

O.A. No. 745/2016 (D.B.)

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

Dated : 08.09.2017.

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

At the request of Id. counsel for the applicant, **S.O. 11/9/2017.**

Vice Chairman (J)

dnk.

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

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

Dated : 08.09.2017.

C.A.308/2017 -

Shri Prashant P. Kale, Id. counsel holding for R.D. Dharmadhikari, Id. counsel for the applicant and Shri A.M. Ghogre, Id. P.O. for the respondent no.1. Await service of R-2&3.

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

Vice Chairman (J)

dnk.

O.A. No. 436/2017 (D.B.)

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

Dated : 08.09.2017.

Ms. S. Pahade, Id. counsel for the applicants and Shri A.M. Khadatkar, Id. P.O. for respondent no.1. Await service of R-2 to 5.

The learned counsel for the applicants submits that she will file service affidavit in respect of R-2&4 and submits that the acknowledgements for R-3&5 have not yet been received.

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

Vice Chairman (J)

dnk.

O.A. No. 590/2017 (D.B.)

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

Dated : **08.09.2017.**

None for the applicant.

Shri A.M. Khadatkar, Id. P.O. for
the respondents.

The learned P.O. files reply-
affidavit on behalf of R-1&2. The same is
taken on record.

S.O. after four weeks for filing
rejoinder, if any.

Vice Chairman (J)

dnk.

Rev. A. 05/15 in O.A. 370/1999 (D.B.)

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

Dated : **08.09.2017.**

None for the applicant.

Shri P.N. Warjurkar, Id. P.O. for
the respondents.

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

Vice Chairman (J)

dnk.

O.A. No. 235/2015 (D.B.)

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

Dated : 08.09.2017.

C.A.299/2017

Heard Shri G.K. Bhusari, Id. counsel holding for Shri S.E. Raghorte, Id. counsel for the applicant and Shri A.P. Potnis, Id. P.O. for the respondents.

2. The applicant has been promoted to the post of Range Forest Officer vide order dated 27/6/2013. His name is at sr.no.17. In the remarks column it has been mentioned as under :-

^fnukd 30@6@2013 i ; r f'k{k; k veyk[kryh
vks R; kuarj i nkturhps vksk dk; jr gshy-
inLFki ups vksk Loræi .ls fuxter dj.; kr
; rhy-**

3. From the said remark it is clear that the promotion order was to effect after 30/6/2013 till which period the applicant was to undergo punishment in departmental enquiry. In spite such specific order till today no promotion order has been issued. The respondent nos. 1&2 are therefore directed to file

short affidavit as to why the applicant is not being promoted.

4. **S.O. one week.**

Vice Chairman (J)

dnk.

O.A. No. 772/2014 (SB)

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

Dated : 08.09.2017.

Shri A.M. Tirukh, Id. counsel for
the applicant and Shri V.A. Kulkarni, Id.
P.O. for the respondents.

At the request of Id. counsel for the
applicant, **S.O. 13/9/2017.**

Vice Chairman (J)

dnk.

O.A. No. 836/2015 (S.B.)

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

Dated : 08.09.2017.

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

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

Vice Chairman (J)

dnk.

O.A. No. 265/2016 (S.B.)

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

Dated : 08.09.2017.

Shri H.D. Futane, Id. counsel for the applicant and Shri A.M. Khadatkar, Id. P.O. for the respondents.

At the request of Id. counsel for the applicant, **S.O. 12/9/2017.**

Vice Chairman (J)

dnk.

O.A. No. 470/2017 (S.B.)

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

Dated : 08.09.2017.

Shri Sagar Katkar, Id. Counsel holding for Shri N.R .Saboo, Id .counsel for the applicant and Smt. S.V. Kolhe, Id. P.O. for R-1 to 3. None for R-4.

At the request of learned counsel for the applicant, **S.O. 11/9/2017.**

Vice Chairman (J)

dnk.

Rev. A. 15/2017 in O.A. 429/15 (D.B.)

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

Dated : **08.09.2017.**

Heard Shri R.V. Shiralkar, 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. No. 104/2017 (D.B.)

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

Dated : 08.09.2017.

None for the applicant.

Shri A.M. Ghogre, Id. P.O. for the respondents.

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

S.O. four weeks.

Vice Chairman (J)

dnk.

O.A. No. 283/2013 (D.B.)

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

Dated : 08.09.2017.

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

2. The learned P.O. submits that he has intimated the concerned officer as regards the order passed on 4/8/2017 by this Tribunal but till today nothing is received from the respondents.

3. In view thereof, he seeks one week's time. Time is granted as a last chance.

S.O. one week.

Vice Chairman (J)

dnk.

O.A. Nos. 547 to 555 of 2017 (D.B.)

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

Dated : 08.09.2017.

Heard Shri P.C. Marpakwar, Id. Counsel for the applicants and Shri A.M. Ghogre, Id. P.O. for the respondents.

2. The applicants have claimed directions to the respondents to implement the Government Resolution dated 10/11/2009 and to grant them revised Grade Pay of Rs. 10,000/- w.e.f. 24/12/2016, i.e., upon completion of three years as an Associate Professor.

3. The learned counsel for the applicants submits that these cases are covered by the pronouncement made by this Tribunal at its Mumbai Bench in O.A.Nos. 829 & 830 of 2015 on 16/9/2016. The copies of which are placed on record at P.B. Page nos. 75 to 84 (both inclusive).

4. The respondents are therefore directed to file affidavit making it clear as to whether the said Judgment is binding on the respondent authority.

S.O. four weeks.

Vice Chairman (J)

dnk.

O.A. No. 291/2017.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 8th September 2017.

C.A. No.422/2017.

Heard Shri N.D. Thombre, the learned counsel for the applicant and Shri M.I. Khan, the learned P.O. for the respondents 1 to 5. None for R.6.

For the reasons stated in the application, application for amendment is allowed in the interest of justice. Necessary amendment be carried out forthwith.

Ld. P.O. submits that he does not want to file any separate reply to the amended O.A. and, therefore, the matter is kept for final hearing after two weeks.

S.O. 22nd September 2017.

Vice-
Chairman(J)

pdg

O.A. No. 296/2017.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 8th September 2017.

Heard Shri S.N. Gaikwad, the learned counsel for the applicant and Shri V.A. Kulkarni, the learned P.O. for the respondents.

The learned counsel for the applicant seeks time to file an acknowledgement of service affidavit.

S.O. 15th September 2017.

Vice-
Chairman(J)

pdg

O.A. No. 519/2017.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 8th September 2017.

Heard Shri P.J. Mehta, the learned counsel for the applicant and Shri A.P. Potnis, the learned P.O. for the respondents.

The learned counsel for the applicant submits that he will file service affidavit during the course of the day. Ld. P.O. seeks time to file reply.

S.O. 22nd September 2017.

Vice-
Chairman(J)

pdg

O.A. No. 109/2017.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 8th September 2017.

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

2. Ld. CPO submits that there is a delay in filing the O.A. The Ld. counsel for the applicant submits that he may file an application for condonation of delay, if required.

3. In the meantime, issue notices to R. 2 to 5 returnable after four weeks.

4. Shri S.A. Deo, the learned C.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 need 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.

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

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

S.O. 6th October 2017.

Vice-
Chairman(J)

pdg

O.A. No. 202/2017.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 8th September 2017.

None for the applicant. Heard Shri H.K. Pande, the learned P.O. for the respondent No.1.

2. Issue notice to R. 2 to 4 returnable after four weeks.**(6.10.2017)**.

3. Shri H.K. Pande, the learned 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 need 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.

6. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunals (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 or courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within three

weeks. Applicant is directed to file Affidavit of compliance and notice.

S.O. **6th October 2017.**

Vice-
Chairman(J)

pdg

O.A. No. 206/2017.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 8th September 2017.

Heard Shri V.B. Bhise, the learned counsel for the applicant and Shri M.I. Khan, the learned P.O. for the respondents.

Ld. P.O. has filed reply affidavit on behalf of R.2, same is taken on record and a copy of which is supplied to the other side.

Ld. P.O. submits that reply of other respondents is not necessary.

In view thereof, matter is admitted and kept for final hearing on 21.9.2017.

Shri M.I. Khan, the learned P.O. waives notice for the respondents.

S.O. 21st September 2017.

Vice-
Chairman(J)

pdg

O.A. No. 261/2017.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 8th September 2017.

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

At the request of the learned P.O.,
S.O. **11th September 2017.**

Vice-
Chairman(J)

pdg

O.A. No. 431/2017.

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

Dated : 8th September 2017.

Heard Shri P.J. Mehta, the learned counsel for the applicant and Smt. S.V. Kolhe, the learned P.O. for the respondents.

At the request of the learned P.O.,
S.O. 22nd September 2017 for filing
reply affidavit.

Vice-
Chairman(J)

pdg

O.A. No. 409/2017.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 8th September 2017.

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

S.O. 6th October 2017.

Vice-
Chairman(J)

pdg

O.A. No. 421 of 2017.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 8th September 2017.

Heard Shri S.M. Khan, the learned counsel for the applicants and Shri P.N. Warjekar, the learned P.O. for the respondents.

2. The applicant is Police Clerk (Class-III) and has been granted first time bound promotion vide order dated 5.9.2013. However, vide impugned order dated 27.4.2017, the same has been withdrawn. The applicant apprehends that the so-called excess amount paid to him may be recovered and therefore, he has claimed for stay to the said recovery.

3. Considering the facts and circumstances and particularly the fact that the first time bound promotion was granted to the applicant long back in the year 2006-2007 etc. The impugned order of recovery is stayed till further orders.

4. The respondents have already been served.

5. The Ld. P.O. is directed to file reply affidavit within four weeks.

6. S.O. **6th October 2017.**

Vice-
Chairman(J)

pdg

O.A. No.609 /2017.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 8th September 2017.

Heard Shri D.M. Kakani, the learned counsel for the applicant and Shri A.P. Potnis, the learned P.O. for the respondent No.1. Shri S.C. Bhalerao, Adv. holding for Shri S.S. Bhalerao, Adv. for R.2.

Ld. Adv. for R.2 has filed reply affidavit on behalf of R.2, same is taken on record and a copy of which is supplied to the other side.

At the request of the learned counsel for the applicant, S.O. 11th September 2017 for final hearing.

Vice-
Chairman(J)

pdg

O.A. No. 636/2017.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 8th September 2017.

Heard Mrs. Gauri Venkatraman, the learned counsel for the applicant and Shri S.A. Deo, the learned C.P.O. for the respondents.

The learned counsel for the applicant submits that there is a delay in filing an application. However, by way of abundant precaution, she will file an application for condonation of delay within two days.

S.O. **11th September 2017.**

Vice-
Chairman(J)

pdg

O.A. No. 659/2017.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 8th September 2017.

Heard Shri M.R. Khan, the learned counsel for the applicant and Shri S.A. Deo, the learned C.P.O. for the respondents.

The learned counsel for the applicant seeks permission to amend the O.A., since he was to challenge the rejection of his request for transfer.

S.O. 15th September 2017.

Vice-
Chairman(J)

pdg

O.A. No. 176/2010.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 8th September 2017.

C.A. No. 114/2017.

Heard Shri M.B. Agasti, the learned counsel for the applicant and Shri S.A. Sainis, the learned P.O. for the respondents.

S.O.13th September 2017.

Vice-
Chairman(J)

pdg

O.A. No. 617/2013.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 8th September 2017.

Heard Shri J.C. Shukla, the learned counsel for the applicant and Shri P.N. Warjekar, the learned P.O. for the respondent Nos. 1 to 3. None for R. 4.

S.O. 15th September 2017.

To be treated as par heard.

Vice-
Chairman(J)

pdg

O.A. No. 772/2014.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 8th September 2017.

Heard Shri A.J. Thakkar, the learned counsel for the applicant and Shri, the learned P.O. for the respondents.

At the request of the learned
counsel for the applicant, S.O.
September 2017.

Vice-
Chairman(J)

pdg

O.A. No. 836/2015.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 8th September 2017.

Heard Shri R.S. Kalangiwale, the
learned counsel for the applicant and
Shri, the learned P.O. for the
respondents.

At the request of the learned
counsel for the applicant, S.O.
September 2017.

Vice-
Chairman(J)

pdg

O.A. No. 84/2016.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 8th September 2017.

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

At the request of the learned counsel for the applicant, S.O. **22nd September 2017.**

To be treated as part heard.

Vice-
Chairman(J)

Pdg

O.A. No. 265/2016.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 8th September 2017.

Heard Shri H.D. Futane, the learned counsel for the applicant and Shri, the learned P.O. for the respondents.

At the request of the learned counsel for the applicant, S.O.
September 2017.

Vice-
Chairman(J)

Pdg

O.A. No. 52/2017.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 8th September 2017.

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

At the request of the learned counsel for the applicant, S.O. 15th September 2017.

Put up alongwith O.A. No. 111/2017.

Vice-
Chairman(J)

Pdg

O.A. No. 470/2017.

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 8th September 2017.

Heard Shri N.R. Saboo, the learned counsel for the applicant and Shri, the learned P.O. for the respondents 1 to 3. None for R.4.

At the request of the learned counsel for the applicant, S.O.
September 2017.

Vice-
Chairman(J)

Pdg

O.A. No. 828/2016.

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

Dated : 8th September 2017.s

R.A. No. 03/2017

Heard Shri Bharat Kulkarni, the learned counsel for the applicant and Shri M.I. Khan, the learned P.O. for the respondents 1 and 2. Shri S.S. Bhalerao, Adv. for R.3. Shri D.R. Kalsait, Adv. for R.4.

2. The applicant is seeking review of the order passed by this Tribunal in O.A.No.828/2016 delivered on 11.4.2017.

3. The learned counsel for the applicant pointed out that in the impugned order dated 11.4.2017, it seems that the said order is passed in violation of Section 4 (4) of the Maharashtra Government Servants Regulation of Transfer and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred to as, "Transfer Act, 2005") and it is mid-term / mid-tenure transfer and no special reasons and exceptional circumstances are recorded. It is stated that the applicant was not due for transfer and his transfer to VANAMATI is on deputation. The applicant has been transferred without asking for his option as required under Rule 36 of the M.C.S. (Joining Time, Foreign Service, and Payments during Suspension, Dismissal and Removal) Rules, 1981

4. The Ld. P.O. submits that all these grounds are not taken in the O.A. So far as the consent for deputation is concerned, Rule 36 of the Joining Time Rules is not applicable to this case. Second proviso to Rule 36 of the Joining Time Rules clearly shows that this sub-rule was not apply to the transfer of a Govt. servant recruited in the service on or after 30th July 1977 and, therefore, his consent is out of question.

5. So far as other points agitated by the applicant are concerned, it must be seen that in the order dated 11.4.2017, the issue regarding mid-term and mid-tenure transfer, so also the point of exigency of passing of the order of transfer are all considered with a proper perspective and there is nothing on record to show that the Tribunal has not considered the point raised by the respondents. I do not find any reason to interfere in the order passed by this Tribunal. Hence, the review application stands dismissed.

Vice-
Chairman(J)

Pdg

**O.A. No.
535/2017.**

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 8th September 2017.

Heard Shri S.P. Palshikar, the learned counsel for the applicant and Smt. S.V. Kolhe, the learned P.O. for respondents.

2. In this O.A., the applicant has requested that the impugned order dated 10.7.2017 whereby the applicant has been transferred from the post of Associate Professor, Govt. Ayurvedic College, Nagpur to Govt. Ayurvedic College, Oosmanabad be held to be illegal, bad in law and without jurisdiction and as such it be quashed and set aside.

3. The learned counsel for the applicant submits that the applicant has earlier filed O.A.No.480/2016 before this Tribunal whereby it was his say that he has already submitted an application for voluntary retirement w.e.f. 2.5.2016 and, therefore, on the date of alleged transfer, he was not at all in service, since as per presumption the notice of voluntary retirement is accepted, if no communication is issued by the

respondent authorities either accepting or refusing to accept notice of voluntary retirement within three months.

4. The Ld. P.O. has also placed on record a copy of order passed in O.A. No. 488/2016 on 11.8.2017 by the Division Bench of this Tribunal. In the said judgment, this Tribunal has observed in para No.8 as under:-

“Having regard to the aforesaid facts and circumstances of the case, this O.A. is allowed. The applicant is deemed to have retired voluntarily w.e.f. 2.5.2016. The respondents are directed to pay his retiral dues within a period of 3 months from the date of this order. This O.A. is allowed accordingly with no order as to costs.”

5. In view of the aforesaid findings, it will be clear that the applicant stood retired voluntarily w.e.f. 2.5.2016. Therefore, on the date of issuance of the impugned order of transfer of the applicant, he already stood retired and, therefore, he cannot be transferred as per the impugned order. In view thereof, following order is passed:-

ORDER

- (i) The O.A. is allowed.
- (ii) The impugned order of transfer dated 10.7.2013 so far as it relates to the applicant, stands quashed and set aside.
- (iii) No order as to costs.

Vice-
Chairman(J)

pdg

O.A. No. 186/2013. (D.B.)

Coram: Shri J.D. Kulkarni,
Vice-Chairman (J).
Dated : 8th September 2017.

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

The learned counsel for the applicant submits that he will file necessary documents on record and supply their copies to the Ld. P.O.

At his request, S.O. **11th**
September 2017.

Vice-
Chairman(J)

pdg