

O.A. No.713/2019 (S.B.)

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

Dated : 01/08/2023.

Shri N.D.Thombre, 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. two weeks.**

Vice Chairman

dnk.

C.A. No.525/2023 in O.A. No.1180/2022 (S.B.)

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

Dated : 01/08/2023.

Shri P.S. Kshirsagar, Id. counsel for the applicants and Shri M.I. Khan, Id. P.O. for the respondents.

2. The applicant has not complied the order of this Tribunal dated 15/02/2023.

3. The learned counsel for applicant submits that he will comply the order of this Tribunal dated 15/02/2023 before the next date.

S.O. after two weeks.

Vice Chairman

dnk.

O.A. No.1198/2022 (S.B.)

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

Dated : 01/08/2023.

R.R. Evnate, Id. counsel for the applicants and Shri M.I. Khan, Id. P.O. for R-1 to 4. None for R-5.

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

Vice Chairman

dnk.

O.A. No.108/2023 (S.B.)

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

Dated : 01/08/2023.

Shri Gaikwad, Id. counsel for the applicants and Shri M.I. Khan, Id. P.O. for R-1 to 4. None for R-5.

2 The learned P.O. seeks time to file reply. Time is granted as a last. No further time will be granted. On the next date, the matter will be admitted and will be kept for final hearing.

S.O. three weeks.

Vice Chairman

dnk.

O.A. No.120/2023 (S.B.)

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

Dated : 01/08/2023.

Shri B.M. Lonare, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for the respondents.

2 The learned P.O. seeks time to file reply. Time is granted as a last. On the next date, the matter will be admitted and will be kept for final hearing.

S.O. two weeks.

Vice Chairman

dnk.

O.A. No.524/2023 (S.B.)

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

Dated : 01/08/2023.

Smt. K.N. Saboo, 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. three weeks** for filing reply.

Interim relief to continue till next date.

Vice Chairman

dnk.

O.A. No.608/2023 (S.B.)

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

Dated : 01/08/2023.

Shri P.S. Kshirsagar, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for R-1. Await service of R-2&3.

2. The learned counsel for applicant submits that the respondents are served and he will file service affidavit.

S.O. three weeks.

Interim relief to continue till next date.

Vice Chairman

dnk.

O.A. No.666/2023 (S.B.)

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

Dated : 01/08/2023.

Shri G.K. Bhusari, 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. three weeks** for filing reply.

Vice Chairman

dnk.

O.A. No.748/2023 (S.B.)

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

Dated : 01/08/2023.

None for applicant. Shri M.I. Khan, Id.
P.O. for R-1. Await service of R-2 to 4.

**S.O. after four weeks for filing service
affidavit.**

Vice Chairman

dnk.

(S.B.)

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

Dated : 01/08/2023.

**Rev.A.26/19 in O.A. 1004/18, Rev.A.27/19 in
O.A. 1005/18 and Rev.A.28/19 in O.A. 1006/18**

Shri N. Majethia, Id. counsel for the applicants and Shri A.M. Ghogre, Id. P.O. for the respondents.

At the request of Id. P.O., **S.O.
22/08/2023.**

Vice Chairman

dnk.

Rev. A. 16/23 in O.A. No.465/23 (S.B.)

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

Dated : 01/08/2023.

Heard Shri M.I. Khan, Id. Counsel for applicants (Org. Respondents) and none for respondent (Org. Applicant.).

2. Issue notice to the respondent (Org. Applicant) returnable **after three weeks.**
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. Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

S.O. after three weeks.

Vice Chairman

dnk.

O.A. Nos.637 & 638 of 2016 (S.B.)

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

Dated : 01/08/2023.

Shri A. Thool, Id. Counsel holding for
Shri G.N. Khanzode, Id. counsel for the
applicants and Shri M.I. Khan, Id. P.O. for the
respondents.

At the request of Id. Counsel for the
applicants, **S.O. two weeks.**

Vice Chairman

dnk.

O.A. No.792/2016 (S.B.)

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

Dated : 01/08/2023.

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

2. The learned P.O. has pointed out the letter issued by the Desk Officer, Government of Maharashtra dated 16/1/2019. As per this communication / letter, the deemed date from 1/12/2000 is granted to the applicant.

3. Today none appeared for the applicant.

S.O. 17/8/2023.

Vice Chairman

dnk.

O.A. No.676/2017 (S.B.)

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

Dated : 01/08/2023.

Shri N.L. Jaiswal, Id. counsel for the
applicant and Shri H.K. Pande, Id. P.O. for R-1.
None for other respondents.

S.O. 11/08/2023.

Vice Chairman

dnk.

O.A. No.570/2019 (S.B.)

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

Dated : 01/08/2023.

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

2. This O.A. is of the year 2019 by challenging the impugned transfer order. Now another O.A. is filed by the applicant challenging the dismissal order. Nothing survives in this O.A. Hence, the present O.A. is disposed of. No order as to costs.

3. Record of this matter be tagged along with O.A. 1019/2022 (DB) for reference.

Vice Chairman

dnk.

O.A. No.1019/2022 (D.B.)

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

Dated : 01/08/2023.

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

S.O. three weeks for filing reply.

Vice Chairman

dnk.

O.A. No.481/2021 (S.B.)

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

Dated : 01/08/2023.

Shri R.V. Shiralkar, Id. counsel for the applicant and Shri A.M. Ghotgre, Id. P.O. for the respondents.

2. As per the submission of learned P.O., he wants time to verify as to whether consequential amendment is required. At his request, **S.O. 28/8/2023.**

Vice Chairman

dnk.

O.A. No.97/2022 (S.B.)

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

Dated : 01/08/2023.

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

At the request of Id. Counsel for applicant, **S.O. two weeks.**

Vice Chairman

dnk.

O.A. No.157/2022 (S.B.)

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

Dated : 01/08/2023.

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

S.O. 11/8/2023 (High on board.)

Vice Chairman

dnk.

O.A. No.415/2023 (D.B.)

(Dr. R.A.A. Ahmed Vs. State of Mah. & ors.)

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

Dated : 01/08/2023.

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

2. The learned counsel for applicant has filed copy of case details in respect of pending Writ Petition No.7760/2022. In the said Writ Petition order was passed by the Hon'ble Bombay High Court, Bench at Aurangabad on 26/10/2021 in which Clause nos.4.1,4.3,4.4,4.5 and 4.7 of G.R. dated 7/8/2012 is stayed. The respondent has issued similar G.R. and therefore the applicant is claiming for direction to grant of stay.

3. The applicant is working as a Dental Surgeon at GMC, Akola. The Govt. has issued G.R. dated 24/6/2014. As per this G.R., non practising allowance is granted to the applicant, but he is prevented from doing private practice.

4. The Hon'ble Bombay High Court, Bench at Aurangabad in W.P.No.2833/2022, decided on 25/4/2022 has held in para-6 as under –

“ (6) During the pendency of this petition, clause no.2 of the G.R. dated 18th August,2010 shall

not be operative against the petition. However, petitioner cannot do private practice during the working hours. This petition to be heard along with W.P.No.11884/2021.”

5. The applicant is on the same footing and therefore he is entitled for the same relief which was granted by the Hon'ble Bombay High Court. Hence, the following order –

ORDER

(i) Interim stay is granted to the Govt. G.R. dated 24/6/2014 not allowing the applicant to do private practice. However, applicant cannot do private practice during the working hours.

(ii) **S.O. after three weeks.**

(iii) Steno copy is granted..

Vice Chairman

dnk.

O.A. No.728/2023 (D.B.)

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

Dated : 01/08/2023.

Shri G.G. Bade, Id. counsel for the applicant and Shri A.M. Ghogre, Id. P.O. for R-1 to 3. None for other respondents.

2. The Id. P.O. is directed to get instructions in respect of stay granted by the Additional Sessions Judge, Akola in Revision No.80/2022.

S.O. 10/08/2023.

Vice Chairman

dnk.

O.A. No.807/2023 (D.B.)

(Dr. Swati M. Bhise Vs. State of Mah. & Ors.)

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

Dated : 01/08/2023.

Heard Shri N.D. Thombre, Id. Counsel for applicant and Shri S.A. Deo, Id. CPO for the respondents.

2. The learned CPO has filed copy of joining letter dated 31/7/2023. It is taken on record and marked Exh-X for identification. As per this letter, the applicant has joined at Govt. Medical College, Dhule. N.O.C. was not granted to the applicant on the ground that the applicant has not joined at the transferred / promotional post. Now the applicant has already joined at Govt. Medical College, Dhule. The applicant has made representation to the respondent. It is taken on record and marked Exh-X1 for identification.

3. The learned CPO has filed letter dated 20/7/2023. It is taken on record and marked Exh-X2 for identification. As per this communication, the applicant has not joined at Govt. Medical College, Dhule, therefore, N.O.C. was not granted.

4. The learned CPO submits that he will get instructions in respect of N.O.C. At his request, **S.O. 3/8/2023.**

Steno copy is granted...

Vice Chairman

dnk.

C.P. 04/2023 in O.A. No.955/2021 (D.B.)

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

Dated : 01/08/2023.

Smt. K.N. Saboo, Id. Counsel for applicant and Shri A.M. Khadatkar, Id. P.O. for respondents.

2. The Id. P.O. has filed reply of R-1&2. It is taken on record and copy is given to the applicant.

S.O. after three weeks for hearing.

Vice Chairman

dnk.

C.P. 24/2023 in O.A. No.860/2019 (D.B.)

(P.R. Thaware Vs. State of Mah. & Ors.)

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

Dated : 01/08/2023.

Heard Shri S.A. Kalbande, Id. Counsel for applicant and Shri M.I. Khan, Id. P.O. for respondents.

2. The Id. P.O. submits that the Writ Petition is pending against the order.

3. The learned counsel for applicant submitted that there is nothing on record to show that the Writ Petition is pending and any stay is granted by the Hon'ble High Court.

4. The respondents are directed to produce stay order passed by the Hon'ble High Court on the next date or comply the order of this Tribunal.

S.O. four weeks.

Steno copy is granted...

Vice Chairman

dnk.

C.P. 82/2022 in O.A. No.683/2022 (D.B.)

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

Dated : 01/08/2023.

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

2. As per submission of learned P.O. the process is going on. As per his submission the applicant is communicated by the respondents to give revenue division for granting further promotion.

S.O. 17/8/2023.

Vice Chairman

dnk.

O.A. No.861/2023 (D.B.)

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

Dated : 01/08/2023.

Heard Shri A.P. Tathod, Id. Counsel for the applicant and Shri S.A. Deo, Id. CPO for the State.

2. As per the submission of learned counsel for the applicant, the respondent no.5 is appointed, but not joined. The applicant is eligible for the post of Microbiologist.

3. Issue notice to the respondents returnable **18/08/2023**. Learned C.P.O. waives notice for State. Hamdast allowed.

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

5. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

6. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules,1988, and the

questions such as limitation and alternate remedy are kept open.

7. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

8. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

S.O. 18/08/2023.

Vice Chairman

dnk.

O.A. No.875/2023 (D.B.)

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

Dated : 01/08/2023.

C.A. 383/2023 -

Heard Shri S.B. Gandhe, Id. Counsel for the applicants and Shri S.A. Deo, Id. CPO for the State.

2. The applicants are claiming the same relief. Looking to the ground, the C.A. for filing Jt. O.A. is allowed and disposed of.

O.A. No.875/2023 –

Heard Shri S.B. Gandhe, Id. Counsel for the applicants and Shri S.A. Deo, Id. CPO for the State.

2. As per the submission of learned counsel for applicants, the respondent nos. 3 to 10 belongs to Zade Kunbi Caste. The word 'Kunbi' is deleted and shown only 'Zade'. They are claiming the caste under N.T. (C) category. All respondent nos. 3 to 10 have applied for the post of Armed Police Constable and they are in the select list and they are likely to be appointed. The applicants are in the waiting list and their rights will be affected.

3. Heard Shri S.A. Deo, Id. CPO for the State / respondent. As per his submission, it is for the respondent nos.1&2 to verify the documents before issuing the appointment orders. Without verifying the documents, appointment orders cannot be issued.

4. Hence, issue notice to the respondents returnable **18/08/2023**. Learned C.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. 18/08/2023.

Vice Chairman

dnk.

(S.B.)

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

Dated : 01/08/2023.

C.A. No. 365/2023 in O.A. 762/2023

C.A. No. 366/2023 in O.A. 763/2023

C.A. No. 367/2023 in O.A. 764/2023

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

2. The learned P.O. has filed communication dated 31/07/2023 issued by the Tahsildar, Daryapur. It is taken on record and marked Exh-X for identification. The learned P.O. submits that the process of appointment of Kotwal of villages Saza Sukali, Lasur and Mahuli Dhande are deleted as per fresh proclamation.

3. All the applicants were appointed on the posts of Kotwal of villages Saza Sukali, Lasur and Mahuli Dhande respectively. Their services were terminated by the respondents as per order dated 10/07/2023 on the ground that the rosters were not verified and their appointments were not as per the rules.

4. All the applicants (Kotwal) challenged the termination before this Tribunal on the ground that they are not given any opportunity of hearing. The roster was already verified by the Assistant Commissioner, Amravati and it was certified. It is specifically mentioned in the appointment order dated 09/07/2019. Therefore, termination orders dated 10/07/2023 are liable to be quashed and set aside.

5. In all the O.As., reply is not filed. The communication submitted by the Tahsildar, Daryapur is sufficient to decide the matters. As per this communication, the recruitment process of Kotwal of villages Saza Sukali, Lasur and Mahuli Dhande are now deleted in the new process of selection. These three O.As. are in respect of posting of Kotwal of villages of Saza Sukali, Lasur and Mahuli Dhande.

6. The learned counsel for the applicants has submitted that no any opportunity of hearing was given to the applicants before passing termination order. It is against the

principle of natural justice. In support of submission pointed out the Judgment of Hon'ble Supreme Court in the case of **D.K. Yavav Vs.J.M.A. Industries Ltd. (1993) 3 SCC,259**. At last, submitted that all these matters be remanded back for fresh decision by the respondents after giving opportunity of hearing to the applicants.

7. The Hon'ble Supreme Court in para-14 has observed as under –

“14. It is thus well-settled law that right to life enshrined under Article 21 of the Constitution would include right to livelihood. The order of termination of the service of an employee/workman visits with civil consequences of jeopardising not only his/her livelihood but also career and livelihood of dependents. Therefore, before taking any action putting an end to the tenure of an employee/workman fair play requires that a reasonable opportunity to put forth his case is given and domestic inquiry conducted complying with the principles of natural justice. In D.T.C. v. D.T.C. Mazdoor Congress¹⁶ the Constitution Bench, per majority, held that termination of the service of a workman giving one month's notice or pay in lieu thereof without inquiry offended Article 14. The order terminating the service of the employees was set aside.”

8. It appears that before impugned termination orders no any opportunity of hearing was given to the applicants. Now the process of appointment of Kotwal of villages Saza Sukali, Lasur and Mahuli Dhande are deleted in the new process. The applicants were appointed on the post of of Kotwal of villages Saza Sukali, Lasur and Mahuli Dhande respectively. They are entitled for hearing before passing termination orders.

9. In view of above decision of Hon'ble Supreme Court in the case of **D.K. Yavav Vs.J.M.A. Industries Ltd.**, opportunity of hearing should have been given to the applicants. Hence, the following order –

ORDER

(i) The O.As are partly allowed.

(ii) The C.As. are disposed of.

(iii) The impugned orders of termination in respect of applicants dated 10/07/2023 are hereby quashed and set aside.

(iv) The matters are remanded back to respondent no.3. The respondent no.3 is directed to give opportunity of hearing to all the applicants and decide the matter afresh (in respect of termination).

(v) No order as to costs.

Vice Chairman

*dnk.

O.A.No.529/2022 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

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

2. On oral request of Id. P.O., **S.O. three weeks for filing reply.**

Member (J).

rsm.

O.A.No.10/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

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

2. On oral request of Id. P.O., **S.O. three weeks for filing reply.**

Member (J).

rsm.

O.A.No.281/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

Heard Shri P.S.Kshirsagar, Id. counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the respondents. Await service to respondents 2 and 3.

2. Learned counsel for the applicant states that he will serve the respondents within one week.

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

Member (J).

rsm.

O.A.No.298/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

Mrs.K.N.Saboo, Id. counsel for the applicant
and Shri A.M.Khadatkar, Id. P.O. for the respondents.

2. On oral request of Id. P.O., **S.O. four weeks for
filing reply.**

Member (J).

rsm.

O.A.No.315/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

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

2. On oral request of Id. P.O., **S.O. 18.08.2023 for filing reply.**

Member (J).

rsm.

O.A.No.316/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

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

2. On oral request of Id. P.O., **S.O. 18.08.2023 for filing reply.**

Member (J).

rsm.

O.A.No.318/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

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

2. On oral request of Id. P.O., **S.O. 18.08.2023 for filing reply.**

Member (J).

rsm.

O.A.No.354/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

Heard Shri S.C.Deshmukh, Id. counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the respondents.

2. On oral request of Id. P.O., **S.O. three weeks for filing reply.**

Member (J).

rsm.

O.A.No.414/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

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

2. On oral request of Id. P.O., **S.O. 24.08.2023 for filing reply as last chance.**

Member (J).

rsm.

O.A.No.416/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

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

2. On oral request of Id. P.O., **S.O. two weeks for filing reply.**

Member (J).

rsm.

O.A.No.430/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

Heard Shri S.S.Godbole, Id. counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the respondents 1 to 5. None for the respondent no.6.

2. On oral request of Id. P.O., **S.O. three weeks for filing reply as last chance.**

Member (J).

rsm.

O.A.No.519/2023 (S.B.)

Coram: Hon'ble Shri M.A.Lovekar,
Member (J)

Dated : 01/08/2023.

Heard Shri R.V.Shiralkar, Id. counsel for the applicant, Shri A.M.Khadatkar Id. P.O. for the respondents 1 & 2 and Shri R.M.Fating, Id. counsel for the respondent no.3.

2. Learned counsel states that respondent no.4 is served and he will file service affidavit.

3. Learned counsel for the respondent no.3 seeks time to file reply.

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

Member (J).

rsm.

O.A.No.546/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

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

2. **S.O. four weeks.**

Member (J).

rsm.

O.A.No.620/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

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

2. Reply of respondents 1 to 3 filed by learned P.O. is taken on record. Copy is served to the other side. The O.A. is **admitted**. It shall be heard today finally.

3. Learned counsel has advanced his submission. During the submission it was stated that if the applicant can be accommodated at Government Ashram School, Bhadbhidi, District Gadchiroli her grievance would be redressed.

4. Learned P.O. shall take instructions whether the applicant can be so accommodated.

5. **S.O. 04.08.2023 for making this statement.**

6. **P.H.**

7. **Steno copy is granted.**

Member (J).

rsm.

O.A.No.675/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

Heard Shri A.P.Khadatkar, Id. counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the respondents. Await service of respondents 2 and 3.

2. **S.O. two weeks for steps.**

Member (J).

rsm.

O.A.No.679/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

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

2. On oral request of Id. P.O., **S.O. 18.08.2023 for filing reply.**

Member (J).

rsm.

O.A.No.704/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

None for the applicant. Shri A.M.Khadatkar, Id.
P.O. for the respondents. Await service of respondents
2 to 4.

2. **S.O. four weeks for steps.**

Member (J).

rsm.

O.A.No.761/2023 (S.B.)

Coram: Hon'ble Shri M.A.Lovekar,
Member (J)

Dated : 01/08/2023.

C.A.No.326/2023

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

2. C.A.No.326/2023 is allowed.

O.A.No.761/2023

3. Issue notice to the respondents, returnable **after four weeks**. Learned P.O. waives notice for State. Hamdast allowed.

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

5. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

6. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules,1988, and the questions such as limitation and alternate remedy are kept open.

7. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained

and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

8. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

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

Member (J).

rsm.

O.A.No.726/2023 (S.B.)

Coram: Hon'ble Shri M.A.Lovekar,
Member (J)

Dated : 01/08/2023.

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

2. Issue notice to the respondents, returnable **after three 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.

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

Member (J).

rsm.

O.A.No.828/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

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

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.

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

Member (J).

rsm.

O.A.No.834/2023 (S.B.)

Coram: Hon'ble Shri M.A.Lovekar,
Member (J)

Dated : 01/08/2023.

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

2. Issue notice to the respondents, returnable **on 18.08.2023.** 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. 18.08.2023.**

Member (J).

rsm.

O.A.No.845/2023 (S.B.)

Coram: Hon'ble Shri M.A.Lovekar,
Member (J)

Dated : 01/08/2023.

Heard Shri A.W.Paunikar, Id. counsel for the applicant and Shri A.P.Potnis, Id. P.O. for the respondents.

2. Issue notice to the respondents, returnable **on 21.08.2023.** 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. 21.08.2023.**

Member (J).

rsm.

O.A.No.852/2023 (S.B.)

Coram: Hon'ble Shri M.A.Lovekar,
Member (J)

Dated : 01/08/2023.

Heard Shri P.J.Mehta, Id. counsel for the applicant and Shri A.P.Potnis, Id. P.O. for the respondents.

2. Issue notice to the respondents, returnable **after three 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.

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

Member (J).

rsm.

O.A.No.866/2023 (S.B.)

Coram: Hon'ble Shri M.A.Lovekar,
Member (J)

Dated : 01/08/2023.

Heard Shri S.Marathe, Id. counsel for the applicant and Shri S.A.Deo, Id. P.O. for the respondents.

2. Issue notice to the respondents, returnable **on 18.08.2023.** 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. 18.08.2023.**

9. Issue of interim relief is kept open.

Member (J).

rsm.

O.A.No.867/2023 (S.B.)

Coram: Hon'ble Shri M.A.Lovekar,
Member (J)

Dated : 01/08/2023.

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

2. Issue notice to the respondents, returnable **on 07.08.2023.** 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. 07.08.2023.**

9. Issue of interim relief is kept open.

Member (J).

rsm.

O.A.No.633/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

Heard Shri G.G.Bade, Id. counsel for the applicant, Shri A.P.Potnis, Id. P.O. for the respondents 1 to 3 and Shri R.V.Shiralkar, Id. counsel for the respondent no.4. None for the respondent no.5.

2. On oral request of Id. P.O., **S.O. 07.08.2023.**
3. Interim relief to continue till next date.

Member (J).

rsm.

O.A.No.621/2017 (S.B.)

Coram: Hon'ble Shri M.A.Lovekar,
Member (J)

Dated : 01/08/2023.

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

2. Learned P.O. seeks time to place on record some additional documents. He states that one set of these documents (copies) shall be supplied to the learned counsel for the applicant.

3. **S.O. 07.08.2023.**

4. **P.H.**

Member (J).

rsm.

O.A.No.344/2020 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

Heard Shri G.K.Bhusari, Id. counsel for the applicant, Shri A.M.Khadatkar, Id. P.O. for the respondents 1 to 3 & 5 and Shri H.D.Marathe, Id. counsel for the respondent no.4.

2. Learned counsel for the respondent no.4 seeks time.

3. **S.O. three weeks.**

Member (J).

rsm.

O.A.No.433/2020 with
O.A.No.434/2020 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

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

2. **S.O. one week.**

Member (J).

rsm.

O.A.No.631/2021 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

Heard Shri K.S.Motwani, Id. counsel for the applicant and Shri A.P.Potnis, Id. P.O. for the respondents.

2. Learned counsel for the applicant states that he desires to place on record some additional documents. At his request, **S.O. 08.08.2023.**

Member (J).

rsm.

O.A.No.848/2021 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

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

2. Matter is heard. Learned P.O. has filed his written submission. Learned counsel for the applicant also desires to file written submission.

3. **S.O.07.08.2023.**

4. **P.H.**

Member (J).

rsm.

O.A.No.1138/2021 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

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

2. **Closed for Orders.**

Member (J).

rsm.

O.A.No.1152/2021 with
O.A.No.1153/2021 with
O.A.No.86/2022 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

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

2. **Closed for Orders.**

Member (J).

rsm.

O.A.No.148/2022 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

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

2. **S.O. 09.08.2023.**

Member (J).

rsm.

O.A.No.784/2022 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

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

2. Learned P.O. has placed on record communication dated 31.07.2023 (marked-X) which shows that proposal in respect of the applicant is forwarded to the authority for consideration and orders will be passed on receipt of remarks of Finance Department.

3. **S.O. four weeks.**

Member (J).

rsm.

O.A.No.1129/2022 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

Heard Adv. G.R.Diwe, Id. counsel for the applicant and Shri A.P.Potnis, Id. P.O. for the respondents.

2. **S.O. two weeks.**

Member (J).

rsm.

O.A.No.553/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

Heard Shri H.D.Marathe, Id. counsel for the applicant, Shri A.P.Potnis, Id. P.O. for the respondents 1 & 2 and Shri S.N.Gaikwad, Id. counsel for the respondent no.3.

2. **S.O. 04.08.2023.**

Member (J).

rsm.

O.A.No.09/2023 (S.B.)

**Coram: Hon'ble Shri M.A.Lovekar,
Member (J)**

Dated : 01/08/2023.

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

2. On oral request of Id. counsel for the applicant,
S.O.03.08.2023 high on board.

Member (J).

rsm.

ORIGINAL APPLICATION No. 255/ 2023 (S.B.)
Vilas S/o Ramraoji Babrekar Vs. State of Mah. & 3 Ors.

Coram :- Hon'ble Shri M.A.Lovekar, Member (J).

Order :- 01.08.2023.

Heard Shri P.S.Patil, Id. counsel for the applicant, Shri V.A.Kulkarni, Id. P.O. for the respondents 1 & 2, Shri S.K.Bhattacharya holding for Shri N.S.Warulkar, Id. Counsel for the respondent no. 3 and Shri A.P.Sadavarte, Id. Counsel for the respondent no. 4.

2. Case of the applicant is as follows. By order dated 17.08.2020 (A-III) the applicant was transferred from Sub Divisional Water Conservation Office, Zilla Parishad (Minor Irrigation), Sub Division, Warud to Sub Division, Morshi on request. As per the provisions of The Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter "the Act" for short) tenure of the posting was three years. By order dated 01.02.2023 (A-IV) respondent no. 3, by cancelling his deputation as Sub Divisional Water Conservation Officer, Arvi, District Wardha was repatriated to Water Resource Department by invoking para 8 (IV) of G.R. dated 31.05.2017 (A-I). Respondent no. 3 was holding this post on deputation since

16.08.2016. By order dated 01.02.2023 (A-V) respondent no. 4 was transferred on the post which was held till then by respondent no. 3. Pursuant to these orders dated 01.02.2023 neither respondent no. 3 nor respondent no. 4 made any attempt to give and take charge. On 08.03.2023 the impugned order (A-VI) was passed. It stated that the same was passed as per Sub Sections (4) and (5) of Section 4 of the Transfer Act. By this order, order of repatriation of respondent no. 3 was cancelled, order repatriating the applicant to Water Resource Department was passed and respondent no. 4 was directed to take charge of the post held till then by the applicant. While passing the impugned order reasons were not recorded as mandated by Section 4 of the Transfer Act. The impugned order was malafide. Though, in the impugned order it is stated that the applicant was repatriated, it was in fact an order of transfer because it referred to Sub Sections (4) and (5) of Section 4 of the Transfer Act. Neither respondent no. 3 nor respondent no. 4 acted upon orders dated 01.02.2023 for more than a month. However, an attempt was made to promptly act upon the order dated 08.03.2023 (A-VI) which is impugned in this O.A..

3. Stand of respondents 1 & 2 is as follows. The order of repatriation of the applicant to the parent department was passed as per para 8 (IV) of G.R. dated 31.05.2017. Said para reads as under:-

iv) मृद व जलसंधारण विभागाच्या आस्थापनेवर वरील परिच्छेद ८ iii) मध्ये नमूद केलेल्या पदांवर जलसंपदा विभागाचे अधिकारी/कर्मचारी सन १९९२ पासून तात्पुरत्या प्रतिनियुक्तीवर कार्यरत आहेत. सध्या कार्यरत असलेल्या जलसंपदा विभागाच्या या सर्व अधिकारी / कर्मचा-यांकडून, ते त्यांच्या मूळ जलसंपदा विभागाकडे परत जाणार आहेत अथवा मृद व जलसंधारण विभागात समायोजित होणार आहेत याबाबतचे विकल्प दि. १५ जुलै २०१७ पर्यंत भरून घेण्यात येतील. त्यानुसार जे अधिकारी/कर्मचारी हे मृद व जलसंधारण विभागाकडे समायोजित होण्याचा विकल्प देतील त्यांना या विभागाच्या आस्थापनेवर समायोजित करण्यात येईल.

परंतु, जे अधिकारी/कर्मचारी त्यांच्या मूळ जलसंपदा विभागाकडे परत जाण्याचा विकल्प देतील असे सर्व अधिकारी/कर्मचारी त्यांच्या मूळ जलसंपदा विभागाकडे परत जाण्यासाठी पात्र ठरतील. परंतु, अशा सर्व अधिकारी / कर्मचा-यांना या शासन निर्णयाच्या दिनांकापासून या ४ वर्षांपर्यंतच्या कालावधीकरिता मृद व जलसंधारण विभागाच्या आस्थापनेवर कार्यरत ठेवण्यात येईल. या विभागाच्या आस्थापनेवरील पदे जसजशी भरण्यात येतील तसतसे या विभागाकडे न राहण्याचा विकल्प दिलेल्या जलसंपदा विभागाच्या अधिकारी/कर्मचा-यांना पुढील ४ वर्षांमध्ये टप्प्याटप्प्याने त्यांच्या विभागाकडे परत पाठविण्यात येईल.

मात्र, या दरम्यान जलसंपदा विभागाचे जे अधिकारी/कर्मचारी पदोन्नत होतील व पदोन्नतीनंतर त्यांना मृद व जलसंधारण विभागात पद उपलब्ध नसल्यामुळे अथवा पदोन्नतीनंतर त्यांना जलसंपदा विभाग दर्शविला गेल्यास अशा अधिकारी/कर्मचा-यांना पदोन्नतीनंतरच्या पदावर रुजू होण्यासाठी या विभागाकडून कार्यमुक्त करण्यात येईल.

परंतु आणखी असेही की, जलसंपदा विभागाकडील एकूण मंजूर, भरलेल्या व रिक्त या पदांचे जे प्रमाण आहे तेच प्रमाण या विभागाकडील कार्यरत व रिक्त पदांच्या बाबतीत कायम राखण्यात येईल.

4. Sufficient number of posts of Sub Divisional Water Conservation Officer have been filled in the meantime by promotion and nomination. Therefore, recourse to para 8 (iv) of G.R. dated 31.05.2017 became necessary.

The applicant was promoted by order dated 04.08.2017 (A-R-2) as Sub Divisional Officer (Civil), Water Resources Department. This material fact is suppressed by the applicant. The applicant had not given option for absorption in Soil and Water Conservation Department as required under para 8 (IV) of G.R. dated 31.05.2017. This was observed by the Tribunal in its order dated 25.02.2020 passed in O.A. No. 217/2019 (A-R-3). This is also suppressed by the applicant. As per order dated 25.02.2020 name of the applicant was included in seniority list of Water Resources Department (Annexures-R-4 & R-5). O.A. 708/2021 filed by the applicant for absorption in Soil and Water Conservation Department is pending in this Tribunal. The applicant was liable to be repatriated as per para 8 (iv) of G.R. dated 31.05.2017. By order dated 10.03.2023 (A-R-7) the applicant was allowed to continue at Morshi only till 31.03.2023 (B.N.) and he was to hand over charge to respondent no. 4 on 31.03.2023 (A.N.).

5. Stand of respondent no. 3 is akin to that of respondents 1 & 2.

6. Stand of respondent no. 4 is as follows. Respondent no. 4 was promoted as Water Conservation Officer and posted at Dharni which is a Tribal Area by order dated 30.06.2021 (4-I). He had made a representation (4-II) on the ground that his wife is suffering from Cancer. His representation was accepted by passing order of his transfer dated 01.02.2023. Thereafter, the impugned order of repatriation of the applicant, and his, respondent no. 4's, posting on the said vacancy was passed as per para 8 (IV) of G.R. dated 31.05.2017.

7. Respondent no. 4 has relied on letter dated 10.03.2023 addressed to the applicant which reads as under:-

"उपरोक्त विषयानुसार संदर्भिय दोन सम क्रमांक व दिनांकीत शासन आदेशांनुसार श्री संजय कृष्णराव मुंदाणे, उपविभागीय जलसंधारण अधिकारी यांची बदली या विभागांतर्गत उपविभाग मोर्शी येथील कार्यरत श्री. विलास रामरावजी बाबरेकर, उपविभागीय जलसंधारण अधिकारी, यांची सेवा त्यांच्या मूळ जलसंपदा विभागास प्रत्यार्पित करून रिक्त होणा-या पदावर करण्यात आलेली आहे.

त्यासोबतच्या संदर्भिय आदेशांअन्वये आपली सेवा मूळ जलसंपदा विभागास प्रत्यार्पित करण्यात आलेली असून आपणास कार्यमुक्त करण्याचे आदेशित आहे. तेव्हा प्रशासकिय कामकाजास्तव आपण दि. ३१.०३.२०२३ पर्यंत उपविभागीय जलसंधारण अधिकारी, उपविभाग मोर्शी या पदावर कार्यरत राहावे व दि.३१.०३.२०२३ (म.नं) आपण आपल्या पदाचा कार्यभार श्री. संजय कृष्णराव मुंदाणे, उपविभागीय जलसंधारण अधिकारी यांचे कडे हस्तांतरित करून कार्यमुक्त व्हावे."

8. In his additional affidavit the applicant has contended that the Hon'ble Minister had recommended transfer and posting of respondent no. 4 at

Arvi (A-2). Respondent no. 4 was relieved on 24.02.2023 (A-3). Copy of the impugned order dated 08.03.2023 was received by Sub Divisional Office, Morshi on 03.04.2023. This can be gathered from stamp on A-A-4 at P. 80. Joining report dated 09.03.2023 bears signature of only respondent no. 4. It does not bear signature of the applicant. The applicant continued to work at Morshi. By letter dated 13.03.2023 (A-5) the applicant was to be relieved on 31.03.2023 (A.N.) (Here, it may be mentioned that another copy of the said letter bears the date 10.03.2023). Respondent no. 4 can be accommodated on the post either at Angangaon or Achalpur.

9. It is a matter of record that order of request transfer of respondent no. 4 dated 01.02.2003 (A-V) was passed as per Sub Sections 4 & 5 of Section 4 of the Transfer Act, on the post which had become vacant on account of order dated 01.02.2003 (A-IV) whereby deputation of respondent no. 3 was brought to an end and he was repatriated to his parent department i.e. Water Resources Department. It is also a matter of record that both these orders were not acted upon. The order dated 01.02.2003 repatriating respondent no. 3 was purportedly necessitated by para 8 (IV) of G.R. dated 31.05.2017.

10. By order dated 08.03.2003 which is impugned in this O.A. (A-VI) order dated 01.02.2003 transferring respondent no. 4 on request on the post which was to fall vacant by order of repatriation of respondent no. 3, was modified, deputation of the applicant was brought to an end and he was repatriated to his parent department i.e. Water Resources Department. Stand of the respondents is that this modification too, had become necessary in view of para 8 (IV) of G.R. dated 31.05.2017.

11. As to why and how the impugned recourse to para 8 (IV) of G.R. dated 31.05.2017 had become necessary, the respondents have contended as follows:-

A. Sufficient number of posts of Sub Divisional Officer were filled in the meantime by promotion and nomination.

B. By order dated 04.08.2017 (A-R-2) the applicant was promoted as Sub Divisional Officer (Civil), Water Resources Department.

C. The applicant had not given option for absorption in Soil and Water Conservation Department as required under para 8 (IV) of G.R. dated 31.05.2017.

D. O.A. No. 708/2021 filed by the applicant for absorption in Soil and Water Conservation Department is pending in this Tribunal.

E. Factual aspects mentioned above at Sr. Nos. 2, 3 & 4 were suppressed by the applicant.

F. By order dated 10.03.2023 (A-R-7) the applicant was allowed to continue at Morshi only till 31.03.2023 (B.N.) and he was to hand over charge to respondent no. 4 on the same day (A.N.).

12. To counter grounds 1 to 6 mentioned above, the applicant has pleaded as follows in his rejoinder:-

"While issuing the G.R. dated 31.05-2017, applicant was working as a Junior Engineer in the establishment of Zilla Parishad, Amravati. Under Clause 7AA of G. R. dated 31.05.2017, it was clearly stated that all the Junior Engineers working in the Zilla Parishad will be automatically absorbed in the Soil and Water Conservation Department. As such looking to the contents of this G.R., options were not called from the employees who were working as Junior Engineer at Zilla Parishad, Amravati. Hence, on the basis of this the applicant did not tender his option to the Department. Furthermore, in O. A. No. 708/2021, this is the sole contention of the

applicant and therefore, now the original application is pending for final decision in the matter. Hence, the issue involved in the O. A. No. 708/2021 cannot be mixed with the present Original Application. If the respondent no. 1 is harping upon this submission, then it is better that O.A. No. 708/2021 can be decided alongwith this present application, if both the Original Applications are taken up for hearing, this Applicant has no objection in the matter.

That to support the submission of the applicant that his absorption was required to be treated as automatic as per G. R. dated 31.05.2017, the applicant has already tendered his representation to the respondent no. 1 on 15.06.2021. Thereafter time and again request was made that his absorption be made without seeking option, but same was not accepted. Hence, applicant was required to file original application no. 708/2021 before this Hon'ble Tribunal. The copy of representation from applicant to respondent no. 1 dated 15.06.2021 is annexed herewith as Annexure-A-2."

13. Copy of the representation 15.06.2021 made by the applicant in O.A. No. 708/2021 is at A-A-2 (at P. 190). In para 2 of this representation the applicant has stated:-

“सध्यास्थितीत माझे नांव मृद व जलसंधारण विभागाच्या जेष्ठता सुची मध्ये समाविष्ट झालेले नाही. या करीता माझे कडुन विकल्प देण्यात आलेला नाही. असे सांगण्यात येत आहे. मृद व जलसंधारण विभागात विकल्प देण्याची शेवटची तारीख 15.07.2017 होती. आणि माझी पदोन्नती ही 04.08.2017 रोजी झालेली आहे. तसेच पदोन्नती च्या वेळेस व नंतर कोणताही विकल्प मागविलेला नव्हता. तसेच शासन निर्णय जलसंधारण विभाग, दि. 31 मे. 2017 नुसार जलसंधारण विभागाची स्थापना करण्यात आली. आणि जलसंपदा विभागाकडे असणारे जिल्हा परिषद अधिनस्त सर्व अभियंता हे जलसंधारण विभागाकडे देण्यात आल्यामुळे माझे नांव मृद व जलसंधारण विभागाच्या उप विभागीय जलसंधारण अधिकारी या पदाच्या जेष्ठता सुची मध्ये समाविष्ट करण्यात यावे हि विनंती”

It is the contention of the applicant that because his representation dated 15.06.2021 remained undecided, he was constrained to file O.A. No. 708/2021. O.A. No. 708/2021 is pending before this Bench. The applicant has stated that he has no objection if this O.A. as well as O.A. No. 708/2021 are decided together. By the order which is impugned in this O.A. the applicant is repatriated to Water Resources Department. If his contention in O.A. No. 708/2021 is accepted, order of his repatriation, which is impugned in this O.A. would be rendered unsustainable. So far as contention of the respondents regarding challenge to order of repatriation being beyond the purview of the Transfer Act is concerned, the applicant has relied on **State of Maharashtra and Ors. Vs. Dr. (Ms.) Padmashri Shriram Bainade & Ors., 2015 (2) Mh.L.J., 679.** Ratio of this Judgment need not be considered presently since I propose to pass

the order that this O.A. and O.A. No. 708/2021 shall be heard together. Hence, the order:-

O R D E R

This O.A. and O.A. No. 708/2021 shall be heard together.

(Shri M.A.Lovekar)
Member (J)

Dated :-01/08/2023.
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