

**O.A. Nos. 302, 242, 243, 244, 245 and 246 of 2019.
(D.B.)**

**Coram: Shri Shree Bhagwan,
Vice-Chairman
Dated : 11th June 2019.**

Heard Shri J.S. Deshmukh, the Ld. counsel for the applicants and Shri V.A. Kulkarni, the learned P.O. for the respondents.

The Ld. counsel for the applicants has submitted that the order passed by this Tribunal in identical matters has been challenged before the Hon'ble High Court by learned senior counsel Shri Jibhkate.

In view of this, matter be placed before the regular D.B. on **23rd July 2019.**

Vice-Chairman

Dt. 11.6.2019.

pdg.

O.A. No. 190/2018.

(D.B.)

Coram:Shri Shree Bhagwan,
Vice-Chairman

Dated : 11th June 2019.

Heard Shri M.R. Khan, the Ld. counsel for the applicant and Shri V.A. Kulkarni, the learned P.O. for the respondents.

Ld. P.O. pleads further time to file reply. However, it has been made clear in the order that dated 30.4.2019 that the O.A. was filed on 15.3.2018 and that day also, the Ld. P.O. took four weeks' time. Four weeks time was granted as a last chance. Even then today reply is not ready. In view of this, Ld. P.O. is directed to file reply in any case before 27th June 2019.

Matter be kept before regular D.B. If reply is not filed, matter will be heard on merit.

S.O. 27th June 2019.

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

Vice-Chairman

Dt. 11.6.2019.

pdg.

O.A. No. 499/2002.

(D.B.)

Coram:Shri Shree Bhagwan,
Vice-Chairman

Dated : 11th June 2019.

MCA Nos. 08 & 09 of 2019.

Heard Shri M.N. Sheikh, the Ld. counsel for the applicant and Shri V.A. Kulkarni, the learned P.O. for the respondents.

Ld. P.O. submits that in M.C.A. No.08/2019 for condonation of delay and in M.C.A. No.09/2019 for restoration of O.A., he desires to file reply.

S.O. **two weeks** for filing reply in both the M.C.As by Ld. P.O.

Vice-Chairman

Dt. 11.6.2019.

pdg.

O.A. No. 42/2019.

(D.B.)

Coram:Shri Shree Bhagwan,
Vice-Chairman

Dated : 11th June 2019.

C.A. Nos. 65 and 157 of 2019.

Heard Shri S.K. Thengre, Adv. holding for Shri N.R. Saboo, the Ld. counsel for the applicant and Shri M.I. Khan, the learned P.O. for the respondents.

The Ld. counsel for the applicant seeks time. However, as submitted by the Ld. P.O., matter is admitted and kept for final hearing before regular D.B. on **27th June 2019.**

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

Vice-Chairman

Dt. 11.6.2019.

pdg.

O.A. No. 222/2019.

(D.B.)

Coram:Shri Shree Bhagwan,
Vice-Chairman

Dated : 11th June 2019.

Heard Shri S.P. Palshikar, the Ld. counsel for the applicant and Shri A.P. Potnis, the learned P.O. for the respondents 1 to 3. None for R. 4 and 5.s

As directed by this Tribunal on 30.4.2019 as per para 3, Ld. P.O. has not produced the documents today.

In view of this and as agreed by both parties, matter will be heard before regular D.B. on **27th June 2019.**

Vice-Chairman

Dt. 11.6.2019.

pdg.

O.A. Nos. 324 of 2019.

(D.B.)

**Coram:Shri Shree Bhagwan,
Vice-Chairman
Dated : 11th June 2019.**

Heard Shri J.S. Deshmukh, the Ld. counsel for the applicant and Shri P.N. Warjekar, the learned P.O. for the respondents.

2. The Ld. counsel for the applicant submits that he desires that fresh notice be issued to respondent No.4.

3. Office is directed to issue fresh notice be issued to respondent No.4 made returnable on **23th July 2019.**

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.

9. Ld. P.O. seeks time to file reply of other respondents.

10. At the request of the Ld. counsel for the applicant, S.O., **23th July 2019.**

Vice-Chairman

Dt. 11.6.2019.

pdg.

O.A. No. 215 /2019.

(D.B.)

Coram:Shri Shree Bhagwan,
Vice-Chairman
Dated : 11th June 2019.

Heard Shri S.K. Thengri, the Ld. counsel for the applicant and Shri M.I. Khan, the learned P.O. for the respondent Nos.1 to 5. None for R.6.

Ld. P.O. seeks further time to file reply. He submits that the reply has been submitted to the Govt. for approval. However, the Ld. counsel for the applicant has pointed out that even the provisional pension has not been given to the applicant. But he has not mentioned this point in the relief clause 7 of the O.A. The Ld. counsel for the applicant is directed to move separate amendment application regarding provisional pension which the applicant desires.

S.O. **18th June 2019.**

Meanwhile, the Ld. P.O. is directed to take instructions from the respondents regarding the provisional pension to be given to the applicant.

Vice-Chairman

Dt. 11.6.2019.

pdg.

O.A. No. 738 /2018.

(D.B.)

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

Dated : 11th June 2019.

C.P. 05/2019.

None for the applicant. Shri V.A. Kulkarni, the learned P.O. for the respondents.

Ld. P.O. seeks further time to file reply.

S.O. **three weeks.**

Vice-Chairman

Dt. 11.6.2019.

pdg.

O.A. No. 40/2019.

(D.B.)

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

Dated : 11th June 2019.

None for the applicant. Shri H.K. Pande, the learned P.O. for the respondents 1 and 2. Shri S.P. Chavan, Adv. for R.3.

Ld. P.O. has filed reply of R. 1 and 2, it is taken on record. Ld. Advocate for R.3 has filed reply today itself.

Since reply of R. 1 to 3 has been filed matter is admitted and kept for final hearing after three weeks.

Shri H.K. Pande, the learned P.O. waives notice for the respondents 1 and 2 and Shri S.P. Chavan, Adv. waives notice for R.3.

S.O. **three weeks.**

Vice-Chairman

Dt. 11.6.2019.

pdg.

O.A.No.262/2019 (S.B.)

Coram: Shri Shree Bhagwan,
Vice Chairman

Dated: 11th June 2019.

None for the applicant. Shri A.P.Potnis,
the Id. P.O. for the State. Await service of
respondent nos. 2 & 3.

2. **S.O. in due course.**

Vice Chairman

Date:-11/06/2019.
aps.

O.A.No.845/2018 (S.B.)

Coram: Shri Shree Bhagwan,
Vice Chairman

Dated: 11th June 2019.

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

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

Vice Chairman

Date:-11/06/2019.
aps.

O.A.No.292/2016 (S.B.)

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

Dated: 11th June 2019.

Shri S.C.Deshmukh, the Id. counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the respondent nos. 1 to 3. None for the respondent nos. 4 to 7.

2. At the request of Id. counsel for the applicant, **S.O. 14.06.2019.**

Vice Chairman

Date:-11/06/2019.
aps.

O.A.No.415/2019 (S.B.)

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

Dated: 11th June 2019.

Heard Shri S.P.Palshikar, 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 has pointed out that applicant was placed under suspension vide order no. b, uD; 1218@i@d; 341@i&2] dated 22/01/2019.

3. The Id. Counsel for the applicant relied on following Judgements of Hon'ble Supreme Court and Principal Bench of MAT, Mumbai in O.A. No. 35/2018 delivered on 11/09/2018.

(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. In view of all these Judgments, respondents are requested to consider the case of applicant on the ground of Judgments delivered by Hon'ble Apex Court and Judgment of Principle Bench, MAT in O.A.NO.35/2018.

5. The Id. counsel for the applicant also pointed out that applicant has not been paid subsistence allowance till today. Respondents are directed to take immediate decision about payment of subsistence allowance and communicate the same to the applicant and file a report in next date of hearing.

6. If the respondents have conducted any review committee meeting for continuation of suspension, then they should place on record minutes of the meeting. The Id. counsel for the applicant submits that till today no review committee meeting has taken place. The Id. P.O. waives notice for the state.

7. S.O. 25/06/2019.

8. *Steno copy is granted.*

Date:-11/06/2019.
aps.

Vice Chairman

O.A.No.657/2015 (S.B.)

Coram: Shri Shree Bhagwan,
Vice Chairman

Dated: 11th June 2019.

Shri R.Shiralkar holding for Shri A.C.Dharmadhikari, the Id. counsel for the applicant and Shri P.N.Warjurkar, the Id. P.O. for the respondents.

2. The Id. P.O. files the reply on behalf of the respondent nos. 1 and 2. It is taken on record. Copy is served to the other side.

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

Vice Chairman

Date:-11/06/2019.

aps.

O.A.No.622/2018 (S.B.)

Coram: Shri Shree Bhagwan,
Vice Chairman

Dated: 11th June 2019.

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

2. The Id. P.O. files the reply on behalf of the respondent no. 4. It is taken on record. Copy is served to the other side. He further submits that the reply of respondent no. 4 will suffice the purpose of sole respondents. The Id. counsel for the applicant is at liberty to file rejoinder, if any.

3. The matter is **admitted** and kept for final hearing. The Id. P.O. waives notice for the respondents.

4. At the request of Id. counsel for the applicant, **S.O. 23.07.2019.**

Vice Chairman

Date:-11/06/2019.

aps.

O.A.No.920/2018 (S.B.)

Coram: Shri Shree Bhagwan,
Vice Chairman

Dated: 11th June 2019.

Shri J.S.Deshmukh, the Id. counsel for the applicant and Shri H.K.Pande, the Id. P.O. for the respondent nos. 1 to 3 and 6. None for the respondent nos. 4 & 5.

2. The Id. P.O. files the reply on behalf of the respondent no. 3. It is taken on record. Copy is served to the other side. He further submits that the reply of respondent no. 3 will suffice the purpose of sole respondents. The Id. counsel for the applicant is at liberty to file rejoinder, if any.

3. The matter is **admitted** and kept for final hearing. The Id. P.O. waives notice for the respondents.

4. At the request of Id. counsel for the applicant, **S.O. 23.07.2019.**

Vice Chairman

Date:-11/06/2019.
aps.

O.A.Nos.240&241/2019 (S.B.)

Coram: Shri Shree Bhagwan,
Vice Chairman

Dated: 11th June 2019.

Shri J.S.Deshmukh, the Id. counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the respondent nos. 1 to 5. Await service of respondent no. 6.

2. At the request of Id. counsel for the applicant, **S.O. 23.07.2019 for filing service affidavit.**

Vice Chairman

Date:-11/06/2019.
aps.

O.A.No.59/2019 (S.B.)

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

Dated: 11th June 2019.

Shri S.P.Palshikar, the Id. counsel for the applicant and Shri H.K.Pande, the Id. P.O. for the respondent nos. 1 and 2. None for the respondent no. 3.

2. At the request of Id. counsel for the applicant, **S.O. one week to file Rejoinder.**

Vice Chairman

Date:-11/06/2019.
aps.

O.A.No.372/2019 (S.B.)

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

Dated: 11th June 2019.

Shri S.M.Khan, the Id. counsel for the applicant and Shri A.M.Khadatkar, the Id. P.O. for the State. Await service of respondent nos. 2 & 3.

2. The Id. counsel for the applicant submits that service affidavit is filed for respondent nos. 2 & 3. The Id. P.O. has filed correspondence no. tk-dzHkl fo; a @ml auk @vklFkl&2 @1173@2019] dated 01/06/2019 (P.B., Pg. No. 36) by Regional Deputy Director, Ground Water Survey and Development Agency, Nagpur, by which it appears that the applicant has been relieved from Chandrapur. However, Id. counsel for the applicant submits that he has not received any information regarding the same.

3. The Id. counsel for the applicant has invited my attention on G.R. No. Vlvkj, Q&2005@i z d z 63@05@12] fnukd 07-01-2006 (Annexure-A-6). In reference to this G.R., Government circular no. dzVlvkj, Q&2000 @, e@8@i z d z 3@12] dated 11/07/2000 and Government G.R. No. dzVlvkj, Q&2000@i z d z 3@12] dated 06/08/2002 are also mentioned.

4. In fact, Government has reiterated this policy by this Circular dated 07.01.2006 regarding policy mentioned in Circular dated 11/07/2000 and G.R. dated 06/08/2002 and instructed all the Government Departments, Head of the Departments and Regional Heads to follow the policy laid down by all these Circular as well as G.R.. The Id. counsel for the applicant also submits that the applicant has worked for more than four years in Chandrapur, which is also categorized in Tribal and Naxalite Area. So, applicant is entitled to the benefits and provisions contained in the G.R. dated 06.08.2002 and Circular Dated 07.01.2006.

5. The Id. counsel for the applicant has submitted his Representation/ Application dated 22/04/2019 in which he has pointed out his personal problem and requested for transfer at Amravati. The Id. counsel for the applicant submits that still there is a vacancy in Amravati.

6. In view of discussions in the foregoing paras, Respondents are directed to follow Government Circular dated 07.01.2006 and directions given by Government in prior G.R.

also of 2000 and 2002. If there is any vacancy existing at Amravati as on today, the applicant should be posted at Amravati as per his application dated 22/04/2019. It will be as per the policy of Government by way of various Circulars and G.Rs.. Order should be issued **within three weeks** from the date of this order.

7. **S.O. three weeks.**

8. *Steno copy is allowed.*

Vice Chairman

Date:-11/06/2019.

aps.

O.A.No.414/2019 (S.B.)

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

Dated: 11th June 2019.

Heard Shri S.M.Bhagde, 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 has relied upon the Hon'ble High Court Judgment in Writ Petition No. 2605/2017. He has also filed Judgment of Hon'ble High Court Mumbai, bench at Aurangabad in Writ Petition No. 11298/2018.

3. It has been pointed out that Circular No. ~~vki z k&1016@i z dz58@2016@l dk&3]~~ ~~fnukd~~ 13@06@2016 has been set aside. However, it appears that Zilla Parishad, Yeotmal and Executive Engineer, Zilla Parishad, Public Works Division No. – II, Yeotmal have not pointed out this fact to Accountant General Office and Accountant General Office has raised objection in para no. 2 in Annexure-A-1 at P.B., Pg. No. 20 regarding the G.R. dated 13.06.2016.

4. Since A.G. has raised objection on 26.03.2018 before said G.R. dated 13.06.2016 was set aside.

5. Now, Zilla Parishad should point out this fact to Accountant General Office, so that Accountant General Office can make necessary corrections.

6. In view of these facts, Accountant General is directed to examine the issue at their own level and don't force for further recovery.

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

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

9. 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.

10. 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.

11. 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.

12. 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.

13. **S.O. four weeks.**

14. *Steno copy is granted.*

15. *The Id. counsel for the applicant is further directed to remove all office objections.*

Vice Chairman

Date:-11/06/2019.

aps.