

O.A. 382/2020 (S.B.)

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

Dated : 23/06/2021.

Shri N.R. Saboo, Id. counsel for the applicant and Shri S.A. Sainis, Id. P.O. for the respondents.

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

Vice-Chairman

dnk.

O.A. 383/2020 (S.B.)

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

Dated : 23/06/2021.

Shri N.R. Saboo, Id. counsel for the applicant and Shri S.A. Sainis, Id. P.O. for the respondents.

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

Vice-Chairman

dnk.

O.A. 224/2021 (S.B.)

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

Dated : 23/06/2021.

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

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

Vice-Chairman

dnk.

O.A. 225/2021 (S.B.)

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

Dated : 23/06/2021.

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

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

Vice-Chairman

dnk.

O.A. 304/2021 (S.B.)

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

Dated : 23/06/2021.

Heard Shri S.P. Palshikar, Id. counsel for the applicant, Shri A.P. Potnis, Id. P.O. for R-1, Shri D.M .Kale, Id. counsel for R-2 and Shri S.M. Bhagde, Id. counsel for R-3.

2. The learned P.O. files separate reply on behalf of R-2&3. Same are taken on record and copies are supplied to the other side. The learned counsel for the applicant wants to go through the reply and for that purpose he seeks further time.

3. The matter is admitted and it be kept for final hearing. The Id. P.O. waives notice for R-1.

S.O. 30/6/2021.

Vice-Chairman

dnk.

O.A. 210/2020 (S.B.)

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

Dated : 23/06/2021.

Heard Shri S.N. Gaikwad, Id .counsel holding for Shri R.V. Shiralkar, Id. counsel for the applicant and Shri A.M. Khadatkar, Id. P.O. for R-1&2. None for R-3.

2. The Id. P.O. files reply of R-3. It is taken on record. Copy is served to the Id. counsel for the applicant. The Id. P.O. submits that reply of R-3 is sufficient to decide the O.A.

3. The Id. counsel for the applicant submits that matter may be admitted and it be kept for final hearing.

4. In view thereof, the matter is admitted and kept for final hearing.

The Id. P.O. waives notice for R-1&2.

S.O. 5/7/2021.

Vice-Chairman

dnk.

O.A. 457/2021 (S.B.)

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

Dated : 23/06/2021.

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

2. As submitted by the learned counsel for the applicant, the matter is regarding pensionary benefit to the applicant.

3. In the meantime, issue notice to the respondents returnable **after four weeks..** Learned 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. 643/2020 (S.B.)

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

Dated : 23/06/2021.

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

2. The Id. P.O. files reply on behalf of R-2. It is taken on record. Copy is served to the applicant. However, the Id. counsel for the applicant has also filed letter dated 2/3/2021 issued by the Director General of Police (M.S.), Mumbai and submits that the grievance of the applicant has been solved. Copy of the same is taken on record and marked Exh-X.

3. In view of above, as the applicant's grievance has been solved there is nothing in this O.A. Hence ,the O.A. stands disposed of. No order as to costs.

Vice-Chairman

dnk.

O.A. 48/2020 (S.B.)

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

Dated : 23/06/2021.

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

2. As pointed out by the learned counsel for the applicant in his O.A. on page no.5, Para-H which is reproduced as below –

“ (H) Applicant submits that by Committee constituted as per communication dated 4/2/2019 did not held any enquiry. The Office Collector, through its Subordinate Officers however held preliminary enquiry. The statement of applicant was not recorded nor any Memorandum Charge is issued to him. Based on such preliminary report, the respondent Dy. C.F. issued order of recovery.”

3. It appears that there are some allegations against the applicant about misappropriation of Government funds in MREGS and preliminary inquiry was made. Only after preliminary inquiry without regular D.E. under Section 8 of the Maharashtra Civil Services (Discipline & Appeal) Rules,1979, recovery order was issued vide letter dated 2/1/2020 (A-2,P-10 to 12) by the respondent

no.4 and as submitted by the learned counsel the respondent no.4 sent Challan as per page nos.13 to 16 to the applicant. It is unlawful action without following due procedure as per M.C.S. (Discipline & Appeal) Rules,1979. It is against natural justice.

4. In view of this situation, **the order dated 2/1/2020 (A-2,P-10) is stayed till decision of the O.A.**

5. The learned P.O. seeks four weeks time to file reply. Time is granted as prayed for. The learned P.O. is directed to supply copy of reply well in advance to the learned counsel for the applicant and learned counsel is at liberty to file rejoinder before next date of hearing.

S.O. four weeks.

Steno copy is granted.

Vice-Chairman

*dnk.

O.A. 209/2021 (S.B.)

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

Dated : 23/06/2021.

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

2. The learned counsel has filed communication dated 25/5/2021 (P-51) issued by the Accountant Officer, Education Department, Akola to the applicant. As per last para of this letter, it appears that first recovery order was issued for Rs.2,12,077/-. Subsequently, after verification it is reduced to Rs.1,88,435/- and that also subject to verification of Pay Verification Unit. Hence as per their own admission, it appears that the respondents are not sure how much extra payment has been done. Unless verification from Pay Verification Unit comes on record, it cannot be said that how much amount has been paid as extra amount to the applicant.

3. In this situation, if recovery order dated 10/2/2021 (A-1,P-9) is not stayed till final amount is decided it will cause unnecessary hardship to the applicant who is retired employee. Hence, recovery order dated

10/2/2021 (A-1,P-9) is stayed till final decision of the O.A.

4. However, the learned P.O. submits that stay should be granted till filing of the reply only, but considering the applicant as Class-IV employee and recovery is made from his pension amount, in the interest of justice the recovery **order dated 10/2/2021 (A-1,P-9) is stayed till final decision of the O.A.**

5. The respondents are directed to file reply before next date of hearing.

S.O. 14/7/2021.

Vice-Chairman

dnk.

O.A. 991/2019 (S.B.)

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

Dated : 23/06/2021.

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

2. The applicant's grievance is that he has not been appointed on compassionate ground as per G.R. dated 6/2/2009 (A-3,P-24). However as pointed out by the Id. P.O. in the reply of R-3 in para-2 that the applicant was appointed as Jr. Gr. Clerk on compassionate ground on 4/12/2004 and subsequently the respondent no.3 moved the proposal to the Government as per G.R. dated 6/2/2009 (A-3, P-24) and the Government after processing the file sent to the GAD and after opinion given by the GAD further action has been taken accordingly. The applicant was communicated vide letter dated 15/2/2019 accordingly. The respondent no.4 has filed reply on 9/7/2020 and in reply para-2 following facts have been pointed out -

“ (2) It is submitted that the applicant has been appointed as Jr. Gr. Clerk on compassionate ground on 4/12/2014. His father was Police Constable, B.No.314 namely Bhashkar

Mansram Pradhan was killed in the naxalits attacked Kansnsur on 5/8/1998. It is further submitted that the Superintendent of Police, Gadchiroli vide his proposal letter dated 4/10/2017 to this office that although the son of martyr Police Constable, Bhashkar Mansram Pradhan has been given an appointment on compassionate ground as Jr.Gr. Clerk on 4/12/2014, since he has completed his education of B.Sc. and since he is completing the terms and conditions of G.R. dated 6/2/2009 for getting appointment on compassionate ground in Group A or Group B Posts. After receipt of the said proposal from the S.P., Gadchiroli in this office, this office submitted the same to the State Government for taking an appropriate decision on the same vide this office letter dated 1/11/2017. The State Government vide its letter dated 11/2/2019 has taken decision on the proposal sent by this office that, once the applicant has been given an appointment on compassionate ground on the basis of educational qualification of S.S.C. on the post of Jr. Gr. Clerk and he has resumed the post. As per the remarks given by the Govt. in GAD, since the applicant has been given an appointment on the post of Jr. Gr. Clerk and then obtained the further educational qualification, then he cannot be given again appointment on compassionate ground on other post. Hence, the applicant is not entitled for appointment on compassionate grounds on

Group-A and B. Hence, his request has been turned down by the State Government by its letter dated 11/2/2019. The said decision of the State Government came to be communicated to the applicant vide this office letter dated 15/2/2019 through S.P., Gadchiroli.”

3. The para-2 of the reply is very much clear and now nothing survives in the O.A. Hence, the following order –

ORDER

The O.A. stands dismissed. No order as to costs.

Vice-Chairman

dnk.

O.A. 622/2020 (S.B.)

(Jagdish Shripat Wagh Vs. State of Maharashtra & Ors.)

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

Dated : 23/06/2021.

ORDER

Heard Smt. R.V. Sirpurkar, Id. counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the respondents.

2. The applicant was suspended vide order dated 28/8/2019 (A-1,P-16). The respondent nos.2&3 have filed reply on 15/2/2021. As pointed out in para-7 of the reply the respondent no.3 conducted preliminary inquiry vide letter dated 26/2/2020 through Dy. S.P., Buldana and Dy. S.P., Buldana vide letter dated 29/7/2020 submitted inquiry report. Accordingly the respondent no.3 initiated D.E. against the applicant through SDPO, Mehkar vide letter dated 31/10/2020 (reply para-8). So D.E. is in progress. Meanwhile, Govt. vide G.R. dated 12/2/2013 (A-VI, P-26) approved permission for prosecution under Corruption Act, 1988. This was challenged in Criminal Application (Appeal) No.958/2019 before the Hon'ble High Court, Nagpur Bench. Hon'ble High Court, Nagpur Bench passed order on 10/10/2019 and in that order in para-2 following direction has been given –

“ By an interim order, it is directed that charge sheet shall not be filed against the applicant without seeking leave of this Court, though investigation may go on.”

3. This fact has been also submitted by the respondents in para-5 of the reply.

As submitted by the respondents in his reply in para-4 which is reproduced below –

“ (4) It is submitted that the applicant was posted at Andhera Police Station, Tq. Deulgaon Raja, Dist. Buldana and in August, 2019, the applicant was charged for the offence of an illegal demand under section 7 of the Prevention of Corruption Act,1988 (amended Act,2018) and offence was registered as FIR No. 255/2020 dated 5/8/2020 (A-3).”

4. The inquiry under Section 7 of the Prevention of Corruption Act,1988 is also in progress and FIR No. 255/2020 was registered on 5/8/2020 against the applicant. The suspension period can be only decided after decision of D.E and court case.

5. However, after hearing pleadings of both the sides, various Judgments of Hon'ble Apex Court and Hon'ble High Court and Government of Maharashtra G.Rs. were also considered in case of continuation of suspension for a longer period. Following Judgments of Hon'ble Apex Court are reproduced below –

(i) The Apex Court in Civil Appeal No. 1912 of 2015 (arising out of SLP No.31761 of 2013) in the case of Ajay Kumar Chaudhary Vs. Union of India through its Secretary and another in its Judgment dated 16/02/2015 in para no. 14, it has observed that :-

14 We, therefore, direct that the currency of a Suspension Order should not extend beyond three months if within this period the Memorandum of Charges/Chargesheet is not served on the delinquent officer/employee; if the Memorandum of Charges/Chargesheet is served a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the concerned person to any Department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognize that previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time limits to their duration. However,

the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us.

(ii) The Hon'ble Apex Court in its Judgment in Civil Appeal No. 8427-8428 of 2018 (Arising out of S.L.P. (Civil) No. 12112-12113 of 2017) in the case of **State of Tamil Nadu Vs. Pramod Kumar IPS and Anr. delivered on 21/08/2018** in its para no. 24 had observed as follows:-

*24. This Court in **Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291** has frowned upon the practice of protracted suspension and held that suspension must necessarily be for a short duration. On the basis of the material on record, we are convinced that no useful purpose would be served by continuing the first Respondent under suspension any longer and that his reinstatement would not be a threat to a fair trial. We reiterate the observation of the High Court that the Appellant State has the liberty to appoint the first Respondent in a non sensitive post.*

(iii) The Principal Bench of Maharashtra Administrative Tribunal Mumbai Bench in O.A. No. 35/2018 Judgment delivered on 11/09/2018 has also rejected continuation of suspension beyond 90 days.

(v) The Hon'ble High Court of Bombay, Bench at Nagpur in W.P. No. 7506/2018, Judgment delivered on 17.07.2019 was also on same principle. It has observed in para no. 2 that **facts of this case are squarely covered by Government Resolution G.A.D. dated 09/07/2019.**

(ii) fuyfcr 'kkI dh; I sdi@; kT; k i d j .h 3 efgU; kpk dkyko/hr foHkxh; pksd' h I q d: u nkskjki i = ctlo.; kr vkysulgh] v'kk i d j .h ek- I oI@p U; k; ky; kpsvlnsk i lgrk] fuyæu I ektr dj.; k'kok; vU; i; k; jkgr ulgh- R; keGsfuyfcr 'kkI dh; I sdi@; kT; k i d j .h 3 efgU; kpk dkyko/hr foHkxh; pksd' h I q d: u nkskjki i = ctlo.; kph dk; bk; h fuyæuki kl u 90 fnoI k@; k vkr dIvcdlg i .ksdsh t kby; ; kph n{krk@ [kcjnkjh?ks; kr ; koh-

(vi) The Government of Maharashtra vide its G.R. G.A.D. 'kkI u fu.kz dz 118@i zdz11@11v] fnukd 09-07-2019 in para nos. **1 (ii)** following decisions have been taken :-

fuyfcr 'kkI dh; I sdi@; kT; k i d j .h 3 efgU; kpk dkyko/hr foHkxh; pksd' h I q d: u nkskjki i = ctlo.; kr vkysulgh] v'kk i d j .h ek- I oI@p U; k; ky; kpsvlnsk i lgrk] fuyæu I ektr dj.; k'kok; vU; i; k; jkgr ulgh- R; keGsfuyfcr 'kkI dh; I sdi@; kT; k i d j .h 3 efgU; kpk dkyko/hr foHkxh; pksd' h I q d: u nkskjki i = ctlo.; kph dk; bk; h fuyæuki kl u 90 fnoI k@; k vkr dIvcdlg i .ksdsh t kby; ; kph n{krk@ [kcjnkjh?ks; kr ; koh-

6. In case of **State of Tamil Nadu Vs. Pramod Kumar IPS and Anr. delivered on 21/08/2018** in its para no. 24 had observed as follows:-

*24. This Court in **Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291** has frowned upon the practice of protracted suspension and held that suspension must necessarily be for a short duration. On the basis of the material on record, we are convinced that no useful purpose would be served by continuing the first Respondent under suspension any longer and that his reinstatement would not be a threat to a fair trial. We reiterate the observation of the High Court that the Appellant State has the liberty to appoint the first Respondent in a non sensitive post.*

7. The present O.A. is squarely covered by the Hon'ble Apex Court Judgment in case of **State of Tamil Nadu Vs. Pramod Kumar IPS and Anr. delivered on 21/08/2018** and observations made in para-24 of the said case.

8. In view of above discussions, the order dated 28/8/2019 (A-1,P-16) requires to be revoked. Hence, the following order –

ORDER

(i) The suspension order 28/8/2019 (A-1,P-16) is revoked from the date of receipt of this order. **The respondents are directed to issue necessary orders along with suitable posting order as per observations made in para-24 above by the Hon'ble Apex Court in case of State of Tamil Nadu Vs. Pramod Kumar IPS and Anr. delivered on 21/08/2018..**

(ii) The respondents are at liberty to continue with D.E. and pass suitable order as per existing rules and regulations and directions given by the Hon'ble High Court in Criminal Application (Appeal) No. 958/2019 delivered on 10/10/2019..

(ii) With this direction, the O.A. stands disposed off. No order as to costs.

Vice-Chairman

dnk.

O.A. 621/2020 (S.B.)

(Pralhad D. Patthe Vs. state of Mah. & Ors.)

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

Dated : 23/06/2021.

ORDER

Heard Smt. R.V. Sirpurkar, Id. counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the respondents.

2. The applicant was suspended vide order dated 10/12/2019 (A-1,P-14). The respondent nos.2&3 have filed reply on 15/1/2021. As pointed out by the respondents in para-3 of the reply the applicant was an ex-serviceman and appointed on 9/5/2012 as Police Constable (B.No.2440) and the respondent no.3 i.e. S.P., Buldana is appointing authority of the applicant. In para-4 the respondents have submitted that “ *the applicant was posted at Shegaon City Police, Tq. Shegaon, Dist. Buldana and in October,2019, the applicant was charged for the offence of an illegal demand U/s 7 of the Prevention of Corruption Act,1988 (amended Act,2018) and offence was registered as FIR No.480/2020 dated 4/11/2019 (A-3).*”

3. As per para-6 of the reply, vide letter dated 26/2/2020 by the respondent no.3 a preliminary inquiry was started against the applicant through Dy. S.P., Malkapur who in turned submitted inquiry report vide his letter dated 8/10/2020. As per para-6 since inquiry report was positive the respondent no.3 initiated inquiry report against the applicant through SDPO, Buldana vide letter dated 31/10/2020. D.E. is in progress.

4. However, after hearing pleadings of both the sides, various Judgments of Hon’ble Apex Court and Hon’ble High Court and Government of Maharashtra G.Rs. were also considered in case of continuation of suspension for a longer period. Following Judgments of Hon’ble Apex Court are reproduced below –

(i) The Apex Court in Civil Appeal No. 1912 of 2015 (arising out of SLP No.31761 of 2013) in the case of Ajay Kumar Chaudhary Vs. Union of India through its Secretary and another in its Judgment dated 16/02/2015 in para no. 14, it has observed that :-

14 We, therefore, direct that the currency of a Suspension Order should not extend beyond three months if within this period the Memorandum of Charges/Chargesheet is not served on the delinquent officer/employee; if the Memorandum of Charges/Chargesheet is served a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the concerned person to any Department in any of its

offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognize that previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time limits to their duration. However,

the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us.

(ii) The Hon'ble Apex Court in its Judgment in Civil Appeal No. 8427-8428 of 2018 (Arising out of S.L.P. (Civil) No. 12112-12113 of 2017) in the case of **State of Tamil Nadu Vs. Pramod Kumar IPS and Anr. delivered on 21/08/2018** in its para no. 24 had observed as follows:-

24. This Court in **Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291** has frowned upon the practice of protracted suspension and held that suspension must necessarily be for a short duration. On the basis of the material on record, we are convinced that no useful purpose would be served by continuing the first Respondent under suspension any longer and that his reinstatement would not be a threat to a fair trial. We reiterate the observation of the High Court that the Appellant State has the liberty to appoint the first Respondent in a non sensitive post.

(iii) The Principal Bench of Maharashtra Administrative Tribunal Mumbai Bench in O.A. No. 35/2018 Judgment delivered on 11/09/2018 has also rejected continuation of suspension beyond 90 days.

(v) The Hon'ble High Court of Bombay, Bench at Nagpur in W.P. No. 7506/2018, Judgment delivered on 17.07.2019 was also on same principle. It has observed in para no. 2 that **facts of this case are squarely covered by Government Resolution G.A.D. dated 09/07/2019.**

(ii) fuyfcr 'kkl dh; I sdtl; kT; k idzj .lh 3 efgl; kpk dkyko/hr foHkxh; pksl'kh l q d: u nkskjk i = ctlo.; kr vkysulgh] v'kk idzj .lh ek- l oH p U; k; ky; kpsvlnsk i lgrk] fuyæu l ektr dj.; k'kok; vU; i; k; j lgr ulgh R; keGsfuyfcr 'kkl dh; I sdtl; kcr foHkxh; pksl' khph dk; ðkgh l q d: u nkskjk i = ctlo.; kph dk; ðk; h fuyæuki kl u 90 fno l k; k vkr dkVdkg i .ksdyh t kbÿ; ; kph n{krk@ [kcj nkjh ?s; kr ; koh-

(vi) The Government of Maharashtra vide its G.R. G.A.D. 'kkl u fu.kz d; 118@idz11@11v] fnukd 09-07-2019 in para nos. **1 (ii)** following decisions have been taken :-

fuyfcr 'kkl dh; I sdtl; kT; k idzj .lh 3 efgl; kpk dkyko/hr foHkxh; pksl'kh l q d: u nkskjk i = ctlo.; kr vkysulgh] v'kk idzj .lh ek- l oH p U; k; ky; kpsvlnsk i lgrk] fuyæu l ektr dj.; k'kok; vU; i; k; j lgr ulgh R; keGsfuyfcr 'kkl dh; I sdtl; kcr foHkxh; pksl' khph dk; ðkgh l q d: u nkskjk i = ctlo.; kph dk; ðk; h fuyæuki kl u 90 fno l k; k vkr dkVdkg i .ksdyh t kbÿ; ; kph n{krk@ [kcj nkjh ?s; kr ; koh-

5. In case of **State of Tamil Nadu Vs. Pramod Kumar IPS and Anr. delivered on 21/08/2018** in its para no. 24 had observed as follows:-

24. This Court in **Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291** has ***frowned upon the practice of protracted suspension and held that suspension must necessarily be for a short duration***. On the basis of the material on record, we are convinced that no useful purpose would be served by continuing the first Respondent under suspension any longer and that his reinstatement would not be a threat to a fair trial. We reiterate the observation of the High Court that the Appellant State has the liberty to appoint the first Respondent in a non sensitive post.

6. The present O.A. is squarely covered by the Hon'ble Apex Court Judgment in case of **State of Tamil Nadu Vs. Pramod Kumar IPS and Anr. delivered on 21/08/2018** and observations made in para-24 of the said case.

8. In view of above discussions, the order dated 10/12/2019 (A-1,P-14) requires to be revoked. Hence, the following order –

ORDER

(i) The suspension order dated 10/12/2019 (A-1,P-14) is revoked from the date of receipt of this order. **The respondents are directed to issue necessary orders along with suitable posting order as per observations made in para-24 above by the Hon'ble Apex Court in case of State of Tamil Nadu Vs. Pramod Kumar IPS and Anr. delivered on 21/08/2018..**

(ii) The respondents are at liberty to continue with D.E. and pass suitable order as per existing rules and regulations and take action according to law.

(ii) With this direction, the O.A. stands disposed off. No order as to costs.

Steno copy is granted...

Vice-Chairman

dnk.

O.As. 414,415,416,417 & 629 of 2018 (S.B.)

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

Dated : 23/06/2021.

Heard S.D. Malke, Id. Counsel for the applicants and Shri P.N. Warjurkar, Id. P.O. for respondent nos.1&2. None for R-3.

2. The learned counsel for the applicants is challenged selection process dated 23/4/2018. The respondent no.2 i.e. SDO, Arvi, Dist. Wardha has filed reply on 26/10/2018. In para-9 of the reply on page no.55 it has been submitted that total 547 candidates were interviewed from 6/4/2018 to 16/4/2018. Out of that 120 candidates were selected and 10 posts could not be filled up due to lack of meritorious candidates. It has been also submitted that all five members of interview were as below –

“ Sub-Divisional Executive Magistrate, Arvi Tahsildar of concern Dist.	- Chairman
SDPO, Arvi	- Member/ Secretary
	- Member
Social Welfare Officer Wardha	- Member
Project Office, Tribal Dev. Dept.Wardha.	- Member

3. Above said Officers were present for conducting the oral interview of total 547 candidates and interview was conducted between 6/4/2018 to 16/4/2018.

4. Now by relief clause it appears that Id. Counsel is raising objection only on oral part and

request for cancelling selection of respondent no.3 and also to call entire record of oral interview.

5. However, Id. Counsel has not made respondents to all the 547 candidates who were part of interview from 6/4/2018 to 16/4/2018. Out of that 120 candidates were selected they are also not party in the O.A.

6. As per rules of Maharashtra Village Police Patils recruitment, Pay, Allowances and other conditions of Service Order, 1968 published on 4/11/1960, para-4 explains term of office as Police Patil for a period of five years only at first instance, the appointment pertains to April,2018 and total tenure of Police Patil is five years. Out of which three years already over. In this situation, extending further for the argument sake no purpose will be solved.

7. In absence of all those candidates relief clause cannot be entertained. Hence, the following order –

ORDER

- 1) The O.As. are dismissed.
- 2) The learned counsel is at liberty to file separate O.A. including all 547 candidates as respondents who were interviewed between 6/4/2018 to 16/4/2018.

Vice-Chairman

dnk.

O.A. 763/2018 (S.B.)

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

Dated : 23/06/2021.

After perusing the record it appears that the show cause issued by the Govt. of Maharashtra xki uh; i= dz l ydk&10-07@i z dz 109@07@Hkkx&8@dk'skk&i z kk&1] fnukd 4 vkkkLV]2010 (not filed on record) as it is seen reply of applicant dated 26/8/2010 (A-7,P39&40) needs to be examined whether Section 9 of the M.C.S. (Discipline &Appeal) Rules, 1979 was used or not.

2. The learned counsel for the applicant is directed to file the letter Govt. of Maharashtra xki uh; i= dz l ydk&10-07@i z dz 109@07@Hkkx&8@dk'skk&i z kk&1] fnukd 4 vkkkLV]2010 on record.

3. The matter be kept for re-hearing on 28/06/2021 for filing the said letter on record.

S.O. 28/6/2021.

Vice-Chairman

dnk.**

O.A.No.86/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 23/06/ 2021.

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

2. The Id. P.O. has filed reply of respondent nos. 1 to 3. It is taken on record. Copy is served to the other side.

3. At the request of Id. counsel for the applicant, **S.O. 07.07.2021 for Rejoinder.**

Vice Chairman

Date:-23/06/2021.
aps.

O.A.No.148/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 23/06/ 2021.

Heard Shri B.Kulkarni, the Id. Counsel for the applicant and Shri A.P.Potnis, the Id. P.O. for the respondents.

2. The Id. P.O. has filed reply of respondent no. 2. It is taken on record. Copy is served to the other side.

3. At the request of Id. counsel for the applicant, **S.O. 09.07.2021 for Rejoinder.**

Vice Chairman

Date:-23/06/2021.
aps.

O.A.No.823/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 23/06/ 2021.

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

2. The matter was earlier heard on 16.06.2021; details have been written in para no. 2 which is below:-

"2. As submitted by Id. counsel for the applicant; as per record Annexure-A-3, P.B., Pg. No. 24; a complaint against applicant was made by the complainant dated 12.07.2017. As per this document i.e. Annexure-A-3, P.B., Pg. No. 24; paragraph no. 1 complainant was made complaint on 05.04.2017 afterwards by 12.07.2017 (Annexure-A-3, P.B., Pg. No. 24). As per paragraph no. 2; complainant was submitted that grievances has been redressed and complaint has been taken back. Since, complaint has been taken back; there was no issue of any enquiry."

3. However, Id. P.O. desires to file reply today during the course of the day. As suggested by Id. counsel for the applicant, **S.O. 02.07.2021 for final disposal.**

Vice Chairman

Date:-23/06/2021.
aps.

O.A.No.46/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 23/06/ 2021.

Heard Shri P.S.Wathore, the Id. Counsel for the applicant and Shri H.K.Pande, the Id. P.O. for the respondents.

2. The Id. P.O. submits that he will file reply during the course of the day. He is directed to supply the copy of the same to the other side.

3. **Matter will be heard finally on 30.06.2021.**

Vice Chairman

Date:-23/06/2021.
aps.

O.A.No.124/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 23/06/ 2021.

Heard Shri P.D.Meghe, the Id. Counsel for the applicant and Shri H.K.Pande, the Id. P.O. for the State. Await service of R-2 to 6.

2. The Id. counsel for the applicant submits that chargesheet was served on 17.10.2020 as per O.A. P.B., Pg. No. 20, Para No. 8 (A). The Id. counsel for the applicant is asking respondents not to proceed with Enquiry. However, in the interest of justice, it is proper to take reply; the Id. P.O. has agreed to file reply within two weeks time.

3. If reply is not filed till next date; matter be heard on merit. **S.O. 14.07.2021.**

4. *The Id. counsel for the applicant is directed to file service affidavit of Respondent nos. 2 to 6.*

Vice Chairman

Date:-23/06/2021.

aps.

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

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 23/06/ 2021.

Heard Shri B.Kulkarni, the Id. Counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the respondents.

2. At the request of Id. P.O., **S.O. 16.07.2021 to file reply.**

Vice Chairman

Date:-23/06/2021.
aps.

O.A.No.242/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 23/06/ 2021.

C.A.No.122/2021:-

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

2. The prayer for amendment is below:-

"A. Grant permission to the applicant to delete prayer clause (b) and (c) with liberty to file fresh original application on the basis of said relief."

3. Hence, **C.A.No.122/2021 for Amendment is allowed.**

4. Issue notice to Respondents, returnable on 14.07.2021. 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.

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.

9. **S.O. 14.07.2021.**

Vice Chairman

Date:-23/06/2021.

aps.

O.A.No.978/2019 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 23/06/ 2021.

C.A.Nos.367/2020 & 19/2021:-

Heard 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. P.O., **S.O. 05.07.2021 to file reply on C.A..**

Vice Chairman

Date:-23/06/2021.
aps.

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

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 23/06/ 2021.

Heard Shri P.S.Wathore, 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 submits that he is intending to file C.A. for interim relief.

3. **S.O. 09.07.2021.**

Vice Chairman

Date:-23/06/2021.
aps.

O.A.No.470/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 23/06/ 2021.

Heard Shri V.K.Paliwal, the Id. Counsel for the applicant and Shri A.P.Potnis, the Id. P.O. for the State.

2. As submitted by Id. counsel for the applicant, applicant was appointed as Peon on 30.07.1993 as Scheduled Tribe Candidate. Subsequently, applicant failed to reproduce certificate of Scheduled Tribe and at last he produced certificate of Special Backward Class. As per Government decision taken by 21.12.2019 (Annexure-A-O, P.B., Pg. No. 65 to 79), applicant had been posted on supernumerary post vide order dated 18.11.2020 (Annexure-A-L, P.B., Pg. No. 37). Since, this order has been passed without giving any hearing opportunity to the applicant. Such matters have been decided previously by this Tribunal on same line, **order dated 18.11.2020 (Annexure-A-L, P.B., Pg. No. 37) is stayed till filing of the reply.**

3. Issue notice to Respondents, returnable on four weeks. Learned P.O. waives notice for R-1. 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.

9. **S.O. four weeks.**

Vice Chairman

Date:-23/06/2021.

aps.