

O.A.542/2022 (S.B.)

Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.

Dated : 11/05/2023.

M.C.A.No.22/2023

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

2. As per the submission of learned P.O.,
more time is required to comply.

3. Looking to the submission
M.C.A.No.22/2023 is allowed. Two months
more time is granted from today.

4. M.C.A. is disposed of.

Vice Chairman

rsm.

O.A. 447/2023 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 11/05/2023.

Heard Smt S.Kulkarni, Id. counsel for the applicant and Shri A.M.Ghogre, Id. P.O. for the State.

2. As per the submission of learned counsel for the applicant, applicant is working as Sub Inspector in State Excise Department. He is working in Gadchiroli since 27.09.2019. Applicant has completed normal tenure for transfer. Therefore, he had given options for transfer dated 05.04.2023. Impugned transfer order is dated 04.05.2023 by which the applicant is transferred from Gadchiroli to Gondiya City.

3. As per the submission of learned counsel for the applicant, the impugned transfer order is against the policy of the Government. Moreover, specific guidelines are given in G.R. dated 06.08.2002. As per the G.R. dated 06.08.2002, the employee who has completed three years in the Naxalite area, then the next posting shall be given as per his choice.

4. The applicant has completed more than three years, but the respondents have not considered the choices posting as per the choice given by the applicant. Hence, impugned transfer order dated 04.05.2023 is stayed in respect of applicant only till filing of reply.

5. Issue notice to the respondents returnable **20/06/2023**. Learned P.O. waives notice for State. 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. 20/06/2023.

Steno copy is granted.

Vice Chairman

rsm.

R.A.No.02/2023 in O.A.527/2019 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 11/05/2023.

Heard Shri S.M.Khan, Id. counsel for the applicant and Shri A.M.Ghogre, Id. P.O. for the State.

2. Issue notice to the respondents 2 to 4 returnable **22/06/2023**. Learned P.O. waives notice for State. Hamdast allowed.

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.

S.O. 22/06/2023.

Vice Chairman

rsm.

O.A.448/2023 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 11/05/2023.

Heard Shri T.Deshpande, Id. counsel for the applicant and Shri A.M.Ghogre, Id. P.O. for the State.

2. Learned counsel for the applicant has pointed out the transfer order dated 04.05.2023. As per his submission, the applicant has not completed the normal tenure. Therefore, the impugned transfer order is illegal and liable to be stayed. He has pointed out G.Rs. dated 11.02.2015 and 24.09.2015. The applicant is transferred from Kali Daulatkhan (Regional) to Social Forestry, Darwha, Dist. Yavatmal in the vacant place. The impugned order shows that transfer is made as per the provisions of Sections 4 (4) and 4(5) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (in short "Transfers Act,2005"). Hence, it appears that the Sections 4(4) and 4(5) of the Transfers Act,2005 is complied. Moreover, the distance between Darwha and Pusad is very short i.e. near about 30-35 Kms.

3. During the course of submission, the learned counsel for the applicant has submitted that the applicant is facing medical problem. More medical facility is available at Yavatmal. The learned counsel for the applicant has submitted that the departmental inquiry is initiated against the applicant. As per the guidelines of the Government once the departmental inquiry is started, that employee can be transferred to other place. Hence, there is no illegality in the impugned transfer order.

4. Hence, issue notice to the respondents returnable **21/06/2023**. Learned P.O. waives notice for State. 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. 21/06/2023.

Vice Chairman

rsm.

O.A. 449/2023 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 11/05/2023.

C.A.No.246/2023

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

2. Both the applicants are transferred from the post of Revenue Circle Inspector to the post of Awwal Karkoon. Their grievances are common. Hence, the C.A. is allowed and disposed off.

O.A.449/2023 –

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

2. As per the submission of learned counsel, both the applicants are working as Revenue Circle Inspector. As per the transfer order dated 04.05.2023, the applicant no.1 Shri R.S. Allewar is transferred from Khamari, Tahsil Office, Bhandara to Lakhni and applicant no.2 Shri A.S. Tagde is transferred from Kanhalgaon, Tahsil Office, Mohadi to Tahsil Office, Tumsar.

3. Learned counsel for the applicant has pointed out the Judgment passed by this Tribunal in O.A.Nos.761 & 762 of 2020.

4. Heard Shri A.M.Ghogre, learned P.O. for the respondents.

5. This Tribunal has recorded its finding that the duties of the Revenue Circle Inspector are different from the post of Awwal Karkoon. The Revenue Circle Inspector has to do field work. He is supervising authority of Talathi. The Revenue Circle Inspector has to verify the mutation entries and certify if found correct, whereas, the work of Awwal Karkoons is very much different, they have to do the clerical work in the office only, whereas, Talathis and Circle Officer have to perform their field duties and their works are related with agricultural land etc. Therefore, this Tribunal come to the conclusion that transfer of Revenue Circle Inspector to the post of Awwal Karkoon is not legal and proper, therefore, the O.A.Nos.761 & 762 of 2020 are

allowed. The applicant no.1 Shri R.S. Allewar is transferred from the post of Circle Inspector, Khamari Tahsil Office, Bhandara to Tahsil Office, Lakhni on the post of Awwal Karkoon and applicant no.2 Shri A.S. Tagde is transferred from the post of Circle Inspector, Kanhalgaon, Tahsil Office, Mohadi to Tahsil Office, Tumsar on the post of Awwal Karkoon

6. Looking to the duties of Revenue Circle Inspector and Awwal Karkoon, both duties are different. Hence, the impugned transfer order is against the decision of this Tribunal in O.A.Nos.761 & 762 of 2020. Therefore, **the impugned transfer order is stayed until further order.**

7. Issue notice to the respondents returnable **22/06/2023**. Learned P.O. waives notice for State. 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.

S.O. 22/06/2023.

Steno copy is granted.

Vice Chairman

rsm.

O.A.451/2023 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 11/05/2023.

Heard Shri D.M.Kakani, Id. counsel for the applicant and Shri A.M.Ghogre, Id. P.O. for the State.

2. As per the submission of learned counsel for the applicant, the applicant was not due for transfer. His name is not shown in the list for proposed transfer. Learned counsel for the applicant has submitted that the applicant is transferred to Umerkhed, District Yavatmal. The said post was not shown as vacant. Therefore, there is no compliance of G.R. dated 09.04.2018. Respondent no.3 has completed normal tenure, but he is posted at the same place i.e. Amravati in place of applicant. Only to accommodate the respondent no.3, the applicant is transferred to Umerkhed, District Yavatmal.

3. From the perusal of list of candidates who were due for transfer (page 69), it appears that name of applicant is not shown. The learned counsel for the applicant has pointed out Appendix-1, Clause 2 of G.R. dated 09.04.2018. The applicant is transferred to Umerkhed that place was not shown vacant in the list. It is mandatory for the respondents to publish the vacant place/post. The respondents have transferred the applicant at Umerkhed which was not shown as vacant. As per the submission of learned counsel for the applicant, only to accommodate respondent no.3, the applicant is transferred. As per the submission of learned counsel for the applicant, the applicant is not relieved. He has received the impugned transfer order on whatsapp from one of the colleague. Hence, the applicant prayed to grant stay.

4. Heard learned P.O., Shri A.M.Ghogre. He has opposed the prayer.

5. Looking to the submission, the name of applicant was not shown due for transfer. The applicant is transferred to Umerkhed. The said place was not shown vacant in the list as

per the Appendix-1, Clause-2 of the G.R. dated 09.04.2018. **Hence, impugned transfer order is stayed till filing of reply, only it relates to the applicant.**

6. Issue notice to the respondents returnable **22/06/2023**. Learned P.O. waives notice for State. Hamdast allowed.

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

8. 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.

9. 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.

10. 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.

11. 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. 22/06/2023.

Steno copy is granted.

Vice Chairman

O.A. 450/2023 (D.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 11/05/2023.

Heard Shri D.M. Kakani, Id. counsel for the applicant and Shri A.M. Khadatkar, Id. P.O. for the State.

2. Issue notice to the respondents returnable **06/06/2023**. Learned P.O. waives notice for State. Hamdast allowed.

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. **S.O. 06/06/2023.**

Vice Chairman

dnk.

O.A.542/202023 (S.B.)

Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.

Dated : 11/05/2023.

M.C.A.No.22/2023

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

2. As per the submission of learned counsel for the applicant, more time is required to comply.

3. Looking to the submission M.C.A.No.22/2023 is allowed. Two months more time is granted from today.

4. M.C.A. is disposed of.

Vice Chairman

rsm.

O.A.380/2022 (D.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 11/05/2023.

C.A. 244/2023 –

Heard Shri S.N. Gaikwad, Id. counsel for the applicants, Shri A.M. Ghogre, Id .P.O. for the respondents and Shri S.P. Palshikar, Id. counsel for intervener.

2. As per submission of learned counsel Shri S.P. Palshikar, intervener Shri Sheshrao R. Chaudhari is aggrieved by the interim order passed by this Tribunal, he is necessary party. He has pointed out the merit list of the candidates in which the name of the intervener is at Sr.No.20. He has passed the departmental examination and now he could not get promotion because of the order passed by this Tribunal.

3. Looking to the submission, the C.A. is allowed. The applicants are directed to make the intervener Shri Sheshrao R. Chaudhari as respondent no.5.

C.A. 245/2023 -

Heard Shri S.N. Gaikwad, Id. counsel for the applicants, Shri A.M. Ghogre, Id .P.O. for the respondents and Shri S.P. Palshikar, Id. counsel for intervener.

2. Shri S.P. Palshikar, Id. counsel for intervener submits that the intervener is entitled for promotion, but he could not get the

promotion, because of the order passed by this Tribunal.

3. Shri S.N. Gaikwad, Id. counsel for the applicants has pointed out the letter dated 21/09/2019. On the basis of this letter, interim order was passed. Clause-3 of this letter is not complied and therefore interim order is passed. As per submission of learned counsel for applicant, merit list i.e. marks shown in respect of written examination, whereas, as per clause-3 of the letter dated 21/9/2019 there are three steps of departmental examination. In 1st stage preliminary examination, in 2nd stage main examination and 3rd oral examination. The Id. counsel for applicants has submitted that nothing is shown in the merit list to show that oral examination was conducted. Whether the marks shown is in respect of three examinations and main examination are also not clear and therefore interim relief cannot be vacated.

4. The O.A. was admitted on 4/1/2023 and it is for final argument. The learned counsel for applicants Shri Gaikwad, Shri S.P. Palshikar, Id. counsel for intervener and learned P.O. Shri Ghogre are requested to argue the matter finally. The C.A. is kept pending till final decision of the O.A.

S.O. 7/6/2023 for final hearing.

Vice Chairman

rsm.

O.A.575/2022 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 11/05/2023.

M.C.A.No.23/2023

Heard Ms. R.P. Jog, Id. counsel for the applicant and Shri A.M. Ghogre, Id. P.O .for R-1 to 6. None for other respondents.

Looking to the submission, the MCA is allowed. Necessary correction be made as prayed for. Registry to correct the same.

Steno copy is granted.

Vice Chairman

rsm.

O.A. No.452/2023 (S.B.)

(Prabhakar P. Wankhede Vs. State of Mah. & ors.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 11/05/2023.

Heard Shri S.S. Dhengale, learned counsel for the applicant and Shri A.M. Ghogre, learned P.O. for the State.

2. The applicant is working as Executive Engineer at Yavatmal. As per the guidelines given in the G.R. dated 05/09/2018, the applicant is given additional charge of the post of Superintending Engineer, Nagpur as per the order dated 09/03/2023.

3. The respondent no.4 is posted at Mumbai on the post of Executive Engineer. By impugned order dated 04/05/2023, the respondent no.4 is given additional charge of the post of Superintending Engineer at Nagpur. As per the submission of learned counsel for the applicant, it is against the Govt. G.R. dated 05/09/2018.

4. Heard learned P.O. Shri A.M. Ghogre, He has submitted that there is nothing wrong in the impugned order, it is not a transfer order. The applicant is given additional charge that is withdrawn. The learned P.O. has pointed out at page no.22-A and submitted that additional charge is already given to respondent no.4.

5. The learned counsel for the applicant submits that till date (today), the applicant is having additional charge. The applicant has not handed over the charge to respondent no.4. From the perusal of order dated 10/05/2023 it appears that the charge is to be given to respondent no.4 on 11/05/2023 i.e. today itself. It is not possible to accept the same because without handing over the charge by applicant, the respondent no.4 cannot take over the charge. The Govt. has taken a specific policy decision to whom the additional charge is to be given. As far as possible, the senior most employee in the office has to be given additional charge. The respondent no.4 is working as Executive Engineer at Mumbai. The applicant is working at Yavatmal i.e. in Nagpur Circle. As per the recommendation of Chief Engineer dated 14/10/2022 the applicant is given additional charge of the post of Superintending Engineer, Nagpur. As per the order dated 09/3/2023 handing over charge of

respondent no.4 of the said post is against the G.R. dated 05/09/2018. In Clause 1 to 3 of the said G.R. clearly shows that additional charge generally is to be given to the senior most employee of that office. If the senior most employee is not available, then the nearest senior most employee has to be given the said charge. The applicant is working in Nagpur Circle at Yavatmal, whereas, the respondent no.4 is working at Mumbai. Handing over the additional charge to respondent no.4 who is working at Mumbai is against the G.R. dated 05/09/2018. Hence, **the impugned order dated 10/5/2023 is stayed till filing of reply.**

6. Issue notice to the respondents returnable **22/06/2023**. Learned P.O. waives notice for State. Hamdast allowed.

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

8. 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.

9. 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.

10. 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.

11. 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. 22/06/2023.

Steno copy is granted.*

Vice Chairman

dnk.

O.A. No.453/2023 (D.B.)

(S.R. Sayyad Vs. State of Mah.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 11/05/2023.

Heard Shri P.J. Mehta, learned counsel for the applicant and Shri A.M. Ghogre, learned P.O. for sole respondent.

2. The learned counsel for the applicant has pointed out clause no.1.2.8 of the advertisement (General guidelines) (P-40). As per clause 1.2.8, the candidate may change the information in the form before last date of submission the form. The applicant has withdrawn the form and tried to re-apply. On 25/04/2023, he could not upload the form, therefore, he contacted the helpline of the MPSC, but he could not succeed to get any help. The applicant approached before the Hon'ble Bombay High Court, Bench at Nagpur by filing W.P. No.2879/2023. The Hon'ble Bombay High Cour as per order dated 04/05/2023 directed the applicant to approach the M.A.T., because, it is in respect of the advertisement issued by MPSC.

3. Heard Id. P.O. Shri A.M. Ghogre. He has strongly objected to grant any relief. The Clause 1.2.8 of general guidelines of the advertisement is as under –

१. अर्ज सादर केल्यांनतर अर्जांमध्ये चुकीचा दावा केला असल्याचे उमेदवाराच्या निदर्शनास आल्यास अथवा कोणताही दावा बदलायचा असल्यास अर्ज सादर करण्याच्या अंतिम दिनांकापूर्वी विहित शुल्काचा भरणा केल्यांनतर अर्ज रदद करून आवश्यक सुधारणांसह नव्याने अर्ज करता येईल.

4. As per the guidelines, the candidate can change the information in the form before last date of filling of form. As per the letter dated 25/04/2023, the applicant tried to re-apply by withdrawing his earlier application, but he could not succeed as the website was not working, therefore, he contacted the MPSC helpline, but he could not get any help.

5. The Id. P.O. has submitted that the mail was sent to the wrong address, therefore, mail was not received by MPSC.

6. As per the clause 1.2.8 of the advertisement, it is clear that the candidate can withdraw his earlier form and re-apply before the last date of submission of the form. It appears that the applicant has withdrawn his earlier form and tried to re-apply before last date of submission of form. The last date was 27/4/ whereas the applicant withdrawn his

earlier form and tried to upload new form on or before 25/4/2023. Therefore, it is clear that as per clause 1.2.8. as per guidelines of advertisement the applicant is entitled to change the information in the form or re-apply the same. It appears that the applicant's form with new information was not accepted, it is against clause 1.2.8 of the advertisement of the. Hence, the following order –

ORDER

(i) The MPSC is directed to accept the form of the applicant. The MPSC is at liberty to process further if it is found correct.

7. In the meantime, issue notice to the respondent returnable **07/06/2023**. Learned P.O. waives notice for sole respondent. 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.

S.O. 07/06/2023.

Steno copy is granted.*

Vice Chairman

dnk.