

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO 417 OF 2020

DISTRICT : RAIGAD

Shri D.G Dhabekar)...**Applicant**

Versus

The State of Maharashtra & Others)...**Respondents**

Shri B.R Deshmukh, learned advocate for the Applicant.

Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

CORAM : **Justice Mridula R. Bhatkar (Chairperson)**
Shri P.N Dixit (Vice-Chairman) (A)

DATE : **31.08.2020**

PER : **Justice Mridula R. Bhatkar (Chairperson)**

ORDER

1. Heard Shri B.R Deshmukh, learned advocate for the applicant and Smt Kranti S. Gaikwad, learned P.O for the Respondents.

2. In this petition the Police Naik, who is facing charges for the offence committed under the Wild Life (Protection Act), 1972 has challenged the Departmental Enquiry. His preliminary enquiry was conducted and he was served the charge sheet for D.E on 8.8.2020 by one Shri Shanker Khatke, who is appointed as Enquiry Officer. The department has put a charge on the delinquent officer that he left the headquarter by giving a false reason of sickness of his uncle and went to Nasik without E-pass.

3. He made the grievance that he was not given entire set of documents in D.E and he was not allowed by the Enquiry Officer to file the written statement and he was not aware under which M.C.S Rules he was supposed to face the enquiry. The charge sheet was served on him 8.8.2020.

4. After going through the documents annexed to this Petition, especially Exh. 'B' to Exh. 'J', it appears that the delinquent Officer had appeared before the Enquiry Officer on 17.8.2020 through his friend Shri Chandrakant T. Gaikwad. We have not come across any grievance raised in writing by the delinquent officer during this D.E, that he was not supplied with details of the charges and he was not allowed to file his written statement of defence. The only application placed by his friend Shri Chandrakant T. Gaikwad, discloses that the last opportunity was given to the delinquent officer for cross examination of the witnesses, the examination in chief of all the witnesses was over. Exh. 'I' further discloses that the relevant documents, if made available, then only it is possible for the delinquent officer to communicate the names of defence witnesses. It is also mentioned in the said application that the Enquiry Officer has kept the hearing of many matters on one day and therefore, the friend Officer who is appearing for the delinquent officer gets exhausted. Exh. 'J' at page 62, is application given by the delinquent officer where he has asked for the documents listed therein. There is no document on record to show wherein the applicant delinquent officer has pointed out or protested the refusal on the part of the Enquiry Officer for taking written statement of defence on record.

5. Learned P.O on instructions states that examination in chief of four witnesses is recorded and cross examination is deferred and still two more witnesses are to be examined.

6. We have considered the relief sought by the applicant, which is in fact to be contended before the Enquiry Officer and his relief at prayer clause (c) is premature. Relief at prayer clause (d) cannot be granted because criminal trial and Departmental Enquiry are two different modes. So also the charges levelled against the delinquent officer in criminal case and in D.E are different. The grievance raised by the delinquent officer of not getting copy of the FIR and other documents in the criminal trial, this Tribunal is not the proper Forum.

7. In view of the above, we dismiss the Original Application summarily at the threshold with following order:-

- (a) To enable the delinquent officer to present his case fairly by submitting his written statement of defence
- (b) The Enquiry Officer to allow the delinquent officer to file his written statement of defence, if he wants till 4.9.2020.

- (c) The next date of D.E to be fixed thereafter, i.e. on 7th or 8th September, 2020 as per the convenience of all the parties and the Enquiry Officer, on which date the deferred cross examination of all the four witnesses can be concluded in these two days.
- (d) Thereafter, Enquiry Officer to proceed further and delinquent officer to cooperate in the enquiry. All the contentions are kept open before the Enquiry Officer.

Sd/-

(P.N Dixit) 31/8/2020
Vice-Chairman (A)

Sd/-

(Mridula R. Bhatkar, J.)
Chairperson

Place : Mumbai

Date : 31.08.2020.

Dictation taken by : A.K. Nair.

D:\Anil Nair\Judgments\2020\1.8.2020\O.A 214.2020, Promotion challenged, DB. Int order 8.2020.doc

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. _____ of 20 _____

IN

Original Application No. _____ of 20 _____

FARAD CONTINUATION SHEET No.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
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31.08.2020

O.A 97/2020

Shri P.K Pande ... Applicant
 Vs.
 The State of Maharashtra & Ors ... Respondents

1. Shri C.T Chandratre, learned advocate for the applicant and Ms Swati Manchekar , learned C.P.O for the Respondents.

2. As per application made by learned counsel for the applicant, the present O.A is ^{not} de-tagged from O.A ²² 764/2019.

3. S.O to 8.9.2020.

Sd/-

(P.N Dixit)
Vice-Chairman (A)

Sd/-

(Mridula R. Bhatkar J.)
Chairperson

Alm

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No.



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Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>31.08.2020</p> <p align="center"><u>O.A 764/2019</u></p> <p>Shri A.S Nayakwadi & Others ... Applicants Vs. The State of Maharashtra & Ors ... Respondents</p> <p>1. Heard Shri S.S Dere , learned advocate for the applicant and Ms Swati Manchekar , learned C.P.O for the Respondents.</p> <p>2. This application is filed by four applicants, out of which applicant no. 1 Amit V. Nayakwadi and applicant no. 4, Shri Nilesh S. Patil are present in the Court and they orally submit that they both do not want to pursue this matter and want to withdraw from this petition. The identity of both the applicants is verified on the basis of their Aadhar Card. Both the applicants submit that the petition was filed as their names were to be recommended from the waiting list. Both the applicants submit that as their names are recommended their cause is frustrated and therefore they do not want to pursue this petition. The applications of other two persons dated 25.8.2020 are before this Tribunal. However, neither they are present before us and nor they have instructed their learned counsel Mr Dere who is appearing in this matter. Learned counsel Mr Dere submits that he has not received any instructions from these two applicants regarding withdrawal of this matter. He further submits that the applicants who are present today before this Court have also not communicated anything to him.</p> <p>3. Be that is it may, as these two applicants are personally present, therefore learned counsel submits that he does not want to represent applicant no. 1 and applicant no. 4. Learned counsel is discharged from representing applicants no 1 & 4.</p> <p>4. S.O 8.9.2020.</p> <p>Sd/-  Sd/- </p> <p>(P.N Dixit) 31/08/20 Vice-Chairman (A)</p> <p>(Mridula R. Bhatkar J.) Chairperson</p> <p>Akn.</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

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

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	<p align="center"><u>31.08.2020</u></p> <p align="center"><u>O.A 375/2020</u></p> <p>Shri A.B Anandkar ... Applicant Vs. The State of Maharashtra & Ors ... Respondents</p> <p>1. Heard Shri A.V Bandiwadekar, learned advocate for the applicants and Ms Swati Manchekar, learned C.P.O for the Respondents</p> <p>2. In this matter the transfer order dated 24.7.2020 which also includes the relieving order specifically passed by one Ms Meena Sankhe, Under Secretary, G.A.D is challenged on the ground that G.A.D has no power to pass any order of transfer or relieving order as the applicant was transferred by his parent department, i.e. Revenue & Forest Department by order dated 6.9.2019 from the post of Deputy Election Officer, Nasik to the post of Deputy Collector, Prabhodini, Regional Administration Training Institute, Nasik. It is contended that G.A.D has no power to transfer him and only the Addl. C.S, Revenue & Forest Department, i.e. Respondent no. 2, is the competent authority to transfer him. Learned counsel for the applicant submits that he was never sent on deputation. Learned counsel for the applicant submits that he was not transferred on deputation and therefore G.A.D has no power to repatriate or relieve the applicant.</p> <p>3. Learned C.P.O on the other hand submits that the Deputy Secretary, Revenue and Forest Department, has transferred the applicant on deputation by order dated 6.9.2019 and further G.A.D has issued order to that effect on 18.9.2019.</p> <p>4. Under such circumstances short, preferably one page affidavit of the said authority, i.e. Respondent no. 2, Addl C.S, Revenue & Forest Department, Mantralaya, Mumbai should be filed stating therein whether he is the competent authority or G.A.D has power to transfer the applicant who was on deputation on that post again back to his parent department.</p> <p>5. S.O to 8.9.2020. The applicant cannot be relieved till 8th September, 2020.</p> <p align="right">  Sd/-  [Mridula R. Bhatkar, J.] Chairperson </p> <p>Akn</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No.


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	<p align="center"><u>31.08.2020</u></p> <p align="center"><u>O.A 415/2020</u></p> <p>Shri V.H Sonavane ... Applicant Vs. The State of Maharashtra & Ors ... Respondents</p> <ol style="list-style-type: none"> 1. Heard Smt Punam Mahajan, learned advocate for the applicants and Shri A.J Chougule, learned P.O for the Respondents. 2. Issue notice returnable on 24.9.2020. 3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need 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. Private service is allowed in view of this present COVID-19 Pandemic situation. Respondents are 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 before returnable date or on the same date. Applicant is directed to file affidavit of compliance and notice. 7. S.O to 24.9.2020. <p align="right">  Sd/- _____ 21/9/20 (Mridula R. Bhatkar, J.) Chairperson </p> <p>Akn</p>


**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
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	<p><u>31.08.2020</u></p> <p><u>O.A 419/2020</u></p> <p>Shri D.B Bamble ... Applicant Vs. The State of Maharashtra & Ors ... Respondents</p> <p>1. Heard Shri G.A Bandiwadekar, learned advocate for the applicants and Shri A.J Chougule, learned P.O for the Respondents.</p> <p>2. The applicant challenges the transfer order dated 10.8.2020 transferring the applicant from Bhiwandi to Thane.</p> <p>3. Learned P.O seeks time to file reply.</p> <p>4. S.O to 17.9.2020.</p> <p style="text-align: right;">  Sd/- 20 (Mridula R. Bhatkar, J.) Chairperson </p> <p>Alm</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
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31.08.2020

O.A 404/2020

Shri S.R Kadam ... Applicant
Vs.
The State of Maharashtra & Ors ... Respondents

1. Heard Smt Punam Mahajan, learned advocate for the applicants and Dr Sadavarte learned special Counsel for Respondent nos 1, 2 & 3.

2. The applicant is directed to take charge of the post where he is transferred subject to outcome of this petition. If it is found that the transfer order is issued without following the proper procedure so also the approval of the Hon. C.M was not taken in writing, then the applicant's transfer order will be set aside.

3. Reply to be filed and communicated on email at least two days in advance.

4. S.O to 17.9.2020.

Mrdula Sd/- *120*

**(Mridula R. Bhatkar, J.)
Chairperson**

Attn

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No.



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	<p align="center"><u>31.08.2020</u></p> <p align="center"><u>O.A 421/2020</u></p> <p>Shri S.B Chavan ... Applicant Vs. The State of Maharashtra & Ors ... Respondents</p> <p>1. Heard Smt Punam Mahajan, learned advocate for the applicant and Ms Swati Manchekar, learned C.P.O for the Respondents.</p> <p>2. Pursuant to order dated 27.8.2020, the learned C.P.O submits that the file of the present applicant along with other cases is placed before G.A.D</p> <p>3. Learned counsel for the applicant points that the favourable decision was taken by General Administration Department on 27.2.2020 in the case of Shri Bhagwan Kamble recommending his promotion after considering the orders passed by the Tribunal in O.A 876/2019 and also the decision of the of the Full Bench Hon. High Court in W.P no. 2797/2015 dated 25.7.2017 and so also after considering the communication of G.A.D dated 29.12.2017</p> <p>4. Learned C.P.O on instructions from Shri Anil N. Dhas, Section Officer, Forest Department, Mantralaya, Mumbai, submits that ten days' time may be given to G.A.D to take decision in case of the applicant.</p> <p>5. G.A.D is directed to decide the case of the applicant by 15.9.2020 and communicate the decision to the applicant before the next date. In between, if at all the promotion orders in respect of other employees are issued to the post of Divisional Forest Officer, they will be subject to the outcome of this application.</p> <p>6. S.O to 17.9.2020. Respondents to act on the authenticated copy of the order.</p> <p align="center">Sd/-  Sd/- </p> <p align="center">(P.N Dixit) Vice-Chairman (A)</p> <p align="center">(Mridula R. Bhatkar J.) Chairperson</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
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31.08.2020

O.A 1111/2019

Shri K.S Adagale ... Applicant
Vs.
The State of Maharashtra & Ors ... Respondents

1. Heard Shri K.R Jagdale, learned advocate for the applicant and Ms Swati Manchekar, learned C.P.O for the Respondents.
2. Learned C.P.O seeks time to file reply.
3. S.O to 24.9.2020.

Sd/-

(P.N Dixit)
Vice-Chairman (A)

Akn

Mru Sd/-
(Mridula R. Bhatkar J.)
Chairperson

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. of 20

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31.08.2020

O.A 348/2020 with M.A 192/2020

Shri A.V Pophale ... Applicant
Vs.
The State of Maharashtra & Ors ... Respondents

1. Heard Shri A.V Bandiwadekar, learned advocate for the applicant and Ms 'Swati Manchekar, learned C.P.O for the Respondents.
2. Learned C.P.O seeks time to file reply.
3. S.O to 8.9.2020.

Sd/-

(P.N Dixit)
Vice-Chairman (A)

Sd/-

(Mridula R. Bhatkar J.)
Chairperson

Actn

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No.

of 20

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directions and Registrar's orders

Tribunal's orders

31.08.2020

Q.A 359/2020

Shri D.V Bhise ... Applicant

Vs.

The State of Maharashtra & Ors ... Respondents

1. Heard Shri A.D Gugale, learned advocate for the applicant and Ms Swati Manchekar, learned C.P.O for the Respondents.

2. Learned C.P.O seeks time to file reply.

3. S.O to 24.9.2020.

Sd/-

(P.N Dixit) 31/8/20
Vice-Chairman (A)

Akn

Sd/-

(Mridula R. Bhatkar J.)
Chairperson

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. of 20

IN

Original Application No. of 20

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Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
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31.08.2020

O.A 323/2020

Shri N.S Patil ... Applicant
Vs.
The State of Maharashtra & Ors ... Respondents

1. Heard Shri K.R Jagdale, learned advocate for the applicant and Smt K.S Gaikwad, learned P.O for the Respondents 1 & 2. Learned counsel Shri Abhinit for Respondent no. 3 is absent.

2. Reply has been filed by Shri Jitendra B. Patil, Deputy Transport Commissioner (Administration) on behalf of the Respondents no 1 & 2. Learned P.O submits that after filing this reply which is verified on 18.8.2020, a notice is issued to the Respondent no. 3 on 27.8.2020 directing him to appear before the authority for explanation.

3. Time granted to the Respondents to make further affidavit answering the query whether Respondent no. 3 is fit or unfit medically. Learned Counsel for Respondent no. 3 is directed to remain present on the next date.

4. Learned counsel for the applicant submits that the select list where the name of the applicant is appearing is going to expire on 8.9.2020.

5. As the proper reply is not filed, the exclusion of the name of the applicant after lapsing of the select list will not come in the way if the matter is decided in his favour.

6. S.O to 15.9.2020.

Sd/-

(P.N Dixit) 31/08/2020
Vice-Chairman (A)

Sd/-

(Mridula R. Bhatkar J.)
Chairperson

Alm

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No.

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31.08.2020

O.A 70/2020

Shri A.V Pophale ... Applicant
 Vs.
 The State of Maharashtra & Ors ... Respondents

1. Heard Smt Punam Mahajan, learned advocate for the applicant and Shri A.J Chougule, learned P.O for the Respondents.
2. Affidavit in reply has already been filed.
3. Admit. Place for final hearing on 24.11.2020.

Sd/-

(P.N Dixit)
Vice-Chairman (A)

Alm

M Sd/-

(Mridula R. Bhatkar J.)
Chairperson

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
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31.08.2020

O.A 172/2020

Shri M.N Bhalchandra ... Applicant
Vs.
The State of Maharashtra & Ors ... Respondents

1. Heard Shri K.R Jagdale, learned advocate for the applicant and Ms Swati Manchekar, learned C.P.O for the Respondents.
2. Learned C.P.O seeks time to file reply. Time granted to file reply by way of last chance.
3. S.O to 15.9.2020.

Sd/-

(P.N Dixit)
Vice-Chairman (A)

Akn

Sd/-

(Mridula R. Bhatkar J.)
Chairperson

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

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O.A 1131/2018

Shri B.D Chavan ... Applicant

Vs.

The State of Maharashtra & Ors ... Respondents

1. Heard Shri K.R Jagdale, learned advocate for the applicant and Shri A.J Chougule, learned P.O for the Respondents.

2. Affidavit in reply has already been filed.

3. Admit. Place for final hearing on 24.11.2020.

Sd/-

(P.N Dixit)
Vice-Chairman (A)

Atm

Sd/-

(Mridula R. Bhatkar J.)
Chairperson

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
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	<p>Date : 31.08.2020</p> <p align="center">O.A.No.664 of 2020</p> <p>B.D. Kamble ...Applicant Versus The State of Maharashtra & Ors. ...Respondents</p> <p>1. Heard Shri Bhushan A. Bandiwadekar, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.</p> <p>2. In the present O.A. initially challenge was to the transfer order dated 15.06.2019, whereby applicant serving as Attendant (Class-IV) of District Veterinary Polyclinic, Pune was transferred to Taluka Mini Polyclinic, Kawathe, Mahakal, District Sangli. He was shown transferred on complaint. However, Respondents by order dated 15.06.2019 has also posted one Shri Gorak Shankar Chougule at Taluka Miraj, Polyclinic, Kawathe, Mahakal, District Sangli. As such two persons, were posted at one post. Having noticed this discrepancies, this Tribunal by order dated 12.06.2019 directed to rectify the mistake. Consequently, Respondent No.1 issued subsequent order dated 15.07.2019 transferring the applicant at Miraj, District Sangli. In the minutes of CSB he was shown transferred to Miraj, District Sangli on request, whereas in fact there was no such request of the applicant for Miraj. Therefore, the applicant had challenged subsequent transfer order dated 15.07.2019 by amending the O.A.</p> <p>3. Respondents sought to justify transfer of the applicant on the ground of serious complaint.</p> <p>4. Today, when the matter was taken up for hearing and heard for some time, it was submitted by learned Advocate Shri B.A. Bandiwadekar, that the Applicant being Group D employee cannot be transferred unless there is substantive complaint of serious nature in view of Section 3(2) of Maharashtra Government Servants Regulation of</p> <p align="right">[P.T.O.]</p>

Office Notes, Office Memoranda of Coram,
Appearance, Tribunal's orders or
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Tribunal's orders

Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005. (hereinafter referred as Transfer Act, 2005 for brevity), which *inter alia*, provides that Group-D employees namely shall not be subjected to fixed tenure and transfer is permissible on mutual consent on request or where there is substantiated complaint of serious nature. Shri B.A. Bandiwadekar, learned Advocate further submits that his client is ready for transfer at any place nearby Pune.

5. In view of above, learned P.O. was asked to take instructions as to whether the applicant can be accommodated in Pune or nearby Pune. On instruction from Dr. Routmore S.S. Joint Commissioner of Animal Husbandary Department (H,Q.) Commissioner Office of Animal Husbandary Department, Pune 67, learned P.O. submits that there is vacancy at Veterinary Dispensary, Khed, Shivapur, Taluka District Pune. Learned Advocate submits that his client is ready for posting at Khed, Shivapur at Pune, in view of written instructions available with him.

6. In view of above, without going into merits of the case, O.A. can be disposed of in view of aforesaid submissions.

7. O.A. is disposed of with directions that applicant should make representation for change of posting asking for Veterinary Dispensary, Khed, Shivapur, District Pune within seven days from today and Respondent No.2 shall pass appropriate order of change of posting in view of submissions made by learned P.O. on instructions received from Respondent No.2 within two weeks from the date of receipt of representation.

8. No order as to costs.

Sd/-

(A.P. Kurhekar)
Member(J)

prk

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO 417 OF 2012**

DISTRICT : RAIGAD

Shri D.G Dhabekar)...**Applicant**

Versus

The State of Maharashtra & Others)...**Respondents**

Shri B.R Deshmukh, learned advocate for the Applicant.

Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

CORAM : **Justice Mridula R. Bhatkar (Chairperson)**
Shri P.N Dixit (Vice-Chairman) (A)

DATE : **31.08.2020**

PER : **Justice Mridula R. Bhatkar (Chairperson)**

ORDER

1. Heard Shri B.R Deshmukh, learned advocate for the applicant and Smt Kranti S. Gaikwad, learned P.O for the Respondents.

2. In this petition the Police Naik, who is facing charges for the offence committed under the Wild Life (Protection Act), 1972 has challenged the Departmental Enquiry. His preliminary enquiry was conducted and he was served the charge sheet for D.E on 8.8.2020 by one Shri Shanker Khatke, is appointed as Enquiry Officer. The department has put a charge on the delinquent officer that he left the headquarter by giving a false reason of sickness of his uncle and went to Nasik without E-pass.

3. He made the grievance that he was not given entire set of documents in D.E and he was not allowed by the Enquiry Officer to file the written statement and he was not aware under which M.C.S Rules he was supposed to face the enquiry. The charge sheet was served on him 8.8.2020.

4. After going through the documents annexed to this Petition, especially Exh. 'B' to Exh. 'J', it appears that the delinquent Officer had appeared before the Enquiry Officer on 17.8.2020 through his friend Shri Chandrakant T. Gaikwad. We have not come across any grievance raised in writing by the delinquent officer during this D.E, that he was not supplied with details of the charges and he was not allowed to file his written statement of defence. The only application placed by his friend Shri Chandrakant T. Gaikwad, discloses that the last opportunity was given to the delinquent officer for cross examination of the witnesses, the examination in chief of all the witnesses was over. Exh. 'I' further discloses that the relevant documents, if made available, then only it is possible for the delinquent officer to communicate the names of defence witnesses. It is also mentioned in the said application that the Enquiry Officer has kept the hearing of many matters on one day and therefore, the friend Officer who is appearing for the delinquent officer gets exhausted. Exh. 'J' at page 62, is application given by the delinquent officer where he has asked for the documents listed therein. There is no document on record to show wherein the applicant delinquent officer has pointed out or protested the refusal on the part of the Enquiry Officer for taking written statement of defence on record.

5. Learned P.O on instructions states that examination in chief of four witnesses is recorded and cross examination is deferred and still two more witnesses are to be examined.

6. We have considered the relief sought by the applicant, which is in fact to be contended before the Enquiry Officer and his relief at prayer clause (c) is premature. Relief at prayer clause (d) cannot be granted because criminal trial and Departmental Enquiry are two different modes. So also the charges levelled against the delinquent officer in criminal case and in D.E are different. The grievance raised by the delinquent officer of not getting copy of the FIR and other documents in the criminal trial, this Tribunal is not the proper Forum.

7. In view of the above, we dismiss the Original Application summarily at the threshold with following order:-

- (a) To enable the delinquent officer to present his case fairly by submitting his written statement of defence
- (b) The Enquiry Officer to allow the delinquent officer to file his written statement of defence, if he wants till 4.9.2020.

- (c) The next date of D.E to be fixed thereafter, i.e. on 7th or 8th September, 2020 as per the convenience of all the parties and the Enquiry Officer, on which date the deferred cross examination of all the four witnesses can be concluded in these two days.
- (d) Thereafter, Enquiry Officer to proceed further and delinquent officer to cooperate in the enquiry. All the contentions are kept open before the Enquiry Officer.

Sd/-

(P.N. Dixit) 31/08/2020
Vice-Chairman (A)

Sd/-

(Mridula R. Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 31.08.2020.
Dictation taken by : A.K. Nair.

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IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

M.A./R.A./C.A. No. _____ of 20 _____

I N

Original Application No. _____ of 20 _____

FARAD CONTINUATION SHEET No.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 31.08.2020</p> <p style="text-align: center;">O.A.No.212 of 2020</p> <p>S.H. Parche ...Applicant Versus The State of Maharashtra & Ors. ...Respondents</p> <p>1. Heard Shri Bhushan A. Bandiwadekar, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.</p> <p>2. Though enough time is granted no reply is filed. On previous date last chance was granted, but in vain.</p> <p>3. In view of the above, it appears that the Respondents are not interested in filing reply. Matter being pertaining to appointment on compassionate ground it needs to be decided expeditiously.</p> <p>4. O.A. be kept for hearing at the stage of admission, without reply.</p> <p>5. Adjourned to 17.09.2020.</p> <p style="text-align: right;">Sd/- (A.P. Kurhekar) Member(J)</p> <p>prk</p>

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Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 31.08.2020</p> <p style="text-align: center;">O.A.No.189 of 2020</p> <p>S.A. Warang ...Applicant Versus The State of Maharashtra & Ors. ...Respondents</p> <p>1. Heard Shri Arvind V. Bandiwadekar, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.</p> <p>2. Learned P.O. for the Respondents submits that affidavit-in-reply will be filed during the course of the day. Statement is accepted. It be taken on record.</p> <p>3. On request of learned Advocate two week's time is granted for filing reply.</p> <p>4. Adjourned to 15.09.2020.</p> <p style="text-align: right;">Sd/- (A.P. Kurhekar) Member(J)</p> <p>prk</p>

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Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 31.08.2020</p> <p style="text-align: center;">O.A.No.596 of 2017</p> <p>P.V. Dalvi ...Applicant Versus The State of Maharashtra & Ors. ...Respondents</p> <ol style="list-style-type: none"> 1. Heard Shri M.D. Lonkar, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents. 2. In the present O.A., Applicant has challenged transfer order dated 27.06.2017, whereby he was temporarily transferred on the establishment of Collector, Palghar which was newly created in 2014. It was mid term and mid tenure transfer. The Tribunal by order dated 30.06.2017 has granted interim relief in favour of the Applicant and it is continued till date. As such though the applicant was transferred from Collector Officer, Thane to Collector Office, Palghar temporarily, subsequently due to the stay granted by this Tribunal he was continued in Collector Office, Thane. In view of bifurcation of District Thane, two Districts, namely Thane and Palghar came into existence and there was requirement of staff in newly created Palghar District. It is this background Collector Thane by order dated 27.06.2017 transferred the Applicant temporarily on the establishment of Collector Office, Palghar with specific condition that he will be repatriated in Thane District and for all purposes he will be treated as employee of Thane District. 3. Today when the matter was taken up for hearing, Shri M.D. Lonkar, learned Advocate for the Applicant pointed out that in some what similar situation the orders passed by this Tribunal directing Collector, Palghar to repatriate the employees transferred from District Thane were implemented and employees were repatriated to District Thane. He referred the orders passed by this Tribunal in O.A.No.9/2019, O.A.No.213/2019 and O.A.No.235/2019. He has further pointed out that orders passed by this Tribunal in O.A.No.9/2019 has been

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maintained by Hon'ble High Court in Writ Petition No.6771/2019 decided on 01.08.2019. As such those orders were passed for repatriation of the employees who were temporarily transferred to Palghar District and has attained finality.

4. Whereas in present case, on the basis of interim relief granted by Tribunal the Applicant continued in Thane District, whereas contemporaries of the Applicant who were temporarily transferred to Palghar District, were repatriated in their original District Thane.

5. In view of above, learned P.O. Shri A.J. Chougule for the Respondents was asked to take instructions from Respondent- Collector Thane to know the present situation about the requirement of the employees in Palghar District. On instructions from Shri Chavan, Tahasildar, Thane he fairly states that all employees who were temporarily transferred have been repatriated in Thane District and applicant would be also continued in Thane District as the requirement in Palghar District no more exist.

6. In view of above, present O.A. needs to be disposed of without going into merits of the matter, Hence order :-

ORDER

- (A) Interim relief granted by this Tribunal on 30.06.2017 is made absolute.
- (B) Impugned transfer order dated 27.06.2017 is quashed and set aside.
- (C) No order as to costs.

Sd/-

(A.P. Kurhekar)
Member(J)

prk

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	<p style="text-align: center;">Date : 31.08.2020</p> <p style="text-align: center;">O.A.No.923 of 2020</p> <p>Dr. D.S. Datkar ...Applicant Versus The State of Maharashtra & Ors. ...Respondents</p> <ol style="list-style-type: none"> 1. Heard Shri M.D. Lonkar, learned Advocate for the Applicant, Shri A.J. Chougule, learned Presenting Officer holding for Smt. K.S. Gaikwad, learned P.O. for the Respondents and Shri A.V. Bandiwadkar, learned Advocate for Respondent No.2. 2. The Applicant is serving in the cadre of Deputy Collector. Government issued order dated 07.09.2019 of deputation of the applicant on the vacant post at Deputy Collector, S.R.A. Bandra, Mumbai for one year. Applicant accordingly joined the said post. By order dated 09.09.2019 the Government has also transferred Respondent No.2 as Government Land Acquisition Officer, MMRDA, Mumbai. However, later by order dated 13.09.2019, Government has changed order, whereby Respondent No.2 was deputed as Deputy Collector, S.R.A., Mumbai on which applicant was posted for one year and the applicant was posted as Special Land Acquisition Officer, MMRDA, Mumbai. As such challenge is to the transfer order dated 13.09.2019. 3. Applicant has sought interim relief which was declined by this Tribunal by passing reasoned order on 19.02.2019. 4. Subsequent development which had taken place during pendency of O.A. is that the Government has appointed the applicant as Private Secretary to the Hon'ble State Minister (P.W.D.) by order dated 09.01.2020 and since then he is working as Private Secretary with the Hon'ble Minister. This fact is not disputed by the parties. 5. Shri M.D. Lonkar, learned Advocate for the Applicant fairly conceded that by order dated 09.01.2020 the Applicant is transferred and posted as Private Secretary to the Hon'ble State Minister and has joined the post as Private Secretary. <p style="text-align: right;"><i>[P.T.O.]</i></p>

Office Notes, Office Memoranda of Coram,
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6. On instructions from the Applicant who is present before this Tribunal he further states that his client wants that Tribunal should decide legality of the transfer order dated 13.09.2019. Applicant who is present before this Tribunal also submits that legality of transfer order dated 13.09.2019 be decided though he admits that he has been working as Private Secretary by virtue of subsequent transfer order dated 09.01.2020.

7. Whereas, Shri A.V. Bandiwadekar, learned Advocate for Respondent No.2 submits that in view of subsequent transfer order challenge to the earlier transfer order dated 13.09.2019 does not survive and O.A. has become infructuous.

8. Thus, what emerges from the record that after passing of first transfer order dated 13.09.2019 which is under challenge in the O.A., the applicant is again transferred and posted as Private Secretary to the Hon'ble State Ministry (P.W.D.). Material to note, the Applicant has not challenged subsequent transfer order dated 09.01.2020 in present O.A. Indeed he had accepted transfer order dated 09.01.2020 and joined the post of Private Secretary.

9. Thus in view of subsequent transfer order dated 09.01.2020 which is not challenged by the Applicant in the present O.A. the cause of action to challenge order dated 13.09.2019 does not survive. Even if O.A. is allowed he cannot be reposted on the post held by him earlier in view of subsequent transfer order dated 09.01.2020 which he has accepted. Had the applicant challenged 2nd transfer order dated 09.01.2020 the position rather would have been different and Tribunal would have required to decide the legality of both the transfer order. However, there being no challenge to transfer order dated 09.01.2020 question of examining legality of transfer order dated 13.09.2019 does not survive.

10. In view of the above, I have no hesitation to sum up that the cause of action to challenge the transfer order dated 13.09.2019 does not survive and O.A. has become infructuous.

11. O.A. is accordingly, disposed of with no order as to costs.

Sd/-

(A.P. Kurhekar)
Member(J)