

O.A. No. 397/2019.

(D.B.)

**Coram:Shri Shree Bhagwan,
Vice-Chairman
Dated : 10th June 2019.**

C.A. 209/2019

Heard Shri Akshay Naik, Advocate holding for Shri K.S. Malokar, the Ld. counsel for the applicants and Shri M.I. Khan, the learned P.O. for the respondent Nos.1 and 2.

2. It seems that after various rounds of litigation in contempt petition, the applicants have been exempted from departmental examination. However, from the correspondence dated 26.4.2019 (A-1,Page.68) it appears that the applicants should not be forced to appear for the examination which seems to be incorrect. The Ld. counsel for the applicants has also relied on the judgment in O.A. Nos. 880/2018, 242/2019 and 243/2019 delivered by Principal Bench of this Tribunal at Mumbai on 15.3.2019. Following para has been observed:-

“On interim relief, the applicants have been free to appear for the examination. However, if they do not appear, the fact that they did not appear for examination, shall not be used to their detriment till disposal of the O.A.”

3. However, the Ld. counsel for the applicants is directed that he may advise his clients to appear for the examination under protest.

4. It is observed that the same above decision in para 2 & 3 should be made applicable to the applicant also.

5. C.A. No. 209/2019 is allowed to sue jointly subject to payment of requisite court fee to be paid in the office of this Tribunal.

6. **O.A. No.397/2019.**

1. Issue notice to respondent Nos. 3 to 4 returnable within **three weeks.**

2. Shri M.I. Khan, the learned P.O. waives notice for the respondent Nos.1 and 2. Hamdast granted.

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. The respondents are directed to file reply within two weeks.

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

Vice-Chairman

Dt. 10.6.2019.

pdg.

O.A. No. 398/2019.

(D.B.)

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

Dated : 10th June 2019.

C.A. 210/2019

Heard Shri Akshay Naik, Advocate holding for Shri K.S. Malokar, the Ld. counsel for the applicants and Shri M.I. Khan, the learned P.O. for the respondent Nos.1 and 2.

2. It seems that after various rounds of litigation in contempt petition, the applicants have been exempted from departmental examination. However, from the correspondence dated 26.4.2019 (A-1,Page.68) it appears that the applicants should not be forced to appear for the examination which seems to be incorrect. The Ld. counsel for the applicants has also relied on the judgment in O.A. Nos. 880/2018, 242/2019 and 243/2019 delivered by Principal Bench of this Tribunal at Mumbai on 15.3.2019. Following para has been observed:-

“On interim relief, the applicants have been free to appear for the examination. However, if they do not appear, the fact that they did not appear for examination, shall not be used to their detriment till disposal of the O.A.”

3. However, the Ld. counsel for the applicants is directed that he may advise his clients to appear for the examination under protest.

4. It is observed that the same above decision in para 2 & 3 should be made applicable to the applicant also.

5. C.A. No. 210/2019 is allowed to sue jointly subject to payment of requisite court fee to be paid in the office of this Tribunal.

6. **O.A. No.398/2019.**

1. Issue notice to respondent Nos. 3 to 4 returnable within **three weeks.**

2. Shri M.I. Khan, the learned P.O. waives notice for the respondent Nos.1 and 2. Hamdast granted.

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. The respondents are directed to file reply within two weeks.

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

Vice-Chairman

Dt. 10.6.2019.

pdg.

O.A. No. 26/2019.

(D.B.)

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

Dated : 10th June 2019.

C.A. 212/2019 in C.P. 19/2019.

Heard Shri S.P. Palshikar, the Ld. counsel for the applicant and Shri P.N. Warjekar, the learned P.O. for the respondent No.1.

2. The Ld. counsel for the applicant has filed C.A. No. 212/2019 and his prayer is at Page No.3. The question is that the order dated 30.4.2019 and 4.6.2019 in para 5 are very clear.

3. In view of this, issue notice to R. 2 on C.A. returnable on **17.6.2019.**

4. Shri P.N. Warjekar, the learned P.O. waives notice for the respondent No.1. Hamdast granted.

5. Tribunal may take the case for final disposal at this stage and separate notice for final disposal 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. **17.6.2019.**

Vice-Chairman

Dt. 10.6.2019.

pdg.

O.A. No. 123/2017.

(D.B.)

Coram:Shri Shree Bhagwan,
Vice-Chairman

Dated : 10th June 2019.

C.P. 18/2019

Heard Shri S.P. Palshikar, the Ld. counsel for the applicant and Shri A.M. Khadatkar, the learned P.O. for the respondent No.3.

2. It is observed that it is sad that the applicant is 72 years old and despite the order of this Tribunal dated 17.11.2017, the applicant has not been given justice by the respondents.

3. Issue notice to respondent Nos. 1 and 2 returnable on **20.6.2019**.

4. Shri A.M. Khadatkar, the learned P.O. waives notice for the respondent No.3. Hamdast granted.

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. **20.6.2019.**

11. The Director of Health Services, Mumbai (R.2) is directed to explain the reason why the order of this Tribunal has not been complied with and also he is directed to remain present before this Tribunal on the next date i.e. on **20.6.2019.**

12. Steno copy be provided to the Ld.
P.O.

Vice-Chairman

Dt. 10.6.2019.

pdg.

O.A. No. 408/2019.

(S.B.)

Coram: Shri Shree Bhagwan,
Vice-Chairman
Dated : 10th June 2019.

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

2. The applicant has been transferred vide order No.आस्था/ नियतकालिक बदली/गट-क/पस.४/कावी /२०१९ dated 31.5.2019 (A-1) and he is at Sr. No.3. The applicant is Class-IV employee. It seems that procedure as per G.R. No.एसआरव्ही-२०१७/प्र.क्र.४१५/कार्यासन/१२ dated 9.4.2018 (A.6, P.23) is not followed. Hence, the transfer order to the extent of the applicant is stayed till filing of reply.

3. Issue notice to respondent Nos. 2 to 5 returnable after two weeks.

4. Shri S.A. Deo, the learned C.P.O. waives notice for the respondent No.1. Hamdast granted.

5. Tribunal may take the case for final disposal at this stage and separate notice for final disposal 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. **two weeks.**

11. Steno copies be provided to the both the parties.

Vice-Chairman

Dt. 10.6.2019.

pdg.

O.A. No. 409/2019.

(S.B.)

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

Dated : 10th June 2019.

Heard Shri N.D. Thombre, the Ld. counsel for the applicant and Shri S.A.Deo, the learned C.P.O. for the respondent No.1.

2. As submitted by the learned counsel for the applicant, the applicant was transferred vide order No.आस्था/ जीपव-१/ वशी-४९३/२०१८ dated 12.4.2018 (A-1) and again he has been prematurely transferred vide order No. बदली २०१९ /प्र.क्र.३५/सेवा-३ dated 31.5.2019 and he is at Sr. No.140. Prima facie, it appears that it is premature transfer without following procedure. Hence, impugned order dated 31.5.2019 to the extent of the applicant is stayed till filing of reply.

3. Issue notice to respondent Nos. 2 to 4 returnable after one weeks

4. Shri S.A. Deo, the learned C.P.O. waives notice for the respondent No.1. Hamdast granted.

5. Tribunal may take the case for final disposal at this stage and separate notice for final disposal 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. **one week.**

11. Steno copies be provided to the both the parties.

Vice-Chairman

Dt. 10.6.2019.

pdg.

O.A. No. 410/2019.

(S.B.)

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

Dated : 10th June 2019.

Heard Shri D.M. Kakani, the Ld. counsel for the applicant and Shri P.N. Warjekar, the learned P.O. for the respondent No.1.

2. As pleaded by the learned counsel for the applicant, the applicant has been transferred vide order No.आस्था-१/बदली/वर्ग-४/शिपाई/२०१९ dated 31.5.2019 (A-1) and he is at Sr. No.5. As submitted by the learned counsel for the applicant, the applicant has donated kidney and has some serious problems. He submits that the provisions of the G.R. dated 9.4.2018 has not been followed.

3. In view of this, order dated 31.5.2019 (A-1) to the extent of the applicant is stayed till filing of reply.

3. Issue notice to respondent No. 2 returnable after two weeks.

4. Shri P.N. Warjekar, the learned P.O. waives notice for the respondent No.1. Hamdast granted.

5. Tribunal may take the case for final disposal at this stage and separate notice for final disposal 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. **two weeks.**

11. Steno copies be provided to the both the parties.

Vice-Chairman

Dt. 10.6.2019.

pdg.

O.A. No. 411/2019.

(S.B.)

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

Dated : 10th June 2019.

Heard Shri R.V. Shiralkar, the Ld. counsel for the applicant and Shri S.A. Deo, the learned C.P.O. for the respondent No.1.

2. The learned counsel for the applicant has pointed out the order No आस्था-२०१९/प्र.क्र./का-१-ब/२६३८ dated 31.5.2019 (A-2).

He has also submitted that the applicant is having pregnancy of seven months and there are complications in the pregnancy. In view of this order No. आस्था-२०१९/प्र.क्र./का-१-ब/२६३८ dated 31.5.2019 (A-2) to the extent of the applicant is stayed till next date of hearing.

3. Issue notice to respondent No. 2 returnable after two weeks.

4. Shri S.A. Deo, the learned C.P.O. waives notice for the respondent No.1. Hamdast granted.

5. Tribunal may take the case for final disposal at this stage and separate notice for final disposal 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. **two weeks.**

11. Steno copies be provided to the both the parties.

Vice-Chairman

Dt. 10.6.2019.

pdg.

O.A. No. 412/2019.

(S.B.)

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

Dated : 10th June 2019.

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

2. The learned counsel for the applicant has pointed out the problem of heart disease of the applicant. Ld. CPO points out that the heart surgery has taken place in 2013 and the applicant was due for transfer. So he does not have any ground to stay there and he is yet to retire within 21 months. However, considering the applicant's other problems, transfer order No.82 dated 28th May 2019 (A-10, P.48) to the extent of the applicant is stayed till filing of reply.

3. Issue notice to respondent No. 2 to 4 returnable after two weeks.

4. Shri S.A. Deo, the learned C.P.O. waives notice for the respondent No.1. Hamdast granted.

5. Tribunal may take the case for final disposal at this stage and separate notice for final disposal 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. **two weeks.**

11. Steno copies be provided to the both the parties.

Vice-Chairman

Dt. 10.6.2019.

pdg.

O.A. No. 413/2019.

(S.B.)

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

Dated : 10th June 2019.

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

2. The learned counsel for the applicant has pointed out that the applicant is pregnant of 2 ½ months and her husband is at Nagpur. So he desires to stay at Nagpur at least for this year. However, considering the importance of administration, Ld. CPO is directed to file reply. Considering the applicant's problem, it is directed to maintain *status quo* as on today.

3. Issue notice to respondent No. 2 and 3 returnable after two weeks.

4. Shri S.A. Deo, the learned C.P.O. waives notice for the respondent No.1. Hamdast granted.

5. Tribunal may take the case for final disposal at this stage and separate notice for final disposal 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. Till filling of reply, *status quo* is granted.

10. S.O. **two weeks.**

11. Steno copies be provided to the both the parties.

Vice-Chairman

Dt. 10.6.2019.

pdg.

O.A. No. 588/2015 **(SB)**

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

Dated : 10.06.2019

Shri Abhishek Deshpande, Id. counsel holding for Shri S. Khandekar, Id. counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the respondents.

At the request of learned counsel for the applicant, **S.O. after two weeks.**

Vice-Chairman

dnk.

O.A. No. 22/2017 **(SB)**

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

Dated : 10.06.2019

Shri S.N. Gaikwad, Id. counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the respondents.

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

Vice-Chairman

dnk.

O.A. No. 230/2018 **(SB)**

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

Dated : 10.06.2019

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

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

Interim relief to continue till then.

Vice-Chairman

dnk.

O.A. No. 375/2018 **(SB)**

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

Dated : 10.06.2019

Shri A.P. Sadavarte, Id. counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the respondents.

2. It appears that the learned counsel for the applicant has added new respondent no.5 and therefore the learned P.O. seeks three weeks time to file reply of R-5.

3. In view thereof, at the request of Id. P.O., **S.O. three weeks** for filing reply of R-5.

Interim relief to continue till filing of the reply.

Vice-Chairman

dnk.

O.A. St.No. 751/2019 **(SB)**

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

Dated : 10.06.2019

C.A. 153/2019

Heard Shri B. N. Jaipurkar, Id. counsel for the applicant and Shri S.A.

Sainis, Id. P.O. for R-1. Await service of R-2&3.

The learned counsel for the applicant submits that he will remove all the office objections and will file service affidavit.

The learned P.O. also seeks further time. Time is granted.

S.O. three weeks.

Vice-Chairman

dnk.

O.A. No. 544/2018 **(SB)**

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

Dated : 10.06.2019

C.A. 35/2019

Shri M.V. Joshi, Id. counsel for the applicant and Shri A.M. Ghogre, Id. P.O. for R-1. Await service of R-2&3.

The learned counsel for the applicant submits that he already filed service affidavit on record.

The learned P.O. files reply on behalf of R-2. It is taken on record. Copy is served on the applicant. He also submits that reply of R-2 will suffice for respondent no.3 also.

The learned counsel for the applicant wants to go through the reply and for that purpose seeks further time. At his request, **S.O. after two weeks.**

Vice-Chairman

dnk.

O.A. No. 828/2018 **(SB)**

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

Dated : 10.06.2019

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

The Id. P.O. files reply on behalf of R-2. It is taken on record. Copy is served on the applicant. The learned P.O. submits that reply of R-2 will cover for respondent nos. 3&4 also.

The learned counsel for the applicant wants to go through the reply and for that purpose he seeks further time. At his request, **S.O. after two weeks.**

Vice-Chairman

dnk.

O.A. No. 112/2019 (SB)

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

Dated : 10.06.2019

The applicant is person present. Shri A.M. Ghogre, Id. P.O. for R-1&2. None for R-3.

At the request of learned P.O., **S.O.**
24/06/2019 for filing reply as a last chance.

Vice-Chairman

dnk.

O.A. No. 178/2019 **(SB)**

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

Dated : 10.06.2019

Smt. K.N. Saboo, Id. counsel for the applicant, Shri A.M. Ghogre, Id. P.O. for R-1 and Shri S.N. Gaikwad, Id. counsel for R-3. Await service of R-2&4.

The learned counsel for the applicant submits that she will file service affidavit of R-2&4 within two days.

The learned P.O. seeks time to file reply. Time is granted.

S.O. three weeks.

Vice-Chairman

dnk.

O.A. No. 180/2019 **(SB)**

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

Dated : 10.06.2019

Shri I.N. Choudhari, Id. counsel for the applicant and Shri A.M. Ghogre, Id. P.O. for R-1 to 3. None for R-4.

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

Interim relief to continue till then.

Vice-Chairman

dnk.

O.A. No. 254/2019 **(SB)**

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

Dated : 10.06.2019

None for the applicant. Shri A.M. Ghogre, Id. P.O. for R-1 to 4. None for R-5.

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

Vice-Chairman

dnk.

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

Dated : 10.06.2019

Heard Shri M.V. Joshi, Id. counsel holding for Shri P.S. Wathore, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for the State.

2. The learned counsel for the applicant desires one week time to collect notice and file service affidavit. However, vide order dated 26/04/2019 in para-3 it is observed that *“the transfer order is issued as per the order issued by the Hon’ble High Court, but the learned P.O. was unable to point out the specific order passed by the Hon’ble High Court to this effect”*. It is also observed that the learned P.O. should study the order passed by the Hon’ble High Court and place it before the Bench on next date of hearing.

3. The learned counsel for the applicant is directed to study the order passed by the Hon’ble High Court. The order of the Hon’ble High Court is placed at Annex-A-3 (P-25). I have gone through the order and it seems that the Secretary, Women and Child Development Department was personally present before the Hon’ble High Court and

filed an affidavit to fill up the post and in compliance to that affidavit the transfer order has been issued. The matter is listed after week's time and in the meanwhile, the learned counsel for the applicant and learned P.O. are requested to go through the Hon'ble High Court Judgment and if the order is accordingly to the affidavit filed before the Hon'ble High Court, then this O.A. will not survive. Since hamdast not collected, office is directed to issue fresh notice to respondents.

S.O. one week.

Vice-Chairman

dnk.

O.A. No. 23/2019 **(SB)**

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

Dated : 10.06.2019

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

*2. The learned P.O. files reply on behalf of R-3. It is taken on record. Copy is served on the applicant.

3. The applicant was suspended vide order no. po/aa/vichou/250K/po.shi.1034/ragop/nilamban/4401/2018, dated 19/03/2018 (Annex-A-1). There are various Judgments of Hon'ble Supreme Court as well as Principal Bench of Mumbai Bench in which various directions have been given. These Judgments are incorporated in following paras:-

(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. 23 had observed as follows:-

23. 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.

4. As per record it seems that Review Committee's meeting has taken place on 06/05/2019 and minutes of the meeting submitted to the Director General of police by the Superintendent of Police, Akola vide letter no.7500/2018, dated 16/05/2019 as per the reply filed by the learned P.O. The Review Committee meeting itself has taken place more than after 15 months. This itself shows clear cut negligence on part of the respondents disregarding the various Judgments of the Hon'ble Apex Court.

5. In view of this, the respondents are directed to consider the suspension order dated 19/03/2018 against in light of Judgments mentioned in para no. 3.

6. The learned P.O. submitted that the regular review meeting has been taken place. In view of this, he is directed to file in tabular form that after the suspension date i.e. 19/03/2018 when Review Committee meeting took place and what issues were discussed about the applicant. He should file

date of meeting along with the copy meeting before the next date.

7. At the request of learned counsel for the applicant, **S.O. 14/06/2019. (high on board).**

Vice-Chairman

dnk.

O.A. No. 24/2019 (SB)

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

Dated : 10.06.2019

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

2. The learned P.O. requested time for filing reply. The learned counsel for the applicant has pointed out the order in O.A.916/2017 delivered on 16/03/2018. In last para following order is mentioned –

“ In view of the discussion in forgoing paras, I am therefore satisfied that the impugned order dated 18/11/2017 whereby the respondent no.3 has decided to consider the case of applicant after filing of the charge sheet is absolutely illegal and without application of mind. The same is therefore quashed and set aside. Consequently the

suspension order dated 17/03/2017 whereby the applicant has been kept under suspension from 17/03/2017, i.e., for about 1 year without there being any departmental enquiry initiated against the applicant or charge sheet in criminal case being filed is quashed and set aside. The respondent no.3 is directed to reinstate the applicant on the post of API and shall post him at a suitable place as per the administrative convenience. Such order shall be passed as early as possible and in any case within four weeks from the date of this order. No order as to costs.”

3. In following Judgments Hon'ble Apex Court and Principal Bench of MAT Mumbai have given clear Judgments on issue of suspension.

(a) CIVIL APPEAL No. 1912 OF 2015

(Arising out of SLP No. 31761 of 2013, AJAY KUMAR CHOUDHARY Vs.

UNION OF INDIA THROUGH ITS. SECRETARY & ANR., decided on 16th February, 2015

(b) Civil Appeal No.8427-8428 of 2018 (Arising out of S.L.P. (Civil) No.12112-12113 of 2017) in STATE OF TAMIL NADU REP. BY SECRETARY TO GOVT.(HOME)Versus

PROMOD KUMAR IPS & ANR., decided on 21st August, 2018.

(c) **ORIGINAL APPLICATION NO 35 OF 2018 in case of Shri Dilip Jagannath Ambilwade Vs. State of Maharashtra & Ors.** Decided on 11/09/2018 by Principal Bench of MAT, Mumbai.

4. However, it seems that the applicant's suspension has been revoked and he has been reinstated, but he has not been paid his dues of intervening period. The learned P.O. seeks three weeks time to take instructions from the department and to file reply.

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

Vice-Chairman

dnk.

O.A. No. 911/2018 **(SB)**

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

Dated : 10.06.2019

Heard Shri V.A. Kothale, Id. counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the respondents.

2. The learned P.O. requested time for filing reply.

3. The learned counsel for the applicant relied on MCA No.10/2016. He is directed to file on record the same. The learned P.O. seeks three weeks time to take necessary instructions and to file reply.

4. In the meantime, the department is at liberty to decide the applicant's grievances.

S.O. three weeks.

Vice-Chairman

dnk.

O.A. No. 385/2019 (SB)

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

Dated : 10.06.2019

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

2. The learned counsel for the applicant has specifically pointed out contents at page no.17 of order dated 09/05/2019 (Annex-A-4). However, the learned P.O. seeks three weeks time to file reply which is necessary in this matter.

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

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

5. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

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

7. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is

directed to file Affidavit of compliance and notice.

8. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

S.O. after three weeks.

Vice-Chairman

dnk.

O.A. No. 403/2019 (SB)

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

Dated : 10.06.2019

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

2. The learned counsel for the applicant has filed transfer order no.1184/2019, dated 31/05/2019 (Annex-A-1) in which the applicant's name is shown at sr.no.73, against which second order has been issued on the same date i.e. 31/05/2019 (Annex-A-1(A)) and in this order the applicant's name is shown at sr.no.76. In both the orders, the applicant has been transferred at the same

place. In first order name of the respondent no.5 was not included, but his name included in the second order at sr.no.23. The Id. CPO has filed documents of respondent no.5 along with the report of Dy. Commissioner, Police Head Quarter, Police Commissioner Office, Nagpur. It shows that the respondent no.5 has already joined on the new post on 06/06/2019 (A.N.). In this situation, the applicant cannot be granted any interim relief. However, the learned counsel for the applicant has requested that he may be directed to file application to the respondents considering his past services in naxalite area and his age and balance service of retirement to consider his posting in any vacant post nearby Nagpur.

3. Issue notice to R-2 to 5, returnable **20/06/2019**. Learned C.P.O. waives notice for R-1. Hamdast allowed.

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

5. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

6. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as

limitation and alternate remedy are kept open.

7. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

8. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

S.O. 20/06/2019.

Steno copy is granted.

Vice-Chairman

O.A. No. 404/2019 (SB)

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

Dated : 10.06.2019

Heard Shri V.A. Kothale, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for the State.

2. The learned counsel for the applicant has pointed out that the representation submitted by the applicant. It is submitted that the applicant has requested for transfer as per the Government policy to keep husband and wife together as far as possible. The applicant has requested the respondents for considering his transfer in the light of his wife posting place. The representation made by the applicant is at page no.12 (Annex-A-1).

3. In view thereof, the respondents are directed to consider the applicant's representation dated 01/06/2019 (Annex-A-1) and earlier applications also in the light of State Government policy to keep husband and wife at one place as far as possible.

4. With this direction, the O.A. stands disposed of. No order as to costs.

Vice-Chairman

dnk.

O.A. No. 405/2019 **(SB)**

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

Dated : 10.06.2019

Heard Shri N.D. Thombre, Id. counsel for the applicant and Shri S.A. Deo, Id. C.P.O. for the State.

2. The learned counsel for the applicant has pointed out order dated 03/06/2019 (Annex-A-11,P-34) issued by the Civil Surgeon, General Hospital, Wardha. The order is stayed and the applicant should be allowed to work at Wardha till completion of VRS. since respondent no.4 has submitted report regarding leave of 201 days vide letter dated 31/05/2019. The respondents should take necessary action to sanction leave and subsequently consider VRS. of the applicant if otherwise eligible.

3. Issue notice to R-2 to 4, returnable **after two weeks**. Learned C.P.O. waives notice for R-1. Hamdast allowed.

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

5. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

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

7. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

8. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall

stand dismissed without reference to Tribunal and papers be consigned to record.

S.O. after two weeks.

Steno copy is granted.

Vice-Chairman

dnk.

O.A. No. 406/2019 **(SB)**

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

Dated : 10.06.2019

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

2. The learned counsel for the applicant has pointed that the applicant has been working in naxalite area for so many years and now she wants to be posted at Nagpur or nearby Nagpur as per policy of Government G.R. No. TRF-2000/pra.kra.3/12, dated 06/08/2002.

3. The learned counsel for the applicant has pointed out that representation of the

applicant is at page no.19. However, the applicant is directed to produce application / representation for his request to be posted at Nagpur or nearby Nagpur.

4. The learned CPO is directed to take necessary instructions from the department.

S.O. 12/06/2019.

Vice-Chairman

dnk.

O.A. No. 528/2018 (SB)

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

Dated : 10.06.2019

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

At the request of both the sides, **S.O.**
14/06/2019.

Vice-Chairman

dnk.

O.A. No. 150/2018 **(SB)**

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

Dated : 10.06.2019

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

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

S.O. two weeks.

Vice-Chairman

dnk.

O.A. No. 81/2019 **(SB)**

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

Dated : 10.06.2019

Heard Shri S.N. Gaikwad, Id. counsel for the applicant, Shri V.A. Kulkarni, Id. P.O. for R-1 to 3 and Shri N. Autkar, Id. counsel for R-4.

2. The learned P.O. has presented letter no. 478/pari/O-2/2019, dated 30/05/2019 by which it appears that the grievance of the applicant has been redressed.

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

Vice-Chairman

dnk.
