

O.A.No.403/2018. (S.B.)

Coram: Shri J.D.Kulkarni,V.C.(J)

Dated : 13th June 2018.

Heard Shri N.C. Phadnis, the Ld. counsel for the applicant and Shri S.A. Deo, the learned C.P.O. for the respondent No.1.

2. Vide order dated 6.6.2018, the applicant has been transferred from Nagpur to Sindhudurg. According to the applicant, he was transferred to Nagpur vide order dated 11.6.2018 and has not completed his normal tenure and, therefore, the impugned order is illegal. It is also stated that in the impugned order, there is an improper mention of posting of the applicant and the reasons given in the order are also not correct, as somewhere it is stated that the order is in the interest of administrative

exigency, whereas at one place, it is mentioned that it is on his own request. According to the applicant, he never requested for transfer to Sindhudurg.

3. The learned CPO has invited my attention to the earlier order passed in O.A. Nos. 121 to 124 of 2018 delivered by this Tribunal on 1.3.2018 whereby the applicant himself has challenged the action taken against him by the Committee, as per the provisions of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. He has also invited my attention to the observation in par No.3 of the order which reads as under:-

“3. The learned counsel for the applicant submits that the recommendations of the Committee are arbitrary, illegal and the said recommendation has been passed without any evidence, with bias and, therefore, the same is required to be

stayed. Considering the allegations against the applicant, I am of the view that the recommendation No.1 as regards transfer of the applicant out of region, cannot be stayed, since it will also be an harassment to the applicant to continue to work at the place where there are complaints against him and, therefore, recommendation No.1 cannot be stayed. So far as recommendation No.2 regarding stoppage of increments permanently and payment of cost of Rs.50,000/- is concerned, the same is stayed in the interest of justice till reply by the respondents is filed”.

4. The learned CPO submits that the applicant has been transferred considering the recommendation and in view of administrative difficulty. The impugned order shows that the same has been passed in the interest of administration. Considering this aspect, I am not inclined to grant any stay or interim stay to the applicant.

5. Issue notice to the respondent No.2 returnable after **three weeks.**

6. Shri S.A. Deo, the learned C.P.O. waives notice for the respondent No.1. Hamdast granted.

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

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

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

10. In case notice is not collected within **seven days,** and if service

report on affidavit is not filed within **three days** before returnable date, O.A. shall stand dismissed without reference to the Tribunal and papers be consigned to record.

11. S.O. **three weeks.**

Vice-Chairman (J)

pdg.

O.A.No.402/2018. (S.B.)

Coram: Shri J.D.Kulkarni,V.C.(J)

Dated : 13th June 2018.

Heard Shri M.I. Dhattrak, the Ld. counsel for the applicant and Shri A.M. Ghogre, the learned P.O. for the respondent No.1/State.

2. The applicant is a Chief Officer, Municipal Council, Chikhli, District Buldana. He was posted at Chikhli vide order dated 31.8.2017 i.e. just prior to eight months and vide order dated 12.6.2018, he has been transferred from Municipal Council, Chikhli to Municipal Council, Mehkar on the same post on the ground that the said post is vacant. Though, the order *prima facie* shows that it has been passed under the provisions of Sections 4 (4) & 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"). In the order itself, it has been stated that the applicant stood relieved on the same day and directed to join his new posting on 13.6.2018 i.e. on the next day. The Ld. counsel for the applicant submits that the applicant has not yet been relieved. Prima facie, it seems that the order is mid-term. Whether there are circumstances existing for exercising the provisions of Sections 4 (4) & 4 (5) of the Transfer Act, 2005 will have to be considered on merit.

3. The respondents are directed not to relieve the applicant till further orders.

4. Issue notice to the respondent No.1/State returnable after **three weeks.**

5. Shri A.M. Ghgore, the learned P.O. 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. In case notice is not collected within **seven days**, and if service report on affidavit is not filed within **three days** before returnable date, O.A. shall stand dismissed without reference to the Tribunal and papers be consigned to record.

10. S.O. three weeks.

Vice-Chairman (J)

pdg.

O.A.No.395/2018. (S.B.)

Coram: Shri J.D.Kulkarni,V.C.(J)

Dated : 13th June 2018.

Heard Shri S.P. Palshikar, the Ld. counsel for the applicant and Shri S.A. Deo, the learned C.P.O. for the respondent No.1.

2. Issue notice to the respondent Nos.2 and 3 returnable after **three weeks.**

3. Shri S.A. Deo, the learned C.P.O. waives notice for the respondent No.1. Hamdast granted.

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

18 S.O. **three weeks.**

Vice-Chairman (J)

O.A.No.397/2018. (S.B.)

Coram: Shri J.D.Kulkarni,V.C.(J)

Dated : 13th June 2018.

Heard Mrs. I.A. Sudame, the Ld. counsel for the applicant and Shri A.M. Ghogre, the learned P.O. for the respondents.

2. The applicant, a Livestock Development Officer at Belati, Panchayat Samiti, Lakhandur in Bhandara District, has been transferred to Sakoli as per impugned order dated 31.5.2018. According to the applicant, he has already completed his tenure of almost 10 years in naxalite affected area and from the last three years, he is serving continuously in the naxalite affected area and, therefore, the applicant has given option for his transfer to non naxalite affected area in Bhandara District as per Annexure A-5.

However, his request has not been considered and he has been again transferred to the naxalite affected area and the said action on the part of respondent No.1 is against the provisions of the G.R. dated 6.8.2002 of G.A.D.

3. The applicant submits that he also made representation for choice posting as per Annexure A-6 on 4.6.2018 and the same is pending before the respondents. It is also an admitted fact that, the applicant has not yet been relieved from Belati and nobody is posted in his place. In view of this, O.A. can be disposed of, if opportunity is given to respondent No.1 to consider the representations filed by the applicant on 4.6.2018 and 7.6.2018 within a stipulated time. Hence, the following order:-

ORDER

- (i) The O.A. stands disposed of with direction to respondent No.1 to be considered the

representations filed by the applicant on 4.6.2018 and 7.6.2018 for his transfer at the place of his choice.

- (ii) Such representation shall be decided within a period of one month from the date of this order and till that time, the applicant shall not be relieved from Belati.
- (iii) The respondent No.1 may take a decision on the representation of the applicant as per its own merits.
- (iv) No order as to costs.

Vice-Chairman (J)

O.A.No.398/2018.

(S.B.)

Coram: Shri J.D.Kulkarni,V.C.(J)

Dated : 13th June 2018.

Heard Shri N.R. Saboo, the Ld. counsel for the applicant and Shri V.A. Kulkarni the learned P.O. for the respondents.

2. The applicant, a Livestock Development Officer at Indaram, Panchayat Samiti, Aheri in Gadchiroli District, has been transferred to Veterinary Dispensary at Kotami, Tehsil Etapalli, District Gadchiroli as per impugned order dated 31.5.2018. According to the applicant, he has already completed his tenure of almost 6 years in naxalite affected area and from the last three years, he is serving continuously in the naxalite affected area and, therefore, the applicant has given option for his transfer to non naxalite affected area in Gadchiroli District. However, his

request has not been considered and he has been again transferred to the naxalite affected area and the said action on the part of respondent No.1 is against the provisions of the G.R. dated 6.8.2002 of G.A.D.

3. The applicant submits that he also made representation for choice posting as per Annexure A-2 on 3.5.2018 and the same is pending before the respondents. It is also an admitted fact that, the applicant has not yet been relieved from Indaram and nobody is posted in his place. In view of this, O.A. can be disposed of, if opportunity is given to respondent No.1 to consider the representations filed by the applicant on 3.5.2018 within a stipulated time. Hence, the following order:-

ORDER

- (i) The O.A. stands disposed of with a direction to respondent No.1 to consider the representations filed by

the applicant on 3.5.2018 for his transfer at the place of his choice.

- (ii) The respondents are directed that the applicant shall not be relieved from Indaram.
- (iii) The respondent No.1 may take a decision on the representation of the applicant as per its own merits.
- (iv) No order as to costs.

Vice-Chairman (J)

O.A.No.399/2018.

(S.B.)

Coram: Shri J.D.Kulkarni,V.C.(J)

Dated : 13th June 2018.

Heard Shri N.R. Saboo, the Ld. counsel for the applicant and Shri V.A. Kulkarni the learned P.O. for the respondent No.1.

2. The applicant, a Livestock Development Officer at Arjuni Mor, District Gondia, has been transferred to Veterinary Dispensary at Adasi, Tehsil and District Gondia as per impugned order dated 31.5.2018. According to the applicant, he has already completed his tenure of almost 5 years in naxalite affected area and from the last three years, he is serving continuously in the naxalite affected area and, therefore, the applicant has given option for his transfer to non naxalite affected area in Gondia District. However, his request has not been considered and he has been again transferred to the naxalite affected area and the said action on the part of respondent No.1 is against the provisions of the G.R. dated 6.8.2002 of G.A.D.

3. The applicant submits that he also made representation for choice posting as

per Annexure A-2 on 15.3.2018 and the same is pending before the respondents. It is also an admitted fact that, the applicant has not yet been relieved from Arjuni Mor and nobody is posted in his place. In view of this, O.A. can be disposed of, if opportunity is given to respondent No.1 to consider the representation filed by the applicant on 15.3.2018 within a stipulated time.

4. The learned P.O. submits that the order has been issued to relieve the applicant in the second half on 13.6.2018 afternoon. In fact, respondent No.4 is not directed to take charge. But the charge will be handed over to some other person. However, the applicant is not yet relieved. Hence, the following order:-

ORDER

- (i) The O.A. stands disposed of with a direction to respondent No.1 to consider the representations filed by the applicant on 1.6.2018 for his transfer at the place of his choice.
- (ii) The respondents are directed that the applicant shall not be relieved from Arjuni Mor, Distt. Gondia.

- (iii) The respondent No.1 may take a decision on the representation of the applicant as per its own merits.
- (iv) No order as to costs.

Vice-Chairman (J)

pdg.

O.A.No.396/2018.

(D.B.)

Coram: Shri J.D.Kulkarni,V.C.(J) and

Shri Shree Bhagwan,Member (A)

Dated : 13th June 2018.

C.A. 124/2018.

Heard Shri N.D. Thombre, the Ld. counsel for the applicants and Shri S.A. Deo, the learned C.P.O. for the respondent No.1.

2. For the reasons stated in the application, application to sue jointly is allowed, subject to payment of requisite court fee to be paid in the Registry of this Tribunal.

O.A.No.396/2018.

1. Issue notice to the respondent Nos.2 to 6 returnable after **three weeks.**

2. Shri S.A. Deo, the learned C.P.O. waives notice for 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. In case notice is not collected within **seven days**, and if service report on

affidavit is not filed within **three days** before returnable date, O.A. shall stand dismissed without reference to the Tribunal and papers be consigned to record.

7. S.O. **three weeks.**

Member (A)

Vice-Chairman (J)

pdg.

O.A.No.314/2018.

(D.B.)

**Coram: Shri J.D.Kulkarni,V.C.(J)
and Shri Shree Bhagwan,
Member (A)**

Dated : 13th June 2018.

Heard Shri R.V. Shiralkar, the Ld. counsel for the applicants and Shri P.N. Warjekar, the learned P.O. for the respondent No.1.

2. The applicant is a Tehsildar, Khamgaon, District Buldana. On the complaint of certain lady employees, a Committee was constituted in the enquiry into allegations of harassment at workplace by the applicant and the said Committee has submitted a report dated 5.4.2018 whereby certain actions are suggested against the applicant. One of the actions suggested is transfer of the applicant and the same has been implemented. The other proposed actions are as regards compensation to be awarded to lady employees, to initiate disciplinary action etc. The applicant apprehends that without giving him an opportunity, the respondent authority may take action against him. We hope that the respondent authorities will not take any coercive action against the applicant without giving him an opportunity of hearing. The learned P.O. submits that no action is still taken against the applicant and he wants to file reply affidavit.

3. Considering this fact issue notice to respondent Nos. 2 to 4 returnable after three weeks.

4. Shri P.N. Warjekar, the learned P.O. waives notice for the respondent No.1. Hamdast granted.

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

9. In the meantime, the respondents are directed not to take any coercive action against the applicant. However, the respondents will be at liberty to issue show cause notice etc. against the applicant by way of giving him an opportunity.

11. S.O. **three weeks**.

Member (A) Vice-Chairman (J)

O.A. 133/2018 (SB)

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

Dated : 13.06.2018

Ku. K.K. Pathak, learned counsel for the applicant and Shri M.I. Khan, learned P.O. for the respondents.

The learned P.O. seeks four weeks time to file reply. At his request, **S.O. 11/07/2017** for filing reply by way of last chance.

Member (A).

dnk.

O.A. 87/2018 (SB)

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

Dated : 13.06.2018

Shri S.N. Gaikwad, learned counsel for the applicant and Shri S.A. Sainis, Id. P.O. for R-1. Await service of R-2&3.

The learned counsel for the applicant seeks further time to file service affidavit of R-2&3. At his request, **S.O. 4/7/2018** for filing service affidavit.

Member (A).

dnk.

O.A. 250/2018 **(SB)**

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

Dated : 13.06.2018

Shri S.N. Gaikwad, learned counsel for the applicant and Shri S.A. Sainis, Id. P.O. for R-1. Await service of R-2&3.

The learned counsel for the applicant seeks further time to file service affidavit of R-2&3. At his request, **S.O. 4/7/2018** for filing service affidavit.

Member (A).

dnk.

O.A. 326/2018 (SB)

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

Dated : 13.06.2018

Shri G.G. Bade, learned counsel for the applicant and Shri A.M. Ghogre, Id. P.O. for R-1. Await service of R-2 to 4.

The learned counsel for the applicant seeks further time to file service affidavit of R-2 to 4. At his request, **S.O. 27/06/2018** for filing service affidavit of R-2 to 4.

Member (A).

dnk.

O.A. 927/2017 **(SB)**

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

Dated : 13.06.2018

Shri A.S. Nagdeve, Id. counsel for the applicant and Shri P.N. Warjurkar, learned P.O. for the respondents.

The learned P.O. files reply-affidavit on behalf of R-1 to 6. It is taken on record. Copy is served on the applicant. The learned counsel for the applicant seeks time to file rejoinder. At his request, **S.O. 04/07/2018** for filing rejoinder.

Member (A).

dnk.

O.A. 984/2017 **(SB)**

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

Dated : 13.06.2018

Shri S.S. Mohod, learned counsel for the applicant and Shri H.K. Pande, learned P.O. for the respondents.

At the request of learned P.O., S.O. 4/7/2018 for filing reply.

Member (A).

dnk.

O.A. 17/2018 (SB)

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

Dated : 13.06.2018

Shri M.R. Khan, learned counsel for the applicant and Shri H. K. Pande, Id. P.O. for the respondents.

The learned P.O. files reply-affidavit on behalf of R-3. It is taken on record. Copy is served on the applicant. The learned P.O. seeks time to file reply on behalf of R-1&2. At his request, **S.O. 27/06/2018** for filing reply of R-1&2.

In the meantime, the respondents should decide the applicant's representation in either way.

Member (A).

dnk.

O.A. 40/2018 **(SB)**

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

Dated : 13.06.2018

Shri S. Kotwal, Id. counsel for the applicnat, Shri V.A. Kulkarni, Id. P.O. for R-1&2 and Shri H.D. Marathe, Id. counsel for R-3.

At the request of Adv. Shri H.D. Marathe, **S.O. 27/06/2018** for filing reply on behalf of R-3.

Member (A).

dnk.

O.A. 159/2018 **(SB)**

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

Dated : 13.06.2018

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

At the request of learned P.O., S.O.
12/07/2018 for filing reply.

Member (A).

dnk.

O.A. 259/2018 (SB)

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

Dated : 13.06.2018

Shri A.P. Sadavarte, Id. counsel for the applicnat and Shri S.A. Sainis, Id. P.O. for R-1,4 and 5. Shri H.D. Marathe, Id. counsel appears on behalf of R-2&3 and undertakes to file vakalatnama within one week.

At the request of Shri Marathe, Id. counsel, **S.O. 11/07/2018** for filing reply on behalf of R-2&3.

Member (A).

dnk.

O.A. 268/2018 (SB)

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

Dated : 13.06.2018

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

The learned P.O. seeks four weeks' time to take instructions from the department and for filing reply. At his request, **S.O. 11/07/2018.**

Member (A).

dnk.

O.A. 292/2018 **(SB)**

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

Dated : 13.06.2018

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

The learned P.O. seeks four weeks' time to file reply. The learned counsel for the applicant pointed out that reply should have been filed earlier, but it is yet not filed. The learned P.O. to ensure that the reply shall be filed before the next date.

S.O. 11/07/2018 for filing reply.

Member (A).

dnk.

O.A. 265/2018 **(SB)**

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

Dated : 13.06.2018

C.A.125/2018 -

Heard Shri W.G. Paunikar, learned counsel for the applicant and Shri A.P. Potnis, Id. P.O. for the respondents.

2. The matter is listed on 20/06/2018 and before that learned P.O. must talk to the respondents and see that the applicant's provisional pension must be released as directed by this Tribunal.

3. In view of this, the C.A. stands disposed of.

O.A.265/2018 –

Shri W.G. Paunikar, learned counsel for the applicant and Shri A.P. Potnis, Id. P.O. for R-1 to 4. Await service of R-5.

S.O. 20/06/2018.

Member (A).

dnk.