

O.A. No. 603/2018 (DB)

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 18.03.2019**

Shri J. B. Gandhi, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for R-1&2. Await service of R-3.

2. The learned P.O. files return on behalf of R-2. It is taken on record.

**S.O. three weeks.**

**Member (J)**

dnk.

Dated – 18/03/2019.

O.A. No. 537/2018 (DB)

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 18.03.2019**

Shri N.R. Saboo, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for R-1. Await service of R-2&3.

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

**Member (J)**

dnk.

Dated – 18/03/2019.

O.A. No. 1023/2018 (DB)

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 18.03.2019**

**C.A.399/2018 -**

Heard Shri N.R. Saboo, Id. counsel for the applicants and Shri H.K. Pande, Id. P.O. for the respondents.

2. By this C.A., the applicants are seeking leave to sue jointly. For the reasons stated in the C.A., leave to sue jointly as prayed for is granted, subject to the applicants paying requisite court fees, if not already paid. C.A. stands disposed of accordingly.

**O.A. 1023/2018 -**

Heard Shri N.R. Saboo, Id. counsel for the applicants and Shri H.K. Pande, Id. P.O. for the respondents.

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

**Member (J)**

dnk.  
Dated – 18/03/2019.

O.A. No. 05/2019 (DB)

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 18.03.2019**

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

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

**Member (J)**

dnk.

Dated – 18/03/2019.

O.A. No. 213/2018 (DB)

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 18.03.2019**

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

Since the pleadings are complete, the matter is admitted and be kept for final hearing.

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

**S.O. in due course.**

**Member (J)**

dnk.

Dated – 18/03/2019.

O.A. No. 696/2018 (DB)

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 18.03.2019**

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

Since the pleadings are complete, the matter is admitted and be kept for final hearing.

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

**S.O. 05/04/2019.**

Interim relief to continue till then.

**Member (J)**

dnk.

Dated – 18/03/2019.

**REVIEW APPLICATION No.**  
**01/2019 (SB)**  
**IN ORIGINAL APPLICATION**  
**NO.178 of 2016**  
**(Devidas S/o Tulshiram Futane**  
**Vs. State of Maharashtra & Ano.)**

**Coram :- Hon'ble Shri A.D.  
Karanjkar,  
Member (J).**

**Dated :- 18/03/2019.**

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**ORDER**

Heard Shri Bharat  
Kulkarni, learned counsel for the  
applicant and Shri H.K. Pande,  
learned P.O. for the respondents.

2. This application is filed  
by the applicant alleging that as per  
the Rule of 17 of the Maharashtra  
Civil Services (Pay) Rules, 1981

the pay of the employee cannot be reduced and it must be protected. The second submission is that the applicant had lien on his earlier post which was in Government Dairy Development Department and he is entitled to the benefits claimed as per the decision given by the Hon'ble High Court in Writ Petition No. 1419/2011 on 18/12/2017. It is contention of the applicant that even after his absorption on the post of Laboratory Assistant in the Government College of Pharmacy, Amravati he was entitled to the pay scale admissible to the post of Head Clerk. It is contended that these legal issues were not

considered, therefore, the order passed in O.A. No.178/2016 be reviewed.

3. It is submission of the learned P.O. that the application for Review is totally misconceived all these contentions were raised and rejected, therefore, the applicant is not entitled for any relief.

4. I have heard submissions on behalf of the learned counsel for the applicant and on behalf of the respondents. The brief facts are that the applicant was in service in District Dairy Development Office, Amravati on the post of Junior Clerk / Time Keeper. After completion of 12

years service benefit of first Assured Progression Scheme was given to the applicant. Thereafter the Government declared the some posts in the Dairy Development Department as surplus and as the applicant was surplus employee he was given option to join the post of Laboratory Assistant on the establishment of Government Pharmacy College, Amravati. Accordingly, the applicant accepted the post of Laboratory Assistant in the Government College of Pharmacy, Amravati.

5. While deciding the O.A.No.178/2016 this Bench has considered all the submissions of the applicant and rejected his claim

that he was entitled to draw the salary admissible to the post of Head Clerk. It must be kept in mind that the applicant accepted the post of Laboratory Assistant and to that post there was no promotional avenue, the applicant was not forced or compelled to accept the post of Laboratory Assistant. It is also pertinent to note that the applicant remained silent till his retirement and after his retirement he raised the issue that had the applicant served in the Dairy Development Department he would have promoted on the post of Head Clerk and the employees junior to him in the Dairy Development Department were receiving the

salary of the Head Clerk, therefore, injustice is caused to him. The applicant has placed reliance on the Judgment in Writ Petition No. 1419/2011 in case of **State of Maharashtra & Ors. Versus Shri Vijay S/o Pandhari Narwade** decided on 18/12/2017. After reading this Judgment it seems that, that issue was totally different. The employee was declared surplus and consequently he was absorbed as Junior Clerk in the office of Joint Charity Commissioner, Latur and the issue involved was the past service rendered by the employee before his absorption and in this background it was held by the

Hon'ble High Court that he was entitled to tag his past service with his new service even after the absorption and accordingly his seniority should have been fixed.

6. In the present case while deciding the O.A.178/2016 the O.A. was rejected mainly on the ground that the promotional avenue was not available to the post of Laboratory Assistant in the Government College of Pharmacy, therefore, though the applicant was entitled to second Assure Progression Scheme he had no right to claim the salary admissible to the post of Head Clerk. While deciding that application it was also considered that when benefit of first

A.C.P. was given to the applicant pay scale admissible to the post of senior clerk was given to the applicant as the promotional avenue was available. When the applicant was absorbed on the post of Laboratory Assistant his salary in the pay scale admissible to the post of senior clerk was protected. As the post of the applicant was declared surplus, therefore, concession was given to him by the Government, otherwise the applicant had to face great difficulty i.e. unemployment. As the applicant was in need of the service he accepted the post of the laboratory assistant with full knowledge that there was no

promotional avenue available and he remained silent till his retirement, therefore, in this situation it is not possible to accept that after absorption in the Government Pharmacy College, the applicant was entitled to carry with him the promotional avenues which were available to him in the Dairy Development Department. As there was no promotional avenue to promote the applicant on the post of Head Clerk, therefore, the applicant has no right to claim that he should have been given pay scale admissible to the post of the Head Clerk. That in consideration of the above circumstances it is not possible to say that the

Government Pharmacy College has committed error while giving benefit of second A.C.P. In view of this matter, I do not see any substance in the application for Review. Hence, the following order –

**ORDER**

The application for review stands dismissed with no order as to costs.

**Dated** :- 18/03/2019.

**(A.D. Karanjkar)  
Member (J).**

\*dnk.

**O.A. No.226/2018.**

**(S.B.)**

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

**Dated : 18<sup>th</sup> March 2019.**

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

The Ld. counsel for the applicant submits that he will carry out amendment today itself. Permission is granted to amend the O.A. forthwith. Copy of amended O.A. is already supplied to the Ld. P.O.

S.O. **two weeks** for filing reply to the amended O.A.

Vice-  
Chairman(J)

Dt. 18.3.2019.

pdg.

**O.A. No.565/2018.**

**(S.B.)**

**Coram:Shri J.D. Kulkarni,**  
**Vice-Chairman (J)**  
**Dated : 18<sup>th</sup> March 2019.**

Heard Shri A.S. Deshpande,  
the Ld. counsel for the applicant  
and Shri A.P. Potnis, the learned  
P.O. for the respondents.

Ld. P.O. has filed reply of R.2,  
it is taken on record and a copy  
thereof is supplied to the Ld.  
counsel for the applicant.

S.O. **one week** for filing rejoinder, if any.

Vice-  
Chairman(J)

Dt. 18.3.2019.

pdg.

**O.A. No.690/2018. (S.B.)**

**Coram:Shri J.D. Kulkarni,**  
**Vice-Chairman (J)**  
**Dated : 18<sup>th</sup> March 2019.**

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

2. The applicant is a Laboratory Attendant, working at Government Polytechnic College, Chandrapur since

2011 and he is claiming transfer out of naxalite affected area. He has filed number of representations. Copies of which are placed on record at page Nos. 28 to 33 (both inclusive). However, his claim was not considered and, therefore, he has filed this O.A. and requested that he may be transferred at the place of his choice.

3. The respondents Nos.1 to 3 have filed reply affidavit today. It is taken on record and copies are supplied to the other side. In the reply affidavit, it is stated that applicant's claim will be considered at the time of Annual General Transfers of 2019 to be effected in the month of April/May, 2019.

4. The Ld. counsel for the applicant submits that the application may be disposed of in view of reply affidavit filed by the respondents. He submits that one post at Nagpur is lying vacant. This aspect can be considered by the competent authority at the time of considering the transfer of the applicant. In view thereof, O.A. stands disposed of with directions to the respondents to consider the applicant's case for transfer

out of Chandrapur i.e. out of naxalite affected area, at any of the choice posting given by the applicant at the time of Annual General Transfers of 2019 to be effected in the month of April/May, 2019. No order as to costs.

Vice-  
Chairman(J)

Dt. 18.3.2019.

pdg.

**O.A. Nos.943,944 & 945 of 2018.**

**(S.B.)**

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

**Dated : 18<sup>th</sup> March 2019.**

**C.A.No. 369,370 & 371 of 2018.**

Heard Shri A.R. Ingole, the  
Ld. counsel for the applicants and  
Shri the learned P.O. for the  
respondents 1 and 2. Shri M.M.  
Sudame, Adv. for R.3.

At the request of the Ld.  
counsel for the applicants, S.O.

**20.3.2019**

Vice-  
Chairman(J)

Dt. 18.3.2019.

pdg.

**O.A. No.1019/2018.**

**(S.B.)**

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

**Dated : 18<sup>th</sup> March 2019.**

None for the applicant. Shri V.A. Kulkarni, the learned P.O. for the respondents.

Service report was not filed.

S.O. **three weeks** for filing service report.

Vice-  
Chairman(J)

Dt. 18.3.2019.

pdg.

**O.A. No.1027/2018.**

**(S.B.)**

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

**Dated : 18<sup>th</sup> March 2019.**

None for the applicant. Shri  
V.A. Kulkarni, the learned P.O. for  
the respondents.

S.O. **three weeks** for filing  
reply.

Vice-  
Chairman(J)

Dt. 18.3.2019.

pdg.

**O.A. No.24/2019.**

**(S.B.)**

**Coram:Shri J.D. Kulkarni,**  
**Vice-Chairman (J)**  
**Dated : 18<sup>th</sup> March 2019.**

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

S.O. **four weeks.**

Vice-  
Chairman(J)

Dt. 18.3.2019.

pdg.

**O.A. No.401/2018.**

**(S.B.)**

**Coram:Shri J.D. Kulkarni,**  
**Vice-Chairman (J)**  
**Dated : 18<sup>th</sup> March 2019.**

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

The Ld. counsel for the applicant , on instructions wants to withdraw the O.A. and seeks permission for the same. Permission is granted. O.A. stands disposed of as withdrawn with no order as to costs.

Vice-  
Chairman(J)

Dt. 18.3.2019.

pdg.

**O.A. Nos.741 & 742 of 2018.**

**(S.B.)**

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

**Dated : 18<sup>th</sup> March 2019.**

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

**S.O. 19.3.2019.**

Vice-  
Chairman(J)

Dt. 18.3.2019.

pdg.

**O.A. No. 99/2019. (S.B.)**

**Coram:Shri J.D. Kulkarni,  
Vice-Chairman (J)  
Dated : 18<sup>th</sup> March 2019.**

**C.A. No.86/2019.**

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

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

**S.O. one week.**

Vice-  
Chairman(J)

Dt. 18.3.2019.

pdg.