

O.A. 297/2017 (SB)

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

Dated : 23.03.2018

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

Closed for orders.

Vice Chairman (J)

dnk.

O.A. 705/2017 (SB)

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

Dated : 23.03.2018

C.A.469/2017 in O.A.705/2017 -

Heard Shri G.G. Bade, Id. counsel for the applicants and Shri V.A. Kulkarni, Id. P.O. for the respondents.

2. The learned P.O. objected for relief claimed by sue jointly application on the ground that there are 20 applicants and the cause of action in which in respect of each applicant may be different. The applicant is therefore directed to give detailed cause of action and the dates on which the applicant is entitled. A Chart to that effect may be filed.

S.O. two weeks.

Vice Chairman (J)

dnk.

O.A. 148/2018 (SB)

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

Dated : 23.03.2018

C.A. 44/2018 -

None for the applicants.

Shri S.A. Deo, Id. CPO for the
respondents.

At the request of Id. CPO, **S.O.**
four weeks.

Vice Chairman (J)

dnk.

O.A. 143/2018 (SB)

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

Dated : 23.03.2018

C.A. 51/2018 -

Shri A.M. Sudame, Id. counsel for the applicant, Shri S.A. Deo, Id. CPO for R-1 to 3 and Shri A.Z. Jibhkate, Id. counsel for R-4.

At the request of learned counsel for parties, **S.O. 16/04/2018**.

Put up along with O.A.779/2017.

Vice Chairman (J)

dnk.

O.A. 152/2018 (SB)

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

Dated : 23.03.2018

C.A. 73/2018 -

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

2. In the O.A. the applicant has claimed a direction to respondents to post him at Nagpur City as Superintendent (Mid day meal) instead at the post of Nagpur (Rural). However, the impugned order whereby the applicant has been transferred to Nagpur (Rural) has not been challenged and now by way of amendment he wants to challenge order dated 17/07/2017. In fact, this fact was well within knowledge of applicant and therefore the said order should have been challenged at the earliest. However in the interest of justice, the application for amendment is allowed. Necessary amendment be carried out forthwith.

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

O.A.152/2018 -

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

2. After amendment, issue notice to R-2 to 4, returnable in four weeks. Learned C.P.O. waives notice for R-1. Hamdast allowed.

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

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

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

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

7. The applicant is directed to supply copies of amendment within a stipulated period.

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

Vice Chairman (J)

dnk.

O.A. 137/2018 (SB)

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

Dated : 23.03.2018

Shri A.M. Sudame, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for R-1. Await service of R-2&3.

The learned counsel for the applicant submits that he will file service affidavit of R-2&3 during the course of day.

The learned CPO seeks time to file reply. At his request, **S.O. four weeks.**

Vice Chairman (J)

dnk.

O.A. 149/2018 (SB)

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

Dated : 23.03.2018

Shri M.R. Khan, Id. counsel for the applicant, Shri M.I. Khan, Id. P.O. for R-1. Shri H.D. Marathe, Id. counsel appears on behalf of R-2 to 5 and submits that he is filing vakalatnama today itself. He also seeks time to file reply on behalf of R-2 to 5.

2. The learned P.O. submits that the application is not within limitation. However, he can take that objection by filing reply-affidavit. He also seeks time to file reply-affidavit.

3. At the request of learned P.O. as well as learned counsel for R-2 to 5, **S.O. four weeks** for filing reply.

Vice Chairman (J)

dnk.

O.A. 132/2017 (SB)

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

Dated : 23.03.2018

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

The learned counsel for the applicant submits that he does not want to file reply.

Since the pleadings are complete, the matter is admitted and kept for final hearing including the point of maintainability.

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

S.O. in due course.

Vice Chairman (J)

dnk.

O.A. 193/2017 (SB)

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

Dated : 23.03.2018

Shri G.G. Bade, Id. counsel for the
applicant and Shri S.A. d

Vice Chairman (J)

dnk.

O.A. 193/2017 (SB)

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

Dated : 23.03.2018

Shri G.G. Bade, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for the respondents.

At the request of learned counsel for the applicant, **S.O.**

Put up along with contempt petition st.no.366/2015 in O.A.366/2015.

Vice Chairman (J)

dnk.

O.A. 216/2017 (SB)

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

Dated : 23.03.2018

Shri S.M. Khan, Id. counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the respondents.

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

Vice Chairman (J)

dnk.

O.A. 923/2017 (SB)

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

Dated : 23.03.2018

Mrs. V. Chimurkar, Id. counsel for the applicant, Shri A.P. Potnis, Id. P.O. for R-1&2 and Shri S. Majid, Id. counsel for R-3&4.

The learned counsel for R-3&4 submits that he has received the copy of affidavit of the applicant today itself and therefore time may be granted to submit counter affidavit. At his request, **S.O. one week.**

Vice Chairman (J)

dnk.

O.A. 15/2018 (SB)

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

Dated : 23.03.2018

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

The learned counsel for the applicant placed on record affidavit of the applicant making it clear that the respondents authorities have not followed the procedures regarding transfer of the employees and matter was not kept before Civil Service Board. The learned P.O. submits that he will place on record the Minutes of the Meeting of Civil Service Board in which the applicant's name was considered and for that purpose he seeks time. At his request, **S.O. one week.**

Vice Chairman (J)

dnk.

O.A. 17/2018 **(SB)**

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

Dated : 23.03.2018

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

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

Vice Chairman (J)

dnk.

O.A. 134/2018 (SB)

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

Dated : 23.03.2018

Shri S.G. Zinjarde, Id. counsel holding for Shri N.W. Almelkar, learned counsel for the applicant and Shri S.A. Deo, Id. CPO for the respondents.

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

Vice Chairman (J)

dnk.

**O.A. Nos. 809,810,811,812,813,814,815,
816,817, 818,819,820, 821 & 822 of
2017 (SB)**

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

Dated : 23.03.2018

Ms. Meenaxi Iyer, Id. counsel for
the applicant and Shri P.N. Warjurkar, Id.
P.O. and other learned P.Os. for the
respondents.

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

Vice Chairman (J)

dnk.

O.A. 735/2016 (SB)

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

Dated : 23.03.2018

Shri M.R. Rajgure, Id .counsel for the applicant, Shri S.A. Sainis, Id. P.O. for R-1&2 and Shri V.G. Wankhede, Id. counsel for R-3.

The learned counsel for the applicant has placed on record the copy of G.Rs. dated 08/06/1995 and 20/03/1997 which are marked Exh-X and X1. Copy of the same has been supplied to the other side. The learned counsel for R-3 wants to go through the same.

S.O. 03/04/2018.

Vice Chairman (J)

dnk.

O.A. 200/2018 (SB)

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

Dated : 23.03.2018

Heard Shri W.G. Paunikar, Id. counsel for the applicant and Shri A.M. Ghogre, Id. P.O. for the State.

2. The applicant in this case has challenged the order of her suspension dated 19/03/2018 (Annex-A-3,P-22). The learned counsel for the applicant invited my attention to the copy of Judgment passed in Writ Petition no.576/2018 on 26/02/2018 by the Hon'ble High Court of Judicature at Bombay, Bench at Nagpur. It is stated that the applicant has filed writ petition against the respondents and the respondent authorities seems to have been aggrieved by such action. It is stated that the Hon'ble High Court directed the applicant along with her representative to attend the office of respondent no.2 on 19/03/2018 and respondent no.2 was to verify the position within next four weeks and liberty was granted to applicant to renew her grievance, if it is not redressed. However, instead of hearing the applicant and without giving opportunity to her, respondent no.3 has issued impugned order of suspension. The

respondent no.3 is went upon to implicate the applicant in any matter at any cost.

3. Without going into the merits of the order of suspension, it is stated that the applicant is ready to file appeal against the said order before the competent authority. The learned counsel for the applicant therefore submits that the applicant may be permitted to withdraw the O.A. with permission to file appeal. He submits that appeal will be filed within one week. In view thereof, the applicant is allowed to withdraw the O.A. Hence, the following order :-

ORDER

The O.A. stands disposed of as withdrawn. The applicant is at liberty to file representation/ appeal against the order of suspension dated 19/03/2018 before the competent authority. The competent authority shall decide such appeal within a period of one month from the date of receipt of the representation / appeal and the decision thereon shall communicate to the applicant in writing. No order as to costs.

Steno copy be supplied to the learned counsel for the parties.

Vice Chairman (J)

dnk.

O.A. nos.594 & 689 of 2017 **(SB)**

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

Dated : 23.03.2018

Heard Shri Bhart Kulkarni, Id. counsel for the applicants and Shri S.A. Sainis, Id. P.O. for the respondents.

2. The applicants are Milk Procurement and Extension Supervisor and was working at Govt. Milk Scheme Nagpur/ Wardha. They have been granted second time bound promotion. However, vide order dated 27/4/2016 the said order has been cancelled by respondent no.1.

3. The learned counsel for the applicants invited my attention to the Judgment in O.A.Nos. 636,733 and 599 of 2013, dated 26/02/2015. In the said O.A. the Hon'ble Tribunal was pleased to quash and set aside the order dated 27/05/2013 whereby the time bound promotions granted to the similarly situated employees including the applicants have been quashed and set aside. The said order was challenged by the State in Writ Petition no.6329/2015

before the Hon'ble High Court of Judicature at Bombay Bench at Nagpur and the Hon'ble High Court vide order dated 23/11/2015 was pleased to dismiss the writ petition and the order of this Tribunal was confirmed. In view of this, the applicants have claimed the following reliefs :-

(i) Quash and set aside the impugned letter dated 27/04/2016 at Annex-A-1 of respondent no.1 being illegal and de-hors of law.

(ii) Direct the respondents to refund the recovered amount with interest and restore the pay scale of Rs.9300-34800/- Grade Pay Rs.4400/- of applicants with arrears and interest thereon.

(iii) Direct the respondents to implement the Tribunal order dated 26/02/2015 & 20/02/2017 to the applicants also. Quash and set aside order dated 27/05/2013 cancelling 2nd benefit at Annex-A-4.

4. The learned counsel for the applicants invited my attention to the order of cancellation of time bound promotion dated 27/05/2013 (Annex-A-4). In the said list the name of the applicant

in O.A.no. 594/2017 stands at sr.no.6 and the applicant in O.A.No.689/2017 stands at sr.no.25. It seems that all time bound promotions of 33 candidates were cancelled.

5. The learned counsel for the applicants submits that the cases of the applicants are covered by the Judgment delivered by this Tribunal as well as the Hon'ble High Court as stated supra. There seems to be no dispute in this regard. In view thereof, the following order :-

ORDER

The O.As. are allowed in terms of prayer clause nos. (i),(ii) & (iii). No order as to costs.

Vice Chairman (J)

dnk.

O.A. 376/2016 (SB)

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

Dated : 23.03.2018

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

2. The applicant's husband was serving as Librarian and has retired on superannuation on 30/04/2002. He was getting pension till Novebmer,2007 till his death on 09/12/2007. Thereafter the applicant was getting family pension. The applicant however did not get the revised pension of her husband w.e.f. 01/05/2002 to 01/12/2007 and thereafter the family pension w.e.f. 01/01/2008. The arrears of family pension are also not paid to her. The applicant is claiming for following reliefs in this O.A. :-

“(A) Direct the respondents to revise the case of the husband as per govt. resolution dated 19/09/2007 and they be further directed to revise the pension of husband of applicant from 01/05/2002 to 01/12/2007 and then family pension of the applicant w.e.f.

1/1/2008 till date to pay the amount of arrears of pension, family pension together with interest as per G.Rs. dated 22/11/1994, 24/1/1996 and 24/04/1995.

(B) Direct the respondents to refund of Rs.1,34,905/- which was illegally recovered from the husband of the applicant because of wrong interpretation of G.R. and for which the husband of the applicant was entitled as per G.R. dated 19/09/2007, together with interest.”

3. The respondents have filed the reply-affidavit and initially tried to justify the action on the part of the respondents. So far as the claim “B” is concerned, it is admitted that the applicant is entitled to refund amount of Rs. 1,34,905/- which was illegally recovered from the husband of the applicant. Today the learned P.O. has placed on record the copy of order dated 21/03/2018 which is marked Exh-X for the purpose of identification, from which it seems that the competent authority has been directed to re-pay the amount of Rs.1,34,905/- to the applicant. The learned P.O. submits that necessary bill in this regard will be submitted to the

Treasury Office within one week and the amount will be paid to the applicant.

4. So far as regarding revision of pension of the deceased employee and the revision of family pension is concerned, it is stated that the pension is to be revised as per 4th, 5th and 6th Pay Commission and it will take time. The learned P.O. submits that the necessary action regarding prayer Clause "A" as claimed by the applicant will be taken within two months and in view of this, the application may be disposed of.

5. The learned counsel for the applicant submits that the applicant will be entitled to claim interest on the amount which was wrongly recovered from her husband as well as delay in revising pension and family pension. So far as the interest claim is concerned, the same will have to be calculated from the date of entitlement till the amount is actually received and therefore the applicant will be at liberty to file representation claiming interest on the delayed payment that

may be given as per Clause "A" of the prayer clause after getting the amount and on receiving such representation, the respondents will calculate the interest and it is expected that the same will be paid within reasonable period. In view of this observation, the application therefore stands disposed of accordingly with no order as to costs.

Vice Chairman (J)

dnk.

O.A. 472/2016 (SB)

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

Dated : 23.03.2018

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

2. The applicant is retired as Forester and has claimed following reliefs in this O.A. :-

“(1) Declare the action on the part of respondents in not revising pension of the applicant w.e.f. 01/01/2006 as illegal, contrary to Article 14 of the Constitution of Indian.

(2) Revise the pension of the applicant w.e.f. 01/01/2006 as per the recommendations of the Hakim Committee and direct the respondents to pay the same with arrears.

(3) Require the respondents to pay the full amount of gratuity which has been paid less along with interest thereon.”

3. According to the applicant, the respondents are not revising his pension w.e.f. 1/1/2006.

4. According to the applicant, the Government has accepted the Hakim Committee's recommendation w.e.f. 27/02/2009 vide G.R. dated 27/02/2009 (Annex-A-2,P-13) and in pursuance of the said recommendation G.R. dated 30/10/2009 has been issued. However, in the said G.R., it is stated that those employees who retired on or after 27/02/2009 will be eligible for the benefits, but employees who retired between 1/1/2006 to 26/2/2009 will not be entitled. This clause is discriminatory. The respondents also issued one corrigendum on 15/12/2009 as per Annex-A-4 and in view of said corrigendum the applicant is claiming revised pension. For that purpose the applicant has filed representations on 21/11/2015, 3/12/2015, 19/1/2016 & 3/3/2016 (Annex-A-5), but no decision was taken and therefore was constrained to file this O.A. The reply-affidavit has been filed on behalf of R-2,i.e., the Accountant General (A&E)-II, Nagpur on record and tried to justify the action taken by the respondents and submitted that the issue was pending before the Hon'ble Supreme Court in SLP no. CC 6186-6191 of 2015.

5. The learned counsel for the applicant submits that the Hon'ble Apex Court has already decided SLP no. CC 6186-6191 of 2015 and the order passed by the Hon'ble High Court has been confirmed. It further stated that the order passed by the Hon'ble High Court and Hon'ble Supreme Court has been well discussed in O.A. 433/2014 by this Tribunal at Nagpur Bench in the case of **Ramsajiwani S/o Kawduji Lilhare Vs. State of Maharashtra & Ors.**, pronounced on 08/01/2018. The Paras nos. 8&9 of the said Judgment is relevant which reads as under :-

“(8) The crux of the matter depends on the interpretation of G.R. dated 30/10/2009. The said G.R. was challenged in the W.Ps. before the Hon'ble High Court, Bench at Aurangabad as already stated. The Hon'ble High Court, Bench at Aurangabad in those W.Ps. have passed an order on 9/5/2014. In the said Judgment the Hon'ble High Court has observed as under :-

“(22) We hold the cut-off date 27th February, 2009 prescribed in Government Resolution dated 30th October, 2009 for

payment of revised pension under the Maharashtra Civil Services (Pension) Rules, 1982, making it applicable to those employees who retired from 27th February, 2009 and not to those employees, who retired in between 1st January, 2006 to 26th February, 2009, as unconstitutional.

(23) In the light of discussion herein above, as a sequel to the above, we direct that within three months from the date of receipt/production of copy of this order, the State Government shall pay to the petitioners and other similarly situated employees, the difference of the pension and revised pension payable.”

9. The aforesaid Judgment has been challenged before the Hon'ble Supreme Court of India in Special Leave to Appeal (c) Nos. 13140-13151/2015 in the case of **State of Maharashtra & Ors. Vs. Savitribai Narsayya Guddapa etc.** The Hon'ble Apex Court vide order dated 11/10/2017 in those Special Leave to Appeals., was pleased to dismiss the appeal and has observed as under :-

“ When the benefit has been given of the pay scale on 01/01/2006, the persons who had retired upto 26/02/2009 could not have been deprived of the benefit of revised salary for purpose of pension which was to be paid to them. In view of the aforesaid and also agreeing with the reasoning employed by the High Court, we are not inclined to interfere. The special leave petitions are dismissed.”

6. In view of the facts referred above, it is now clear that issue has been settled and benefits of 6th pay commission to the person who retired upto 26/2/2009 cannot be deprived. Hence, the following order :-

ORDER

The O.A. is allowed. The respondents are directed to pay pension to the applicant as per revised rules in view of the Judgment delivered by the Hon'ble High Court of Judicature at Bombay Bench at Aurangabad in W.P.Nos. 8985/2011, 8908/2011, 135/2012, 8734/2011, 132/2012 and 3934/2013 on 09/05/2014 and also in view of the decision delivered by the Hon'ble Apex Court in SLP (c) Nos. 13140-13151/2015 on 11/10/2017. The pension shall be revised accordingly and the arrears be paid within three months from the date of this order.

Vice Chairman (J)

dnk.

O.A. (St.) No. 1919/2016. (D.B.)

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

Dated : 23rd March 2018.

C.A. 475/2016.

Heard Shri S.P. Palshikar, the Ld. counsel for the applicant and Shri A.M. Khadatkar, the Ld. P.O. for the respondents 1 and 2. Shri H.D. Futane, Adv. for R.3 and 13. Shri Vipul Bhise, Adv. for R. 6,16 and 17.

Await service to respondent Nos.2,4,5,7 to 12 and 14 & 15.

The Ld. counsel for the applicant submits that all the respondents have been served and he will satisfy the office to that effect.

S.O. **one week** for filing reply of R.1.

Vice-Chairman(J)

pdg

O.A. No. 78/2017. (D.B.)

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

Dated : 23rd March 2018.

None for the applicant. Shri P.N. Warjekar, the Ld. P.O. for the respondents.

The Ld. P.O. seeks time to file reply affidavit on behalf of R.1 and 2.

S.O. **one week.**

Vice-
Chairman(J)

pdg

O.A. No. 193/2015. (D.B.)

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

Dated : 23rd March 2018.

Heard Shri G.G. Bade, the Ld. counsel for the applicant and Shri A.M. Ghogre, the Ld. P.O. for the respondents. 1 and 2. Shri P.V. Thakre, Adv. for R.3.

The Ld. counsel for the applicant submits that he will file rejoinder during the course of the day.

S.O. **one week** for hearing on admission.

Vice-
Chairman(J)

pdg

O.A. No. 260/2017. (D.B.)

Coram: Shri J.D. Kulkarni,

Vice-Chairman(J)

Dated : 23rd March 2018.

Heard Shri G.C. Khond, the Ld. counsel for the applicant and Shri H.K. Pande, the Ld. P.O. for the respondents.

The Ld. P.O. has filed reply affidavit on behalf of R. 1 and 2, it is taken on record and a copy thereof is supplied to the Ld. counsel for the applicant.

S.O. **two weeks.**

Vice-
Chairman(J)

pdg

O.A. No. 262/2017. (D.B.)

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

Dated : 23rd March 2018.

Heard Shri G.C. Khond, the Ld. counsel for the applicant and Shri A.M. Khadatkar, the Ld. P.O. for the respondents.

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

S.O. **two weeks** for filing rejoinder, if any.

Vice-
Chairman(J)

pdg

O.A. No. 687/2016. (D.B.)

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

Dated : 23rd March 2018.

C.P. 40/2017.

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

The Ld. P.O. submits that necessary documents are required for getting regular pension and it be handed over by the applicant to the respondent authorities and he was directed to approach the Treasury Office. However, the applicant did not take any steps in this regard. The respondents have in fact complied with the order of this Tribunal. He has also placed on record the communication dated 21.3.2018 along-with necessary documents which is marked "X" for identification.

Since nobody is present for the applicant, matter be kept after **two weeks**.

Vice-Chairman(J)

O.A. No. 607/2017. (D.B.)

(Dr. Shivaji I. Nelge V/s State & 4 others.)

Coram: Shri J.D. Kulkarni,

Vice-Chairman(J)

Dated : 23rd March 2018.

1. With consent of both the parties, this O.A. is being disposed of by this order.
2. Heard Shri S.M. Khan, the Ld. counsel for the applicant and Shri M.I. Khan, the Ld. P.O. for the respondents 1 to 3. Shri J.S. Mokadam, Adv. for R.4.
3. The applicant is serving as Medical Officer at Primary Health Centre, Talegaon (Talatule), District Wardha. On 8.11.2016, the applicant submitted an application for voluntary retirement and requested that his application for voluntary retirement be accepted w.e.f. 5.2.2017 after office hours. On 22.5.2017, the applicant filed another application as per Annexure A-11 and requested he was neither relieved nor his application was accepted and, therefore, it shall be presumed that he was in service. But he was not allowed to join. He also made grievance about non receiving of salary. Thereafter he issued a notice by registered

post with A/D on 9.5.2017. But nothing was done and, therefore, this O.A.

4. In the O.A., the applicant has claimed that it shall be declared that his application for voluntary retirement is rejected and, therefore, he be allowed to join the duty at the normal place of posting and the respondent No.4 be restrained from not allowing him to join the duty.

5. In para No.8 of the reply affidavit filed on behalf of respondent No.1, it is stated that as per Rule 66 (2) (5) of the Maharashtra Civil Services (Pension) Rules, 1982, the appointing authority of the applicant did not reject his application for voluntary retirement within a stipulated period of notice or it has not been withdrawn by the applicant with prior approval of the appropriate authority and the same shall be treated as deemed to be accepted. It is further stated that as per the provisions of Pension Rules, the applicant is deemed to be retired and on this count, his application deserves to be dismissed. From the said reply, it is clear that the respondent authorities have decided to invoke the deemed provision of the acceptance of notice of voluntary retirement. The learned counsel for the applicant today has filed on record the pursis which is marked "X" for identification and submits that the applicant is willing and ready for the relief to be granted for voluntary retirement that his application for voluntary

retirement shall be accepted and he be granted all the retiral benefits as may be admissible.

6. In view of the discussion in foregoing paras, it will be thus crystal clear that the fact remains that the applicant has submitted an application for voluntary retirement (P.19) on 8.11.2016 and requested that his application for voluntary retirement be accepted w.e.f. 5.2.2017 and he be relieved accordingly on 5.2.2017. Since the application was not accepted and nothing was informed to the applicant, it shall be presumed that the application for voluntary retirement has been accepted by the Government. Hence, the following order:-

ORDER

- (i) The O.A. is partly allowed.
- (ii) The applicant shall be presumed to be retired voluntarily w.e.f. 5.2.2017.
- (iii) The respondent No.1 is directed to pay admissible retiral benefits to the applicant within a period of **three months** from the date of this order.
- (iv) No order as to costs.

Chairman(J) Vice-

pdg

O.A. No.776/2016. (S.B.)

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

Dated : 23rd March 2018.

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

At the request of the Ld. counsel for the applicant, S.O. **6.4.2018.**

Vice-
Chairman(J)

pdg

O.A. No.781/2016. (S.B.)

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

Dated : 23rd March 2018.

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

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

Vice-
Chairman(J)

pdg

O.A. No.307/2017. (S.B.)

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

Dated : 23rd March 2018.

Shri P.V. Marpakwar, the Ld. counsel
for the applicant and Shri P.N. Warjekar, the
Ld. P.O. for the respondents.

At the request of the Ld. P.O., S.O.
6.4.2018 for filing reply affidavit.

Vice-
Chairman(J)

pdg