

***O.A. 271/2020 (S.B.)**

(Vidarbha Mandal Adhikar Sangh Vs. State of Mah. & Ors.)

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

Dated : 17/05/2021.

C.A. No. 120/2021 -

Heard Shri N.R. Saboo, learned counsel for the applicants and Shri S.A. Deo, learned CPO for the respondents.

2. The learned counsel for the applicant has filed C.A.No. 120/2021. The matter pertains to transfer in which Awwal Karkun and Mandal Officers are transferred by the Divisional Commissioner by changing their positions, like Awwal Karkuns are transferred as Mandal Officers and vice versa the Mandal Officers are transferred as Awwal Karkuns. The matters came before the Tribunal in O.A. Nos.388 to 398 of 2020 and Judgment was passed on 20/10/2020 and final order is as follows –

“ All the impugned transfer orders are hereby quashed and set aside. The respondent no.2 is directed to post the applicants on the same post which were held by them before issuance of the impugned orders. No order as to costs.”

3. However, the learned counsel for the applicant today submits that though the applicants have submitted applications but these

representations have not been decided till now and the respondent no.2 is still issuing such transfer orders. The respondent nos. 1 to 3 & 5 have not filed reply till now.

4. In view of this, the respondent nos.1 to 3 and 5 are directed to file reply and the respondent no.2 is directed to decide first representations pending of the applicants. Till that time the respondents are directed not to issue any transfer order taking shelter of G.R. dated 21/11/1995. However, the respondents are at liberty to transfer the Mandal Officer to Mandal Officer and similarly Awwal Karkun to Awwal Karkun as per administrative requirement.

5. In view of above, the C.A.No. 120/2021 is allowed and disposed of. No order as to costs.

O.A. 271/2020 –

S.O. four weeks.

Steno copy is granted...

Vice-Chairman

dnk.

***O.A. 356/2021 (S.B.)**

(Dr. S.G. Rewatkar Vs. State of Mah. & Ors.)

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

Dated : 17/05/2021.

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

2. Initially the applicant was transferred vide order dated 9/10/2015 (A-1,P-13) from Amravati to Savli Sadoba, Dist. Yavatmal, his name appears at Sr.No.4 on page no.14. Thereafter vide order dated 7/8/2020 (A-4,P-24) the applicant was transferred from Savli Sadoba, Dist. Yavatma to Kondali, Tq. Katol, Dist. Nagpur. After this order was issued, the applicant requested to respondent no.3 vide his letter dated 12/8/2020 (A-5,P-26) and the respondent no.2 vide e-mail dated 10/1/2021 (P-30) but till now the applicant has not been relieved from Savli Sadoba, Dist. Yavatmal to join at Kondali, Tq. Katol, Dist. Nagpur as per order dated 7/8/2020 (A-4,P-24) by the Govt. of Maharashtra. It is not understood that what are the reasons that the respondent nos. 3&4 disobeyed the Govt. order dated 7/8/2020 (A-4,P-24) and did not relieve the applicant.

3. In this situation, the respondent nos.3&4 are directed to immediately relieve the applicant to join at Kondali, Tq. Katol, Dist. Nagpur as per Govt. order dated 7/8/2020 (A-4,P-24). The respondents are directed not to fill the post at Kondali, Tq. Katol, Dist. Nagpur without following the Government order dated 7/8/2020 (A-4,P-24).

4. Issue notice to the respondents returnable **after four weeks**. The learned C.P.O. waives notice for the 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. 355/2021 (S.B.)**

(Dr. Y.S. Patil Vs. State of Mah. & Ors.)

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

Dated : 17/05/2021.

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

2. As submitted by the learned counsel for the applicant, the applicant was transferred vide order dated 30/9/2020 (A-5,P-26) from Korta, Tq. Umarkhed, Dist. Yavatmal to Sindkhed, Tq. Mahur, Dist. Nanded on vacant post. It appears from the order and table given in the order that the applicant was first transferred on 7/8/2020 to Jewali, Tq. Umarkhed, Dist. Yavatmal that was also vacant post. Subsequently the said order was partially modified and vide order dated 30/9/2020 (A-5, P-26) the applicant was transferred to Sindkhed, Tq. Mahur, Dist. Nanded after a period of 13 months and the respondent nos.3&4 have not relieved the applicant and followed the order dated 30/9/2020 (A-5,P-26). The applicant has made several correspondence to the respondents which are appears from page nos.28 to 31. It is not understood that why order dated 30/9/2020

(A-5,P-26) was not followed by the respondent nos.3&4.

3. In this situation, the respondent nos.3&4 are directed to relieve the applicant within one week as per Government order dated 30/9/2020 (A-5,P-26) to join at Sindkhed, Tq. Mahur, Dist. Nanded and submit the compliance report to the Tribunal before the next date.

4. Issue notice to the respondents returnable **after four weeks**. The learned C.P.O. waives notice for the 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. 311/2021 (S.B.)**

(M.M. Madavi Vs. State of Mah. & Ors.)

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

Dated : 17/05/2021.

C.A. No. 125/2021 -

Heard Shri N.R. Saboo, Id. counsel for the applicant, Shri A.P. Potnis, Id. P.O. for respondent nos. 1 to 3 and Shri R.D. Karode, Id. counsel for Interveners.

2. For the reasons stated in the application, the C.A.No.125/2021 for intervention is allowed.

C.A.No. 131/2021 –

Heard Shri N.R. Saboo, Id. counsel for the applicant, Shri A.P. Potnis, Id. P.O. for respondent nos. 1 to 3 and Shri R.D. Karode, Id. counsel for Interveners.

2. It appears that vide order dated 12/3/2020 (A-1,P-10) the applicant has been transferred to the post of Chief Officer, Nagar Parishad, Sakoli, Dist. Bhandara and thereafter before completing the normal tenure vide order dated 26/3/2021 (A-2,P-11) the applicant has been transferred from Nagar Parishad, Sakoli, Dist. Bhandara to Wardha on newly created post. The main grievance of the respondents is that several complaints were made against the applicant. The complaint cannot be a base for

transfer unless it is enquired and proved against the applicant and same is brought on record before Civil Services Board. In the C.A.No.131/2021 the applicant has made following reliefs –

“ It is therefore prayed that pending disposal of O.A. effect and operation of impugned order of transfer dated 26/3/2021 be stayed and respondents be directed to resume applicant at Sakoli, Nagar Parishad on the post of Chief Officer.”

3. The learned counsel for Intervener pointed out that as per record on page no.102, on 4/8/2020 the applicant herself had requested for transfer from Sakoli. On this request no action was taken by the respondents.

4. Hon'ble Apex Court in following case has settled procedure related to transfer. **“T.S.R.Subramanian & Ors vs Union Of India & Ors on 31 October, 2013** (REPORTABLE) in the WRIT PETITION (CIVIL) NO.82 OF 2011 and WRIT PETITION (CIVIL) NO.234 OF 2011. However, it does not appear by records that procedures given by the Hon'ble Apex Court in above case have been followed. No record has been produced about inquiry related to allegations and no minutes of the meeting of the Civil Services Board has been produced.

5. The respondent no.1 has filed reply and in para-9 following observation has made –

“(9) It is also bring to the proposal of this Hon’ble Tribunal that the procedure is followed as expected by the Transfer Act. The transfer proposal of the applicant was placed before the Civil Services Board and as per the recommendation of Civil Services Board the transfer order issued with the approval of competent authority. It is submitted that the applicant was transferred as per the provisions of Section 4 (4) and 4 (5) of the Transfer Act with the approval of competent authority”.

6. However, neither inquiry related to alleged allegations has been filed on record nor minute of the Civil Services Board filed on record. The learned P.O. is directed to file these documents on record before next date of hearing.

7. In view of this situation, the C.A.No. 131/2021 is allowed. The impugned order dated 26/3/2021 (A-2,P-11) is stayed till filing of relevant documents mentioned in para-6.

O.A. 311/2021 –

S.O. after four weeks.

Steno copy is granted...

Vice-Chairman

dnk.

***O.A. 05/2021 (S.B.)**

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

Dated : 17/05/2021.

C.A. No. 137/2021 -

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

2. The applicant has filed C.A.No. 137/2021 for withdrawal of the O.A.

3. In view of above, the C.A. No. 137/2021 is allowed and the O.A. is disposed of as withdrawn. No order as to costs.

Vice-Chairman

dnk.

***O.A. 304/2021 (S.B.)**

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

Dated : 17/05/2021.

Heard Shri S.P. Palshikar, Id. Counsel for the applicant, Shri A.P. Potnis, Id. P.O. for R-1 and Shri Kale, Id. Counsel for other respondents.

2. The P.O. and learned counsel for other respondents desire time to reply. Time is granted as prayed for.

3. **S.O. 31/5/2021.**

Vice-Chairman

dnk.

***O.A. 379/2021 (S.B.)**

(D. G. More Vs. State of Mah. & Ors.)

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

Dated : 17/05/2021.

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

2. The learned counsel for the applicant submitted that the applicant was first transferred vide order dated 13/4/2020 (A-2,P-23) as Chief Officer, Washim Nagar Parishad. Again the applicant has been transferred vide order dated 3/5/2021 (A-4,P-34) after a period of about only one year, wherein it is mentioned that the Section 4(4) & 4(5) of the Transfers Act has been followed. However, no cogent reason has been explained. No recommendation of Civil Services Board has been filed on record.

3. In view of subsequent transfer order, the learned CPO pointed out that the applicant was relieved on 3/5/2021. The applicant was working as Chief Officer Nagar Parishad, Washim and order was issued from Mumbai. There is set procedure for relieving an officer and certain documents like CTC are signed by outgoing and incoming officer. Simply an Officer cannot be relieved from a post by a line in the order of transfer. In view of submission and direction given by the Hon'ble Apex Court in case of

“T.S.R.Subramanian & Ors vs Union Of India & Ors on 31 October, 2013

(REPORTABLE) in the WRIT PETITION (CIVIL) NO.82 OF 2011 and WRIT PETITION (CIVIL) NO.234 OF 2011.

4. In view of this peculiar situation, the transfer order dated 3/5/2021 (A-4,P-34) is stayed till filing of reply. The respondents are directed to file Civil Services Board record also along with reply. The learned counsel for the applicant was not sure whether the applicant was relieved or not in his submission.

5. Issue notice to the respondents returnable **after four weeks**. The learned C.P.O. waives notice for the 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. 383/2021 (D.B.)**

(A. R. Garmode & Ors. Vs. State of Mah.)

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

Dated : 17/05/2021.

C.A. 138/2021 –

Heard Shri K. Mahalle Id. Counsel for the applicants and Shri S.A. Deo, Id. CPO for the State. With the consent of both the counsels the matter is heard.

C.A. No.138/2021 is allowed for applicants Sr.Nos.1 to 11 only.

O.A. 383/2021 -

Heard Shri K. Mahalle Id. Counsel for the applicants and Shri S.A. Deo, Id. CPO for the State. With the consent of both the counsels the matter is heard.

2. There are 83 applicants from page nos.1 to 13 and learned CPO pointed out that except 11 candidates (Sr.Nos.1 to 11) other 72 candidates are not from Vidarbha Region. In this situation, this Bench will only listen grievances of sr.nos.1 to 11 applicants. The respondents are directed that as the order passed on 6/5/2021 in O.A. 357/2021 should be made applicable to first 11 applicants whose names are reproduced below.

(1) Ananta R Garmode, Nagpur

- (2) Sandip R. Thawle, Nagpur
- (3) Kishor M. Mule, Nagpur.
- (4) Sagar D. Thakre, Amravati
- (5) Nilesh T. Labde, Amravati
- (6) Banty S. Chavhan, Amravati
- (7) Eknath P. Rathod, Chandrapur.
- (8) Shivaji M. B Bhatane, Chandrapur.
- (9) Bharat A. Chirde, Yavatmal.
- (10) Nilesh Kumar K.M. Mishra, Yavatmal.
- (11) Rekhilal B. Gautam, Gondia

3. The learned counsel for the applicants desires to file C.A. for hearing to other 72 applicants at Nagpur Bench only. He may do so.

4. Meanwhile, the respondents are at liberty to decide the grievances of other 72 candidates on the basis of Judgment in above 11 candidates, if they are otherwise eligible.

5. As the O.A.No.357/2017 is listed on 25/6/2021 and it is connected with this O.A., so both O.As. should be listed on 25/6/2021.

5. Issue notice to the respondents returnable **after four weeks**. The learned C.P.O. waives notice for the 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. 381/2021 (S.B.)**

(Dr. S. S. Htnagar Vs. State of Mah.)

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

Dated : 17/05/2021.

Heard Shri N.R. Saboo, Id .counsel for the applicant and Shri M.I. Khan, Id. P.O. for the State.

2. The applicant was working at Lakhni as per order dated 1511/2018 (A-2,P-12). The learned counsel for the applicant has pointed out that the G.R. dated 10/5/2021 (A-3,P-13) has limited transfer season for financial year 2021-2022 upto 30/6/2021 only. However, the respondents have issued order dated 12/4/2021 (A-4,P-15) wherein the respondent no.4 is at Sr.No.11 has been posted at Lakhni in place of the applicant.

3. In directly it applies that the applicant is likely to be transferred after 10/5/2021. Aggrieved with order dated 12/5/2021 the applicant has approached to this Tribunal.

4. In this situation, order dated 12/5/2021 (A-4,P-15) is stayed to the extent of respondent no.4 Dr. Mahendra Randhir Dhanvijay till filing of reply.

5. Issue notice to the respondents returnable **after four weeks**. The learned

C.P.O. waives notice for the 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. 768/2015 (S.B.)**

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

Dated : 17/05/2021.

C.A. 126/2021 -

None for the applicant.

Leteron learned P.O. Shri M.I. Khan pointed out that learned Counsel for the applicant has filed C.A. to withdraw the O.A. and he had informed the learned P.O. that due to some personal problem he will be unable to attend court today.

In view of above, the C.A., is allowed to withdraw the O.A. Hence, the O.A. stands disposed of as withdrawn.

Vice-Chairman

dnk.

***O.A. 384/2021 (S.B.)**

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

Dated : 17/05/2021.

Heard Shri M.R. Khan, Id. Counsel for
the applicant and Shri S.A. Deo, Id. CPO for the
State.

The matter be kept on 20/5/2021.

S.O. 20/5/2021.

Vice-Chairman

dnk.
