

O.A. 139/2020 (S.B.)

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

Dated : 01/09/2021.

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

The learned P.O. files reply of R-2&3. It is taken on record and copy is supplied to the learned counsel for the applicant. The Id. P.O. submits that reply of R-5 has already filed, therefore, reply of R-5 as well as reply of R-2&3 are sufficient to decide the O.A.

The matter is admitted and kept for final hearing.

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

S.O. in due course.

Vice-Chairman

dnk.

O.A. 788/2020 (S.B.)

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

Dated : 01/09/2021.

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

The learned P.O. files reply of R-3. It is taken on record and copy is supplied to the learned counsel for the applicant.

The matter is admitted and kept for final hearing.

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

S.O. two weeks.

Vice-Chairman

dnk.

O.A. 421/2021 (S.B.)

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

Dated : 01/09/2021.

Shri B.V. Chawhan, Id .counsel for the applicant and Shri A.M. Khadatkar, Id. P.O. for the respondents.

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

Vice-Chairman

dnk.

O.A. 551/2021 (S.B.)

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

Dated : 01/09/2021.

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

At the request of Id. P.O., **S.O. 6/9/2021** for filing reply.

Vice-Chairman

dnk.

O.A. 585/2021 (S.B.)

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

Dated : 01/09/2021.

Shri S.K. Patil, Id. counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the respondents.

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

Vice-Chairman

dnk.

O.A. 663/2021 (S.B.)

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

Dated : 01/09/2021.

Shri N.D. Thombre, Id. counsel for the applicant, Shri A.P. Potnis, Id. P.O. for R-1 to 3 and Shri S.C. Deshmukh, Id .counsel for R-4&5.

At the request of Id. P.O., **S.O.**
15/9/2021for filing reply.

Vice-Chairman

dnk.

O.A. 641/2021 (S.B.)

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

Dated : 01/09/2021.

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

At the request of Id .counsel for the applicant, **S.O. 6/9/2021.**

Vice-Chairman

dnk.

O.A. 253/2018 (S.B.)

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

Dated : 01/09/2021.

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

At the request of Id .counsel for the applicant, **S.O. 15/9/2021.**

Vice-Chairman

dnk.

O.A. 558/2018 (S.B.)

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

Dated : 01/09/2021.

Shri M.M. Sudame, 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. two weeks.**

Vice-Chairman

dnk.

O.A. 536/2020 (S.B.)

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

Dated : 01/09/2021.

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

At the request of Id .counsel for the applicant, **S.O. 8/9/2021.**

Vice-Chairman

dnk.

O.A. 504/2021 (S.B.)

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

Dated : 01/09/2021.

Shri T. Dhait, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for the respondents.

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

Put up along with other connected matter.

Vice-Chairman

dnk.

O.A. 532/2021 (S.B.)

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

Dated : 01/09/2021.

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

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

Put up along with other connected matter.

Vice-Chairman

dnk.

O.A. 85/2018 (S.B.)

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

Dated : 01/09/2021.

Heard Shri G.N. Khanzode, Id
.counsel for the applicant and Shri S.A. Deo, Id.
CPO for the respondents.

With consent of learned counsel for both
the parties, **S.O. 8/9/2021.**

Vice-Chairman

dnk.

O.A. 85/2018 (S.B.)

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

Dated : 01/09/2021.

Heard Shri G.N. Khanzode, Id
.counsel for the applicant and Shri S.A. Deo, Id.
CPO for the respondents.

With consent of learned counsel for both
the parties, **S.O. 8/9/2021.**

Vice-Chairman

dnk.

O.A. 756/2021 (S.B.)

(Mr. Rohan K. Thaware & one Ano. Vs. State of Mah. & Ors.)

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

Dated : 01/09/2021.

C.A. No. 257/2021 -

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

For the reasons stated in the application, the C.A. for Joint O.A. is allowed.

O.A. 756/2021 -

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

2. As submitted by the learned counsel for the applicants, vide transfer order dated 9/8/2021 (A-1,P-24) the applicant no.2, i.e. Smt. Harsha K. Vidhate has been posted from Nagpur to Nanded and her name appears at Sr.No.1 and the applicant no.1, i.e. Shri Rohan K. Thaware has been posted from Nagpur to Beed and his name appears at Sr.No.3 in transfer order. It is submitted that both the applicants are husband and wife and they have filed Marriage Certificate to that effect. (A-4,P-33). The learned counsel further submits that husband Shri Rohan K. Thaware has not been relieved till now and wife Smt. Harsha K. Vidhate has been relieved, but she is yet to join in new place of posting and at the same time nobody has joined at her present post. As per the Government policy vide G.R. dated 9/4/2018 wherein it has been clearly mentioned that as far as possible husband and wife should be posted at the same place.

3. In view of this situation, the transfer order dated 9/8/2021 (A-1,P-24) related to the applicant no.1 Shri Rohan K. Thaware is stayed till filing of reply and the respondents are directed not to force the applicant no.2, i.e. Smt. Harsha K. Vidhate to join at Nanded. At the same time, the post from where she has handed over the charge but nobody has joined till now, they should not post if nobody is posted till now on that post till filing of reply.

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

Steno copy is granted...

Vice-Chairman

dnk.

O.A. 754/2021 (S.B.)

(Ravindra D. Shende Vs. State of Mah.& ors.)

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

Dated : 01/09/2021.

Heard Shri N.R. Saboo, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for the State.

2. The learned counsel for the applicant submits that vide transfer order dated 27/8/2021 (A-3,P-14) the applicant has been posted from the post of Range Forest Officer, Ramtek, Nagpur Forest Division to Range Forest Officer, Social Forestry, Deori, Social Forestry Division, Gondia. The learned counsel further submits that till now nobody has been posted in place of the applicant, the applicant is about 57 years old and he is due for retirement during next year.
3. The learned counsel has relied on the G.R. dated 6/8/2002 (A-4,P-16 to 23) and in the said G.R. in Clause-5 it is also mentioned that the employees who have completed 50 years as far as possible they should not be posted in tribal and naxal affected area. As per provision of the G.R. dated 6/8/2002 the applicant's case is squarely covered since the applicant has been posted from Ramtek, Dist. Nagpur to Deori, Dist. Gondia which comes under tribal and naxal affected area.
4. In view of above facts, order dated 27/8/2021 (A-3,P-14) is stayed till further orders.
5. Issue notice to the respondents returnable **after four weeks**. Learned C.P.O. waives notice for State. Hamdast allowed.
6. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
7. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.
8. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules,1988, and the questions such as limitation and alternate remedy are kept open.

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

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

S.O. after four weeks.

Steno copy is granted...

Vice-Chairman

dnk.

O.A. 560/2021 (S.B.)

(Swapnil J. Rankhamb Vs. State of Maharashtra & Ors.)

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

Dated : 01/09/2021.

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

2. As submitted by the learned counsel, the applicant was placed under suspension vide order dated 4/4/2021 (A-1,P-16&17) under the ACB case. As submitted by the learned P.O., charge sheet was served on 18/8/2021 (A-R-2,P-34). As per various Judgments of Hon'ble Apex Court and High Court and Government of Maharashtra G.Rs. which are reproduced as below –

(i) The Apex Court in Civil Appeal No. 1912 of 2015 (arising out of SLP No.31761 of 2013) in the case of Ajay Kumar Chaudhary Vs. Union of India through its Secretary and another in its Judgment dated 16/02/2015 in para no. 14, it has observed that :-

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.

(ii) The Hon'ble Apex Court in its Judgment in Civil Appeal No. 8427-8428 of 2018 (Arising out of S.L.P. (Civil) No. 12112-12113 of 2017) in the case of **State of Tamil Nadu Vs. Pramod Kumar IPS and Anr. delivered on 21/08/2018** in its para no. 24 had observed as follows:-

*24. This Court in **Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291** has frowned upon the practice of protracted suspension and held that suspension must necessarily be for a short duration. On the basis of the material on record, we are convinced that no useful purpose would be served by continuing the first Respondent under*

suspension any longer and that his reinstatement would not be a threat to a fair trial. We reiterate the observation of the High Court that the Appellant State has the liberty to appoint the first Respondent in a non sensitive post.

(iii) The Principal Bench of Maharashtra Administrative Tribunal Mumbai Bench in O.A. No. 35/2018 Judgment delivered on 11/09/2018 has also rejected continuation of suspension beyond 90 days.

(v) The Hon'ble High Court of Bombay, Bench at Nagpur in W.P. No. 7506/2018, Judgment delivered on 17.07.2019 was also on same principle. It has observed in para no. 2 that **facts of this case are squarely covered by Government Resolution G.A.D. dated 09/07/2019.**

(ii) fuyfcr 'kkI dh; I pdlk; kT; k idj .lh 3 efgl; kpk dkyko/hr foHkxh; pld'kh l q d: u nkskjki i = ctlo.; kr vlysulgh] v'kk idj .lh ek- l oHpp U; k; ky; kpsvlnsk i lgrk] fuyeu l ekr dj.; k'kok; vU; i; k; jlgr ulgh R; keGsfuyfcr 'kkI dh; I pdlk;kr foHkxh; pld' khph dk; bkg h l q d: u nkskjki i = ctlo.; kph dk; bk; h fuyauki kl u 90 fno l k; k vkr dkVclg i .ksdyh t kb; ; kph n{kr@ [kcjnkjh?ks; kr; koh-

(vi) The Government of Maharashtra vide its G.R. G.A.D. 'kkI u fu.kz d; 118@idz11@11v] fnukd 09-07-2019 in para nos. **1 (ii)** following decisions have been taken :-

fuyfcr 'kkI dh; I pdlk; kT; k idj .lh 3 efgl; kpk dkyko/hr foHkxh; pld'kh l q d: u nkskjki i = ctlo.; kr vlysulgh] v'kk idj .lh ek- l oHpp U; k; ky; kpsvlnsk i lgrk] fuyeu l ekr dj.; k'kok; vU; i; k; jlgr ulgh R; keGsfuyfcr 'kkI dh; I pdlk;kr foHkxh; pld' khph dk; bkg h l q d: u nkskjki i = ctlo.; kph dk; bk; h fuyauki kl u 90 fno l k; k vkr dkVclg i .ksdyh t kb; ; kph n{kr@ [kcjnkjh?ks; kr; koh-

5. This O.A. is squarely covered by Government of Maharashtra G.A.D. 'kkI u fu.kz d; 118@idz11@11v] fnukd 09-07-2019.

6. The respondents have not followed settled legal citations, as discussed above and 'kkI u fu.kz d; 118@idz11@11v] fnukd 09-07-2019 and orders of Hon'ble Apex Court and Hon'ble High Court as discussed above.

7. In the present O.A. the period of 90 days become over on 5/7/2021 and admittedly the charge sheet has been served after 90 days. The applicant has submitted representation dated 5/7/2021 (A-2,P-18) for reinstatement from suspension which is not considered till now. The learned counsel has relied on G.R. dated 9/7/2019 (A-3,P-19 to 21) in which on page no.20 in para-1 (ii) it has been clearly mentioned that within three months if charge sheet for DE is not served, then in view of Hon'ble Apex Court Judgment the reinstatement from suspension is the only option before the Disciplinary Authority which have been discussed in the G.R. that Disciplinary Authority are required to take precaution and follow the 90 days prescribed period. In the present matter, it appears that the respondents have not either followed the order of Hon'ble Apex Court or direction given in the Govt. G.R. dated 9/7/2019 (A-3,P-19 to 23).

8. In view of discussion in above paras, the following order –

ORDER

(i) **On technical ground, the suspension order of applicant dated 4/4/2021 (A-1,P-16&17) is revoked. The respondents are directed to issue necessary order within 45 days from the date of receipt of this order.**

(ii). The respondents are at liberty to post the applicant as per as per observations made in para-24 above by the Hon'ble Apex Court in case of **State of Tamil Nadu Vs. Pramod Kumar IPS and Anr. delivered on 21/08/2018** and continue with inquiry and other procedure as per rules.

(ii) With this direction, the O.A. stands disposed off. No order as to costs.

Steno copy is granted...

Vice-Chairman

dnk.

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

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

Dated : 01/09/2021.

Heard the applicant in person. Heard Shri A.M. Khadatkar, Id. P.O. for the respondents.

2. The applicant in person submits that he has placed on record order dated 26/8/2021 by which another person Dr. Ashok Nitnaware has been given additional charge as Dean, Government Hospital and College, Chandrapur. When the matter was heard on 28/6/2021, the applicant pointed out that he has not been paid salary and allowances since 25/6/2021. Today, the learned P.O. desires two weeks time to file reply. The applicant in pursuance order dated 26/8/2021 submitting that Dr. Ashok Nitnaware has been posted at Government Hospital and College, Chandrapur and in para-3 of the said order it appears that he has been given additional charge.

3. The respondents are directed to take decision regarding payment of salary to the applicant.

4. The learned P.O. seeks two weeks time to file reply.

S.O. 15/9/2021.

Vice-Chairman

dnk.

O.A. 649/2021 (S.B.)

(Parag R. Madke Vs. State of Mah.)

Coram: Shri Shree Bhagwan,
Vice-Chairman.

Dated : 01/09/2021.

C.A. No. 254/2021 -

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

2. Vide transfer order dated 8/8/2021 (A-1,P-15) the applicant has been transferred from Khubala, Khapa forest range, Nagpur Forest Division to East Pench Ghatpendhari (Wildlife), Forest Range, Pench Tiger Project, Nagpur and his name appears at Sr.No.12. The respondent no.3, i.e. V.V. Lonare in the O.A. has been transferred in place of applicant. As per order dated 11/8/2021 in para-4 the transfer order dated 8/8/2021 (A-1,P-15) is stayed to the extent of the applicant till filing of reply. The para-4 of the order is as follows –

“ (4) In view of this situation, transfer order dated 08.08.2021 (A-A-1, Pg. No. 15) is stayed to the extent of applicant till filing of the reply along with minutes of meeting of C.S.B.. The Id. counsel for the applicant has further relied in O.A. No. 586/2019 of MAT, Mumbai Bench Judgment where elaborate extension has been given in para nos. 6 & 7 of the said Judgment”.

3. Today, the learned counsel has filed C.A. No.254/2021 and along with C.A. he has filed letter dated 22/8/2021 issued by RFO, Khapa to the Deputy Conservator of Forest, Nagpur Division, Nagpur. In para-3 of the letter it is mentioned as follows –

^ i j r q l n f h k z i = - d z 2 o l n f h k z i = d z 3 i k l r > k y s u k g h v l s J h i h - v k j - e M d s ; k p s l n f h k z i = d z 4 v l o ; s f n y y ; k i = k r R ; k a u h E g V y s v k g s r l p l n f h k z i = d z 2 o 3 o u i k y J h i h - v k j - e M d s ; k a u k r t e h y u > k Y ; k p s d k ; k y ; h u n L r k , o t k o # u f n l q ; r v k g s J h i h - v k j - e M d s ; k p d M y [l e k G k o r e p k d k ; B h j J h M h i h V o l k e] o u i k y ; k u h v n ; k i i ; r ? k r y k u l g h **

4. Means till 22/8/2021 the applicant remained in the charge of Khubala. On the next page again in the last but one para, the RFO, Khapa mentioned as follows –

^ r l p vkt jksth i ; r [kpkGk or Gkpsdk; ky; hu nLrk, ot Jh- ih-vkj- eMds ; k; k r kC; kr vl u R; kah fnukad 21@08@2021
yk [kpkGk or Gkr fcV xLr d#u ouxdk tkjh dsyvk vkg**

5. In above para, it appears that the applicant was working till 28/8/2021 in the present post only. The learned counsel submits that in the last line of the letter dated 22/8/2021 the RFO, Khapa has sought guidance from the DCF, Nagpur when there was clear cut order of this Tribunal dated 11/8/2021 and the applicant continued in the same post till 21/8/2021, there was no need to ask the guidance by this correspondence. This correspondence is totally needless and bad in law.

6. The respondent no.2 is directed to ask explanation from the Officer who has written the letter dated 22/8/2021 i.e. RFO, Khapa to DCF, Nagpur for issuing this kind of illegal order. Meanwhile, the learned P.O. is directed to take necessary instructions from the Department.

7. The learned counsel further pointed out the letter dated 25/8/2021 issued by the RFO, Khapa Shri S.G. Athwale. In the last para he has asked to hand over the charge to Shri V.V. Lonare who is also respondent no.3 in the O.A. which is totally illegal direction and his letter dated 25/8/2021 is treated as illegal.

8. The respondent no.2 is directed to seek explanation also regarding this letter from RFO, Khapa Shri S.G. Athwale.

9. In view of above, the C.A. is disposed off. However, the Id. P.O. is directed to take necessary instructions that why this kind of illegal orders have been issued and why this kind of illegal letters have been waived by respondent no.2 and what kind of action he has taken.

O.A. 649/2021 –

S.O. four weeks.

Steno copy is granted...

Vice-Chairman

dnk.

***O.A. 660/2021 (S.B.)**

(Sandeep N. Nirwan Vs. State of Mah. & Ors.)

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

Dated : 01/09/2021.

C.A. No. 250/2021 -

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

2. The learned Counsel has filed C.A. No. 250/2021. The applicant was transferred vide order dated 9/8/2021 (A-1,P-13) of the O.A. and the order was stayed by order dated 11/8/2021. While passing the order on 11/8/2021 the following points are mentioned –

- (i) The applicant was appointed under physically challenged category.
- (ii) The applicant himself physically challenged employee.
- (iii) While filing reply, the respondents were expected to file report of Civil Services Board (CSB) also.

3. Today, the reply of R-2 in O.A. has been filed, but copy of Civil Services Board minutes meeting is not on record.

4. Now the learned counsel has filed C.A. No.250/2021 and as per prayer clause when he filed O.A. on 11/8/2021 two posts were vacant at Mohadi and Pauni which were suitable to physically challenged employee. The learned counsel further submits that as per his information Mohadi has been filled by recent order, but Pauni is still vacant. The learned counsel has also relied on Govt. G.R. dated 9/4/2018 (A-4, P-30 to 47) in which specific consideration has been given to physically challenged employees and in Step-5 of the G.R. at page no.7 of 20 regarding counselling and CSB has been explained. In Clause (V) of page no.8 of 22 of the G.R. the special status has been given to the employees who are personally physically challenged and explanation has been given by giving two charts. At page no.20 of 22 of the G.R. in the first Chart list is given about various problems of the employees and in second Chart at Sr.No.1 first preference has been given to those

employees who are themselves physically challenged. Before that also on page no.14 of 22 of the G.R. in para-1 the employees who are themselves physically challenged has been explained.

5. When the respondents were pointed out the above three facts even then they preferred to fill the post at Mohadi, but as on today other post at Pauni is vacant. Considering three facts which were pointed out in order dated 11/8/2021, **the applicant's case should be considered for Pauni first, till that time no posting order for Pauni should be issued. If post at Mohadi is vacant, then the applicant's case should be considered for Pauni or Mohadi.** However, as pointed out by the learned P.O., the applicant has given choices which are reproduced on page no.4 of the O.A. in para-4.5 in which the applicant's last choice Gondia has been given to him by way of posting. The applicant has given choices according to his convenience and since Pauni is vacant and that choice is at Sr.No.3. This Bench does not find any reason why the applicant should not be posted to that vacant post. The respondents have explained the certain problems in para-5 of the reply and they have mentioned that one Amol Kolikar whose name is considered for mid-term transfer at Pauni. Though they have mentioned that Shri Amol Kolikar is also handicapped person, but they have not mentioned whether he is due for transfer or not and whenever he has been posted if he is comfortable at that place there should not be any harm in continuing him till the next general transfer season.

6. In view of above, the C.A. stands disposed off. No order as to costs.

O.A. 660/2021 –

S.O. after four weeks.

Steno copy is granted...

Vice-Chairman

dnk.

***O.A. 665/2021 (S.B.)**

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

Dated : 01/09/2021.

C.A.No. 242/2021 -

Heard Shri S.N. Gaikwad, Id. counsel for the applicant, Shri P.N. Warjurkar, Id. P.O. for R-1 to 3 and Shri D.M. Kakani, Id. counsel appears on behalf of R-4.

2. The learned counsel for R-4 has filed C.A. No. 242/2021 for joining party as respondent no.4 by amending the O.A. The learned counsel for the applicant has also agreed with this. The learned counsel has filed submission on behalf of R-4 which is taken on record.

3. In view of above, the C.A. allowed and disposed off. No order as to costs.

O.A. 665/2021 –

Heard Shri S.N. Gaikwad, Id. counsel for the applicant, Shri P.N. Warjurkar, Id. P.O. for R-1 to 3 and Shri D.M. Kakani, Id. counsel appears on behalf of R-4.

The learned P.O. desires four weeks time to file reply. Time is granted.

S.O. four weeks.

Vice-Chairman

dnk.

***O.A. 671/2021 (S.B.)**

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

Dated : 01/09/2021.

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

2. The learned P.O. submits that after the order of this Tribunal, he has oral instructions that the respondents are trying to solve the grievance of the applicant. The learned P.O. has appraised the respondents about the decision of the Tribunal and for that he is waiting necessary instructions.

S.O. 15/09/2021.

Vice-Chairman

dnk.

***O.A. 760/2021 (S.B.)**

(Shri Subhash G. Ther Vs. State of Mah.& Ors.)

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

Dated : 01/09/2021.

Heard Shri G.G. Bade, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for the respondents.

2. The applicant is a Forest Guard and vide order dated 10/8/2021 he has been transferred from Navegaon to Wadegaon (RRT). The applicant was appointed vide order dated 20/4/2016 (A-2,P-11) and condition no.4 which is reproduced below –

*^ I nj i nkojhy fu; Ørh fo' ksk 0; k?k l j {k.k nykdfjrk vl Y; kus dñz 'kk ukdMhy i= dz15@5@2008 , uVhl h, ¼i kv&3½ frukad 9 tkusjkh 2013 e/ky ifjPNn dekad ¼b¼¼iv½ e/; s ueq dY; ki ek.ks menokjkl o; kph 40 o"¼ i w¼ gkb¼; r uosk&ukxf>jk idYi krak¼ dk; jr jgkos ykxy- fo' ksk 0; k?k l j {k.k ny ¼STPF½ gk Indian Reserve Battalion P; k /kri¼j vlgso STPF nykrhy l oZouj {kdkauk ¼efgykl qnk¼jk=h cjk=h txykr xLr ?ky.k¼ e¼dke dj.k¼ [kc&; k¼h l á dZ dj.k¼ BR; kñh dkesdj.ksvi f{kr vlgso***

3. The learned counsel has also relied on standing order issued by PCCF (HO) M.S., Nagpur vide letter dated 18/10/2019 (A-6,P-50 to 55) and on 4th internal page of the said guidelines in para-2 he has given following guidelines and standing order which is at page no.53 of the P.B. –

^ ¼2½ cnyh dk; nk 2005 e/ky rjrmhuq kj , [kñ; k i nkoj vl .; kpk l kell; dkyko/kh rhu o"¼pk vl q l nj dk; ?krhy

*ijarptkud kj dept&; kauh/Mkj.k dsyS; k i nkoj nku i qkzi nko/kpoh
¼6 o"kkz I ok i qkz dS; kuarj] R; kph cnyh nq &; k dk; kzy; kr
fdok foHkkxr dj.; kckcrph rjrm vlgS I nj rjrm fo'ksk 0; k?kz
I j {k.k nykrthy ouj {kd ; kaur I qnk ykxwjkgrthy rI p 'kkI u
'kqnh =d fnukad 22@5@2017 vUo; si fl /n cnyh /Mkj .krthy
rjrqh cnY; kl mHkkz- 'kkI ukusoGkoGh fuxIer dsyS; k I puk
fo'ksk 0; k?kz I j {k.k nykrthy ouj {kd ; kaur I qnk ykxwjkgrthy- ***

4. The applicant is admittedly not covered by both these either standing order or condition of appointment in STPF. The applicant has problems and he has submitted representation dated 11/08/2021(A-4,P-36) to the respondent no.4

5. The respondents are directed to give personal hearing and counselling to the applicant and disposed off the representation within 30 days from the date of this order.

6. The respondents are directed to consider the standing order and condition of appointment letter and also Govt. G.R. dated 9/4/2018 (A-3,P-13 to 35) related to transfer.

7. With this direction, the O.A. stands disposed off. No order as to costs.

Steno copy is granted...

Vice-Chairman

dnk. *-

O.A.No.194/2017 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 01/09/2021.

C.A.No.437/2017:-

Heard Shri A.A.Syed, the Id. Counsel for the applicant, Shri M.I.Khan, the Id. P.O. for the respondent nos. 1 & 2 and Shri I.L.Bobade, the Id. counsel for the respondent no. 3.

2. At the request of Id. P.O., **S.O. 15.09.2021 to file reply.**

Vice Chairman

Date:-01/09/2021.
aps.

O.A.No.38/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman

Dated : 01/09/2021.

C.A.Nos.255&256/2021:-

Heard Smt. M.Chandurkar, the Id. Counsel for the applicant and Shri A.M.Ghogre, the Id. P.O. for the respondents.

2. The Id. counsel for the applicant has filed C.A. No. 255/2021 for deletion of respondent no. 5. Since, applicant no. 5 named Shri Sudhir Motiram Ingole is already expired and death certificate is also filed along with C.A. No. 255/2021 at Pg. No. 6, A-11; as per death certificate he expired on 16.04.2021. Hence, **C.A. No. 255/2021 for deletion of respondent no. 5 is allowed.**

3. According to the order dated 05.02.2021 in C.A. No. 381/2020 in O.A. No. 38/2020; in para nos. 2 & 3 following observation were made:-

"2. As per the prayer the applicants had approached to this Tribunal to get direction for appearing in the examination. Vide order dated 23/1/2020 the applicants have appeared in the examination. In the said order in para-4 the respondents were directed not to declare results till further orders.

3. As submitted by the Id. P.O., the respondents are facing problems on this point. In view of this situation, the respondents are directed to declare result subject to outcome of this O.A. and if the applicants succeed as per the rules and conditions laid down by the Department, they should also be treated along with the other successful candidates. It is made clear that result for successful candidates will be subject to outcome of this O.A."

3. As submitted by Id. P.O. in reply filed by R-1 to 4 on Pg. Nos. 62 to 69 dated 11.03.2020; on Pg. No. 66 in para no. 9 following observation is made:-

"9.It is submitted that, the applicants did not possess the certificate of experience to qualify for the promotional post of the Instructor as per the service recruitment rules announced by the notification dated

December 14, 2012 and therefore the applicants was disqualified for the examination to the promotional post of the Instructor by respondent no. 4."

Along with this, list is attached at Pg. No. 67; list of 8 applicants are mentioned; out of that Sr. No. 5 is already expired; hence 7 applicants remains as on today.

4. Respondents mentioned in the last column that necessary experience certificate was not with these applicants. However, the Id. counsel for the applicant submits that all the experience certificate is submitted to the respondents. **Respondents are directed that if any appointments have been made that will be subject to decision in C.A. No. 256/2021 and outcome of the O.A..**

5. Notice on C.A. No. 256/2021 to Respondents be issued returnable in **four weeks**.

6. Shri A.M.Ghogre, the learned P.O. waives notice for respondent no.1. Hamdast granted.

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 the O.A.

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 an affidavit of compliance in the Registry as far as possible once week before the date fixed by this Tribunal. 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.**

Vice Chairman

Date:-01/09/2021.
aps.

O.A.No.52/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 01/09/ 2021.

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

2. At the request of Id. P.O., **S.O. two weeks to file reply.**

3. *Put up this matter along with O.A. No. 81/2021.*

Vice Chairman

Date:-01/09/2021.

aps.

O.A.No.75/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 01/09/ 2021.

Heard Shri S.K.Mathpati, the Id. Counsel for the applicant and Shri H.K.Pande, the Id. P.O. for the respondents.

2. The Id. P.O. has filed correspondence dated 07.07.2021 by Under Secretary, Public Health Department and in para no. 2 they have adopted reply of respondent no. 6 i.e. Assistant Director Health Services (Malaria & Felariya), Akola. The same is taken on record. Copy is served to the other side.

3. Hence, O.A. is **admitted** and kept for final hearing.

4. The Id. P.O. waives notices for the respondents.

5. **S.O. in due course.**

Vice Chairman

Date:-01/09/2021.
aps.

O.A.No.93/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 01/09/ 2021.

Heard Shri C.V.Jagdale, the Id. Counsel for the applicant and Shri H.K.Pande, the Id. P.O. for the respondents.

2. At the request of Id. P.O. further two weeks time is granted to file reply, **S.O. two weeks.**

Vice Chairman

Date:-01/09/2021.
aps.

O.A.No.292/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 01/09/ 2021.

C.A.No.183/2020:-

Heard Shri V.D.Awchat, the Id. Counsel for the applicant, Shri V.A.Kulkarni, the Id. P.O. for the respondents and Shri P.J.Mehta, the Id. counsel for the Intervention.

2. The Id. P.O. desires time to file reply on C.A. and O.A. both, **S.O. three weeks to file reply as a last chance.**

3. *After filing reply, C.A. No. 183/2020 for intervention will be decided.*

Vice Chairman

Date:-01/09/2021.
aps.

O.A.No.912/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 01/09/ 2021.

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

2. The Id. P.O. desires further four weeks time to file reply. However, it is clear that Id. P.O. must ensure that since respondent no. 3 is from Nagpur only; reply of Respondent no. 3 must be filed as early as possible. **S.O. Four Weeks.**

Vice Chairman

Date:-01/09/2021.
aps.

O.A.No.123/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 01/09/ 2021.

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

2. The Id. P.O. has filed reply of respondent no. 2, who is also Enquiry Officer, Amravati. It is taken on record. Copy is served to the other side.

3. The Id. P.O. has also filed correspondence dated 31.08.2021. It is also taken on record. Copy is served to the other side. In the last para of the said letter following direction has been given which is below:-

"Jh- l mke /kq s ; kauk Hkfo"; fuokj uh/kph jDde vnk dj.; kr vkysyh vkgs i jarqj tk jk[khdj.kkpsn; d l æti/kr pyku iklr ul rkaul R; kauk jtk jk[khdj.k ek- egkjkr"U; kf; d i kf/kdj.k] ukxi j ; kpsvknslkuq kj i nkukLro vki ys i qthy vknsl rFlk elxh'kukdjhrk l knj"

4. However, it is not clear that what is hurdle in giving leave encashment amount to the applicant as far as this letter says that challan is not received. Now, it is for respondents to create challan for applicant.

5. In view of this situation, as per order dated 18.08.2021 in the last para following direction was given, which is below:-

"The Applicant retired on 31.05.2017, thereafter, the charge-sheet served on 13.08.2019. The enquiry officer is appointed on 03.12.2020. In view of chronology, as the Affidavit-in-Reply is not filed in time and also, in view of pursuant order. We direct the Respondents to release amount of Leave Encashment of the Applicant on or before 03.09.2021. We direct Respondents to file Affidavit-in-Reply on or before 31.08.2021 as matter is fixed on 31.08.2021."

6. Respondents are further directed either to release amount of Leave Encashment or submit the reason why it cannot be paid, for this issue, **S.O. after two weeks.**

7. However, as far as enquiry is concerned already date is fixed for 03.09.2021; so enquiry officer should remain present on 03.09.2021 and explain the reason, **S.O. 03.09.2021.**

8. Steno copy is granted.

Vice Chairman

Date:-01/09/2021.

aps.

O.A.No.330/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 01/09/ 2021.

Heard Shri D.R.Rupnarayan, the Id. Counsel for the applicant and Shri H.K.Pande, the Id. P.O. for the respondents.

2. As per order dated 23.08.2021, the Id. counsel for the applicant deleted the name of respondent nos. 2 & 3 and now respondent no. 1 is Chief Secretary, Revenue and Forest Department, Mumbai.

3. Issue notice to Respondent no. 1, returnable on after four weeks. 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.**

Vice Chairman

Date:-01/09/2021.

aps.

O.A.No.412/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 01/09/ 2021.

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

2. At the request of Id. P.O., **S.O. two weeks to file reply.**

Vice Chairman

Date:-01/09/2021.
aps.

O.A.No.484/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 01/09/ 2021.

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

2. At the request of Id. P.O., **S.O. two weeks to file reply.**

Vice Chairman

Date:-01/09/2021.
aps.

O.A.No.579/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 01/09/ 2021.

Heard Shri S.N.Gaikwad, the Id. Counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the State. Await service of respondent nos. 2 to 5.

2. At the request of Id. counsel for the applicant, **S.O. after one week to file service affidavit.**

Vice Chairman

Date:-01/09/2021.
aps.

O.A.No.702/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 01/09/ 2021.

Heard Shri M.M.Sudame, the Id. Counsel for the applicant and Shri A.M.Ghogre, the Id. P.O. for the respondents.

2. The Id. counsel for the applicant has submitted the G.R. dated 26.08.2021. It is taken on record. Copy is served to the other side.

3. As per the above G.R., he submits that all the posts of Chief Engineer have been filled. Applicant is challenging chartsheet by way of O.A. No. 702/2021. In any case, if applicant succeeds in O.A.; he will have to be given seniority and promotion as per seniority list.

4. Meanwhile, **respondents are directed that they should make it clear to all the promotional candidates that there promotions should be subject to outcome of the O.A..**

5. **S.O. four weeks.**

Vice Chairman

Date:-01/09/2021.

aps.

O.A.No.335/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 01/09/ 2021.

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

2. As per office objection, the paging is not properly done. The Id. counsel for the applicant submits that he will do it within one week. The Id. P.O. has filed reply of respondent nos. 1 & 3. It is taken on record. Copy is served to the other side.

3. The Id. counsel for the applicant further submits that the applicant is going to retire in this month. **S.O. 15.09.2021.**

Vice Chairman

Date:-01/09/2021.
aps.

O.A.No.725/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 01/09/ 2021.

Heard Shri R.M.Fating, the Id. Counsel for the applicant and Shri S.A.Deo, the Id. C.P.O. for the State.

2. As per O.A.; on Pg. No. 7, the Id. counsel for the applicant has filed chart and it appears that applicant was first appointment as Technical Assistant in 19.04.1982 and first time bound promotion was granted to the applicant as per G.R. dated 1995 on 01.10.1994 which applicant accepted and got satisfied. As per G.R. of 1995, applicant was due for second time bound promotion on 01.10.2006 i.e. after completion of 12 years; before that applicant's post was upgraded as per G.R. dated 16.04.1984 on 01.04.2005. The only question remains to be decided is that whether after upgradation the pay fixation to the applicant was equal to the 2nd A.C.P. or not?

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

Vice Chairman

Date:-01/09/2021.

aps.

O.A.No.945/2019 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 01/09/ 2021.

Heard Shri M.R.Khan, the Id. Counsel for the applicant and Shri A.M.Ghogre, the Id. P.O. for the respondents.

2. The query was made to Id. C.P.O. as well as Id. P.O.; they both are not aware that department has given consent in this matter; that though matter pertains to D.B., single Judge will heard this matter.

3. **S.O. 06.09.2021 to take instructions.**

Vice Chairman

Date:-01/09/2021.
aps.