 and mainly relied on definition of Chapter-II from page no.544 where definitions are given. The clause -12 on page 544 reads as follows –

“(12) “Date of first appointment” means the date the Government servant assumes the duties of his first post in Government service, or, if this be earlier, the date of his assumption of any duty which is treated, as service counting for pension.”

7. In the order dated 16/12/1994 (P-33) it is not mentioned that previous service will not be counted for pension. In the definition otherwise fortuitous word is not defined. The learned counsel has relied on Section 66 (P-596) of the MCS (Pension) Rules regarding retirement on completion of 20 years qualifying service and applicant's service is counted from 1984. As per the O.A., the applicant has submitted application for V.Rs. on 27/12/2004 (A-2,P-14). At the bottom he has mentioned as below –

*^ ek>h ukVhl fnukd 1 tkupkj]2005 i kl u xghr /k#u o flodk#u eyk fnukd 31 ekp/2005 ¼e/; klG½ i kl u l olfuorR dj.; kr ; kosfg fourh i = fnukd 27@12@2004 jksth o9kdh; vf/k{k d xk-#- ?kVat h dk; kÿ; kr l knj djhr vkg5***

8. So the period of three months was expired on 31/3/2005 and if this period of three months is considered the V.Rs. application that expired on 1/4/2005. The learned counsel further pointed out the letter dated 11/4/2005 (A-12,P-46) which is written by the Government to the Director General of Health Services, Mumbai and it has been communicated that due to departmental inquiry in process, the applicant's V.Rs. application dated 27/12/2004 is rejected. This order was communicated on 11/4/2005 i.e. after 1/4/2005 which was effective date of V.Rs. The learned counsel further pointed out the correspondence dated 16/10/2006 (A-R-2,P-36) issued by the Government in which it is mentioned that the departmental inquiry against the applicant is cancelled as per Government order dated 17/08/2000.

9. The learned counsel has further relied on the Judgment in O.A. 51/2014 passed by the Tribunal on 3/11/2014. The applicant in O.A.51/2014 was appointed as bonded Medical Officer from 21/6/1985 for two years. Thereafter he continued on that post. In the year 1994 he was selected through MPSC and his services were regularised. In the present O.A. in hand the applicant was temporarily appointed in 1984.

*10. The learned counsel for the applicant has filed Pursis dated 30/8/2021 along with xerox copy of service book of the applicant and other documents. It is taken on record and marked Exh-X. After perusing the service book of the applicant, it appears that there is no continuous order between 1984 to 1994. Therefore, it is difficult to decide whether the applicant was continuously put on temporary appointment between 1984 to 1994. His appointment letter dated 16/12/1994 was issued in pursuance of Government decision regarding regularisation of 194 other Medical Officers in Maharashtra and in the last para of the said letter following line is mentioned –

^ rRi qh R; kph fu; Dh vHkhr ¼Fortuituos ½ Bjfo.; kr ; s v l q rh l ok t\$Brd kBh Qk; nk feG.; kl i k= Bj.kkj ukgh.**

11. However it is not mentioned that whether his past service will be counted towards pensionable service or not.

12. In view of this situation, the learned counsel as well as learned P.O. both are directed to produce appointment letter of applicant between 1984 to 1994 to examine whether the applicant was continuously appointed on temporary basis by the respondents. As per service book of the applicant, it appears that the applicant was first appointed as per order dated 8/2/1984 and he joined the duty on 15/2/1984 for two years and after that further it is written that order was issued on 15/2/1986 for one year till 7/1/1987. After that the service book is silent regarding appointment of applicant. However, it appears that in 1991 the applicant has been granted earned leave. In 1992 also he has been granted earned leave. These are indirect evidence to support that the applicant was in service. Again the Deputy Director, Akola has granted earned leave between 27/10/1995 to 25/11/1995.

13. The learned counsel for the applicant and learned P.O. both are directed to file on record copy of appointment order of applicant between 1984 to 1994 and supply copy to the other side.

S.O. 8th September, 2021.

Vice- Chairman

dnk.