(D.B.)

Coram: Shri Shree Bhagwan, Vice-Chairman Dated: 12th June 2019. C.A. No.156/2019.

Heard Shri P.V. Thakre, the Ld. counsel for the applicants and Shri S.A. Sainis, the learned P.O. for the respondent No.1.

2. The Ld. counsel for the applicants submits that the applicants have been given advance increments as per G.R. dated 14.12.2016 (A-1). However, it was withdrawn after the issue of G.R. dated 24.8.2017 (A-5). The applicants have submitted their representation dated 17.9.2018. Application (C.A. No.156/2019) to sue jointly is allowed subject to payment of requisite court fee to be deposited in the office of this Tribunal.

C.A. No. 155/2019

C.A. for condonation of delay will be heard alongwith the O.A on the next date of hearing.

2. Prima facie, since the applicants have filed representation on 17.9.2018, it does not appear to be the delay. However, the C.A. for condonation of delay will be heard on the next date of hearing alongwith O.A..

O.A. (St.) No.829 /2019.

- 1. Issue notice to respondent Nos. 2 to 4 to returnable after four weeks.
- 2. Shri S.A. Sainis, the learned P.O. waives notice for the respondent No.1. 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 and if service report on affidavit is not filed three days before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.
- 8. S.O. four weeks.

Vice-Chairman

Dt. 12.6.2019.

Coram: Shri Shree Bhagwan, Vice-Chairman Dated: 12th June 2019.

Heard Shri Vishal Anand, the Ld. counsel for the applicant and Shri H.K. Pande,

the learned P.O. for the respondents.

The Ld. counsel for the applicant submits

that all the respondents are served.

The Ld. counsel for the applicant has filed service affidavit on Friday on behalf of respondent Nos. 2 to 5. He submits that he will also remove objection before next date of hearing. Ld. P.O. seeks four weeks' time to file

reply.

S.O. four weeks.

Vice-Chairman

Dt. 12.6.2019.

Coram: Shri Shree Bhagwan, Vice-Chairman Dated: 12th June 2019.

Heard Shri R.V. Shiralkar, the Ld. counsel for the applicant and Shri H.K. Pande, the learned P.O. for the respondent No.1.

Await service to respondent No.2.

As pointed out in para 2 of judgment dated 30.4.2019, objection is yet to be removed. The Ld. counsel for the applicant submits that he will remove objection within two weeks.

S.O. four weeks.

Vice-Chairman

Dt. 12.6.2019.

O.A. No.265/2019.

(D.B.)

Coram: Shri Shree Bhagwan, Vice-Chairman Dated: 12th June 2019.

None for the applicant. Shri A.P. Potnis, the learned P.O. for the respondent No.1.

Await service to respondent Nos.2 to 5.

However, the Ld. counsel for the applicant has added respondents as per para 3 of order sheet dated 16.4.2019.

S.O. four weeks.

Vice-Chairman

Dt. 12.6.2019.

Coram: Shri Shree Bhagwan, Vice-Chairman Dated: 12th June 2019.

Heard Shri S.N. Dandekar, the Ld. counsel for the applicant and Shri H.K. Pande, the learned P.O. for the respondent Nos.1 to 3. Shri T.A. Anthony, Ld. Advocate for R. 6 and 9.

Learned counsel first appeared for R. 6 and 9 only. Now, he has power to appear for respondent Nos. 4 to 11.

The Ld. counsel for the applicant files service affidavit. Learned P.O. seeks time to file reply.

S.O. three weeks.

Vice-Chairman

Dt. 12.6.2019.

O.A. No.49/2019.

(D.B.)

Coram: Shri Shree Bhagwan, Vice-Chairman Dated: 12th June 2019.

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

Notice of respondent No.2 is not collected by the applicant.

Ld. P.O. is ready to file reply. However, it appears that neither the Ld. counsel for the applicant nor applicant is interested. So O.A. is dismissed in default.

Vice-Chairman

Dt. 12.6.2019.

(D.B.)

Coram: Shri Shree Bhagwan, Vice-Chairman Dated: 12th June 2019.

None for the applicant. Shri P.N. Warjukar, the learned P.O. for respondent No.1.

Await service to respondent No.2.

As per order dated 18.4.2019, amendment of respondent No.2's post has been carried out. Accordingly notice has been issued. However, service is awaited to R.2.

S.O. in due course.

Vice-Chairman

Dt. 12.6.2019.

<u>Coram</u>:Shri Shree Bhagwan, Vice-Chairman <u>Dated: 12th June 2019.</u>

C.A. No. 208/2018, C.A. No.149/2019 in C.A.No.180/2019.

None for the applicants. Shri H.K. Pande, the learned P.O. for respondents.

While perusing the order of this Tribunal dated 7.5.2019, it appears that the Hon'ble High Court has already given directions to the respondents in W.P. No.1285/2018 on 28.6.2018. The Principal Bench of this Tribunal at Mumbai has also delivered a judgment in O.A. 544/2018 on 11.3.2019. Inspite of all these facts, it appears that there is no action on the part of MPSC regarding the candidate of SC Ld. P.O. is directed to take category. instructions from MPSC about the action that has been taken after the judgment of the Hon'ble High Court and the order of the Principal Bench of this Tribunal at Mumbai regarding results of the candidates of SC category.

S.O. two weeks.

Vice-Chairman

Dt. 12.6.2019.

O.A.No.889/2018 (S.B.)

Coram: Shri Shree Bhagwan,

Vice Chairman Dated: 12^{th June} 2019.

Heard Shri J.Duhilani, the Id. counsel for the applicant and Shri H.K.Pande, the Id. P.O. for the respondents.

2. The Id. P.O. requested one week time to file reply, **S.O. 18/06/2019**.

Vice Chairman

Date:-12/06/2019.

Vice Chairman Dated: 12^{th June} 2019.

None for the applicant. Shri H.K.Pande, the Id. P.O. for the State. Notice is yet not collected for respondent nos. 2 to 5.

2. In the order dated 09/04/2018, in para no. 2, it is mentioned as follows:-

At the request of Id. counsel for the applicant, issue fresh notice to R-2 to 5, returnable in **three weeks**. Hamdast allowed.

3. Even after this, notice has not been collected. In view of this, **O.A.** is dismissed in default.

Vice Chairman

Date:-12/06/2019.

Vice Chairman Dated: 12^{th June} 2019.

Heard Shri A.P.Sadavarte, the Id. counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the Respondents.

2. The ld. counsel for the applicant desires to file rejoinder and seeks time. The ld. P.O. also seeks time to file reply on behalf of the respondent no. 3.

3. S.O. 26.06.2019.

Vice Chairman

Date:-12/06/2019.

Vice Chairman Dated: 12^{th June} 2019.

Heard Shri R.V.Shiralkar, the Id. counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the Respondents.

2. The issue pertains to the common departmental enquiry, in which first order was passed in O.A. No. 699/2012 on 06/11/2018 and in this O.A. following order was passed:-

(i) The O.A. is partly allowed.

- (ii)Suspension order of the applicant issued by respondent No.3 dated 16.5.2011 (Annexure A-1) and reference based letter dated 14.5.2011 issued by Collector, Nagpur(R.4)(Annexure A-2) are quashed and set aside after 90days of the date of passing said order.
- (iii)It is hereby declared that the applicant shall be deemed to have been reinstated in service on completion of 90 days of suspension period for the date of order dated 16th May 2011.
- (iv) The applicant will be entitled to claim all admissible dues, due to revocation of such suspension.
- (v) The respondents are directed to take a decision on the applicant's request for advance taken from provident fund account vide letter dated 27.7.2011, within two months from the date of this order.
- (vi)Considering the fact that the applicant is under suspension from 16.5.2011 and a departmental enquiry has not yet been completed against the applicant, the respondents are directed to complete the enquiry in all respects within a period of six months from the date of this order in any circumstances.
- (vii) If the respondents failed to complete the departmental enquiry within six months from the date of passing of this order, the departmental enquiry shall stand quashed without reference to the order of this Tribunal.

(viii) No order as to costs.

3. As per the above order in para no. VI last line clearly says :-

"the respondents are directed to complete the enquiry in all respects within a period of six months from the date of this order in any circumstances."

The order dated 06.11.2018 for six months expired on 06.05.2019.

- 4. Then in O.A. No. 971/2018 matter was heard on 13.03.2019 and on Pg. No. 32 in para no. 03 following orders has been passed:-
- "3. It is important to note that the present applicant is one of the delinquent in the same enquiry, therefore, on the ground of parity, he is also entitled for the same relief. Therefore, we are of the view that the relief in terms of the final order, Clause nos. (VI) and (VII) be granted to the present applicant as per the final order in O.A. No. 699/2012."
- 5. This means that the departmental enquiry against applicant also should have been completed in all respect prior to 06.05.2019. However, the ld. Counsel for the applicant pointed out that no sufficient progress has been done by respondents to complete the departmental enquiry as per above both orders.
- 6. In view of Judgment in O.A.No.699/2012 dated 06.11.2018 and Order

- in O.A.No.971/2018 dated 13.03.2019, respondents were bound to complete departmental enquiry in all respect on or before 06.05.2019. However, the ld. counsel for the applicant points out that nothing progress has been made in this regard.
- 7. Issue notice to R-2 to 4, returnable on 27-06-2019. 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. 27-06-2019**.

Vice Chairman

Date:-12/06/2019.

O.A.No.420/2019 (S.B.)

Coram: Shri Shree Bhagwan,

Vice Chairman Dated: 12^{th June} 2019.

Heard Shri P.K.Bezalwar, 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 has placed service book on record on P.B., Pg. No. 13, by which it appears that the applicant is working as District Women and Child Welfare Department Officer since 02nd July 2015. As on today, it is more than three years, applicant has been serving in Tribal and Naxal Area i.e. Gadchiroli District.
- 3. The Id. Counsel for the applicant has relied upon G.R.No. Vhvkj, Q&2000@, e@8@irdr 3@ckjk] fnukd 11-07-2000, in the said G.R. para no. 2 (c) reads as follows:-

"vkfnoklih {ks=kr fdeku 2 o"klipkaxysdke dsyst; k xV v o c vf/kdk&; knuk nsf[ky R; k8; k ilarhP; k ftYg; kr lkblud kj use.kndk ns; kr; k0; kr-"

4. The Id. Counsel for the applicant has also relied upon G.R. No. fVvkj, Q&2000@irdrackjk] fnukid 06-08-2002 (Annexure-A-9) on P.B., Pg. No. 45 in para no. M (2) it is mentioned:-

"vkfnoklh {ks=krfdeku 2 o"klpkaxysdke dsysl; k xV v o c vf/kdk&; kauk nsf[ky R; kll; k ilarhP; k ftYg; kr l kbolu | kj use.kadk ns; kr; k0; kr-"

By above G.Rs. Government policy is very clear that if an employee has work for atleast two years in Tribal or Naxal Area, he/she should be given posting as per his/her choice.

- 5. Apparently, the applicant has completed this provision of G.R. and applicant has served more than three years in Naxal and Tribal Area. Nothing adverse remarks appears on record about the applicant. However, in transfer order dated 31/05/2019 (Annexure-A-7), applicant is at Sr. No. 08 and posted to Kolhapur, which is contrary to her application on P.B., Pg. No. 19 were applicant has requested for posting at following three choices:-
- 1. Amravati (Dayapur, Achalpur)
- 2. Amravati(Chadur Railway)
- 3. Amravati(Old)
- 6. As per the provisions of the G.R., applicant was entitled for choice posting. The respondents are directed to file on record, whether these posts are available or not available for posting the applicant as per the

policy of Government G.Rs. and what are the reasons to deprived the applicant from the genuine provision of G.Rs.. The Id. counsel for the applicant submits that nobody has been posted so far against the applicant.

- 7. In view of the above facts, respondents are directed that applicant should be retained to existing place only till filing of the reply. The transfer order dated 31.05.2019 (Annexure-A-7) is stayed to the extent of applicant till reply is filed.
- 8. Issue notice to R-2 & 3, returnable on <u>26-06-2019</u>. Learned P.O. waives notice for R-1. Hamdast allowed.
- 9. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
- 10. 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.

- 11. 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.
- 12. 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.
- 13. 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.

14. **S.O. 26-06-2019**.

Vice Chairman

Date:-12/06/2019.

O.A.No.421/2019 (S.B.)

Coram: Shri Shree Bhagwan,

Vice Chairman Dated: 12^{th June} 2019.

Heard Shri Bharat Kulkarni, the Id. counsel for the applicant and Shri H.K.Pande, the Id. P.O. for the State.

- 2. The applicant was transferred from Amravati to Gondia vide order dated 08/06/2016 (Annexure-A-2) at Sr. No. 22, she joined Gondia on 24/06/2016. Now, again applicant has been transferred by order dated 01/06/2019 (Annexure-A-1) at Sr. No. 16 from Gondia to Chandrapur i.e. Gondia is also Naxal and Tribal affected area and Chandrapur is also Naxal and Tribal affected area.
- 3. The Id. Counsel for the applicant has relied upon G.R.No. Vhvkj, Q&2000@, e@8@irdr 3@ckjk] fnukd 11-07-2000, in the said G.R. para no. 2 (c) reads as follows:-

"vkfnoklh {ks=kr fdeku 2 o"klpkaxysdke dsyst; k xV \vee o c \vee f/kdk&; kauk nf[ky R; klt; k ilarhP; k ftYg; kr l kbluq kj use.kudk ns; kr; k0; kr-"

4. The Id. Counsel for the applicant has also relied upon G.R. No. flvkj, Q&2000@i1d1

3@ckjk] fnuktd 06-08-2002 (Annexure-A-9) on P.B., Pg. No. 45 in para no. M (2) it is mentioned:-

"vkfnoklh {k=krfdeku 2 o"kšpkxysdke dsyst; k xV v o c vf/kdk&; kauk nsf[ky R; kB; k ilarhP; k ftYg; kr lkbJuq kj use.kadk ns; kr; k0; kr-"

By above G.Rs. Government policy is very clear that if an employee has work for atleast two years in Tribal or Naxal Area, he/she should be given posting as per his/her choice.

- 5. It appears that the provision laid down in the G.Rs. is not applied in the transfer order i.e. the applicant has been transferred from one Naxal and Tribal Area to another Naxal and Tribal Area.
- 6. The Id. counsel for the applicant submits that nobody is posted against the applicant i.e. the applicant is still working at existing place.
- 7. In view of this facts, order dated 01/06/2019 (Annexure-A-1) to the extent of applicant at Sr. No. 16 is stayed till filing of the reply.
- 8. Issue notice to R-2 & 3, returnable on 11-07-2019. Learned P.O. waives notice for R-1. Hamdast allowed.

- 9. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
- 10. 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.
- 11. 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.
- 12. 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.
- 13. 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.

14. **S.O. 11-07-2019**.

Vice Chairman

Date:-12/06/2019.

Vice Chairman Dated: 12^{th June} 2019.

Heard Shri S.P.Palshikar, the Id. counsel for the applicant and Shri P.N.Warjurkar, the Id. P.O. for the State. Await service of respondent no. 2.

- 2. The Id. counsel for the applicant submits that service affidavit is filed today. The Id. counsel for the applicant further submitted that applicant is retiring on 30/06/2019 and is under suspension. So matter should be taken on priority.
- 3. The Id. P.O. submits that he will file the reply on or before 19.06.2019. **S.O.** 19.06.2019.

Vice Chairman

Date:-12/06/2019.

O.A.No.326/2018 (S.B.)

Coram: Shri Shree Bhagwan,

Vice Chairman Dated: 12^{th June} 2019.

Heard Shri Nayse holding for Shri G.G.Bade, the Id. counsel for the applicant and Shri P.N.Warjurkar, the Id. P.O. for the respondents.

2. As per the request of ld. counsel for the applicant, **S.O. two weeks.**

Vice Chairman

Date:-12/06/2019.

O.A.No.425/2019 (S.B.)

Coram: Shri Shree Bhagwan,

Vice Chairman Dated: 12^{th June} 2019.

Heard Shri M.N.Sheikh, 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 has pointed out the impugned order dated 31.05.2019 (Annexure-A-1). The applicant has been transferred from Bhandara to Wardha and temporary charge to Nagpur.
- 3. The Id. counsel for the applicant submits that provisions of G.R. No. , I vkj0gh&2017@izdz415@dk; kll u 12] fnukd 09-04-2018 at P.B., Pg. No.23, Vlik dækd 5 has been violated.
- 4. Issue notice to R-2 to 4, returnable on two 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. two weeks**.

Vice Chairman

Date:-12/06/2019.

Vice Chairman Dated: 12^{th June} 2019.

Heard Shri S.D.Chande, the Id. counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the Respondents.

2. Matter is listed for the first time. Matter pertains to appointment on compassionate ground. However, Id. P.O. seeks four weeks time to file reply.

3. S.O. 09.07.2019.

Vice Chairman

Date:-12/06/2019.

O.A.No.271/2019 (S.B.)

Coram: Shri Shree Bhagwan,

Vice Chairman Dated: 12^{th June} 2019.

Heard Shri S.P.Chavhan, the Id. counsel for the applicant and Shri A.M.Khadatkar, the Id. P.O. for the Respondents.

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

Vice Chairman

Date:-12/06/2019. aps.

O.A.No.266/2019 (S.B.)

Coram: Shri Shree Bhagwan,

Vice Chairman Dated: 12^{th June} 2019.

Heard Shri M.K.Mishra, the Id. counsel for the applicant and Shri P.N.Warjurkar, the Id. P.O. for the Respondents.

The Id. P.O. seeks time to file reply. **S.O. 08.07.2019.**

Vice Chairman

Date:-12/06/2019.

O.A.No.964/2018 (S.B.)

Coram: Shri Shree Bhagwan,

Vice Chairman Dated: 12^{th June} 2019.

Heard Shri S.P.Palshikar, the Id. counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the Respondents.

2. The ld. P.O. seeks three weeks time to file reply. **S.O. three weeks**.

Vice Chairman

Date:-12/06/2019.

O.A.No.227/2019 (S.B.)

Coram: Shri Shree Bhagwan,

Vice Chairman Dated: 12^{th June} 2019.

Heard Shri A.R.Kalele, the Id. counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the Respondents.

2. The Id. P.O. submits that he will file the reply during the course of the day. **S.O. two weeks.**

Vice Chairman

Date:-12/06/2019.

O.A.No.189/2019 (S.B.)

Coram: Shri Shree Bhagwan,

Vice Chairman Dated: 12^{th June} 2019.

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

2. Notice is yet not collected by Respondent nos. 2 to 7. **S.O. three weeks.**

Vice Chairman

Date:-12/06/2019. aps.

O.A.No.187/2019 (S.B.)

Coram: Shri Shree Bhagwan,

Vice Chairman Dated: 12^{th June} 2019.

Smt. Saboo, the Id. counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the State.

2. Notice is yet not collected by Respondent nos. 2 & 3. The ld. counsel for the applicant submits that today she will collect the notice. **S.O. three weeks.**

Vice Chairman

Date:-12/06/2019.

O.A.No.128/2019 (S.B.)

Coram: Shri Shree Bhagwan,

Vice Chairman Dated: 12^{th June} 2019.

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

2. The ld. P.O. seeks three weeks time to file reply. **S.O. 03.07.2019**.

Vice Chairman

Date:-12/06/2019. aps.