

O.A. 878/2019 (D.B.)

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

Dated : 02/12/2019.

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

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

Vice-Chairman

dnk.

O.A. 947/2019 (D.B.)

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

Dated : 02/12/2019.

Heard Shri Bhushan, Dafle, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for the State.

2. From the documents it appears that the applicant came to be appointed on the Post of Police Constable at Nagpur and subsequently he appeared for the examination conducted by the MPSC for the post of Police Sub Inspector (PSI). However, on 22/6/2012 the FIR came to be lodged by the MPSC alleging therein that the applicant has passed the said examination by committing offence of impersonation and thereby registered the Crime bearing No.27/2016 at Nanded.

3. The learned counsel for the applicant is challenging the impugned order dated 11/10/2019 (A-3,P-19) which has been passed by the Special Inspector General of Police, Nagpur. However it appears that the respondent no.3 has acted as per the information given by the MPSC and the learned counsel for the applicant has not made MPSC as party / respondent, therefore, he is directed to make MPSC as party / respondent within three weeks.

4. After amendment, issue notice to R-2 & 3 and also newly added respondent returnable **after**

four weeks. Learned C.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.

S.O. after four weeks.

Vice-Chairman

dnk.

O.A. 560/2018 (S.B.)

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

Dated : 02/12/2019.

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

The Id. P.O. files reply on behalf of R-2&3. It is taken on record. Copy is served on the applicant. It is submitted that reply of R-2&3 is sufficient to decide the matter.

Heard. Admit.

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

S.O. in due course.

Vice-Chairman

dnk.

O.A. 942/2018 (S.B.)

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

Dated : 02/12/2019.

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

At the request of Id. P.O., **S.O. 4/12/2019**
for filing reply.

Vice-Chairman

dnk.

O.A. 233/2019 (S.B.)

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

Dated : 02/12/2019.

C.A. 328/2019 -

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

For the reasons stated in the application, the C.A.No. 328/2019 is allowed.

O.A.233/2019 –

None for the applicant. Heard Shri S.A. Sainis, Id. P.O. for the State. Await service of R-2 to 4.

As per the earlier order dated 4th September, 2019 the applicant was directed to file condonation of delay application, which is yet to be filed.

S.O. three weeks to comply the order dated 4th September, 2019.

Vice-Chairman

dnk.

O.A. 252/2019 (S.B.)

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

Dated : 02/12/2019.

Heard Shri S.S. Ghate, Id. counsel for the applicant and Shri S.A. Sainis, Id. P.O. for R-1 to 3. Await service of R-4.

2. The applicant and respondent no.4 both were recruited as Ex-servicemen from Open quota, though they belong to OBC category. As submitted the learned counsel for the applicant at Annex-2, Page no.17 the respondent no.4 is at sr.no.5 and was posted to Gondia and the applicant is at sr.no.9 and was posted to Hingoli. Both the applicant and the respondent no.4 had given request application dated 27/8/2018 (P-23&24) for mutual transfer, but it was not considered, therefore, the applicant has filed O.A.No.859/2018 before this Tribunal. This Tribunal vide its order dated 27/11/2018 the respondent no. 2 was directed to decide the applicant's representation within two weeks. Thereafter the said representation was rejected vide order dated 18/12/2018 (A-8,P-33) and as desired by the applicant the O.A. No.859/2019 stands disposed of as withdrawn vide order dated 7/1/2019.

3. Now the applicant has filed this O.A. to decide his same request application dated 27/8/2018. In this background, the learned counsel is directed to file fresh joint request application of the applicant and the respondent no.4 before the respondent no.2 and the respondent no.2 is directed to consider their application sympathetically and if other law it not coming in the way, then it be considered and they should be posted as per their request application within a period of four weeks from the date of receipt of the application.

S.O. after five weeks.

Vice-Chairman

dnk.

C.A. 164/19 in O.A. 284/2019 (S.B.)

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

Dated : 02/12/2019.

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

The learned counsel for the applicant submitted that he desires to file some documents on record. At his request, **S.O. one week.**

Vice-Chairman

dnk.

O.A. 292/2018 (S.B.)

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

Dated : 02/12/2019.

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

At the request of Id. counsel for the applicant, **S.O. 03/12/2019.**

Vice-Chairman

dnk.

O.A. 952/2019 (D.B.)

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

Dated : 02/12/2019.

Heard Shri S.S. Ghate, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for the State.

2. The applicant is working as District Child Protection Officer on contract basis for a period of 11 months and it came to be extended upto 31/03/2020. In the meantime the advertisement dated 14/9/2019 (A-6,P-40) issued by the respondent no.1 for the post of District Child Protection Officer on contract basis. In response to the said advertisement, the applicant has applied online application for the post of District Child Protection Officer which is at page nos.47 &48. Thereafter first merit list was published by respondent no.2 on 31/10/2019 in which the applicant's name is appeared at sr.no.3 (A-14A,P-57). Again second merit list was published by the respondent no.2 on 18/11/2019 (A-17,P-62) in which the applicant's name is appeared at sr.no.3, however, in the remark column remark is given as 'incorrect documents'.

3. The learned counsel for the applicant has pointed out that the applicant has made representation dated 20/11/2019 (A-18,P-63) to the Collector, Chandrapur (R/3) and in consequence to that letter, the Collector, Chandrapur has recommended the applicant's case to the Commissioner, Woman and Child Development Department, Pune (R/2) vide letter dated 22/11/2019 (A-19,P-64).

4. In view of all these facts, the applicant's prayer clause no.10 (a) is granted. The respondents are directed to permit the applicant to appear in the interview to be conducted by the respondent no.3 subject to outcome of this O.A.

5. Issue notice to R-2 to 4, returnable **after four weeks.** Learned C.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 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.

S.O. after four weeks.

Steno copy is granted.

Vice-Chairman

dnk.

O.A. 310/2019 (S.B.)

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

Dated : 02/12/2019.

Heard the applicant in person and Shri A.M. Ghogre, Id. P.O. for R-1. None for R-2 to 4.

2. The applicant retired on 31/08/2013 (P-183) and one show cause notice has been served on 23/8/2018 (A-1,P-18). The applicant submits that since he is a retired person, he requires certain documents for further correspondence and for that purpose he demanded necessary documents to the Department which are not supplied to him. Since the applicant has retired on 31/8/2013 and though four years period have been lapsed, under Section 27 of the Maharashtra Civil Services (Pension) Rules, 1982 the applicant's request needs to be considered before starting any action.

3. The learned P.O. submits that the O.A. is not maintainable. It is just a show cause to the applicant that why inquiry should not be proposed to the higher authority against the applicant's misconduct. In view of the Justice, the respondent nos.2&3 are directed to provide the information sought by the applicant and at

the same time the applicant is directed to file copy of representation before the next date.

S.O. four weeks.

Put up along with other connected matter.

Steno copy is granted.

Vice-Chairman

dnk.

O.A. 311/2019 (S.B.)

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

Dated : 02/12/2019.

Heard the applicant in person and Shri A.M. Ghogre, Id. P.O. for R-1. None for R-2 to 4.

2. Vide document at Annex-A-1, Page no.18 it appears that the applicant is retired on 31/03/2016 and one show cause notice has been served on 23/5/2018 (A-1,P-18). The applicant submits that since he is a retired person, he requires certain documents for submitting his reply and for that purpose he demanded necessary documents to the Department which are not supplied to him. Since the applicant has retired on 31/3/2016 and though more than two years period have been lapsed after retirement i.e. from 31/3/2016, Section 27 of the Maharashtra Civil Services (Pension) Rules, 1982 is applicable to the applicant for show cause letter dated 23/5/2018.

3. The learned P.O. submits that the O.A. is not maintainable. It is just a show cause to the applicant that why inquiry should not be proposed to the higher authority against the applicant's misconduct. In view of the Justice, the respondent nos.2&3 are directed to provide

the information sought by the applicant and at the same time the applicant is directed to file copy of representation before the next date.

S.O. four weeks.

Put up along with other connected matter.

Steno copy is granted.

Vice-Chairman

dnk.

O.A. 337/2019 (S.B.)

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

Dated : 02/12/2019.

Shri S.M. Bahirwar, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for R-1 to 3. None for R-4&5.

The learned counsel for the applicant submits that the applicant will be retired in the March,2020.

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

Vice-Chairman

dnk.

O.A. 457/2019 (S.B.)

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

Dated : 02/12/2019.

Shri G.G. Bade, 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. three weeks** for filing reply.

Vice-Chairman

dnk.

O.A. 988/2017 (S.B.)

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

Dated : 02/12/2019.

None for the applicant. Heard Shri A.M. Ghogre, ld. P.O. for the respondents.

As suggested by the learned P.O., the matter is admitted and it be kept for final hearing.

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

S.O. in due course.

Vice-Chairman

dnk.

O.A. 591/2015 (S.B.)

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

Dated : 02/12/2019.

C.A. 446/2019 -

Heard Shri Walthare, Id. counsel for the applicant and Shri A.M. Ghogre, Id. P.O. for the respondents.

At per earlier order dated 8/11/2019 the learned counsel for the applicant has filed C.A.446/2019 for amendment. Since it is filed today the learned P.O. seeks time to file reply. At his request, **S.O. two weeks.**

Vice-Chairman

dnk.

O.A. 873/2019 (S.B.)

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

Dated : 02/12/2019.

Shri R. Darda, Id. counsel for the applicant, Shri S.A. Deo, Id. CPO for R-1&2 and Shri Sachin Khande, Id. counsel for R-3.

At the request of Id. CPO, **S.O. four weeks** for filing reply.

Vice-Chairman

dnk.

O.A. 481/2016 (S.B.)

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

Dated : 02/12/2019.

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

The learned counsel for the applicant submitted that he wants to withdraw the O.A. He is permitted to do so.

In view thereof, the O.A. stands disposed of as withdrawn. No order as to costs.

Vice-Chairman

dnk.

***O.A. 930/2017 (S.B.)**

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

Dated : 02/12/2019.

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

2. As per the record at Annex-A-3, Page no.16 the applicant was appointed on 14/12/1993. However, as per the record at Annex-A-4, Page no.18 the applicant's date is shown as 30/06/1992. These two dates are under dispute. The applicant was granted first time bound promotion vide order dated 2/12/2010 from 15/12/2005 that means the Department relied on his appointment date on 14/12/1993. Again the Department has filed the letter 15/11/2019 (P-46) issued by the Regional Dairy Development Officer, Nagpur in which in the last line it is mentioned as follows –

*^ rjh vki .Mda fourth dj.; kr ; r vks dh] i wky I uko.khps
o.Gh pndhph rkjh[k fnulad 30@06@1992 , oth fnulad
03@12@1993 gh rkjh[k xghr /kj.; kr ; koh o ek-
U; k; kf/kdj.khpsfun'kLkl vk.huu ns; kr ; kos***

3. I failed to understand when the applicant was granted first time bound promotion considering his date of appointed as 14/12/1993

and vide letter dated 02/12/2010 from 15/12/2005.

4. So the applicant got aggrieved as per letter dated 02/12/2010 (P-29) so the applicant should have approached before this Tribunal before time limit as given Section 21 of the Maharashtra Tribunals Act,1985. The O.A. was filed on 24/11/2017. The learned counsel for the applicant desires sometime to justify this 7 years delay.

S.O. two weeks.

Vice-Chairman

dnk.

***O.A. 807/2016 (S.B.)**

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

Dated : 02/12/2019.

Heard Shri G.G. Bade, Id. counsel for the applicant and Shri A.M. Ghogre, Id. P.O. for the respondents.

2. The learned counsel for the applicant has pointed out the order dated 30/05/2016. On page no.80 which reads as follows –

^ f'k{kk & Jh- jes'k okeu gndjj rRdkyhu d"kh l gk; d dk; kzy; foHkkxh; d"kh l gl pkyd] ulxij foHkkx] ulxij l /; k d"kh lk; zq[kd dk; kzy;] rkyudk d"kh vf/kdkjh] yk[kknyj] ft- HkMkj k ; kauk egkj k"V ulxjh l ok ¼f'kLr o vihy½ fu; e 1979 e/khy Hkkx fru fu; e 5 ¼1½ ¼pkj½ uil kj l u 2014 o 2015 ; k nku o"kkzhy oruok<hps Vli s dk; e ifj.kkekus deh dj.; kr ; s vkgs **

3. It appears that in the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 Part-III, clause 5 (1) & (iv) it is related with withholding of increment from future years. In this peculiar order, the respondents have stopped previous increments of the year 2014 & 2015 by the impugned order dated 30/5/2016 which has been already paid to the applicant. There is no provision in the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 to

award such kind of punishment. In view of this, the order dated 30/5/2016 (A-14,P-78 to 80) passed by the respondents is quashed and set aside on technical ground. Consequent to that appeal order at Annex-A-1,P-10&11 is also quashed and set aside. The respondents are directed that if at all any recovery has been already made that amount should be refunded back to the applicant.

4. However, the respondents are at liberty to pass appropriate fresh order as per the provisions given in the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 and as per other prevailing rules.

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

Vice-Chairman

dnk.

***O.A. 14/2019 (S.B.)**

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

Dated : 02/12/2019.

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

2. In order dated 27/11/2019 the learned P.O. was directed to place on record G.R. of 2019 on compassionate ground. Today, the learned counsel for the applicant has placed on record the G.R. dated 21st September,2017 regarding compassionate ground. He further submits that he could not get any G.R. of 2019 on this subject. The learned counsel for the applicant was also directed to file applicant's father's appointment and regularisation order letter. He submitted that because of very old documents, the applicant could not file these documents, but his mother is getting pension and therefore it shows that his father was Government employee. The counsel for the applicant is directed to produce documents which show that the applicant's mother is getting pension in which it will show that the applicant's father was in Government service. The learned counsel for the applicant and the Id. P.O. are directed to file earlier G.R. dated 26/10/1994 on

compassionate ground. The learned counsel for the applicant was also pointed out in the G.R. dated 21st September,2017 at Annex-A point 3 vk there is mentioned of Government G.R. dated 10/7/2009 which is at P.B. page no.51 on which the learned counsel for the applicant is relying much. Both the learned counsel for the applicant and the Id. P.O. should study on the part of this G.R. and then plead the case during the next hearing.

S.O. two weeks.

Vice-Chairman

dnk.
