

**O.A.No.535/2018 (D.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman and  
Shri A.D. Karanjkar, Member(J)**

**Dated :21.8.2019**

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

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

**Member(J)**  
(sgj)

**Vice Chairman**

**O.A.No.126/2018 (D.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman and  
Shri A.D. Karanjkar, Member(J)**

**Dated :21.8.2019**

Heard Shri M.R. Khan, Ld. Counsel for the applicant and Shri P.N. Warjurkar, Ld. P.O. for the respondents.

2. Ld. PO files reply on behalf of respondent no.2 and supplies copy to Ld. Advocate for the applicant. Reply is taken on record.

3. At the request of Ld. Advocate for the applicant, **S.O. two weeks** time to file rejoinder.

**Member(J)**  
(sgj)

**Vice Chairman**

**O.A. No.248/2019 (D.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman and  
Shri A.D. Karanjkar, Member (J)**

**Dated : 21.8.2019**

**C.A. No.257/2019**

Heard Shri S.G. Chakranarayan, Ld. Advocate for the Applicant, Shri A.P. Potnis, Ld. P.O. for the Respondents and Shri A.K. Madane, Ld. Advocate for the Intervener.

2. At the request of Ld. Advocate for the Intervener, **S.O. two weeks.**

**Member(J)**  
(sgj)

**Vice Chairman**

O.A. No.313/2019 (D.B.)

**Coram:Shri Shree Bhagwan, Vice Chairman and  
Shri A.D. Karanjkar, Member (J)**

**Dated : 21.8.2019**

Heard Shri S.P. Palshikar, learned Advocate for the Applicant and Shri A.M. Ghogre, learned Presenting Officer for the Respondents.

2. At the request of Ld. P.O., **S.O. one week** to file reply by way of last chance.

**Member(J)**

(sgj)

**Vice Chairman**

O.A. No.430/2019 (D.B.)

**Coram:Shri Shree Bhagwan, Vice Chairman and  
Shri A.D. Karanjkar, Member (J)**

**Dated : 21.8.2019**

Heard Shri P.V. Thakre, learned Advocate for the Applicant and Shri M.I. Khan, learned Presenting Officer for the Respondents.

2. Ld. PO seeks time to file reply.
3. Ld. PO to inform when the enquiry will be completed.
4. **S.O. to three weeks.**

**Member(J)**

(sgj)

**Vice Chairman**

O.A. No.431/2019 (D.B.)

**Coram:Shri Shree Bhagwan, Vice Chairman and  
Shri A.D. Karanjkar, Member (J)**

**Dated : 21.8.2019**

Heard Shri P.V. Thakre, learned Advocate for the Applicant and Shri V.A. Kulkarni, learned Presenting Officer for the Respondents.

2. Ld. PO seeks time to file reply.
3. Ld. PO to inform when the enquiry will be completed.
4. **S.O. to three weeks.**

**Member(J)**

**Vice Chairman**

(sgj)

O.A. No.495/2019 (D.B.)

**Coram:Shri Shree Bhagwan, Vice Chairman and  
Shri A.D. Karanjkar, Member (J)**

**Dated : 21.8.2019**

Heard Shri A.P. Tathod, learned Advocate for the Applicant and Shri V.A. Kulkarni, learned Presenting Officer for the Respondents.

2. Ld. PO seeks three weeks time to file reply.
3. **S.O. to three weeks.**

**Member(J)**

(sgj)

**Vice Chairman**

O.A. No.850/2018 (D.B.)

**Coram:Shri Shree Bhagwan, Vice Chairman and  
Shri A.D. Karanjkar, Member (J)**

**Dated : 21.8.2019**

Heard Shri S.V. Sirpurkar, learned Advocate for the Applicant and Shri A.M. Ghogre, learned Presenting Officer for the Respondents.

2. Ld. PO seeks three weeks time to file reply.
3. **S.O. to two weeks by way of last chance.**

**Member(J)**

**Vice Chairman**

(sgj)



**CP.19/19 in OA.26/19 with CA.212/19 (D.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman and  
Shri A.D. Karanjkar, Member (J)**

**Dated : 21.8.2019**

**O.A.26/19 with CA.176/19**

Heard Shri S.P. Palshikar, learned Advocate for the Applicant and Shri P.N. Warjurkar, learned Presenting Officer for the Respondents.

2. Both the matters be kept for **final hearing on 23.8.2019.**

**Member(J)**

(sgj)

**Vice Chairman**

**O.A.26/19 with CA.176/19 (D.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman and  
Shri A.D. Karanjkar, Member (J)**

**Dated : 21.8.2019**

Heard Shri S.P. Palshikar, learned Advocate for the Applicant and Shri P.N. Warjurkar, learned Presenting Officer for the Respondents.

2. Both the matters be kept for **final hearing on 23.8.2019 with CP.19/19 in OA.26/19 with CA.212/19.**

**Member(J)**

(sgj)

**Vice Chairman**

**O.A. No.846/12 with CA No.258/18 (D.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman and  
Shri A.D. Karanjkar, Member (J)**

**Dated : 21.8.2019**

Heard Shri S. Borkar, learned Advocate for the Applicant and Shri A.M. Ghogre, learned Presenting Officer for the Respondents.

2. Ld. PO has submitted that in order to comply the order dated 31.7.2019 bill is submitted in Treasury to pay provisional pension to the applicant<sup>6</sup> and in the next week the applicant will receive the provisional pension.

3. **S.O. to 29.8.2019.**

**Member(J)**

(sgj)

**Vice Chairman**

**O.A. No.932/2017 (D.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman and  
Shri A.D. Karanjkar, Member (J)**

**Dated : 21.8.2019**

Heard Shri S.P. Palshikar, learned Advocate for the Applicant and Shri A.M. Ghogre, learned Presenting Officer for the Respondents.

2. Ld. Advocate for the applicant submitted that the statement of witnesses recorded by the police are very much relevant to decide the controversy but the Ld. PO has not brought this statement on record. Being previous statement of the witnesses, that material can be considered. Therefore, Ld. PO is directed to file copies of statement recorded by the police on record and also supply copies to Ld. Advocate for the applicant.

3. **S.O. to 28.8.2019.**

**Member(J)**

(sgj)

**Vice Chairman**

O.A. No.314/2014 (D.B.)

**Coram:Shri Shree Bhagwan, Vice Chairman and  
Shri A.D. Karanjkar, Member (J)**

**Dated : 21.8.2019**

Heard Shri N.D. Thombre, learned Advocate for the Applicant and Shri H.K. Pande, learned Presenting Officer for the Respondents.

2. At the request of Ld. Advocate for the applicant adjourned to 16.9.2019.

**Member(J)**

**Vice Chairman**

(sgj)

O.A. No.456/2018 (D.B.)

**Coram:Shri Shree Bhagwan, Vice Chairman and  
Shri A.D. Karanjkar, Member (J)**

**Dated : 21.8.2019**

Heard Shri H.K. Pande, learned Presenting Officer for the Respondents. Shri H.D. Marathe, learned Advocate for the Applicant has filed leave note.

2. **S.O. to 28.8.2019.**

**Member(J)**

(sgj)

**Vice Chairman**

**OA. No.547/18 with OA. No.550/18 (D.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman and  
Shri A.D. Karanjkar, Member (J)**

**Dated : 21.8.2019**

Heard Shri S.G. Jagtap, learned Advocate for the Applicants and Shri S.A. Sainis, learned Presenting Officer for the Respondents.

2. At the request of Ld. Advocate for the applicants adjourned to **18.9.2019**.

**Member(J)**

(sgj)

**Vice Chairman**

**IN THE MAHARASHTRA ADMINISTRATIVE  
TRIBUNAL, MUMBAI  
NAGPUR BENCH, NAGPUR  
ORIGINAL APPLICATION NO.635 OF 2019**

Ku. Seema w/o Sureshrao Botare  
..Applicant

Versus

State of Maharashtra & Ors.  
..Respondents

Shri B.M. Dafle – Advocate for the Applicant

Shri Shrikant Deo – Chief Presenting Officer for  
the Respondents

CORAM : Shri Shree Bhagwan, Vice-  
Chairman

Shri A.D. Karanjkar, Member (J)

DATE : 21<sup>st</sup> August, 2019

**ORDER**



1. Heard Shri B.M. Dafle, learned Advocate for the Applicant and Shri Shrikant Deo, learned Chief Presenting Officer for the Respondents.

2. It is the contention of the Ld. Advocate for the applicant that applicant is rejected for the reason that she has not scored 55% marks in the degree examination. It is submitted that applicant has scored 54.59% marks in the degree examination. Therefore, as per law laid down by the Hon'ble Supreme Court in case of State of U.P. Vs. Pawan Kumar Tiwari, 2005 AIR SCW 211, as the fraction is more than .50 it is to be rounded to 1. We have perused the observations made by the Hon'ble Supreme Court in para 7 of the judgment, which reads as under:

*"7. We do not find fault with any of the two reasonings adopted by the High Court. The rule rounding off based on logic and common sense is: if part is one-half or more, its value shall be increased to one and if part is less than half then its value shall be ignored. 46.50 should have been rounded off to 47 and not to 46 as has been done. If 47 candidates would have been considered for selection in general category, the respondent was sure to find a place in the list of selected meritorious candidates and hence entitled for appointment."*

3. Ld. CPO submitted that the Hon'ble Supreme Court was considering the case of

percentage of reservation and therefore the principle is not applicable.

4. In view of the observations we think it fit in the interest of justice to direct the respondents to maintain status quo as on today till next date.

5. Issue notice to respondents returnable in **three weeks**.

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.

11. **S.O. to three weeks.**

12. Steno copy and hamdast is granted. Ld. CPO is directed to communicate this order to the respondents.

**(A.D. Karanjkar)**  
**(Shree Bhagwan)**

**Member (J)**  
**Vice-Chairman**

**21.8.2019**  
**21.8.2019**

Dictation taken by: S.G. Jawalkar.

O.A. No. 934/2017 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 21.08.2019**

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

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

**Member (J)**

dnk.

O.A. No. 838/2018 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 21.08.2019**

Shri S. Wahane, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for the respondents.

At the request of Id. P.O., **S.O.**  
**26/8/2019.**

**Member (J)**

dnk.

O.A. No. 797/2018 (SB)

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 21.08.2019**

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

At the request of Id. P.O., **S.O.**  
**28/8/2019.**

**Member (J)**

dnk.

O.A. No. 901/2018 (SB)

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 21.08.2019**

None for the applicant. Shri P.N. Warjurkar, Id. P.O. for the respondents.

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

**Member (J)**

dnk.

O.A. No. 83/2019 (SB)

**Coram : Hon. Shri A.D. Karanjkar,**

**Member (J).**

**Dated : 21.08.2019**

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

The learned P.O. files reply on behalf of R-1&2. It is taken on record. Copy is served on the applicant.

**Heard. Admit.**

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

**S.O. 4<sup>th</sup> September,2019.**

**Member (J)**

dnk.

O.A. No. 384/2019 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**



**Dated : 21.08.2019**

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. 28/8/2019** for filing reply as a last chance.

**Member (J)**

dnk.

O.A. No. 440/2019 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 21.08.2019**

None for the applicant. Heard Shri M.I. Khan, Id. P.O. for R-1&2. None for R-3.

The Id. P.O. files reply on behalf of R-2. It is taken on record. The Id. P.O. submitted that it is not necessary to file reply of R-1.

**Heard. Admit.**

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

**S.O. 30/8/2019.**

Interim relief to continue till then.

**Member (J)**

dnk.

O.A. Nos. 470,477,478 & 479 of 2019 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 21.08.2019**

Smt. R.M. Padhye, Id. counsel holding for Shri R.D. Dharmadhikar, Id. counsel for the applicants and Shri A.M. Ghogre, Id. P.O. for R-1. Await service of R-2 to 4.

**S.O. two weeks** for filing service affidavit.

**Member (J)**

dnk.

O.A. No. 489/2019 **(SB)**

**Coram** : Hon. Shri A.D. Karanjkar,  
Member (J).

**Dated** : **21.08.2019**

Shri S.M. Pande, 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. two weeks** for filing reply.

**Member (J)**

dnk.

O.A. No. 523/2019 **(SB)**

**Coram** : Hon. Shri A.D. Karanjkar,  
Member (J).

**Dated** : **21.08.2019**

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

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

**Member (J)**

dnk.

O.A. No. 525/2019 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 21.08.2019**

None for the applicant. Shri A.M. Khadatkar, Id. P.O. for R-1&2. None for R-3.

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

**Member (J)**

dnk.

O.A. No. 559/2019 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 21.08.2019**

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

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

**Member (J)**

dnk.

O.A. No. 89/2017 **(SB)**

**Coram** : Hon. Shri A.D. Karanjkar,  
Member (J).

**Dated** : **21.08.2019**

**C.A. 317/2019 -**

None for the applicant. Heard shri A.M. Khadatkar, Id. P.O. for the respondents.

For the reasons stated in the application, the C.A. is allowed.

**O.A. 89/2017 -**

The matter be kept on **9<sup>th</sup> September, 2019** along with O.A.193/2017.

**Member (J)**

dnk.

O.A. No. 193/2017 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 21.08.2019**



**C.A. 318/2019 -**

None for the applicant. Heard shri A.M. Khadatkar, Id. P.O. for the respondents.

For the reasons stated in the application, the C.A. is allowed.

**O.A. 193/2017 -**

The matter be kept on **9<sup>th</sup> September, 2019** along with O.A.89/2017.

**Member (J)**

dnk.

O.A. No. 508/2016 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 21.08.2019**

None for the applicant. Heard Shri A.M. Ghogre, Id. P.O. for R-1,3&4 and Shri Sahasrabuddhe, Id. counsel for respondent no.2.

Since 13/4/2017 the applicant and his counsel were absent. Today also none appeared for the applicant. It seems that the applicant is not interested in prosecuting the matter, therefore the O.A. is dismissed in default.

**Member (J)**

dnk.

O.A. No. 432/2018 with C.A. 171/2018 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 21.08.2019**

Heard Shri K.S. Malokar, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for the respondents. None for Intervener.

2. The applicant is challenging his transfer from Government Ayurvedic Hospital, Nagpur to Government Ayurvedic Hospital, Nanded. The submission is made that the representation of the applicant is forwarded to the Government for transferring the applicant to Nagpur and therefore the respondents be directed to decide the representation dated 11/5/2019.

3. In view of this fact, the respondents are directed to decide the representation dated 11/5/2019 within four weeks from the date of this order. Accordingly, the O.A. stands disposed of. The C.A. No.171/18 also stands disposed of.

Steno copy is granted..

**Member (J)**

dnk.

O.A. No. 420/2019 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 21.08.2019**

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

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

The matter be treated as **P.H.**

**Member (J)**

dnk.

O.A. No. 442/2019 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 21.08.2019**

Heard Shri S.P. Palshikar, Id. counsel for the applicant, Shri A.M. Ghogre, Id. P.O. for R-1 to 3. None for R-4.

**S.O. 23/8/2019.**

**Member (J)**

dnk.

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O.A.No.711/2017 (S.B.)

**Coram:Shri Shree Bhagwan, Vice Chairman**  
**Dated :21<sup>st</sup> Aug. 2019.**

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. two weeks** to  
file reply.

**Vice Chairman**

**Date:-21/08/2019.**  
aps.

**O.A.No.289/2018 (S.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman  
Dated :21<sup>st</sup> Aug. 2019.**

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

2. The Id. P.O. filed the reply on behalf of all the respondents. It is taken on record. Copy is served to the other side.

3. Matter is **admitted** and kept for final hearing.

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

5. **S.O. four weeks.**

**Vice Chairman**

**Date:-21/08/2019.**  
aps.

**O.A.No.592/2018 (S.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman  
Dated :21<sup>st</sup> Aug. 2019.**

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

2. As submitted by Id. P.O., it is not clear that  
Respondent nos. 2 and 3 are from V.I.D.C. or not? The  
Id. P.O. may seek necessary instructions. As per his  
request, **S.O. two weeks.**

**Vice Chairman**

**Date:-21/08/2019.**  
aps.



**O.A.No.783/2018 (S.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman**  
**Dated :21<sup>st</sup> Aug. 2019.**

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

2. As submitted by Id. counsel for the applicant, there was first round of litigation in O.A. No. 672/2017. As per the Id. counsel for the applicant, these employees were working in integrated units at Ballarshah, Paratwada and Dahanu. They had approached this Tribunal for regularization of service. They had also gone to the Industrial Court. Industrial Court passed the order in favour of these employees.

3. In Complaint (ULPN) No. 205 of 1992 in Industrial Court order was passed on 17/01/1994, similarly situated some employees approached to this Tribunal in O.A. No. 19, 20 & 46/2010. In these O.As. order dated 21/09/2015 was passed allowing the O.As. partly. It was declared that applicants were deemed to be in regular service from 26.02.1992 for the purpose of counting their services on absorption as clerks/ Cleaners. The Department also gave the effect to the order of this Tribunal vide Annexure-A-15, P.B., Pg. No. 75.

4. The present applicants in the earlier round of litigation also claimed the similar reliefs vide O.A. No. 672/2017 and by order dated 01/09/2017. Applicants were directed to file

representations before C.C.F., Gadchiroli. Accordingly, applicants had approached to Respondent no. 4, that their grievances regarding regularization to be redressed as it had been done for other employees.

5. However, as submitted by Id. counsel for the applicant, respondent no. 4 has not yet decided and redressed their grievances as decided in case of similarly placed employees in past. Out of total 26 employees (01+01+03=05) employees were covered under O.A.Nos. 19, 20 & 46/2010.

6. Industrial Court had passed the order in favour of the employees and the Hon'ble High Court and Hon'ble Supreme Court had also maintained the said order. It appears that Judgment passed by Industrial Court is final for all the 26 employees.

7. However, till now these applicants i.e. eight employees of this O.A. have not got justice. The Id. P.O. seeks further time to file reply. The Id. P.O. while filing reply is directed to submit progress of action taken by respondent no. 4 on representation of all similar placed employees. **S.O. two weeks** as a last chance. If, reply will not file till next date, the matter will heard on merit.

8. *The Id. counsel, the Id. P.O. as well as office are directed to correct the paging of the O.A..*

**Vice Chairman**

**Date:-21/08/2019.**

aps.



**O.A.No.314/2019 (S.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman  
Dated :21<sup>st</sup> Aug. 2019.**

Heard Shri S.K.Thengne holding for Shri M.I.Dhatrak, the Id. Counsel for the applicant and Shri V.A.Kulkarni, the Id. P.O. for the respondents.

2. The Id. P.O. seeks two weeks time to file reply, **S.O. two weeks.**

**Vice Chairman**

**Date:-21/08/2019.**

aps.

**O.A.No.61/2019 (S.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman  
Dated :21<sup>st</sup> Aug. 2019.**

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

2. The Id. P.O. filed the affidavit-in-reply on behalf of the respondent no. 2. It is taken on record. Copy is served to the other side. The Id. counsel for the applicant desires time to go through it. At his request, **S.O. 28/08/2019.**

**Vice Chairman**

**Date:-21/08/2019.**  
aps.

**O.A.No.619/2019 (S.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman**  
**Dated :21<sup>st</sup> Aug. 2019.**

Heard Shri A.B.Mirza, the Id. Counsel for the applicant and Shri P.N.Warjurkar, the Id. P.O. for the State.

2. The Id. counsel for the applicant filed Hon'ble High Court Mumbai, Bench at Nagpur Judgment in W.P. No. 2074/2018. In the same W.P. at para no. 2 it is mentioned below:-

*"The order of Maharashtra Administrative Tribunal (MAT) dated 16.12.2018 dismissing O.A. No. 415 of 2017 has been questioned before this Court by the unsuccessful applicant. The applicant-petitioner was selected as Police Patil and thereafter has been terminated on the ground that he suppressed existence of a third child in the family. His selection and appointment was, therefore, found to be in violation of the Maharashtra Civil Services (Small Family) Rules, 2005 (hereinafter referred to as 2005 Rules)."*

3. In the said Judgment in para no. 9(2)(d) definition of small family has been given, which is below:-

(d) *"Small family" means wife and husband including two children.*

4. The Id. P.O. submits that respondent no. 6 cannot be appointed as per the definition of small family as per the directions of Hon'ble High Court.
5. Issue notice to R-2 to 6, returnable on three weeks. Learned P.O. waives notice for R-1. 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 on 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.

11. S.O. three weeks.

**Date:-21/08/2019.**  
aps.

**Vice Chairman**



**O.A.No.631/2019 (S.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman**  
**Dated :21<sup>st</sup> Aug. 2019.**

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

2. The Id. counsel for the applicant submits that applicant was recruited through M.P.S.C. in the year 2006 as Project Officer, Class-1(Grade-II). Subsequently, applicant has been promoted. However, contention of the applicant is that applicant was never communicated that his probation period is completed and he is confirmed in the service and due to this reason he is not getting pension.

3. However, Id. counsel for the applicant has filed document at Annexure-A-16, P.B., Pg. No. 57 in para no. 2, it is mentioned that without completion of probation period he cannot be promoted, but at the same time applicant has been promoted twice.

4. Issue notice to R-2 to 4, returnable on three weeks. Learned P.O. waives notice for R-1. Hamdast allowed.

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

6. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with

complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

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

8. 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.

9. 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.

10. **S.O. three weeks.**

**Vice Chairman**

**Date:-21/08/2019.**

aps.

**O.A.No.292/2018 (S.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman  
Dated :21<sup>st</sup> Aug. 2019.**

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

2. At the request of Id. counsel for the applicant, **S.O. 26.08.2019.**

**Vice Chairman**

**Date:-21/08/2019.**

aps.

**O.A.No.73/2017 (S.B.)**

**Coram:Shri Shree Bhagwan, Vice Chairman  
Dated :21<sup>st</sup> Aug. 2019.**

Heard Shri Nayse holding for Shri G.G.Bade, the Id. Counsel for the applicant, Shri H.K.Pande, the Id. P.O. for the respondent nos. 1 to 4. None for the respondent no. 5.

2. As per the request of Id. counsel for the applicant, **S.O. 23.08.2019.**

**Vice Chairman**

**Date:-21/08/2019.**  
aps.

O.A.No.53/2019 (S.B.)

**Coram:Shri Shree Bhagwan, Vice Chairman**  
**Dated :21<sup>st</sup> Aug. 2019.**

Heard Shri S.K.Thengri, the Id. Counsel for the applicant and Shri P.N.Warjurkar, the Id. P.O. for the respondents.

2. The applicant grievances is that certain entries have not been made in his service book. Earlier in the same matter in O.A. No. 428/2018 was decided on 30.07.2018 at P.B., Pg. No. 143 in sub para (d) it is mentioned:-

*"Complainant-workman is reinstated with continuity of service, however, without back wages. He shall be entitled to all consequential benefits, except getting actual payment of arrears of back wages."*

3. Accordingly, respondents submission is that applicant was entitled for N.P.S. and as per N.P.S. provisions the entire amount has been paid to the applicant. As per para no. 7 of the order dated 30/07/2018 in O.A. No. 428/2018 following observations have been made:-

*7. Thereafter the applicant has preferred Contempt Petition No. 82/2017 in W.P. No. 3054/2016 in which following order was passed by the Hon'ble High Court on 08.03.2017:-*

*"Though fact that directions issued by this Court have been complied with is not in dispute, Adv. Shri Thengre wants to demonstrate that compliance is belated.*

*However, in view of compliance and as we do not find any oblique motive, we are not inclined to intervene in continuing the Contempt Petition. Contempt petition is disposed of"*

4. In view of the discussions and in the background of G.R. dated 01.04.2015 (Annexure-A-13, P.B., Pg. No. 127), the Id. counsel for the applicant is directed to ask his applicant to submit the representation to the Department mentioning about all his grievances and if his grievances are not solved, he has liberty to approach this Tribunal again.

5. As per the Id. P.O. reply on P.B., Pg. No. 102 in para no. 6 the same is below:-

*"6. It is submitted that a decision was taken to regularize the services of 26 daily wages workers, of the Ground Water Surveys and Development Agency in a cabinet meeting held on 15.02.2015. Accordingly, sanction was accorded to regularize the services of 26 daily wages workers of the Ground Water Surveys And Development Agency vide G.R. dated 01.04.2015. Hence, it is clear that the applicant has not been regularized in the Government service by the order of the Hon'ble Court, but as per the policy and sanction of Government. Therefore, it is*

*denied that the Hon'ble High Court has directed to regularize the services of the applicant."*

6. In view of this, it appears that applicant was regularised as per Government policy of G.R. dated 01.04.2015. The Id. P.O. submits that applicant has been paid all the benefits of N.P.S., the same should be place on record.

**7. S.O. six weeks from the date of representation of the applicant.**

8. *Matter is treated as P.H..*

**Vice Chairman**

**Date:-21/08/2019.**  
aps.

**O.A. No.636/2019 (S.B.)**

**(Smt. Rajshree Sandeep Hedau Vs. State of Maharashtra & 4 ors.)**

**Coram :- Hon'ble Shri Anand Karanjkar,  
Member (J).**

**Dated :- 21/08/2019.**

**ORDER**

Heard Shri A.Z. Jibhkate, learned counsel for the applicant and Shri S.A. Deo, learned CPO for the State.

2. The applicant is challenging the order dated 16/08/2019 passed by the respondent no.1 thereby posting the applicant to Primary Health Centre, Kanholibara Tq. Hingna, District Nagpur and by the same order the respondent no.1 cancelled the transfer order dated 13/02/2019. It is case of the applicant that vide order dated 13/02/2019 she was transferred to the office of Fileria Officer (gRrhjlx vf/kdkjh), Nagpur. It is submitted that this order of transfer was passed considering the representation submitted by the applicant long back in the year, 2018. It is submitted that vide order dated 07/02/2019 the respondent no.5 was also transferred from Primary Health Centre,



Gumthala, District Nagpur to the office of Fileria Officer (gRrhjks vf/kdkjh), Nagpur. Thereafter, this matter was reported to the Joint Director of Health Services (Finance & Administration), Mumbai and he wrote letter dated 20/03/2019 to the Joint Director of Health Services, Pune and Deputy of Health Services, Nagpur. In this letter it was recommended to allow the applicant to resume duty at Nagpur as she was transferred to Nagpur in view of the proposal accrued on 17/9/2018. It is grievance of the applicant that in pursuance of the direction given by her higher Officers she resumed duty at Nagpur. Thereafter, the respondent no.5 filed the O.A. and challenged the transfer order of the applicant on the ground that earlier vide order dated 7/2/2019 the respondent no.5 was already posted in the office of Fileria Officer (gRrhjks vf/kdkjh), Nagpur. It is submission of the applicant that after considering her representation and her family problems, her request was approved by the Competent Authority. Thereafter she was transferred and lateron she was permitted to resume duty at Nagpur, therefore, the action of the respondent

no.1 to cancel the transfer order dated 13/2/2019 is in violation of Section 4 of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (In short "Transfers Act,2005"), therefore, it is illegal. It is submitted that the applicant has not handed over the charge in pursuance of order dated 16/8/2019 and therefore she be permitted to continue at Nagpur till decision of the O.A.

3. The learned counsel for the applicant has placed reliance on the Judgment in case of **Mohinder Singh Gill & Ano. Vs. The Chief Election Commissioner, New Delhi & Ors. (1978) 1, SCC, 405.**

4. It is submission of the learned CPO that the applicant was party in the O.A. which was filed by the respondent no.5 and as the respondent no.5 was transferred vide order dated 13/2/2019 considering her personal difficulties, the Government of Maharashtra has decided to cancel the subsequent order by which the applicant was transferred. It is submitted that as the respondent no.5 was already transferred on the post at Nagpur, there

was no post available to accommodate the applicant as correct facts were not placed before the Government, consequently order dated 13/2/2019 was issued and therefore in the O.A. filed by the respondent no.5 submission was made by the Government of its intention to cancel the transfer order dated 13/2/2019.

5. So far as the letter dated 20/3/2019 written by the Joint Director of Health Services is concerned, it is submitted that the Joint Director had no authority in law to decide controversy, it was his duty to inform this fact to the Government, but it was not done and therefore whatever action was taken by the Joint Director allowing the applicant to resume duty on the basis of the order dated 13/2/2019 is not binding on the Government and therefore it is not suitable in the interest of justice to grant any interim relief.

6. The learned CPO also submitted that the applicant be directed to resume her duty in pursuance of the order dated 16/8/2019 and the Government will consider whether it is possible to adjust her at Nagpur or in any post in due course.

7. In the present matter it seems that vide prior order dated 7/2/2019 the respondent no.5 was already transferred to the office of Fileria Officer (gRrhjlx vf/kdljh), Nagpur. This fact was not brought to the notice of the Government and consequently the applicant was also posted at Nagpur on the same post vide order dated 13/2/2019. It further seems that it was duty of the Joint Director who wrote letter dated 20/3/2019 to inform this controversy to the Government and it was the authority of the Government to decide which orders should have been given effect, but instead of doing this the Joint Director on his own without seeking permission from the Government, permitted the applicant to resume duty at Nagpur. It is submitted that considering this circumstances, the order dated 16/8/2019 was passed and the transfer of the applicant to Nagpur is cancelled and the applicant was directed to resume duty at Primary Health Centre, Kanholibara Tq. Hingna, District Nagpur. If in this situation any interim relief is granted, then definitely it will create more complications.

8. Under these circumstances, in my opinion it is not suitable to grant interim relief, but it is most reasonable on the part of the applicant to obey the order dated 16/8/2019 and resume duty at Kanholibara. This Bench will decide the legality of the action of issuing contradictory transfer orders and will examine whether the jurisdiction is exercised in malafide manner. In the meantime, the respondents are directed to consider the possibility to adjust the applicant at Nagpur considering her grievances.

9. I, therefore, direct to issue notices to R-2 to 5, returnable **in three weeks**. Learned C.P.O. waives notice for R-1. Hamdast allowed.

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

11. 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.

12. 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.

13. 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.

14. 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. three weeks.**

Steno copy is granted.

**Member (J).**

**Dated :- 21/08/2019.**

\*dnk.