

**O.A. 221/2019 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

Heard Shri Bharat Kulkarni, Id. counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the respondents.

2. Respondent no.1 has filed reply today. It is taken on record. Respondent no.4 has already filed reply. It is sufficient for other respondents. Hence, the matter is admitted for final hearing.

3. Learned counsel for the applicant has filed copy of judgment in the **State of Punjab & Ors. versus Jagjit Singh & Ors.** It is taken on record.

**S.O. 07.07.2022.**

**Member (J).**

RSM.

**O.A. 218/2021 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

Heard Shri Bharat Kulkarni, Id. counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the respondent nos. 1 & 2. Shri U.A..Patil. learned counsel for the respondent no.3.

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

**Member (J).**

RSM.

O.A. 230/2021 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

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

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

**Member (J).**

RSM.

O.A. 873/2021 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

Heard Shri K.N..Saboo, Id. counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the respondent no.1. Shri S.N.Gaikwad, Id. counsel for the respondent no.2.

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

**Member (J).**

RSM.

**O.A. 892/2021 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

**C.A.No.320/2021**

Heard Shri A.P.Sadavarte, Id. counsel for the applicant and Shri M.I.Khan, Id. P.O. for the respondent no.1 to 3. Shri N.D.Thombre, Id. counsel for the respondent no.4.

2. At the request of learned P.O. **S.O. after four weeks for filing reply.**

**Member (J).**

RSM.

**O.A. 973/2021 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

Heard Shri S.N.Gaikwad, Id. counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the respondents. None for the respondent no.4.

2. Respondent no.2 & 3 have filed reply.
3. The matter is admitted and kept for final hearing. The Id. P.O. waives notice for the respondents.
4. I.R. to continue till them.

**S.O. 24.06.2022.**

**Member (J).**

RSM.

**O.A. 974/2021 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

**C.A.No.369/2021**

Heard Shri A.P.Khadatkar, Id. counsel for the applicant and Shri A.P.Potnis, Id. P.O. for the respondent nos.1 to 4. None for R- 5 & 6.

2. The applicant wanted to add prayer clause 7 & 8 for same relief against the impugned order.

3. C.A. is allowed. Amendment be carried out within 7 days .

**S.O. after one week.**

**Member (J).**

RSM.

**O.A. 1061/2021 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

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

2. Since 26.10.2021 till date no charge sheet is issued by the respondents for initiating departmental enquiry. Learned counsel for the applicant has pointed out the Government resolution dated 09.07.2019. The Government resolution dated 9/7/2019 wherein it is mentioned that the Supreme Court in the case of **Ajay Kumar Choudhari versus Union of India** in para 14 of the judgment has given following guidelines –

*"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”.*

3. In view of the judgment of Hon'ble Supreme Court in the case of **Ajay Kumar Choudhari versus Union of India**, if the departmental enquiry is not initiated by issuing charge sheet within 90 days, then the suspension shall be revoked. The applicant was suspended on 26.10.2021 and till date no any charge sheet is issued by the respondents. Hence, the suspension is liable to be revoked. In that view of the matter, following order is passed -

**ORDER**

- (i) The O.A. is allowed.
- (ii) The impugned suspension order dated 26.10.2021 is hereby revoked.
- (iii) The respondents are directed to reinstate the applicant within a period of two weeks.
- (iv) No order as to costs.

**Member (J).**

RSM.

**O.A. 126/2022 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

Heard Shri N.N.Thengare, Id. counsel for the applicant and Shri A.P.Potnis, Id. P.O. for the respondents.

2. Learned P.O. has filed reply of respondent no.2 to 5.

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

**S.O. 07.07.2022.**

**Member (J).**

RSM.

**O.A. 154/2022 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

Heard Shri S.N.Gaikwad, Id. counsel for the applicant and Shri M.I.Khan, Id. P.O. for the respondents.

2. At the request of Id. P.O., **S.O.**  
**01.07.2022** for filing reply as a last chance.

**Member (J).**

RSM.

**O.A. 635/2022 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

Heard Shri V.R.Deshpande, Id. counsel for the applicant and Shri S.K.Pande, Id. PO for the State.

2. Issue notice to the respondents returnable **after four weeks**. 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. after four weeks.**

**Member (J).**

RSM.

**O.A. 169/2022 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

Heard Shri V.P.Marpakwar, Id. counsel for the applicant and Shri M.I.Khan, Id. P.O. for the respondents.

2. Learned counsel for the applicant has pointed out the order dated 27.04.2022. The respondents were directed to take decision as per the letter dated 31/08/2021 issued by Civil Surgeon, Amravati. The learned P.O. is directed to file reply and take instructions as to whether the decision is taken or not as per the letter dated 31.08.2021.

**S.O. 01.07.2022.**

**Member (J).**

RSM.

**O.A. 236/2022 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

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

2. Learned counsel for the applicant has filed service affidavit for respondent no. 2. The Id. P.O. seeks two weeks time to file reply.

**S.O. 01.07.2022.**

**Member (J).**

RSM.

**O.A. 350/2022 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

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

2. At the request of learned P.O. **S.O.**  
**08.07.2022 for filing reply.**

**Member (J).**

RSM.



**O.A. 379/2022 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

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

2. Learned P.O. has pointed out relief prayed by the applicant. The applicant has prayed for promotion as a Sub-Inspector. The said issue is to be decided by Division Bench. Hence this matter be kept before Division Bench.

**Member (J).**

RSM.

**O.A. 402/2022 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

None present for the applicant and Shri  
H.K.Pande, Id. P.O. for R-1.

2. Hamdast not collected for R-2&3.

**S.O. after three weeks.**

**Member (J).**

RSM.

O.A. 478/2022 479/2022 & 480/2022  
(S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

None for the applicant and Shri  
H.K.Pande, Id. P.O. for the respondents.

2. At the request of learned P.O. **S.O. after  
three weeks for filing reply.**

**Member (J).**

RSM.

**O.A. 481/2022 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

Heard Adv. P.S.Patil holding for Shri V.A.Kothale, Id. counsel for the applicant and Shri H.K.Pande, Id. P.O. for the respondents.

2. At the request of learned P.O. **S.O.**  
**04.07.2022 for filing reply.**

**Member (J).**

RSM.

**O.A. 489/2022 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

None present for the applicant and Shri  
H.K.Pande, Id. P.O. for R-1.

2. Hamdast not collected for R-2 to 4.

**S.O. 08.07.2022.**

**Member (J).**

RSM.

**O.A. 495/2022 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

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

2. At the request of Id. P.O. seeks four weeks time to file reply.

**S.O. after four weeks.**

**Member (J).**

RSM.

**O.A. 566/2022 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

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

2. At the request of Id. P.O. seeks three weeks time to file reply.

**S.O. after three weeks.**

**Member (J).**

RSM.

**O.A. 605/2022 & 606/2022 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

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

2. Learned counsel for the applicant has filed service affidavit for respondent nos. 2 & 4. At the request of Id. P.O. seeks three weeks time to file reply.

3. Interim Order granted on 08.06.2022 is continued till next date.

4. **S.O. after three weeks.**

**Member (J).**

RSM.



**O.A. 10/2021 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

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

2. Learned counsel for the applicant has submitted that during the course of day he will carry out the amendment.

3. **S.O. after two weeks.**

**Member (J).**

RSM.

**O.A. 206/2018 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

None appeared for the applicant and Shri. H.K.Pande, Id. P.O. for the respondent 1 & 3. Shri H.D.Marathe, Id. counsel for the respondent no.2.

2. Reply of respondents already filed on record.

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

**S.O. 25.07.2022 for final hearing.**

**Member (J).**

RSM.

**O.A. 106/2022 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

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

2. At the request of Id. P.O., **four weeks time is granted** for filing reply as a last chance.

**S.O. after four weeks.**

**Member (J).**

RSM.

**O.A. 1027/2021 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

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

2. At the request of Id. P.O., **three weeks time is granted** for filing reply.

**S.O. after four weeks.**

**Member (J).**

RSM.

**O.A. 382/2017 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

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

2. **S.O. on 25.06.2022 for final hearing.**

**Member (J).**

RSM.

**O.A. 210/2020 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

Heard Shri Amey Motlog, Id. counsel for the applicant holding for Shri R.V.Shiralkar and Shri. A.M.Khadatkar, Id. P.O. for the respondent nos.1 & 2. Shri S.A. Puranik Id. counsel for the respondent no.3. None for the Respondent no.4

2. At the request of Id. P.O. **S.O. on 29.06.2022.**

**Member (J).**

RSM.

**O.A. 405/2021 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

Heard Shri A.Y.Humne, in person and  
Shri. A.P.Potnis, Id. P.O. for the respondents.

2. At the request of Id. P.O. **S.O. on  
30.06.2022.**

**Member (J).**

RSM.

**O.A. 947/2020 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

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

The specific direction was given on  
9/6/2022, but it is yet not complied.

The matter be kept **on 4/7/2022** for final  
hearing.

**Member (J).**

RSM.



**O.A. 724/2021 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

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

At the request of Id. counsel for the applicant, **S.O. 4/7/2022.**

**Member (J).**

RSM.

**O.A. 146/2017 (S.B.)**

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

Heard Smt. K. Satpute, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for the respondents.

At the request of Id. P.O., **S.O. 5/7/2022.**

**Member (J).**

RSM.

**O.A. 74/2020 (S.B.)**

( Saurabh R. Andhare Vs. State of Mah. & ors.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

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

2. The applicant is seeking direction to the respondents to include his name in the waiting list for appointment on compassionate ground. The father of the applicant was working with respondent department as Agricultural Assistant met with an accident and died on 17/2/1991. At the time of death of the father of applicant, the applicant was minor. His mother also was illiterate and was not in a position to do any service. As soon as the applicant completed age of majority, he applied for appointment on compassionate ground on 29/4/2008. The said application was not considered by the respondents on the ground that it is made after 17 years from the date of death of deceased employee. Hence, the applicant approached to this Tribunal for specific directions to the respondents.

3. Heard Shri Bharat Kulkarni, learned counsel for the applicant. He has pointed out Government G.Rs. dated 11/9/1996, 5/2/2010

and the recent G.R. dated 21/9/2017. As per the clause 10 of the G.R. dated 21/9/2017, it is specifically mentioned that if the Government employee died during the service, his legal heir shall apply within one year after completion of the age of majority, i.e., 18 years. The date of birth of applicant is 3/10/1990. He has completed age of majority in the year, 2008, therefore, it is clear that the applicant has applied for compassionate appointment within one year from the date of majority. Hence, in view of the G.R. dated 21/9/2017, the applicant is entitled to enter his name in the waiting list for appointment on compassionate ground. In that view of the matter, the following order –

**ORDER**

- (i) The O.A. is allowed.
- (ii) The respondents are directed to enter the name of applicant in the waiting list for appointment on compassionate ground and provide the employment as per the rules.
- (iii) No order as to costs.

**Member (J).**

RSM.

**\*O.A. 887/2021 (S.B.)**

( Bhagawan S. Patekar Vs. State of Mah. & ors.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

Heard Shri P.A. Kadu, Id. counsel along with Mrs. Pritee B. Patekar, Id. counsel for the applicant and Shri S.A. Sainis, Id. P.O. for the respondents.

2. The applicant retired on 30/11/2004. Before his retirement, he was working as a Deputy Superintendent of Police at Amravati. The offence punishable under Section 13 of the Prevention of Corruption Act, 1988 was registered against him. Therefore, provisional pension was started as per the order dated 7/1/2005. As per the order dated 7/10/2015, the provisional pension was continued till the end of judicial inquiry.

3. The learned counsel for the applicant has pointed out the Judgment of Special Court in Special A.C.B. Case No.7/2008 in which the applicant was accused no.1. He was acquitted from all the charges in respect of property. The Special Court has come to the conclusion that prosecution has held to establish that the applicant has accumulated the property more than his source of income.

4. The learned P.O. has submitted that the order is under challenged before the Hon'ble High Court, but nothing is filed on record.

5. The learned counsel for the applicant has pointed out the Judgment of Hon'ble Supreme Court in case of **Dr. Hira Lal Vs. State of Bihar & Ors (2020) 4 SCC,346**. The para-22 reads as under –

*“(22) It is well settled that the right to pension cannot be taken away by a mere executive fiat or administrative instruction. Pension and gratuity are not mere bounties, or given out of generosity by the employer. An employee earns these benefits by virtue of his long, continuous, faithful and unblemished service. The right to receive pension of a public servant has been held to be covered under the “right to property” under Article 31 (1) of the Constitution of by a Constitution Bench of this Court in Deokinandan Prasad v. State of Bihar which ruled that : (Deokinandan Prasad case SCC pp 343-44, paras 30-31 & 33.”*

6. As per the submission of learned counsel for the applicant, the applicant has received the GPF, GIS and leave encashment. He has not received the Gratuity and regular pension.

7. The pendency of appeal before the Hon'ble High Court cannot be a ground to withhold the pension of the applicant. The appeal may take time years together for disposal that does not mean that the applicant is not entitled to get his regular pension. As per the order dated 7/10/2015, the provisional pension was continued till the end of judicial inquiry. This itself shows that after the completion of judicial inquiry, the respondents are bound to pay full pension as well as gratuity. The respondents have already paid other pensionary benefits to the applicant.

8. The learned P.O. has pointed out the Judgment of Hon'ble Allahabad High Court in case of **Shivgopal Vs. State of U.P. & 4 ors.** in Special Appeal No.40/2017, decided on 8/5/2019. **In view of the** Judgment of Hon'ble Supreme Court in case of **Dr. Hira Lal Vs. State of Bihar & Ors (2020) 4 SCC,346** which was decided on 18/2/2020, the Judgment cited by the side of respondents is not applicable. Hence, the following order –

**ORDER**

(i) The O.A. is allowed.

(ii) The impugned order is quashed and set aside.

(ii) The respondents are directed to pay gratuity and full pension as per the rules.

(iii) No order as to costs.

**Member (J).**

**\*O.A. 57/2022 (S.B.)**

( G.G. Ingle Vs. State of Mah. & ors.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

Heard Shri Sunil Pande, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for the respondents.

2. The father of applicant was working as a Labour in the Public Works Department, Division at Saoner. The father of applicant was absconded in the year 1995. Thereafter, he never found. As per the law, if the absconding person not found for a period of 7 years, then it is deemed to be death. On 19/2/2000, the mother of applicant applied for appointment on compassionate ground. Her application was processed and she was given appointment as a Security Guard in the Government Dental College, Nagpur. The appointment order is dated 19/12/2000. She went to Government Dental College, Nagpur, but on 21/12/2000 the Dean of the Government Dental College, Nagpur not allowed her to join the duty. It was informed to the Collector, Nagpur by letter dated 21/12/2000 stating that the post of Security Guard is for male candidate and female candidate cannot be appointed on the said post. Thereafter she was appointed in the office of Deputy Director of Vocational Education, Nagpur, but she was not allowed to join duty. She requested to the Deputy Director of Vocational Education, Nagpur on 18/11/2005 to allow her to join duty, but she was not allowed. In the meantime, the mother of applicant has completed 40 years of age. As per the guidelines in the Govt. G.R., her name was removed from the waiting list. Thereafter, the applicant applied for appointment on compassionate ground after attaining the age of majority, i.e., 18 years. The application of the applicant is not decided on the ground that once the name of his mother was taken in the waiting list, there is no provision to substitute the name.

3. The learned counsel for the applicant has filed on record the copy of Judgment of Hon'ble Bombay High Court, Bench at Aurangabad in case of **Dnyaneshwar Rakishan Musane**, in Writ Petition No.6267/2018, decided on 11/03/2020 in which it is held that the substitution is

permitted. In the present case, the respondents could not provide the service to the mother of applicant. She was not allowed to join the duty in the Government Dental College, Nagpur on the ground that mother of applicant being a female, she cannot be appointed as a Security Guard. The applicant applied after attaining the age of majority. Therefore, the respondents should have considered his application for appointment on compassionate ground as per the Govt. policy, as per the Govt. G.R. dated 21/9/2017. Hence, the following order -

**ORDER**

- (i) The O.A. is party allowed.
- (ii) The respondents are directed to enter the name of applicant in the list of appointment on compassionate ground and provide the employment as per the rules.
- (iii) No order as to costs.

**Member (J).**

RSM.



**\*O.A. 69/2021 (S.B.)**

( P.S. Jambhulkar Vs. State of Mah. & ors.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated : 17/06/2022.**

Heard Shri N.R. Saboo, Id. counsel for the applicant and Shri A.P. Potnis, Id. P.O. for the respondents.

2. As per the submission of learned counsel for the applicant, the applicant was initially appointed as a Mustering Assistant in the year 1990. As per the Govt. G.Rs. dated 1/12/1995 and 21/4/1999 all the Mustering Assistants were absorbed in the regular service. The applicant was absorbed in regular service in the Health Department as per the order dated 13/4/2018. The applicant came to be retired on 30/6/2019. The pay fixation of applicant was made by the Health Department on 31/5/1993. Thereafter, the applicant was paid pension after retirement as per the order dated 29/5/2019. The A.G. Office issued letter dated 2/1/2020 by which the respondents / employer were directed to take necessary steps to stop the pension of the applicant. That order was challenged before this Tribunal in O.A. 209/2020. This Tribunal as per the order dated 11/6/2020 quashed and set aside the said order and directed the respondents to give opportunity of hearing to the applicant and then pass suitable order. Even after passing this order by this Tribunal, the respondents issued order dated 20/1/2021 and relying on the communication issued by the State Govt. dated 11/1/2021 and stopped the pension of the applicant on the ground that he has not completed qualifying service for the pension.

3. Heard learned P.O. Shri Potnis. He has supported the action of the respondents on the ground that the applicant has not completed qualifying service and therefore he is not entitled for regular pension.

4. The issue is now well settled by the decision of Hon'ble Bombay High Court and also decision of this Tribunal in O.A. No.545/2020 along with connected O.As. The issue was raised before the M.A.T., Bench at Aurangabad and the defence was that the Mustering Assistants who had not completed qualifying service, they are not entitled for pension. It was the contention of the Govt. that the qualifying service of the Mustering Assistants should be counted from the date of their regular absorption in the service. Their earlier services cannot be taken into consideration

for the purpose of pension. The order of M.A.T. was challenged before the Hon'ble Bombay High Court, Bench at Aurangabad. In case of **Ramchandra Kondiba Mahajan Vs. State of Maharashtra & Ors.,** The Hon'ble Bombay High Court, Bench at Aurangabad recorded its finding that Mustering Assistants are entitled for pension. Their services are to be counted for the purpose of pension from the date of their initial appointment as a Mustering Assistant. The Judgment of the Hon'ble Bombay High Court, Bench at Aurangabad was challenged before the Hon'ble Supreme Court in SLP No.23504/2016. The said SLP was dismissed on 23/2/2017. Now the Judgment of the Hon'ble Bombay High Court, Bench at Aurangabad in the case of **Ramchandra Kondiba Mahajan Vs. State of Maharashtra & Ors.,** is now final. As per this Judgment, the Mustering Assistants are entitled for pensionary benefits and their services shall be counted from the date of their initial appointment.

5. The applicant was initially appointed as Mustering Assistant in the year 1990. As per the G.Rs. of 1995 and 1999, he was absorbed in the regular service in the Health Department. If there is any deficiency in regular service, then also his earlier service as a Mustering Assistant from the year 1990 shall be taken into consideration in view of the Judgment of the Hon'ble Bombay High Court, Bench at Aurangabad in the case of **Ramchandra Kondiba Mahajan Vs. State of Maharashtra & Ors.** Hence, the act of the respondents stopping the pension of the applicant on the ground that the applicant has not completed qualifying service for pension is arbitrary and against the Judgment of Judgment of the Hon'ble Bombay High Court, Bench at Aurangabad in the case of **Ramchandra Kondiba Mahajan Vs. State of Maharashtra & Ors.,** which was upheld by the Hon'ble Supreme court in the SLP.

6. Even the Rule 30 of the Maharashtra Civil Services (Pension) Rules, 1982 says that for the purpose of pension, the temporary service shall be taken into consideration provided that he / she should be permanent at the time of retirement. The applicant was permanent at the time of retirement and therefore as per the Rule 30 of the MCS (Pension) Rules also his earlier service as a temporary employee shall be taken into consideration. In view of the Judgment of the Hon'ble Bombay High Court, Bench at Aurangabad in the case of **Ramchandra Kondiba Mahajan Vs. State of Maharashtra & Ors.,** and Judgment of this Tribunal in O.A.No. 545/2020 along with connected matters, the present O.A. is liable to be allowed. Hence, the following order -

#### **ORDER**

(i) The O.A. is allowed.

(ii) The impugned communications dated 11/1/2021 issued by respondent no.1 and dated 20/1/2021 issued by respondent no.2 are hereby quashed and set aside.

(iii) The respondents are directed to continue to pay the pension to the applicant.

(iv) No order as to costs.

**Member (J).**

RSM.\*

**O.A.No.400/2020 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman &  
Shri M.A.Lovekar, Member (J)**

**Dated : 17/06/2022.**

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

2. At the request of ld. P.O., **S.O. three weeks  
to file reply.**

**Member(J)**  
**Date:-17/06/2022.**  
aps.

**Vice Chairman**

**O.A.No.436/2020 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman &  
Shri M.A.Lovekar, Member (J)**

**Dated : 17/06/2022.**

Heard Shri A.Deshpande, the Id. Counsel for the applicant and Shri V.A.Kulkarni, the Id. P.O. for the respondents.

2. The Id. counsel for the applicant has filed pursis dated 17.06.2022 and desires to withdraw the O.A.. Hence, **O.A. is disposed of as withdrawn.**

**Member(J)**  
**Date:-17/06/2022.**  
aps.

**Vice Chairman**

**O.A.No.641/2020 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman &  
Shri M.A.Lovekar, Member (J)**

**Dated : 17/06/2022.**

**C.A.No.226/2022:-**

Heard Shri R.M.Fating, the ld. Counsel for the applicant and Shri V.A.Kulkarni, the ld. P.O. for the respondents.

2. Ld. counsel for the applicant has filed C.A. No. 226/2022 for amendment. However, amendment which he is seeking to the order of 15.01.2001; which requires condonation of delay.

3. Ld. P.O. desires to file reply on condonation of delay, **S.O. three weeks.**

**Member(J)**  
**Date:-17/06/2022.**  
aps.

**Vice Chairman**

**O.A.No.1159/2021 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman &  
Shri M.A.Lovekar, Member (J)**

**Dated : 17/06/2022.**

Heard Shri S.N.Gaikwad, the Id. Counsel for the applicant and Shri V.A.Kulkarni, the Id. P.O. for the State. Await service of R-2 & 3.

2. Ld. counsel for the applicant submits that he has filed service affidavit on 01.03.2022. Ld. P.O. granted time to file reply, **S.O. two weeks.**

**Member(J)**  
**Date:-17/06/2022.**  
aps.

**Vice Chairman**

**O.A.No.263/2022 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman &  
Shri M.A.Lovekar, Member (J)**

**Dated : 17/06/2022.**

Heard Shri R.M.Fating, the ld. Counsel for the applicant and Shri V.A.Kulkarni, the ld. P.O. for the respondents.

2. At the request of ld. P.O., **S.O. three weeks to file reply.**

**Member(J)**  
**Date:-17/06/2022.**  
aps.

**Vice Chairman**



**O.A.No.562&563/2022 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman &  
Shri M.A.Lovekar, Member (J)**

**Dated : 17/06/2022.**

Heard Shri G.K.Bhusari, the Id. Counsel for the applicant and Shri V.A.Kulkarni, the Id. P.O. for the respondents. Await service of R-2 to 5.

2. Ld. counsel for the applicant submits that he has filed service affidavit. Ld. counsel for the applicant desires to file certain documents; office is directed to take those documents on record.

3. **S.O. three weeks to file reply.**

**Member(J)**  
**Date:-17/06/2022.**  
aps.

**Vice Chairman**

**O.A.No.565/2022 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman &  
Shri M.A.Lovekar, Member (J)**

**Dated : 17/06/2022.**

Heard Shri S.S.Dhengale, the ld. Counsel for the applicant, Shri V.A.Kulkarni, the ld. P.O. for the respondents and Shri S.Majid is going to file power for R-6.

2. At the request of ld. P.O., **S.O. three weeks to file reply.**

**Member(J)**  
**Date:-17/06/2022.**  
aps.

**Vice Chairman**

**O.A.No.568/2022 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman &  
Shri M.A.Lovekar, Member (J)**

**Dated : 17/06/2022.**

Heard Shri S.S.Dhengale holding for Shri A.B.Moon, the ld. Counsel for the applicant and Shri V.A.Kulkarni, the ld. P.O. for the State. Await service of R-2 to 4.

2. At the request of ld. counsel for the applicant, **S.O. two weeks to file service affidavit.**

**Member(J)**  
**Date:-17/06/2022.**  
aps.

**Vice Chairman**

**O.A.No.570/2022 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman &  
Shri M.A.Lovekar, Member (J)**

**Dated : 17/06/2022.**

Heard Shri D.T.Shinde, the ld. Counsel for the applicant and Shri V.A.Kulkarni, the ld. P.O. for the respondents.

2. At the request of ld. P.O., **S.O. three weeks to file reply.**

**Member(J)**  
**Date:-17/06/2022.**  
aps.

**Vice Chairman**

**O.A.No.454/2020 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman &  
Shri M.A.Lovekar, Member (J)**

**Dated : 17/06/2022.**

Heard Shri V.G.Bhamburkar, the ld. Counsel for the applicant and Shri V.A.Kulkarni, the ld. P.O. for the respondents.

2. At the request of ld. P.O., matter is **admitted** and kept for final hearing.
3. Ld. P.O. waives notice for the respondents.
4. **S.O. next week for final hearing.**

**Member(J)**  
**Date:-17/06/2022.**  
aps.

**Vice Chairman**

**O.A.No.1130/2021 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman &  
Shri M.A.Lovekar, Member (J)**

**Dated : 17/06/2022.**

Heard Shri V.M.Moon, the ld. Counsel for the applicant and Shri A.M.Ghogre, the ld. P.O. for the respondents.

2. As submitted by ld. P.O., reply of R-3 is already been filed. Chargesheet was served to the applicant by Joint Commissioner, City Police, Nagpur and date of serving chargesheet is dated 20.03.2020. Now, more than two years was lapsed, enquiry is still pending. What is the position of chargesheet that is not known to the ld. P.O.; ld. P.O. desires to take instructions from the department and submit it on record.

3. **S.O. 21.06.2022.**

**Member(J)**  
**Date:-17/06/2022.**  
aps.

**Vice Chairman**

**O.A.No.622/2022 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman &  
Shri M.A.Lovekar, Member (J)**

**Dated : 17/06/2022.**

Heard Shri A.C.Dharmadhikari, the Id.  
Counsel for the applicant and Shri H.K.Pande, the Id.  
P.O. for the State.

2. Issue notice to Respondents, returnable on four weeks. Learned P.O. waives notice for R-1. 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. four weeks.**

**Member(J)**  
**Date:-17/06/2022.**  
aps.

**Vice Chairman**



**C.P.No.35/2022 in O.A.No.95/2021 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman &  
Shri M.A.Lovekar, Member (J)**

**Dated : 17/06/2022.**

Heard Shri S.A.Sarda holding for Shri D.P.Dapurkar, the ld. Counsel for the applicant and Shri A.M.Khadatkar, the ld. P.O. for the Respondents.

2. Ld. P.O. has filed correspondence dated 13.05.2022 by Desk Officer, Government of Maharashtra. It is taken on record. Copy is served to the other side.

3. At the request of ld. counsel for the applicant, **S.O. 20.06.2022.**

**Member(J)**  
**Date:-17/06/2022.**  
aps.

**Vice Chairman**

**O.A.No.319/2015withC.A.No.323/2015 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman &  
Shri M.A.Lovekar, Member (J)**

**Dated : 17/06/2022.**

None for the applicant. Shri A.P.Potnis, the ld. P.O. for the respondents and Shri A.A.Potnis holding for Shri M.M.Sudame, ld. counsel for the respondent no. 3.

2. At the request of ld. counsel for the R-3, **S.O. two weeks.**

**Member(J)**  
**Date:-17/06/2022.**  
aps.

**Vice Chairman**

**O.A.No.810/2015 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman &  
Shri M.A.Lovekar, Member (J)**

**Dated : 17/06/2022.**

Heard Shri A.C.Dharmadhikari, the ld.  
Counsel for the applicant and Shri M.I.Khan, the ld.  
P.O. for the respondents.

2. At the request of ld. counsel for the  
applicant, **S.O. 1<sup>st</sup> week of July, 2022.**

**Member(J)**  
**Date:-17/06/2022.**  
aps.

**Vice Chairman**

**O.A.No.38/2021 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman &  
Shri M.A.Lovekar, Member (J)**

**Dated : 17/06/2022.**

Heard Shri A.C.Dharmadhikari, the ld.  
Counsel for the applicant and Shri M.I.Khan, the ld.  
P.O. for the respondents.

2. At the request of ld. counsel for the  
applicant, **S.O. next week.**

**Member(J)**  
**Date:-17/06/2022.**  
aps.

**Vice Chairman**

**O.A.No.578/2021 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman &  
Shri M.A.Lovekar, Member (J)**

**Dated : 17/06/2022.**

Heard Shri P.S.Sahare, the ld. Counsel for the applicant and Shri A.P.Potnis, the ld. P.O. for the respondents.

2. At the request of ld. counsel for the applicant, **S.O. 28.06.2022.**

**Member(J)**  
**Date:-17/06/2022.**  
aps.

**Vice Chairman**

**O.A.No.32/2016 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman &  
Shri M.A.Lovekar, Member (J)**

**Dated : 17/06/2022.**

Heard Shri V.V.Mahile, the Id. Counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the respondents.

2. **S.O. 28.06.2022.**

**Member(J)**  
**Date:-17/06/2022.**  
aps.

**Vice Chairman**

**O.A.No.30/2019withC.A.No.211/2022 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman &  
Shri M.A.Lovekar, Member (J)**

**Dated : 17/06/2022.**

Heard Shri P.B.Patil, the ld. Counsel for the applicant and Shri M.I.Khan, the ld. P.O. for the respondents.

2. **Closed for orders.**

**Member(J)**  
**Date:-17/06/2022.**  
aps.

**Vice Chairman**

**O.A.No.805/2019 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman &  
Shri M.A.Lovekar, Member (J)**

**Dated : 17/06/2022.**

Heard Shri S.R.Charpe, the Id. Counsel for the applicant and Shri A.M.Khadatkar, the Id. P.O. for the respondents.

2. Ld. counsel for the applicant relied on O.A. No. 1066/2015 of M.A.T., Mumbai Bench. However, in the Judgment in para no. 38 option was given to the applicant 'B' and 'C' but when this order was passed; the G.R. was existing that if any employee became unable to discharge the duty he can take V.R.S. and in his place his nominee can be taken on job but as on today such kind of G.R. is not existing.

3. Ld. Counsel for the applicant is further relied on O.A. No. 45/2017 of MAT, Nagpur Bench Judgment.

4. At the request of Id. counsel for the applicant, **S.O. 24.06.2022 to take instructions.**

5. **Matter be treated as P.H..**

**Member(J)**  
**Date:-17/06/2022.**  
aps.

**Vice Chairman**



**O.A.No.930/2021 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman &  
Shri M.A.Lovekar, Member (J)**

**Dated : 17/06/2022.**

Heard Shri S.N.Gaikwad, the Id. Counsel for the applicant and Shri A.M.Khadatkar, the Id. P.O. for the respondents.

2. **Closed for orders.**

**Member(J)**  
**Date:-17/06/2022.**  
aps.

**Vice Chairman**

**O.A.No.642/2022 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman &  
Shri M.A.Lovekar, Member (J)**

**Dated : 17/06/2022.**

Heard Shri J.R.Kidilay, the Id. Counsel for the applicant and Shri A.M.Khadatkar, the Id. P.O. for the State.

2. Ld. counsel for the applicant submits that petitioner is working as Assistant Professor of Gyneacology on temporary basis since 11.09.2019. The order dated 11.05.2022 shows that the appointment was from 05.05.2022, till the date of advertisement for the appointment of Assistant Professor.

3. It is pointed out that on 04.05.2022, the advertisement was issued for appointments of Assistant Professor. However, the appointments to be made as per the advertisement dated 04.05.2022, are on ad-hoc basis and not on permanent basis. It is well settled law that ad-hoc employee shall not be replaced by ad-hoc employee.

4. It is therefore, directed that the petitioner shall not be replaced by another ad-hoc employees, till the returnable date.

5. It is made clear that this Court has not granted any stay to the process of recruitment as per advertisement dated 04.05.2022.

6. Issue notice to Respondents, returnable on four weeks. Learned P.O. waives notice for R-1. 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.

12. **S.O. four weeks.**

**Member(J)**  
**Date:-17/06/2022.**  
aps.

**Vice Chairman**

