

O.A. 793/2019 (S.B.)

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

Dated : 08/10/2021.

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

2. The learned counsel has filed Pursis dated 24/9/2021 and submits that the applicant has been again transferred vide order dated 6/8/2021 and his name appears at Sr.No.1. The learned counsel desires to withdraw the O.A.

3. In view thereof, the O.A. stands disposed off as withdrawn. No order as to costs.

Vice-Chairman

dnk.

O.A. 20/2020 (S.B.)

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

Dated : 08/10/2021.

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

The Id. P.O. files reply of R-2. It is taken on record. Copy is served on the applicant.

The matter is admitted and kept for final hearing.

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

S.O. 22/10/2021.

Vice-Chairman

dnk.

O.A. 638/2020 (S.B.)

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

Dated : 08/10/2021.

C.A. 313/2021 -

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

2. As submitted by the Id. counsel, the O.A. was filed on 16/10/2020, but unfortunately till now the respondents have not filed reply. Due to some subsequent development the Id. counsel has filed C.A. No. 313/2021 for amendment. For the reasons stated in the application, the C.A. for amendment is allowed and disposed off.

3. The necessary amendment be carried out within one week and amended copy be supplied to the other side.

O.A. 638/2020 -

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

2. The Id. P.O. also pointed out show cause notice dated 9/12/2020. Since the respondents have not filed reply till now, the Id. P.O. is

directed that while filing the reply which is necessary and that show cause letter is also, so the same should be decided along with O.A.

3. The learned P.O. wants three weeks time to file reply.

S.O. three weeks.

Vice-Chairman

dnk.

O.A. 666/2020 (S.B.)

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

Dated : 08/10/2021.

Heard Shri R. Tajne, Id. counsel for the applicant and Shri A.P. Potnis, Id. P.O. for the respondents.

The Id. P.O. files reply of R-3. It is taken on record. Copy is served on the applicant.

The matter is admitted and kept for final hearing.

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

S.O. 28/10/2021.

Vice-Chairman

dnk.

O.A. 956/2020 (S.B.)

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

Dated : 08/10/2021.

Heard Shri S.M. Bhagde, 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.**
22/10/2021 for filing reply.

Vice-Chairman

dnk.

O.A. 421/2021 (S.B.)

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

Dated : 08/10/2021.

Heard Shri B.V. Chawhan, Id. counsel for the applicant and Shri A.M. Khadatkar, Id. P.O. for the respondents.

2. The Id. P.O. submits that the reply is ready and he will file the same during the course of day. The Id. P.O. should file reply during the course of day and supply copy to the other side. In view of this condition, the matter is admitted and kept for final hearing.

S.O. in due course.

Vice-Chairman

dnk.

O.A. 522/2021 (S.B.)

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

Dated : 08/10/2021.

Heard Shri J.H. Aloni, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for the respondents.

2. The applicant retired on 30/6/2019 as per page-II of the O.A. The Id. P.O. has filed reply of R-5, i.e. Accountant General-II, Nagpur. It is taken on record and copy is supplied to the Id. counsel. In reply in para-11 (page no.45) it is mentioned as below –

“(11) In case of Government servant against whom disciplinary/judicial proceedings are pending on the date of retirement gratuity shall be withheld till conclusion of the proceedings.

However, in the present case, since, criminal prosecution was pending; amount of gratuity was released to the applicant. Payment of provisional pension made shall require to be justified against final retirement benefits sanctioned to such Government servant upon conclusion of such proceedings”.

3. The learned counsel submits that the provisional pension has not been paid to the applicant. The proposal from the Department for

provisional pension of applicant has not been submitted to the A.G. office which is bad in law.

4. The respondent nos.2,3 &4 are directed to submit proposal of provisional pension to the A.G. office and ensure that the provisional pension should be paid to the applicant at the earliest.

5. Though the applicant retired on 30/6/2019 and FIR has been lodged against the applicant on 13/2/2020 (A-10,P-27). The Id. P.O. submitted that the reply of R-1 is not necessary, he may serve copy of the order to the Zilla Parishad. The respondent nos.2 to 4 to file their reply.

S.O. four weeks

Vice-Chairman

dnk.

O.A. 570/2021 (S.B.)

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

Dated : 08/10/2021.

Heard Shri A. S. Khedkar, Id. counsel for the applicant and Shri A.P. Potnis, Id. P.O. for the respondents.

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

Vice-Chairman

dnk.

O.A. 717/2021 (S.B.)

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

Dated : 08/10/2021.

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

2. The Id. P.O. files reply of R-2. It is taken on record. Copy is served on the applicant.

3. The Id. counsel has filed Pursis dated 8/10/2021 mentioning that the applicant wants to withdraw the O.A.

4. In view of above, the O.A. stands disposed off as withdrawn. No order as to costs.

Vice-Chairman

dnk.

O.A. 735/2021 (S.B.)

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

Dated : 08/10/2021.

C.A. 322/2021 -

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

2. The Id. counsel has filed C.A. No.322/2021 in which he has prayed that the applicant may be considered for Nagpur-2 to Amravati-2 as per applicant's representation dated 11/8/2021 (A-3,P-24).

3. The Id. P.O. submits that within two weeks the applicant's representation will be decided by the Department according to law.

4. The respondents are directed to decide the applicant's representation dated 11/8/2021 (A-3,P-24) in which also includes the prayer of C.A., while deciding the representation, they should consider the prayer in the C.A. also.

5. In view of above, the C.A. is disposed off. No order as to costs.

O.A. 735/2021 -

S.O. 25/10/2021.

Vice-Chairman

dnk.

O.A. 769/2021 (S.B.)

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

Dated : 08/10/2021.

Heard Shri N.D. Thombre, Id. counsel
for the applicant and Shri V.A. Kulkarni, Id. P.O.
for the respondents.

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

Vice-Chairman

dnk.

O.A. 812/2021 (S.B.)

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

Dated : 08/10/2021.

Heard Shri D.S. Sawarkar, Id. counsel
for the applicant and Shri A.P. Potnis, Id. P.O.
for the respondents.

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

Vice-Chairman

dnk.

O.A. 823/2021 (S.B.)

(Dr. Mahesh S. Manwar Vs. State of Mah. & Ors.)

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

Dated : 08/10/2021.

Heard Shri R.M. Fating, Id. counsel for the applicant and Shri P.N. Warjurkar Id. P.O. for the respondents.

2. The O.A. was filed on 14/9/2021, but till now the respondents have not filed reply. On the earlier date when the matter was heard on 20/9/2021 the detailed order was passed pointing out all the facts.

3. The applicant was suspended vide order dated 4/2/2021 (A-20,P-70) and till now as submitted by the Id. counsel, no charge sheet has been served. It is almost eight months period is over which is violative of various orders of Hon'ble Apex Court and Hon'ble High Court and Government G.R. dated 09/07/2019 which 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 o d l e ; k T ; k i d j . h 3 e f g l ; k p k d k y k o / h r f o H k x h ; p l e d ' h l q d : u n k s k j k i i = c t k o . ; k r v k y s u l g h] v ' k i d j . h e k l o l e p U ; k ; k y ; k p s v i n s k i l g r k j f u y e u l e k r d j . ; k ' k o k ; v U ; i ; k z ; j l g r u l g h R ; k e G s f u y f c r ' k k I d h ; I o d l e k r f o H k x h ; p l e d ' k p h d k ; b k g h l q d : u n k s k j k i i = c t k o . ; k p h d k ; b k ; h f u y e u k i k l u 9 0 f n o l e ; k v k r d k v d l g i . l s d y h t k b y ; k p h n { k r k e [k c j n k j h ? s ; k r ; k o h

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

fuyfcr 'kkI dh; I o d l e ; k T ; k i d j . h 3 e f g l ; k p k d k y k o / h r f o H k x h ; p l e d ' h l q d : u n k s k j k i i = c t k o . ; k r v k y s u l g h] v ' k i d j . h e k l o l e p U ; k ; k y ; k p s v i n s k i l g r k j f u y e u l e k r d j . ; k ' k o k ; v U ; i ; k z ; j l g r u l g h R ; k e G s f u y f c r ' k k I d h ; I o d l e k r f o H k x h ; p l e d ' k p h d k ; b k g h l q d : u n k s k j k i i = c t k o . ; k p h d k ; b k ; h f u y e u k i k l u 9 0 f n o l e ; k v k r d k v d l g i . l s d y h t k b y ; k p h n { k r k e [k c j n k j h ? s ; k r ; k o h

5. This O.A. is squarely covered by Government of Maharashtra G.A.D. 'kkI u fu. k z d z 118@i z d z 11@11v] f n u k d 09-07-2019 and above Judgments of Hon'ble Apex Court and Hon'ble High Court.

6. The respondents have not followed settled legal principle about continuation of suspension period.

7. The respondent no.2 has issued the suspension order dated 4/2/2021 (A-20,P-70) and by his own letter dated 16/7/2021 (A-25,P-78) he has mentioned that it is necessary to reinstate the applicant. It seems that the respondent no.2 has issued suspension order dated 4/2/2021 (A-20,P-70) and on other side he has made correspondence to the higher authority, i.e. Deputy Director, Health Services, Akola mentioning that it is necessary to reinstate the applicant vide his letter dated 16/7/2021 (A-25,P-78) and it is also mentioned in the last line that it is necessary to reinstate the applicant. Again the respondent

no.2 has written to the Principal Secretary, Health Services (M.S.), Mumbai vide letter dated 4/8/2021 (A-26,P-79) and in last but one line in that letter it is written that it is necessary to reinstate the applicant and proposal has been submitted vide reference no.3 of this letter i.e. letter dated 16/7/2021 through the Deputy Director, Public Health Services, Akola Circle Akola. It seems that the respondent no.2 has not taken any firm view about his own decision related to suspension order dated 4/2/2021 (A-20,P-70) and he is blowing hot and cold simultaneously. In view of these contradictory letters written by the respondent no.2 and in view of various orders of Hon'ble Apex Court and Hon'ble High Court and Government G.R. dated 09/07/2019 as reproduced above, following order -

ORDER

(i) **The suspension order dated 4/2/2021 (A-20,P-70) is revoked with immediate effect.** The respondents are directed to issue necessary orders along with suitable posting order of applicant 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) With this direction, the O.A. stands disposed off. No order as to costs.

Steno copy is granted...

Vice-Chairman

dnk.

O.A. 869/2021 (S.B.)

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

Dated : 08/10/2021.

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

2. The applicant has been posted & joined as Forest Guard in Melghat. Thereafter he worked many years in wild life Division. He has some problem. Accordingly, the applicant has submitted representation dated 15/4/2021 (A-1,P-9) to the respondent no.2. The respondent no.2 is directed to decide the applicant's representation dated 15/4/2021 (A-1,P-9) in view of his personal problem and if necessary by giving personal hearing to the applicant within 30 days from the date of receipt of this order.

3. In view of above, the O.A. stands disposed off. No order as to costs.

Steno copy is granted...

Vice-Chairman

dnk.

O.A. 870/2021 (S.B.)

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

Dated : 08/10/2021.

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

2. Vide order dated 18/1/2017 (A-4,P-18) The applicant has been transferred to Akot Forest Division and his age is 54 years. The applicant has made representation dated 29/6/2021 (A-1,P-10) to the respondent no.2 in which he has mentioned that he has attained the age of 54 years.

3. In this situation, the respondent no.2 is directed to decide the applicant's representation dated 29/6/2021 (A-1,P-10) by giving personal hearing, if necessary within 30 days from the date of receipt of this order.

4. In view of above, the O.A. stands disposed off. No order as to costs.

Steno copy is granted...

Vice-Chairman

dnk.

(S.B.)

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

Dated : 08/10/2021.

O.A. Nos. 144,145 &146 of 2021 -

None for the applicants and Shri A.M. Khadatkar, Id. P.O. for the respondents.

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

Vice-Chairman

dnk.

O.A. 766/2018 (S.B.)

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

Dated : 08/10/2021.

Heard Shri S.D. Malke, Id. counsel for the applicant, Shri V.A. Kulkarni, Id. P.O. for R-1&2 and Shri U.K. Bisen, Id. counsel for R-3.

At the request of Id. P.O., **S.O.**
28/10/2021 for filing reply.

Put up along with other connected matter.

Vice-Chairman

dnk.

O.A. 366/2018 (S.B.)

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

Dated : 08/10/2021.

Heard Shri D.M. Surjuse, Id. counsel for the applicants, Shri M.I. Khan, Id. P.O. for R-1&2 and Shri U.K. Bisen, Id. counsel for R-3.

The matter is admitted and kept for final hearing. The Id. P.O. waives notice for R-1&2.

S.O. 16/11/2021.

Vice-Chairman

dnk.

(S.B.)

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

Dated : 08/10/2021.

**Rev.A. 10/2021 in O.A. 414/2018, Rev.A.11/2021 in
O.A.415/2018, Rev.A. 12/2021 in O.A. 416/2018,
Rev. A.13/2021 in O.A. 417/2018, Rev.A. 14/2021 in
O.A. 629/2018 -**

Heard Shri S.D. Malke, Id. counsel for the applicants, Shri V.A. Kulkarni, Id. P.O. and other Id. P.Os. for concerned Respts.

Heard Shri P.N. Sharma, Id. counsel for R-3 in Rev.A. 10/2021 in O.A.414/2018.

At the request of Id. P.O., **S.O. 28/10/2021** for filing reply.

Put up along with connected matter.

Vice-Chairman

dnk.

Rev. A. 09/2021 in O.A. 359/2020 (S.B.)

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

Dated : 08/10/2021.

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

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

Vice-Chairman

dnk.

O.A. 896/2021 (S.B.)

(S.G. Annapure Vs. State of Mah.)

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

Dated : 08/10/2021.

Heard Shri S.P. Palshikar, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for the State.

2. The applicant has been transferred vide order dated 26/8/2021 (A-8,P-53) from Amravati to Nagpur. The Id. counsel submits that the applicant already joined on the post.

3. Issue notice to the respondents returnable **after four weeks**. Learned C.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. 899/2021 (S.B.)

(Smt. J.A. Gadpayale Vs. State of Mah. & Ors.)

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

Dated : 08/10/2021.

Heard Shri N.R. Saboo, Id .counsel holding for Shri A.P. Tathod, Id. counsel for the applicant and Shri S.A. Deo, Id. C.P.O. for the State.

2. The applicant was transferred on promotion vide dated 7th September, 2021 (A-5,P-21) to Wardha and his name appears at Sr.No.1 and as per remark column the applicant has been appointed under physically challenged quota. The applicant has made representation dated 20/9/2021 (A-6,P-24) by which it appears that the applicant's husband is also in Govt. of Maharashtra service and he is also physically challenged person. As per the Govt. G.R. dated 9/4/2018 at Annex-! Details guidelines have been given regarding employees who are physically challenged person. At the same time on point no.5 of Annex-A-1 it is mentioned about husband and wife should be posted together.

3. In view of these facts, the representation of applicant dated 20/9/2021 (A-6,P-24) needs to be considered sympathetically. However, it is submitted that the Department has considered this issue. The learned P.O. has filed letter dated 30/9/2021 issued by the Deputy Director of Education, Nagpur Division, Nagpur and in para-3 in last line of the bottom it is mentioned that the applicant will be considered at

Nagpur on deputation after that as and when there is vacancy at Nagpur, he will be posted at Nagpur only.

4. In view of this decision vide correspondence dated 30/9/2021 by the respondents, the applicant should join at transferred place and remain in touch with the respondents. Further if the applicant is aggrieved by any other decision, then the applicant can approach to this Tribunal.

5. The respondents are further directed to decide the applicant's deputation and issue deputation order to Nagpur as per their own correspondence dated 30/9/2021 within 30 days from the date of receipt of this order.

6. The learned counsel to file Govt. G.R. dated 9/4/2018 on record.

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

Steno copy is granted...

Vice-Chairman

dnk.

O.A. 903/2021 (S.B.)

(S.S. Tayde Vs. State of Maharashtra)

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

Dated : 08/10/2021.

Heard Shri N.R. Saboo, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for the State.

2. The applicant, Shri S.S. Tayade was transferred vide order dated 6/8/2021 (A-1,P-12 to 14) to Akot wild life Division, Dharghar Forest Range, Bori Pati Beat. The applicant has made first representation dated 2/2/2019 (A-2,P-15) before issue of transfer order dated 6/8/2021 and subsequently after issue of transfer order dated 6/8/2021, he has made second representation dated 10/8/2021 (A-3,P-16).

3. The Id. counsel submits that then the respondent no.2 has been issued one more transfer order dated 30/8/2021 (A-4,P-19) in which the applicant was not considered and his grievances were not redressed. The Id. Counsel also pointed out that by letter dated 8/9/2021 (A-5,P-22) the immediate controlling authority of the applicant i.e. Deputy Conservator of Forest, Melghat, Paratwada, By this letter the Deputy Conservator of Forest has recommended the representation of the applicant for extending this period for one year considering his personal problem and administrative requirement also. Since, the Id. CPO is not having information regarding other person who has been transferred to the applicant's post. However the Id. counsel has submitted that nobody is posted against the applicant till today and applicant is continued on the post.

4. In view of this situation, status-quo as on today be maintained by the respondents. The respondent no.2 is directed to consider the correspondence made by the Deputy Conservator of Forest dated 8/9/2021 (A-5,P-22) regarding the applicant within 30 days from the date of receipt of this order. If necessary personal hearing/ counselling may be given to the applicant as per provision of G.R. dated 9/4/2018.

5. Issue notice to the respondents returnable **29/10/2021**. Learned CPO waives notice for State. Hamdast allowed.
6. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
7. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.
8. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules,1988, and the questions such as limitation and alternate remedy are kept open.
9. 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.
10. 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. 29/10/2021.

Steno copy is granted...

Vice-Chairman

dnk.

O.A. 927/2017 (S.B.)

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

Dated : 08/10/2021.

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

With the consent of Id .counsel for parties, **S.O. 22/10/2021.**

Vice-Chairman

dnk.

O.A. 253/2018 (S.B.)

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

Dated : 08/10/2021.

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

With the consent of Id .counsel for parties, **S.O. 20/10/2021.**

Vice-Chairman

dnk.

O.A. 691/2020 (S.B.)

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

Dated : 08/10/2021.

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

With the consent of Id .counsel for parties, **S.O. 22/10/2021.**

Vice-Chairman

dnk.

O.A. 31/2018 (S.B.)

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

Dated : 08/10/2021.

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

With the consent of Id .counsel for parties, **S.O. 22/10/2021 (PH).**

Vice-Chairman

dnk.

O.A. 351/2018 (S.B.)

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

Dated : 08/10/2021.

Heard Shri A.S. Dhore, Id. counsel for the applicant, Shri S.A. Sainis, Id. P.O. for R-1 to 3 and Shri M.M. Chaudhari, Id. counsel for R-4.

With the consent of Id .counsel for parties, **S.O. two weeks.**

Vice-Chairman

*dnk.

O.A. 902/2021 (S.B.)

(Sachin K. Lule Vs. State of Mah.& Ors.)

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

Dated : 08/10/2021.

Heard Shri S.P. Palshikar, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for R-1&2 and Shri S.N. Gaikwad, Id. counsel for R-3.

2. The applicant was first transferred vide order dated 31/10/2020 (A-1,P-22 to 25) and his name appears at Sr.No.20 and he was transferred from Police Station, Lohara to Police Station, Shirpur. Subsequently, the applicant has been transferred vide order dated 29/09/2021 (A-2,P-26) and his name appears at Sr.No.7 and he has been transferred from Police Station, Shirpur to Police Control Room, Yavatmal and in remarks column it is written as "misconduct". The learned counsel pointed out that as per G.R. dated 29/7/2021 (A-4,P-34 to 36) in which it is mentioned that the transfer order was to be issued till 30/8/2021 only, by the Department only till 9/8/2021 and by Government only till 30/8/2021. He further pointed out that as per Annex-A-5,P-37 that the applicant was on leave from 27/9/2021 to 30/9/2021 for four days and the Officer was transferred in his place who is at Sr.No.8,i.e.,respondent no.3. He joined on 30/9/2021 in the morning in absence of the applicant. The Id. counsel has relied on the order of this Tribunal dated 15/3/2021. Apparently, between two transfer orders there is gap of less than one year. The learned counsel has relied on the provisions of Section 22 (N) of the Maharashtra Police Act in which normal tenure of police personnel is mentioned.

3. The learned counsel has further relied on the provisions of Sections 29, 30 & 31 of the Maharashtra Civil Services (General Conditions of Service) Rules,1981 which are reproduced below—

“29. Relieving Government servant to intimate probable date of joining to the Government servant to be relieved- Every relieving Government servant is responsible for informing the Government servant to be relieved, at the earliest possible moment, of the date when he will be in a

position to receive charge, and it is the duty of Government servant to be relieved to be in readiness to deliver charge on that date.

30. How the date of handing over charge is determined-
When more than one day is occupied in making over charge, the last day should be entered in the report, and an explanation should be submitted.

31. Charge must be handed over at the headquarters, both relieved and relieving Government servants to be present-
Except as otherwise provided below, the charge of a post must be made over at the headquarters, both the relieving and relieved Government servants being present-

(a) Permission may be granted to a Government servant serving in vacation Department to make over charge of a post elsewhere than at its headquarters, excepting to a Head of an Institution under the Education Department. In such cases the amount of travelling allowance claimed by Government servant concerned shall not exceed the amount admissible to him while on transfer.

(b) For Special reasons which must be expressed on the face of the order and be of a public nature, a competent authority may permit the charge to be made over elsewhere.

(c) In exceptional circumstances, which should be recorded, a competent authority may permit the charge of a post to be made over in the absence of the relieved Government servant by letter or by telegram at or outside the headquarters of the post.

(d) In case of persons who are permitted to combine vacation with leave, the following procedure may be followed :--

Before proceeding on leave to which he has been allowed to prefix vacation, a Government servant should sign a charge report making over charge with effect from the date on which his leave commences and hand over the report to a responsible member of his office staff with instruction to deliver it for signature to his successor on the latter's arrival to take over the duties of the post, Similarly, when a Government servant is permitted to affix vacation with leave the Government servant, who was officiating during the leave, should at the commencement of the vacation, sign a charge report making over the charge from the beginning of the vacation and hand over the report to a responsible member of his office staff for delivery to his successor on the latter's return at the close of the vacation. In both cases, the report when completed, should be forwarded at once to

the Audit, The term "vacation" in this exception includes holidays.

Instruction :- It shall be permissible for Government servant to take over charge on a public holiday provided the procedure laid down in this rule is followed and the charge is handed over by the relieved officer in person; provided further that taking over of charge does not involve handing over and taking over cash and securities.

Note :- See rule 48 of Maharashtra Civil Services (Pay) Rules,1981”

4. The learned counsel has mentioned about transfer order and relieving order on page no.13 of the O.A. in para-(XI). The submissions are reproduced below –

“ It is pertinent to note that the respondent no.3 in a very hasty manner has taken over the charge as a Thanedar Police Station, Shirpur without following due procedure of law and he has taken the charge on early morning of 30/09/2021 at about 4.00 a.m. this clearly show that the respondent no.2 was interested in posting the respondent no.3 as Thanedar Police Station, Shirpur otherwise there could not be any reason to transfer the applicant in such a fashion and therefore, the order impugned is unsustainable in the eyes of law.”

5. He has also submitted that in para-10 of the O.A. it is mentioned that there was no show cause to the applicant neither explanation was called, but in transfer order it has been mentioned “misconduct”. The learned counsel has pointed out interim relief no. 9 on page no.17 of the O.A. and prayed as follows –

“ By issuing necessary direction restrain respondent no.3 Gajanan Karewad from working as a Thanedar Police Station, Shirpur with a direction to respondent no.2 to allow the applicant to work as a Thanedar Police Station, Shirpur during the pendency of the original application.”

6. Heard the learned CPO and he pointed out Yavatmal District Police Establishment Board Meeting dated 29/9/2021 (A-5,P-40). As per Hon’ble Apex Court Judgment in **T.S.R. Subramanian & Ors. Vs. Union of India & Ors. in W.P. (Civil) No.82/2011 with W.P. (Civil) No.234/2011** and in Civil Services Board meeting at Annex-A-9, page no.42 has recorded certain facts which are reproduced below –

~%c½dl jnkj l i ku@l fpu yg}Bk.kkj] i kLVs]f’kj i j &

i kfyI LVsku f’kji j dk; [k=kr pni j ftYgk l hek gnnh yxr vošk dkGI k mR[kuu] vošk dkGI k okgrnd] vošk dkGI k pljh ; kckcr ek-Jh-l qkhj ep.xd/hokj ekth ea-h ; kauh xalkhj Lo#i kP; k rdkjh dsy; k vkgr- ukx i j

; Fkhy vfhkys [kwojhy dč; kr xM o xtlgsxkj joh'k ; kP; k l 2kVhr xtlgsxkj VkgHusf'kj i ij i kSLVs dk; Zks=kr gñkd ?kkryk vl q v'kk xtlgsxkj kps, udkÅÅj dj .ksvko' ; d vl Y; kph rhozHkkouk R; kauh 0; Dr dsyh vkg

dl gjnkj l i ksu l fpu ygys; kauh fnukad 24@9@2021 jksth f'kj i ij i kSLVs xej- ua254@2021 Hkknfo dye 379]34 vl k dkGI k pljhpok xtlgk nk[ky dsyk vkg I nj xtlg; kae/; s tlr dj.; kr vkysyk dkG'; kpk Vd gk eaklyh dkGI k [knku e/kau vošk i/nrhush mR[kuu d#u dkG'kph pljh d#u okgrnd djrkauk LFkkfud f'kol suk i nkf/kdk&; kauh idmlyk gkrk- I nj idj.kh l æti/kr f'kol suk i nkf/kdk&; kauh vošk dkGI k Vdckcr I njpk Vd egkj'V³ uofuekzk l supsjktwæcj dj] eul sdk; Zrkz'bj'kkn [kku ; kpk vl Y; kpsdl gjnkj l fpu ygys; kauh dGfoysgkrs I nj idj.kh f'kol suk i nkf/kdkjh Jh- l at; fu[kkMs; kauh vejkorh jat dæ/ky ; Fksngj/outOnkjs ekfgrh dGfoyh- R; ko#u ek- i ksyhl mi egkfujh{k d} vejkorh i fj {ks=} vejkorh ; kauh dl gjnkj l i ksu l fpu ygys; kauh I nj idj.kh xtlgk nk[ky d#u dk; ns khj dk; bkgh dj .kæckcr vkns khr dsysgkrs

mi jkDr idj.kh mi foHkkxh; i ksyhl vf/kdkjh] i kæjdoMk ; kauh dsyY; k i kFkfed pkd'khe/; sf'kj i ij i kSLVs dk; Zks=kr ekxhy 15 fnol ka kl u vošk dkGI k okgrnd] vošk dkGI k pljh b- vošk /knsdl gjnkj l i ksu l fpu ygys ; kauh pkyq dY; kps fun'kzkl vkys vkg i kSLVs dk; Zks=krhy l oZ idkjps vošk /kns l eG u"V o utrukcr d#u dk; eLo#ih cin dj.; kP; k /kkg .kkRed fu.kz kfo#/n dl gjnkj l i ksu l fpu ygys ; kauh f'kj i ij i kSLVs dk; Zks=kr vošk dkGI k pljhpvošk /kns pkyq Bop ofj" Bkæ; k vkns kpsmYyæku dsysvkg

dl gjnkj l i ksu l fpu ygys ; kpsfo#/n R; kps dk; Zks=ke/; s vošk pkyq BopY; keGs R; kP; k çf'klR] çstçkcnkj o l gk; d i ksyhl fujh{k d i nkl v'kkækuh; v'kk xtlghj dl gheGstul keU; kr i ksyhl foHkkxkph i rhek eyhu >kyh vkg I nj dl gh idj.kk l mHkkæ dl gjnkj l i ksu l fpu ygys; kauh [kryhy i æk.ksf'k{k ns ; kr vkysY; k vkgr-

v-u-	f'k{kpsvrhe vlnsk dæad o fnukad	f'k{kpsLo#i
1	Ikkyhl v/kh{k d dk; kÿ; kpsvkns k d- i ksv; @d{k 12¼2½@vavk@l i ksu&yy@8539@2021] fnukad 4@8@2021	i æhy ns okf"kd oruok< nku ¼2½ o"kkzjhrk ¼vi fj .kkedkj d½ jk[k.k.ks
2	Ikkyhl v/kh{k d dk; kÿ; kpsvkns k d- i ksv; @d{k 12¼2½@vavk@l i ksu&yy@9307@2021] fnukad 2@9@2021	i æhy ns okf"kd oruok< rhu ¼3½ o"kkzjhrk ¼vi fj .kkedkj d½ jk[k.k.ks
3	Ikkyhl v/kh{k d dk; kÿ; kpsvkns k d- i ksv; @d{k 12¼2½@vavk@l i ksu&yy@9310@2021] fnukad 2@9@2021	i æhy ns okf"kd oruok< , d ¼1½ o"kkzjhrk ¼vi fj .kkedkj d½ jk[k.k.ks

dl gjnkj l i kfu l fpu ygys ; kauh ojhyi ek.ks Bk.knkj f'kji ij i kLVs inko#u dke djrkauk i kLVs
 dk; [ks=ke/; s vo8k /kmspkypqBouq drD; ke/; sv{KE; gyxt h. kk o fu"dkG thi .kkaGs i ksyhl foHkkxkph tuekul krhy
 i rhek eyhu >kyh vl Y; kusdl gjnkj l i kfu l fpu ygys ; kauk Bk.knkj f'kji ij i kLVs inko#u R; kph cnyh dj .ks iz kkl dh;
 n"V; k vko' ; d vkgs i ksyhl vf/kd&; kP; k emriozcnY; k djrkauk tufgrkFizo iz kkl dh; l kbpsEg.kts (In public
 interest and for administrative exigency) uq kj cnyh dj .; kps/kkj .kkud kj egkj k"V^a i ksyhl vf/kfu; e]2015
 fu; e 22 ¼u½¼2½ e/khy rjrhud kj dl gjP; k dkj .kkLro dl gjnkj l i kfu l fpu ygys ; kph Bk.knkj f'kji ij i kLVs ; Fkq
 brj= cnyh dj .; kckcr ftYgk vLfkki uk eMGkus, derkusfu.kz ?ks ; kr vkyk vkgs

v-d-	i ksyhl vf/kdkjhule	dlsq	dls	'ljk
7	l i kfu l fpu ygys	Bk.knkj i k-LV-]f'kji ij	i ksyhl fu; æ.k d{k} ; orekG	dl gho#u

7. The learned CPO has further pointed out Section 22M of the Bombay Police Act, which is reproduced below –

“ Section 22M – Power of State Government not to be affected –

Nothing contained in this Act shall affect the power of the State Government or any other Competent Authority in respect of all matters relating to disciplinary action against any Police Officer of whatsoever rank.”

8. The Id. CPO has pointed out Section 22N of the Bombay Police Act which is argued by the learned counsel. The Id. CPO has also pointed out the provisions made after the main portion of Section 22 N of the Maharashtra Police Act which is as under –

“ Section 22N – Normal tenure of Police Personnel, and Competent Authority-

(1) Police Officers in the police force shall have a normal tenure as mentioned below, subject to the promotion or superannuation -

(a) for Police Personnel of and above the rank of Deputy Superintendent of Police or Assistant Commissioner of Police a normal tenure shall be of two years at one place of posting;

(b) for police Constabulary a normal tenure shall be of five years at once place of posting;

(c) for Police Officers of the rank of Police Sub Inspector, Assistant Police Inspector and Police Inspector a normal tenure shall be of two years at a Police Station or Branch, four years in a District and eight years in a Range, however, for the Local Crime Branch and Special Branch in a District and the Crime Branch and Special Branch in a Commissionerate, a normal tenure shall be of three years;

(d) for Police Officer of the rank of Police Sub Inspector, Assistant Police Inspector and Police Inspector a normal tenure shall be of six years at Commissionerates other than Mumbai, and eight years at Mumbai Commissionerate;

(e) for Police Officers of the rank of Police Sub Inspector, Assistant Police Inspector and Police Inspector in Specialized Agencies a normal tenure shall be of three years.”

9. The learned CPO further pointed out the provisions included in 22N of the Bombay Police Act for transfer prior to the completion normal tenure which is as under –

Provided that the State Government may transfer any Police Personnel prior to the completion of his normal tenure, if –

(a) disciplinary proceedings are instituted or contemplated against the Police Personnel; or

(b) the Police Personnel is convicted by a court of law; or

(c) there are allegations of corruption against the Police Personnel ; or

(d) the Police Personnel is otherwise incapacitated from discharging his responsibility; or

(e) the Police Personnel is guilty of dereliction of duty.

(2) In addition to the grounds mentioned in sub-section (1), in exceptional cases, in public interest and on account of administrative exigencies, the Competent Authority shall make mid-term transfer of any Police Personnel of the Police Force;”

10. As per record placed before the District Civil Services Board, it appears that the transfer of applicant is covered by provisions (c) and (d) as above.

11. The Id. CPO further pointed out that the respondent no.3 who is in transfer order dated 29/9/2021 at Sr.No.8 has already joined at Police Station, Shirpur and as pleaded from both the sides, it appears that the respondent nos. 1&2 have also followed the procedure laid down by the Hon'ble Apex Court for placing the whole issue before the Civil Services Board and while placing the minutes of Civil Services Board, it appears that the Civil Services Board has recommended the applicant's case unanimously.

12. In view of such situation and though the learned counsel has requested for interim relief, but granting such type of interim relief will complicate the administration at local level and ultimately the public administration will suffer a lot.

13. The learned counsel for R-3 has agreed with the argument submitted by the Id. CPO. The learned counsel has supplied the copy of O.A. to the Id. counsel for R-3 also and similarly the Id. CPO has also supplied copy of minutes of Civil Services Board meeting to the learned counsel as well as to the Id. counsel for R-3.

14. Issue notice to the respondents returnable on 29/10/2021. Learned C.P.O. waives notice for R-1&2 as well as learned counsel for R-3 waives notice for R-3. Hamdast allowed.

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

16. 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.

17. 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.

18. 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.

19. 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. 29/10/2021

Steno copy is granted.

Vice-Chairman

*dnk.

O.A. No. 556/1995 with C.A. 43/16, 52/16, 53/16, 428/16, 101/17, 246/17 247/17 with (M.C.A. 40/17 in C.A. 74/18 & C.A. 379/18) (D.B.)

Coram : Justice Mridula Bhatkar, Hon'ble Chairperson and Shri Shree Bhagwan, Hon'ble Vice Chairman

Dated : 08/10/ 2021.

Heard Shri V.S.Mishra along with Shri K.Deogade, the Id. Counsel for the applicants and Shri S.A.Deo, the Id. C.P.O. and Shri A.M.Ghogre, the Id. P.O. for the respondent nos. 1 to 3. None for the respondent no. 4.

2. The matter was heard today through Video Conferencing in between Hon'ble Chairperson (Mumbai Bench) and Hon'ble Vice Chairman (Nagpur Bench).

3. Today, the Id. counsel for the applicant pointed out that in some other W.P.; Hon'ble High Court has declared that the G.R. dated 30.06.2017 is illegal and that's why the Id. counsel for the applicant feels that there is no need to serve 950 peoples.

4. However, the Id. counsel for the applicant is required to file C.A. along with he should also file the Judgment on which he is relying by 20.10.2021 as decided by Hon'ble Chairperson.

5. S.O. 27.10.2021 (10:15 A.M.).

Vice Chairman

Date:-08/10/2021.

aps.

O.A.No.207/2018 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 08/10/2021.

C.A.No.109/2020:-

None for the applicant. Shri S.A.Sainis, the Id.
P.O. for the respondents.

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

Vice Chairman

Date:-08/10/2021.
aps.

O.A.No.38/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 08/10/ 2021.

C.A.Nos.256&306/2021:-

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

2. In order dated 01.09.2021 in para no. 6 it was observed that "The Id. P.O. waives notice for respondent no. 1. Hamdast granted." The Id. counsel for the applicant further submits that he should waive notices for Respondent Nos. 1 to 4. The Id. P.O. expresses his problem that P.O. office is not having that much of machinery.

3. However, he has filed reply on behalf of the respondent nos. 1 to 4 from P.B., Pg. Nos. 62 to 69. In para no. 2 of the order dated 01.09.2021 and as pointed out by Id. P.O. and as agreed by Id. counsel for the applicant in last line "Respondent no. 5 is allowed" that should be corrected as "Applicant no. 5 is allowed".

4. In view of this, **C.A. No. 306/2021 is allowed and disposed of.**

5. The Id. counsel for the applicant further submits that she will comply the directions given in C.A. No. 255/2021 as per order dated 01.09.2021.

6. However, she is pressing for early hearing. As requested by Id. counsel for the applicant i.e. order passed on dated 01.09.2021 in para no. 4, which is below:-

"Respondents are directed that if any appointments have been made that will be subject to decision in C.A. No. 256/2021 and outcome of the O.A."

The above should be taken care by the respondents.

7. Hence, **C.A. No. 256/2021 for direction is allowed and disposed of.**

8. However, the matter will be placed before the regular D.B. as early as possible as and when D.B. will available.

Vice Chairman

Date:-08/10/2021.
aps.

O.A.No.161/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 08/10/ 2021.

C.A.No.319/2021:-

Heard Shri P.V.Thakre, the Id. Counsel for the applicant and Shri V.A.Kulkarni, the Id. P.O. for the respondents.

2. **C.A. No. 319/2021 is allowed and disposed of.**

3. **S.O. 13.10.2021.**

Vice Chairman

Date:-08/10/2021.
aps.

O.A.No.537/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 08/10/ 2021.

Heard Shri A.P.Sadavarte, the Id. Counsel for the applicant and Shri H.K.Pande, the Id. P.O. for the respondent nos. 1 to 3. None for the respondent nos. 4 to 8.

2. At the request of Id. P.O., **S.O. 22.10.2021 to file reply.**

Vice Chairman

Date:-08/10/2021.
aps.

O.A.No.172/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 08/10/ 2021.

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

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

Vice Chairman

Date:-08/10/2021.
aps.

O.A.No.228/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 08/10/ 2021.

Heard Shri J.S.Wankhede, the Id. Counsel for the applicant and Shri P.N.Warjekar, the Id. P.O. for the respondents.

2. The Id. counsel for the applicant has relied in order of O.A. No. 942/2019 dated 19.03.2021 in para no. 2. The applicant's main relief clause on Pg. No. 32 is against the G.R. dated 07.08.2012; the said G.R. is already stayed by Hon'ble High Court. The same relief is granted to the applicants also to the effect of G.R. dated 07.08.2012 is stayed to the extent of applicants i.e. Shri Amol Vaikunthrao Deshmukh and Shri Pravina Vasanttrao Misar.

3. The Id. P.O. desires three weeks time to file reply, **S.O. three weeks.**

Vice Chairman

Date:-08/10/2021.
aps.

O.A.No.336/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 08/10/ 2021.

Heard Shri R.M.Fating, the Id. Counsel for the applicant and Shri H.K.Pande, the Id. P.O. for the respondents.

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

3. Hence, the O.A. is **admitted** and kept for final hearing.

4. The Id. P.O. waives notices for the respondents.

5. *Put up this matter along with O.A. Nos. 337/2021 and 338/2021.*

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

Vice Chairman

Date:-08/10/2021.
aps.

O.A.No.423/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 08/10/ 2021.

Heard Shri T.Rahul, the Id. Counsel for the applicant and Shri V.A.Kulkarni, the Id. P.O. for the respondents.

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

Vice Chairman

Date:-08/10/2021.

aps.

O.A.No.538/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 08/10/ 2021.

Heard Smt. M.Chandurkar, the Id. Counsel for the applicant and Shri A.M.Khadatkar, the Id. P.O. for the respondent nos. 1 to 5. None for the respondent nos. 6 to 15.

2. The Id. counsel for the applicant has filed C.A. No. 253/2021. As per the prayer; order was passed to delete the name of the applicants who were at Sr. Nos. 8 to 13; this deletion is yet to be done both in C.A. and in O.A.. The Id. counsel for the applicant is submitting that it will be done within one week time.

3. Now, as per the grievances of the applicant; the Id. counsel for the applicant submits that Sr. No. 1 to 7 were appointed during the year 2008-2009-2010 as per P.B., Pg. No. 7 of the O.A..

4. As per the order dated 12.07.2021; para no. 3; respondents were advised to examine the seniority list dated 01.01.2020 issued vide letter 04.05.2021 before proceedings with the same. Today the Id. counsel for the applicant submits that without verifying the seniority list dated 01.01.2020 in which applicants are still aggrieved; respondents are proceeding with promotion process on the seniority list published on dated 04.05.2020. If promotion are affected without correcting seniority list or without giving proper hearing to the applicants it will caused

ir-repairable damage to the career of applicant nos. 1 to 7.

5. In view of this, respondents are directed that first verify the seniority list and then proceed with the promotion order if at all they proceeded with the promotion order. They should be made clear to the promoted officers that promotions will be subject to the outcome of the O.A..

6. The Id. P.O. desires two weeks time to file reply, **S.O. two weeks as a last chance.**

7. **Steno copy is granted.**

Vice Chairman

Date:-08/10/2021.

aps.

O.A.No.633/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 08/10/ 2021.

Heard Shri S.N.Gaikwad holding for Shri V.B.Gawali, the Id. Counsel for the applicant and Shri P.N.Warjekar, the Id. P.O. for the respondents.

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

Vice Chairman

Date:-08/10/2021.
aps.

O.A.No.803/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 08/10/ 2021.

C.A.No.305/2021:-

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

2. As pointed out by office; the Id. counsel for the applicant is directed to file legible copy of Pg. No. 116.

3. The Id. counsel for the applicant has filed C.A. No. 305/2021 for condonation of delay. There is a delay of three years and ten months. The Id. counsel for the applicant placed on record; **Hon'ble Apex Court Judgment in case of M.R.Gupta Vs. Union of India & Ors. delivered on 21.08.1995 reported in A.I.R. 669, 1995 SCC (5), 628.** He is mainly relied on para no. 5 of the said Judgment.

4. The learned Counsel further submits that in view of the order passed by the **Hon'ble Supreme Court in Suo Moto W.P. (Civil) No. 03 of 2020**, the delay was condoned after 15/03/2020. Thereafter, the **Hon'ble Supreme Court in M.A. 665/2021 in Suo Moto W.P. (Civil) No. 3/2020 by order dated 27/4/2021**, extended the period of limitation upto 19/7/2021.

5. In view of the above citations; delay is condoned. Hence, C.A. is allowed and disposed of.

6. Issue notice to Respondents, returnable on four weeks. Learned P.O. waives notice for R-1. Hamdast allowed.
7. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
8. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.
9. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.
10. 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.
11. 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.
12. S.O. four weeks.

Vice Chairman

Date:-08/10/2021.
aps.

C.P.34/2021inO.A.No.158/2018 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 08/10/ 2021.

Heard Shri N.Phadnis, the Id. Counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the respondents.

2. As submitted by Id. P.O., since matter is going to challenge before Hon'ble High Court and issue is going to be sub judice before Hon'ble High Court. The Judicial propriety is not to hear the matter.

3. S.O. eight weeks.

4. *The Id. P.O. is further directed to file the W.P. which was filed before Hon'ble High Court.*

Vice Chairman

Date:-08/10/2021.
aps.

C.P.No.37/2021inO.A.No.959/2019 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 08/10/2021.

Heard Shri S.P.Palshikar, the Id. Counsel for the applicant, Shri A.M.Ghogre, the Id. P.O. for the respondents and Shri U.A.Patil, the Id. counsel for the respondent no. 3.

2. The Id. P.O. is pressing for further two weeks time to file reply. However, as pointed out by Id. counsel, it is made clear :-

"The matter was decided on 05.01.2021 in O.A. No. 959/2019. The said Judgment is on P.B., Pg. Nos. 14 to 27. On Pg. No. 27 in paragraph 18; the order says that O.A. No. 959/2019 be allowed by giving him relief as per prayer clause 8 (ii) and we allow the O.A. No. 959/2019 in terms of prayer clause 8 (ii), no order as to costs."

3. However, para no. 19 is reproduced below:-

"19. So far as O.A. No. 11/2020 is concerned, it is admitted position that the situation was governed by G.R. dated 15/12/2017 when the matter was before DPC and it was necessary to keep the case of the applicant in sealed cover, but it was not done. In view of this, the respondents are directed to consider the case of the applicant as per the guidelines in the G.R. dated 15/12/2017 and shall take suitable decision within a period of 60 days from the date of this order, regarding his promotion. No order as to costs."

4. The Id. counsel for the applicant further pointed out that correspondence dated 14.06.2021 (A-3, Pg. NO. 30) by Executive Engineer, Irrigation, Wardha to applicant is after the Judgment of Tribunal dated 05.01.2021 which is against the Judgment of the Tribunal. Subsequently, as pointed out by Id. counsel for the applicant, Government has also relied on correspondence dated 08.09.2021 to Chief Engineer, Goshikurd Project, Irrigation Department, Nagpur and again contains of the letter are against the Judgment of this Tribunal dated 05.01.2021.

5. Since already as per relief clause 8 (ii) in O.A. No. 959/2019; applicant has been exonerated from charges levelled against him vide chargsheet dated 23.03.2018. Since applicant was exonerated by the Tribunal order dated 05.01.2021; the correspondence dated 14.06.2021 by Executive Engineer and correspondence dated 08.03.2021 by Desk Officer are violative of the order passed by the Tribunal dated 05.01.2021. The Id. counsel for the applicant submits that Enquiry Officer has been appointed against four persons by order dated 20.08.2021 by Joint Secretary, Shri Kailash Bilolikar; whereas the applicant's name is appeared at Sr. No. 3 (This documents is not filed on record; the Id. counsel for the applicant is directed to file on record before next date of hearing and supply the same to the other side.).

6. Appointing Enquiry Officer dated 20.08.2021 is totally illegal and bad in law and this will amount in Contempt of Court proceedings. Since, the order was passed by this Tribunal on 05.01.2021 has not been challenged/ overruled by Hon'ble High Court and had attained its Judicial Finality.

7. In view of this situation, Respondents are directed not to go further with their illegal letters and comply the order of the Tribunal dated 05.01.2021.

8. The Id. P.O. is directed to file reply before next date of hearing and supply the same in advance to the other side. The Id. counsel for the applicant is also directed to supply the above mentioned copy in advance before next date of hearing to the Id. P.O.; whichever he has mentioned that he received it by email.

9. The Id. P.O. desires to file reply within three weeks, as a last chance three weeks granted.

10. Steno copy is granted.

Vice Chairman

Date:-08/10/2021.

aps.

C.P.38/2021inO.A.No.53/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 08/10/ 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. four weeks to file reply.**

Vice Chairman

Date:-08/10/2021.

aps.

O.A.No.777/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 08/10/ 2021.

Heard Shri S.P.Palshikar holding for Shri A.C.Dharmadhikari, 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 Government order dated 15.09.2021, which is marked Exh. 'X' for the purpose of identification. It is taken on record. Copy is served to the other side.

3. As per above letter, the applicant's name appeared at Sr. No. 3. By this letter Government has taken decision on Pg. No. 2 by which applicant has been granted senior scale from 15.06.2007 and selection grade from 06.10.2016.

4. The Id. P.O. submits that grievances of the applicant have been solved. However, the Id. counsel for the applicant is not present today. So matter be taken next week.

5. **S.O. next week.**

Vice Chairman

Date:-08/10/2021.

aps.

O.A.No.897/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 08/10/ 2021.

Heard Shri R.M.Fating, the Id. Counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the State.

2. As submitted by Id. P.O., there is some delay. However, Issue notice to Respondents, returnable on four weeks. Learned 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. 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.

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

9. *As submitted by Id. P.O., Issue of limitation is kept open.*

Vice Chairman

Date:-08/10/2021.

aps.

C.P.No.45/2021inO.A.No.565/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 08/10/ 2021.

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

2. As submitted by Id. counsel for the applicant, the order was passed by this Tribunal regarding pensionary benefits of the applicant in C.A.218/2021 with O.A. 565/2020 was decided on 30.07.2021 and direction was given to the respondents to give all the retiral benefits to the applicant subject to decision of the C.A..

3. He further pointed out that in para no. 6 of the same order it was directed that:- *"Respondents are also directed to release leave encashment, gratuity and other benefits of the applicant as early as possible. Correspondence made by the respondents dated 09.09.2020 (A-A-16, Pg. Nos. 63 & 64) is totally bad in law and hence, stayed till applicant be paid all retiral benefits."*

4. Today, the Id. counsel for the applicant submits that applicant has not been paid a single pie. Hence, Issue Notice to the respondents returnable in **three weeks** under Rule 8 of the MAT (Contempt of Courts) Rules, 1996 as to why they should not be proceeded for committing contempt of this Tribunal's order and as to why they shall not be punished under the Contempt of Court Act.

5. Shri A.M.Khadatkar, the learned C.P.O. waives notice for respondent No. 1. Hamdast granted.

6. S.O. three weeks.

Date:-08/10/2021.
aps.

Vice Chairman

C.P.No.50/2019inO.A.No.55/2015 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 08/10/ 2021.**

Heard Shri P.R.Sharma, the Id. Counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the respondents.

2. The Id. P.O. filed letter dated 02.09.2021 by Regional Deputy Director, Ground Water and Development, Nagpur by Department. By which it appears that revised pension paper has been submitted to A.G. by department. The applicant retired on 31.01.2007. Now, respondents have submitted in this letter that salary of the applicant has been verified by Pay Verification Unit and now matter is with the A.G. Office.

3. Respondents are directed to depute any officer to take follow up with the A.G. office and if there is any query it should be resolved soon.

4. The matter has been also heard on 20.08.2021 before regular D.B. and on that day Id. P.O. had submitted that "the matter will be forwarded to Account General and it will take minimum six weeks."

5. In view of this situation, the department is directed to follow up with the A.G. to get the revised pension paper as early as possible.

6. S.O. four weeks.

Date:-08/10/2021.
aps.

Vice Chairman