

O.A. 685/2021 (S.B.)

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

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

Dated : 17/08/2021.

Heard Shri R.V. Shiralkar, Id. counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the State.

2. The learned counsel for the applicant submits that the applicant has made representation dated 2/8/2021 (A-3,P-30) mentioning that he was working for more than seven years at the present post and due for transfer. However in the last para of the representation, the applicant has mentioned about mental problem of his wife and mother. The learned counsel for the applicant further submits that one post at Yavatmal is still vacant. The learned counsel has relied upon the G.R. dated 9/4/2018 (A-2,P-10) and in the said G.R. in para-6 of page no.22 following points have been given for consideration of transfer –

^ ¼½ 'kl dh; deþkjh ; kph ; FkkLFkrh i Ruh ok i rh ok R; kph eysok R; kð; koj voycu vl yysvkbZfdok oMhy fdok efgyk vf/kdk& kps I kl wfdok I kl js gs ddjkskus ¼dwl j½ vktkjhe i {kk?krkus vktkjhe ewfiM jki.k 'kL=fdz k fdok Mk; yfl I I # vl yys@cu V; eþ fdok enþjhy 'kL=fdz k@ fu'prukoLFkk ¼dkekkZ@eufodirhus xLr@ gn; 'kL=fdz k >kyh vl Y; kl I cf/kr 'kl dh;

depk&; kph izkkI dh; I kš huq kj o in mi yC/krud kj
R; kš; k I kš hP; k fBck.kh cnyh dj.; kr ; koh-**

3. The learned P.O. has produced document dated 13/8/2021 in which it is mentioned that the applicant has been relieved. It is taken on record and marked Exh-X. However, the ld. counsel submitted that it was done to prevent and approach before the Tribunal. The applicant has also given the choice posting at Annex-A-1, P-8&9 for considering the G.R. dated 9/4/2018 by which it appears that procedures laid down in the G.R. have not been followed in the transfer order. Hence, the applicant's transfer order dated 9/8/2021 (A-4,P-31) is stayed. The respondents are directed to follow the procedure laid down in the G.R. dated 9/4/2018 (A-2,P-10) and decide the applicant's choice posting as per Annex-A-1,P-8&9 within one month from the date of receipt of this order and before filing reply the representation should be decided.

4. Issue notice to the respondents returnable **after three weeks**. Learned P.O. waives notice for State. Hamdast allowed.

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

6. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is

put to notice that the case would be taken up for final disposal at the stage of admission hearing.

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

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

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

S.O. after three weeks.

Steno copy is granted.

Vice-Chairman

dnk.

O.A. 686/2021 (S.B.)

(M.I.M. Ebrahim Vs. State of Mah. & Ors.)

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

Dated : 17/08/2021.

Heard Shri R.V. Shiralkar, Id. counsel along with Shri Vilas Dongre, Id. counsel for the applicant and Shri A.P. Potnis, Id. P.O. for the State.

2. As submission made by the learned counsel, admittedly the applicant has completed his normal tenure at the present posting and accordingly he has submitted 10 choices at Annex-A-1,P-8&9 and on page no.9 ten choices are given. The learned counsel has relied on the G.R. dated 9/4/2018 (A-2,P-10) and in Step no.5 (P-16) it has been mentioned that the matter be placed before the Civil 'Services Board and they have to consider as per following guidelines –

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5 1/2 fcxj vo?MM {ks=kr dk; jr vl .kk&; k o cnyhl ik= vl .kk&; k de?pk&; kph i fl /n dsy;h ; knh fopk;kr ?k?u l nj ; knhrty de?pk&; kph fooj.ki =&2 e/; suem dsy; k ik/ku; d?kud kj cnyh?nkjs inLFkki us?kr f'kQkj l djko-

fvi & vo?MM {ks=krty cnyhi = de?pk&; kph fooj.ki =&2 e/kyh ik/ku; d?kud kj i Fke cnyhP; k inLFkki us?kr f'kQkj l d; kur;j f'kyd jkg.kk&; k , dqk fjDr inkoj

*fcxj dBh.k Hkxkrhy cnyhl ik= vl .kk&; k deþk&; kph
fooj.ki=&2 e/khy ik/kkU; dækuð kj R; kpk i l arhde o
T; sBrk fopkjkr ?kÅu cnyhP; k inLFki ud kBh f'kQkj l
djkoh.***

3. The learned P.O. has filed copy of Civil Services Board which is marked Exh-X1 where they have mentioned applicant's name at Sr.No.13 and they have proposed the place which is not at all in the options of applicant at page no.9. They have failed to follow the guidelines given by the Govt. as per G.R. dated 9/4/2018 as per Step no.5. They have to follow choice given by the applicant. The Id. P.O. has submitted document dated 13/8/2021 by which it appears that the applicant has been relieved. It is marked Exh-X. Relieving the applicant by an order dated 13/8/2021 as well as transfer order dated 9/8/2021 (A-5,P-33) both are stayed till filing of reply.

4. The respondents should follow the guidelines given by the Government in G.R. dated 9/4/2018 and particularly Step no.5 of the G.R. wherein the guidelines have been given regarding consideration of choice of the applicant. The applicant has already given choice.

5. Issue notice to the respondents returnable **after three weeks**. Learned P.O. waives notice for State. Hamdast allowed.

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

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

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

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

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

S.O. after three weeks.

Steno copy is granted.

Vice-Chairman

dnk.

O.A. 689/2021 (S.B.)

(S.C. Damodhar Vs. State of Mah. & Ors.)

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

Dated : 17/08/2021.

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

2. The learned counsel has pointed out that vide transfer order dated 9/8/2021 (A-5,P-35) the applicant has been transferred from Wani to Maregaon. The Id. counsel has also pointed out at Annex-A-7,P-37 the list of persons who are to be considered for Assistant Project Officer, has been published by the Deputy Commissioner (Administration), Tribal Development Department, Nashik and upto Sr.No.15 the candidates have been already promoted and the applicant is at Sr.No.23. He is likely to be promoted as Assistant Project Officer soon. The learned counsel has also filed request applications at Annex-A-3 and Annex-A-4 wherein the applicant and one Shri Natkar have made representations to the respondent no.2 for mutual transfer. Both have completed their normal tenure. The learned counsel has filed copy of Civil Services Board meeting dated 2/8/2021 which is marked Exh-X wherein the respondent no.3 has been transferred and the

respondent no.3 has also completed his tenure more than four years. As per Civil Services Board meeting dated 2/8/2021 the respondent no.3 is at Sr.No.11 and the applicant is at Sr.No.15. By minutes of meeting it appears that both want to go at their place of posting. It means they have agreed request of mutual transfer. The same application is not on record. The Id. P.O. to take instructions in this regard.

3. In view of this situation, the transfer order dated 9/8/2021 to the extent of applicant is stayed till further orders. As per G.R. dated 29/7/2021 in para-4 the respondents should take necessary action in that case the respondent no.3 and the applicant will be mutually transferred.

4. Issue notice to the respondents returnable **after one week**. Learned P.O. waives notice for State. Hamdast allowed.

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

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

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

questions such as limitation and alternate remedy are kept open.

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

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

S.O. after one week.

Steno copy is granted.

Vice-Chairman

dnk.

O.A. 696/2021 (S.B.)

(Sanjaya P. Tayade Vs. State of Mah. & Ors.)

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

Dated : 17/08/2021.

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

2. The applicant was transferred from Wani to Zari Jamni on administrative ground. Then as per partially modified order dated 18/6/2014 (A-1,P-8) the applicant was transferred to Umarched, Dist. Yavatmal. Then vide order dated 31/5/2019 (A-2,P-9) the applicant has been transferred from Umarched to Yavatmal No.1 on request. She was relieved on 31/5/2019 and she joined at Yavatmal No.1 on 10/6/2019 (A-3,P-10). Subsequently, one Ku. K.C. Bagde has filed O.A.No. 411/2019 in MAT and order was stayed. As per the order Smt. S.P. Tayade was sent back to join at Umarched. Now as per the impugned order dated 12/8/2021 (A-6,P-34) the applicant has been transferred from Umarched to Zari Jamni. The applicant is aggrieved with this order and therefore she has approached to this Tribunal. The applicant was relieved on 13/8/2021 without completion of normal tenure at Umarched. The Id. P.O. has also placed on record minutes of meeting dated

2/8/2021 which is marked Exh-X wherein the applicant's name appears at Sr.No.11 and her tenure has been shown as 4 years 9 months, however, this document is not supplied to the learned counsel. It is not understood that when the applicant joined after MAT order in O.A.No.411/2019 and working since 17/7/2019 at Umarched, then how the Civil Services Board has calculated tenure as 4 years 9 months. It appears that all the facts have not been placed before the Civil Services Board and how Civil Services Board calculating tenure at Umarched as 4 years 9 months i.e. also not cleared. The Id. counsel submitted that transfer of the applicant from Umarched to Zari Jamni dated 9/8/2021 has not been supplied to the applicant or the learned counsel and straightway relieving order dated 12/8/2021 has been served.

3. The learned counsel further submitted that in place of the applicant till nobody has been posted at Lady Hostel, Umarched.

4. In view of this situation, the transfer order dated 9/8/2021 of the applicant is stayed till filing of reply.

5. Issue notice to the respondents returnable **after three weeks**. Learned P.O. waives notice for State. Hamdast allowed.

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

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

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

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

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

S.O. after three weeks.

Steno copy is granted.

Vice-Chairman

dnk.

O.A. 688/2021 (S.B.)

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

Dated : 17/08/2021.

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

2. The applicant has been transferred vide order dated 9/8/2021 (A-3,P-14) and his name appears at Sr.No.24. Admittedly, the applicant has submitted representation dated 29/7/2021 (A-5,P-41) and admittedly the applicant has completed normal tenure at Yavatmal. In para-2 at page no.41 the applicant has mentioned about family problems. In this situation, the respondents are directed to consider the applicant's representation dated 29/7/2021 (A-5,P-41) within three weeks from the date of receipt of this order sympathetically.

3. With this direction, the O.A. stands disposed of. No order as to costs.

Vice-Chairman

dnk.

O.A. 687/2021 (S.B.)

(P.T. Gautam Vs. State of Mah. & Ors.)

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

Dated : 17/08/2021.

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

2. The applicant has submitted representation dated 8/4/2021 (A-3(a),P-22) to the respondent no.2. Admittedly she has also submitted 10 choices for posting on page no.21 to take care of her family members. Her choice at Sr.No.3 is Wireless Control Room, Gondia and next choice is at Sr.No.8 Special Duty Wild Life, Gondia. This Bench failed to understand why applicant's choice at Sr.Nos.3&8 cannot be considered in view of family problems as per representation. It appears that without consideration of personal problems of the applicant, the order has been passed. The Id. P.O. to explain in the reply why the applicant's choice nos.3&8 are not considered.

3. The Id. counsel for the applicant has relied on order of MAT, Principal Bench, Mumbai in O.A. No. 954/2019 delivered on 13.12.2019 in the said order in para no. 7 which is reproduced below:-

“7. True, transfer is the incidence of service and no Government servant can insist for any particular post. It falls exclusively within prerogative of the executive. However, where the Government has taken policy decision in terms of G.R. dated 09.04.2018 to make transfers with counseling so that difficulties faced by the Government servant can be alleviated and minimum inconvenience is caused to them by accommodating them as per options given by them then needs to be followed unless there is reason to differ with it. One can understand if there are some genuine administrative difficulties for not considering options given by Government servant, in that event, rejection of options given by the Government servant may not be interfered with. However, in the present case absolutely no such reason or ground is forthcoming so as to deny at least one option out of ten options given by the Applicant which were admittedly vacant.

4. In view of this situation, the order dated 9/8/2021 (A-1,P-13) to the extent of applicant is stayed till further orders.

5. Issue notice to the respondents returnable **after three weeks**. Learned P.O. waives notice for State. Hamdast allowed.

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

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

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

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

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

S.O. after three weeks.

Steno copy is granted.

Vice-Chairman

dnk.

O.A. 690/2021 (S.B.)

(K.S. Madawar Vs. State of Mah. & Ors.)

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

Dated : 17/08/2021.

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

2. The applicant is working at Wadsa Forest Range and vide transfer order dated 6/8/2021 (A-2,P-12) he has been transferred to Gadchiroli as Forester. The applicant has made representation dated 2/8/2021 (A-1,P-11) wherein three choices are given i.e. (1) Vanpal, Mobile Squad, Wadsa (2) Range Assistant, Mangda Delanwadi Forest Range (Wadsa Forest Division) & (3) Range Assistant, Churchura (Porla Forest Range, Wadsa Forest Division). In the representation, the applicant has mentioned that he has worked in interior tribal area for many years including naxalite affected area. He has also mentioned that he has attained 55 years and he wants to take V.Rs. As submitted by the learned counsel, nobody is posted against the applicant till now.

3. In view of above problems facing by the applicant and past service rendered in naxalite affected area, the order dated 6/8/2021 (A-2, P-12) is stayed to the extent of applicant.

4. The learned counsel further points out that the respondents have modified the order dated 6/8/2021 on the same day i.e. on 6/8/2021 for two candidates.

5. The learned P.O. has filed document on page no.23 and as per document the applicant is working at Wadsa since 22/12/1995 for different capacity till now. Meanwhile, the respondents are directed to give personal hearing and counselling as per the G.R. dated 9/4/2018 to decide the applicant's representation dated 2/8/2021 (A-1,P-11) within three weeks from the date of receipt of this order.

6. Issue notice to the respondents returnable **after three weeks**. Learned P.O. waives notice for State. Hamdast allowed.

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

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

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

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

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

S.O. after three weeks.

Steno copy is granted.

Vice-Chairman

dnk.

O.A. 691/2021 (S.B.)

(P.G. Aaglawe Vs. State of Mah. & Ors.)

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

Dated : 17/08/2021.

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

2. As submitted by the learned counsel, the applicant was first promoted and posted vide order dated 16/7/2019 (A-1,P-9) at Nagpur. The applicant's name appears at Sr.No.6. Subsequently, again the applicant has been transferred vide order dated 9/8/2021 (A-3,P-14) and his name appears at Sr.No.7. He has been transferred from Nagpur to Pune. It seems that without completion of normal tenure of the applicant on this post, the transfer order is passed, therefore, the provision of the Transfers Act,2005 is not followed. It is also observed that G.R. dated 9/4/2018 has also not been followed.

3. In view of this situation, the transfer order dated 9/8/2021 (A-3,P-14) is stayed to the extent of the applicant.

4. Issue notice to the respondents returnable **after three weeks**. Learned P.O. waives notice for State. Hamdast allowed.

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

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

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

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

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

S.O. after three weeks.

Steno copy is granted.

Vice-Chairman

dnk.

O.A. 692/2021 (S.B.)

(Dr. M.M. Kapgade Vs. State of Mah. & Ors.)

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

Dated : 17/08/2021.

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

2. The Id. counsel submitted that the applicant has made representation dated 10/7/2021 (A-1,P-9) in which it is mentioned that the applicant has worked from 1999 to 2011 and now from 2017 to 2021 almost 16 years in Gadchiroli District which is in the category of tribal and naxal affected districts. The applicant's case is covered by the G.R. dated 6/8/2002 and particularly Clause (M) on page-14 of the said G.R. As per the transfer order dated 9/8/2021 (A-3,P-18) the applicant is at Sr.No.12 and he has been transferred from Halewara, Tq. Etapalli, Dist. Gadchiroli to Etapalli, Tq. Etapalli, Dist. Gadchiroli which appears to be grave injustice to the applicant.

3. In view of this situation, the transfer order dated 9/8/2021 (A-3,P-18) to the extent of applicant is stayed. The respondents are at liberty to decide the applicant's representation dated 10/7/2021 (A-1,P-9) before filing reply.

4. Issue notice to the respondents returnable **after three weeks**. Learned P.O. waives notice for State. Hamdast allowed.

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

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

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

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

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

S.O. after three weeks.

Steno copy is granted.

Vice-Chairman

dnk.

O.A. 693/2021 (S.B.)

(S.N. Larokar Vs. State of Mah. & Ors.)

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

Dated : 17/08/2021.

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

2. As submitted by the learned counsel, the applicant has been transferred vide order dated 9/8/2021 (A-1,P-13) from Control Room, Forest Range, Gondia to Kosamtodi-2 Beat, Sadak Arjuni Forest Range, Forest Division, Gondia in which the applicant is at Sr.No.39. The learned P.O. has filed copy of Civil Services Board meeting dated 8/8/2021 and in the remark column against the applicant, it is mentioned that the applicant has completed two tenure on non-functional post since 2015 therefore as per guidelines of G.R. dated 22/5/2017 she has been posted on functional post.

3. In this situation, the respondents are directed to give personal hearing to the applicant and counselling as per G.R. dated 9/4/2018 for consideration as per her choice posting and if it is not possible, they should give posting as per choice at page no.22.

4. In the meantime, status-quo as on today be maintained till further orders.

5. Issue notice to the respondents returnable **after three weeks**. Learned P.O. waives notice for State. Hamdast allowed.

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

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

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S.O. after three weeks.

Steno copy is granted.

Vice-Chairman

dnk.

O.A. 694/2021 (S.B.)

(S.D. Kature Vs. State of Mah. & Ors.)

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

Dated : 17/08/2021.

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

2. The Id. P.O. has filed document dated 12/8/2021 in which the applicant has been relieved from the post. It is marked Exh-X1. The Id. counsel has also filed representation of the applicant which has been recommended vide letter dated 14/7/2021. It is marked Exh-X. The respondents are directed to give personal hearing to the applicant as per the G.R. dated 9/4/2018 and after counselling, issue necessary order related to the applicant. The document dated 12/8/2021 issued by the RFO, Wani in which it is clearly mentioned that the applicant is relieved to join at Pandharkawada wild life division, but at the same time he has also directed to hand over additional charge of applicant to one Shri D.G. Bodkhe, so it appears that nobody is posted at Suknegaon beat in place of applicant.

3. In this situation, the transfer order dated 6/8/2021 (A-1,P-13) is stayed to the extent of applicant till filing of reply.

4. Issue notice to the respondents returnable **after three weeks**. Learned P.O. waives notice for State. Hamdast allowed.

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

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

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

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

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

S.O. after three weeks.

Steno copy is granted.

Vice-Chairman

dnk.

O.A. 695/2021 (S.B.)

(Dr. P.B. Daigvhane Vs. State of Mah. & Ors.)

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

Dated : 17/08/2021.

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

2. The applicant has made representation dated 7/5/2021 (A-2,P-12) requesting for transfer as per provision of husband and wife together at Nagpur since husband of the applicant was working at Nagpur. It appears that after considering and after going through the Civil Services Board, the applicant was transferred vide order dated 9/8/2021 (A-3,P-13) in which the applicant's name appears at Sr.No.5 and the applicant was transferred from Wardha to Nagpur and again within two days as per order dated 11/8/2021 (A-4,P-17) issued by the Jt. Director of Animal Husbandry, M.S., Pune the applicant has been posted to Hinganghat, Dist. Wardha and in the last column it is mentioned that modified posting place. It appears that at first stage the applicant's representation was considered and order was considered before Civil Services Board or Committee and after counselling the decision was taken for issuing the order dated 9/8/2021

(A-3,P-13). It seems that the order dated 11/8/2021 (A-4,P-17) has been issued without following any procedure. In this situation, the transfer order dated 11/8/2021 (A-4,P-17) is stayed till further orders. However, it is made clear that the respondents are at liberty to continue posting of applicant as per the order dated 9/8/2021 (A-3, P-13).

3. Issue notice to the respondents returnable **after three 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.

S.O. after three weeks.

Steno copy is granted.

Vice-Chairman

dnk.

* * *

O.A.No.641/2021 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :17/08/2021.

C.A.No.238/2021:-

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

2. The Id. counsel for the applicant has filed C.A. No. 238/2021 for direction. The O.A. was heard on 09.08.2021 and in para no. 3; the impugned order of transfer dated 04.08.2021 was stayed to the extent of applicant. The Id. counsel for the applicant submits that though order of applicant is stayed; so it is very much clear that the same order is applicable for applicant to join on the same post from where applicant was transferred.

3. It is made clear to the respondents that the impugned order of transfer is not legal and hence the order has been stayed and applicant should be joined immediately and respondents should file the reply within three weeks. Hence, **C.A. No. 238/2021 is allowed and disposed off.**

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

5. **Steno copy is granted.**

Vice Chairman

Date:-17/08/2021.

aps.

O.A.No.666/2021 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :17/08/2021.

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

2. As submission made by the Id. counsel for the applicant, applicant has been transferred vide order dated 06.08.2021 (by mistake it is written 06.08.2019) (A-A-2, Pg. No. 12). The Id. counsel for the applicant is relying on Judgment in O.A. No. 664/2021 by MAT, Nagpur Bench. *Prima Facie*, it appears that procedure laid down by Government in G.R. dated 09.04.2018 has not been followed; neither C.S.B. meeting has taken place.

3. In view of this situation, **transfer order dated 06.08.2021 is stayed to the extent of applicant i.e. employee at Sr. No. 6 till filing of the reply.** Respondents should file reply along with the copy of minutes of meeting of C.S.B. and all the documents which are expected to be followed as per G.R. dated 09.04.2018.

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

10. **S.O. three weeks.**

11. **Steno copy is granted.**

Vice Chairman

Date:-17/08/2021.

aps.

O.A.No.671/2021 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :17/08/2021.

Heard Shri P.N.Shende, the ld. counsel for the applicant and Shri A.M.Khadatkar, the ld. P.O. for the State.

2. The ld. counsel for the applicant is aggrieved with the transfer order dated 09.08.2021 (A-A-1, Pg. No. 21). As submitted by ld. counsel for the applicant, three persons have been transferred in the list and applicant is at Sr. No. 3. The ld. counsel for the applicant further submits that person at Sr. Nos. 1 & 2 have been only changing their place of working at Nagpur for so many years. His wife is working in Gajanan High School, Nagpur and as per the policy of Government to keep husband and wife at the same place; he has made application on dated 01.03.2021. Further he has submitted choice at P.B., Pg. No. 33 as pointed out by ld. P.O. but as per G.R. dated 09.04.2018 he should submit atleast 10 choices. He has submitted only four choices.

3. In view of this situation, **transfer order dated 09.08.2021 (A-A-1, Pg. No. 21) to the extent of applicant is stayed till filing of the reply.** Meanwhile, applicant is directed by keeping in mind G.R. dated 09.04.2018; he should submit all the 10 choices and respondents are at liberty to consider the applicant's representation. The ld. counsel for the applicant further submits that nobody has been posted in the place of the applicant.

4. Issue notice to Respondents, returnable on three weeks. Learned P.O. waives notice for R-1. 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.
10. S.O. three weeks.
11. Steno copy is granted.

Vice Chairman

Date:-17/08/2021.

aps.

O.A.No.674/2021 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :17/08/2021.

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

2. The applicant has been transferred from Gondia to Bhandara vide order dated 09.08.2021 (A-A-1, Pg. No. 11). Admittedly, applicant has completed more than six years at Gondia and was due for transfer. Applicant has been transferred as Assistant Project Officer (D.R.D.A.), Bhandara. However, the Id. counsel for the applicant has filed pursis; along with pursis he has attached correspondence dated 19.07.2019 by Deputy Secretary in the said communication, it has been directed that till further order after this notice without Government order no officer or employee should be deputed to D.R.D.A.. This is also by Deputy Secretary, Director to all the C.Os. and Director D.R.D.A.. This direction has been given on 19.07.2019; and the impugned order has been issued on 09.08.2021 i.e. after this directions dated 19.07.2019. Whether any order has been given by Government after the direction of 19.07.2019 that is not placed on record by either of the persons.

3. It means that this transfer order of the applicant is against the Government direction dated 19.07.2019. The Id. C.P.O. has however submitted letter dated 12.08.2021 by which it appears that applicant has been relieved from post on 13.08.2021. Even if this is considered then also it is clear cut violation of direction dated 19.07.2019. Obviously, in this situation, the order dated 09.08.2021 becomes illegal in view of Government direction dated 09.07.2019.

4. The Id. counsel for the applicant has further files G.R. dated 07.01.2006 (A-A-6, Pg. No. 28) in which G.R. dated 06.08.2002 is mentioned in reference no. 2 and applicant case is also covered by the G.R. i.e. 06.08.2002 and 07.01.2006. However, as pointed out by Id. C.P.O. the choice given by applicant on A-A-5, Pg. No. 27 it is only in Nagpur. As per G.R. dated 06.08.2002; applicant was expected to give atleast of three choices; on the part of applicant also proper choices has not been given.

5. However, respondents have not followed two G.Rs. i.e. 06.08.2002 and 07.01.2006 and directions of the Government vide letter dated 19.07.2019.

6. In this situation, merely due to relieving the applicant is one sided and it cannot be said as justice to the applicant. Hence, **transfer order dated 09.08.2021 (A-A-1, Pg. No. 11) is stayed and respondents are directed to give personal hearing to the applicant and then decide the posting and at the same time applicant should also appear before respondents with representation mentioning atleast three choices.**

7. In view of G.R. dated 06.08.2002 and 07.01.2006 and Government directions vide letter dated 19.07.2019. Since, applicant was working as District Planning Officer and deputation of employee of D.R.D.A. is violates the letter dated 19.07.2019.

8. The Id. counsel for the applicant submits that applicant has served more than 11 years in Tribal and Naxal affected area. Considering this aspect; respondents should take decision as early as possible at the same time Id. counsel for the applicant is at liberty to agitate before this Tribunal, if he didn't get the same relief.

9. Issue notice to Respondents, returnable on three weeks. Learned P.O. waives notice for R-1. Hamdast allowed.

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

11. 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.

12. 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.

13. 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.

14. 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.

15. **S.O. three weeks.**

16. **Steno copy is granted.**

Vice Chairman

Date:-17/08/2021.

aps.

O.A.No.675/2021 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :17/08/2021.

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

2. The Id. P.O. is relying on G.R. dated 09.04.2018 (A-A-4, Pg. No. 29). However, the Id. counsel for the applicant has placed on record notification dated 14.07.2018 (A-A-5, Pg. No. 51); in para no. 8 (Pg. No. 54), under the heading, period of service to be spent in allotted Revenue Division is mentioned as below:-

“8. Period of service to be spent in allotted Revenue Division:- *The officers in Group-A and Group-B appointed either by direct recruitment or by promotion shall complete the following length of service in the concerned allotted Revenue Division.*

<i>Group</i>	<i>Tenure of service</i>
<i>(1)</i>	<i>(2)</i>
<i>Group A</i>	<i>3 Years</i>
<i>Group B (Gazetted/ Non Gazetted)</i>	<i>3 Years</i>

“Note:-Before the publication of these rules in the Official Gazette, the officers who have been allotted Revenue Division as per the provisions of the Revenue Division Allotment for appointment by nomination and promotion to the posts of Group “A” and Group “B” (Gazetted and Non-Gazetted) of the Government of Maharashtra Rules, 2015, such officers shall be eligible for transfer as per the Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (Mah. XXI of 2006), provided they have completed the

length of service in the concerned Revenue Division as specified in these Rules.”

3. It is clear that now with this notification Government has superseded provisions of G.Rs. and notification and conditions of Group-(A-B). Particularly, for Revenue Division has been reduced the tenure to the extent of three years only. Applicant was serving at Motala and he has been transferred to Vani, Yavatmal.

4. The Id. counsel for the applicant has submitted choice as per Annexure-A-3, Pg. Nos. 27 & 28 (both inclusive) and he has also given 10 choices, those choices are perused and as per this choices he has asked for Thane, Thane Rural, Mumbai City, Andheri, Raigad, Khalapur, etc. Respondents have many choices to be considered as per the representation of the applicant dated 30.07.2021 (Pg. Nos. 27 & 28). The Id. P.O. is harping on only two facts:-

A. That applicant was transferred vide impugned order dated 09.08.2021 on administrative ground.

B. As per order dated 09.08.2021 he was relieved also in the afternoon of 09.08.2021.

5. However, it is pointed out that order itself was illegal as per Transfer Act. Since, the respondents have not followed the procedure laid down in the Transfer Act, 2005 by going through C.S.B. meeting which is not on record and applicant's choices which have been given 10 choices as per Government Policy. **The order dated 09.08.2021 (A-A-6, Pg. NO. 60) is illegal and it is stayed till filing of the reply.** Meanwhile, respondents are at liberty to consider the applicant's representation dated 30.07.2021 (A-A-2, Pg. Nos. 27 & 28).

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

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

8. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along

with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

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

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

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

12. **S.O. three weeks.**

13. **Steno copy is granted.**

Vice Chairman

Date:-17/08/2021.

aps.

O.A.No.676/2021 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :17/08/2021.

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

2. The applicant has been transferred vide order dated 09.08.2021 (A-A-6, Pg. NO. 60) from Lonar to Darwa, Yavatmal. The Id. P.O. has produced the documents dated 09.08.2021 (A-A-7, Pg. No. 61) by which it is pointed out that applicant has been relieved. However, since order itself is illegal. Hence, **order dated 09.08.2021 is stayed till filing of the reply.** Meanwhile, respondents are directed to consider the applicant's representation dated 31.07.2021 (A-A-3, Pg. Nos. 27 & 28).

3. Issue notice to Respondents, returnable on three 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. three weeks.**

10. **Steno copy is granted.**

Vice Chairman

Date:-17/08/2021.

aps.

O.A.No.680/2021 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :17/08/ 2021.

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

2. The applicant has been transferred from Yavatmal to Amravati vide order dated 11.09.2019 (A-A-6, Pg. No. 70). The Id. counsel for the applicant has further pointed out G.R. dated 29.07.2021 (A-A-2, Pg. NO. 15) in which para nos. 2 & 4 are relevant for the O.A. which are reproduced below:-

2- 25 VDs e; khr l ol k/kj .kk cnY; k djr vl rkuk] l cfi/kr i nkoj fofgr dkyo/th i wkz >kyY; k l ozi k= vf/kdkjh@ depljh; kb; ki bth T; kpk l cfi/kr i nkoj tkLr dkyo/th i wkz>kyk vkgsv'kk vf/kdkjh@ deplk&; kph i k/kkU; kuscnyh dj.; kr ; koh-

4- l ol k/kj .k cnY; kph dk; bkgh i wkz >ky; kurj p] th ins fJDr jkgrty dG v'kk fJDr i nkoj p fo'ksk dkj .kkLro cnY; k fn- 10 vkkLV] 2021 rs fn- 30 vkkLV] 2021 ; k dkyo/thi ; r vuks jkgrty- l cc] ts in fJDr ukgh v'kk i nkojty dk; J r vf/kdkjh@ depljh ; kph vU; = cnyh d: u v'kk i nkoj fo'ksk dkj .kkLro cnyh djrk ; skj ukgh-

3. The Id. counsel for the applicant has relying on order of MAT, Principal Bench, Mumbai in O.A. No. 954/2019 delivered on 13.12.2019 (A-A-8, Pg. NO. 74) in the said order in para nos. 7 & 8 which are reproduced below:-

“7. True, transfer is the incidence of service and no Government servant can insist for any particular post. It falls exclusively within prerogative of the executive. However, where the Government hastaken policy decision in terms of G.R. dated 09.04.2018 to make transfers with counseling so that difficulties faced by the Government servant can be alleviated and minimum inconvenience is caused to them by accommodating them as per options given by them then needs to be followed unless there is reason to differ with it. One can understand if there are some genuine administrative difficulties for not considering options given by Government servant, in that event, rejection of options given by the Government servant may not be interfered with. However, in the present case absolutely no such reason or ground is forthcoming so as to deny at least one option out of ten options given by the Applicant which were admittedly vacant.

8. *The Applicant has explained that her parents reside at Mumbai, and therefore, they can help her to look after her baby who is eight months now. As such,*

difficulty of the Applicant could have been considered in appropriate manner so as to accommodate the Applicant as per options given by her as there seems to be no other administrative reason for not giving any of the options claimed by her. Indeed, in view of the policy decision of the Government by G.R. dated 09.04.2018 it was obligatory on the part of Competent Authority to consider at least one option to accommodate the Applicant as per the options given by her. In such circumstance, rejection of request for out of district transfer is in contravention of G.R. is unjust and rather arbitrary. Suffice to say, where the transfer order is found not in consonance with the policy adopted by the Government itself and found arbitrary then interference by the Tribunal is imperative.”

4. The Id. counsel for the applicant further submits that O.A. was filed on 12.08.2021 and he has circulated the matter for 18.08.2021 but due to heavy board matter was not listed on that day. Hence, it is heard today. Today, the Id. P.O. submits that applicant has been relieved; this Bench observed that this kind of action of respondents is only to circumvent the law framed by them only and as per submission of Id. counsel for the applicant the post is already kept vacant.

5. Respondents have used para no. 2 of G.R. dated 19.07.2021 to transfer the applicant; whereas they had not followed the provisions of G.R. dated 09.04.2018. Since, the applicant was earlier transferred vide order dated 11.09.2019 (A-A-6, Pg. NO. 70) and he was not due for transfer during General Transfer of 2021. Accordingly, his name was not published in the list of officers to be transferred as per G.R. dated 09.04.2018 but he was transferred vide order dated 09.08.2021 (A-A-1, Pg. No. 13) and post was kept vacant.

6. The Id. counsel for the applicant further submits that clause-2 of G.R. dated 29.07.2021 was used against the applicant and post was kept vacant in order to use clause no. 4 of G.R. dated 29.07.2021. It clearly shows circumvent of G.R. dated 09.04.2018 earlier issued by respondents. It smacks malafide intention for transferring an applicant and keeping the post vacant between 10.08.2021 to 30.08.2021 with specific officer. This clearly shows bad test before the legal eyes and in Governance of public service. Such case is required to be stopped only in order to establish Rule of Law.

7. In view of this situation, **order dated 09.08.2021 (A-A-1, Pg. No. 13) is stayed** even though pleading of Id. C.P.O. that applicant has been relieved as per Pg. No. 10. As per relief clause by applicant (iii); Respondents are directed not to transfer nobody

during 10.08.2021 to 30.08.2021 on the post of applicant i.e. Amravati to support the unethical action done in the transfer order.

8. Issue notice to Respondents, returnable on three weeks. Learned P.O. waives notice for R-1. Hamdast allowed.

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

10. 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.

11. 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.

12. 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.

13. 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.

14. S.O. three weeks.

15. Steno copy is granted.

Vice Chairman

Date:-17/08/2021.

aps.

O.A.No.681/2021 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :17/08/ 2021.

Heard Shri D.M.Kakani, the ld. counsel for the applicant and Shri S.A.Deo, the ld. C.P.O. for the State.

2. The applicant was working at Tal. Arvi and vide order dated 09.08.2021 (A-A-1, Pg. No. 12); applicant's name appeared at Sr. No. 18. She has been transferred from Arvi to Sindewahi. Applicant was due for transfer and applicant had given choice. As submission made by the ld. counsel for the applicant the choice at Sr. Nos. 4, 5 & 7 are still vacant but applicant has been transferred to Sindewahi.

3. The ld. C.P.O. submits that there are various complaints about the applicant. At the same time, the ld. C.P.O. also produce Judgment by Judicial Magistrate First Class dated 12.08.2015 in which applicant has been convicted under C.R.P.C. 1973 Section 242 (2) and I.P.C. 1860 Section 294, 323 & 506 (1). Further punishment has been also given to the applicant by the said Court.

4. In view of this transfer, atleast C.S.B. meeting should be held regarding applicant. If there are complaints against the applicant, respondents should take action under Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 and they are at liberty to proceed against as per M.C.S. (Discipline and Appeal) Rules, 1979 and take action accordingly but in the garb of complaints not following the G.R. dated 09.04.2018 and not considering the vacant post submitted by the applicant for posting; transferring the applicant to Sindewahi does not served the purpose.

5. Already in O.A. No. 954/2019 of Mumbai Bench as pointed out by ld. counsel for the applicant and mainly in para no. 7 following observation has been made about G.R. dated 09.04.2018:-

"7. True, transfer is the incidence of service and no Government servant can insist for any particular post. It falls exclusively within prerogative of the executive. However, where the Government has taken policy decision in terms of G.R. dated 09.04.2018 to

make transfers with counseling so that difficulties faced by the Government servant can be alleviated and minimum inconvenience is caused to them by accommodating them as per options given by them then needs to be followed unless there is reason to differ with it. One can understand if there are some genuine administrative difficulties for not considering options given by Government servant, in that event, rejection of options given by the Government servant may not be interfered with. However, in the present case absolutely no such reason or ground is forthcoming so as to deny at least one option out of ten options given by the Applicant which were admittedly vacant.

6. In view of this situation, **Status-quo to be maintained and respondents are directed to consider the applicant's option as per Annexure-A-4, Pg. No. 22 within three weeks from the date of receiving of this order.**

7. With this direction, **O.A. stands disposed off with no order as to costs.**

8. **Steno copy is granted.**

Vice Chairman

Date:-17/08/2021.

aps.

O.A.No.682/2021 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :17/08/2021.

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

2. The applicant has been transferred from Amravati to Jalana vide order dated 09.08.2021 (A-A-4, Pg. No. 18) and aggrieved with this order applicant has approached to this Tribunal. Admittedly, applicant has completed tenure at Amravati and he is due for transfer. The applicant has submitted representation dated 01.03.2021 (Pg. No. 63) and in para no. 2 he has mentioned about mental condition of his father who is under treatment in Amravati. As per Government G.R. dated 09.04.2018 at Pg. No. 36 in para no. 6 incorporated which is relevant to the applicant.

3. The ld. counsel for the applicant submits that Washim is still vacant and applicant has submitted representation dated 01.03.2021 (A-A-8, Pg. Nos. 62 to 63) to the respondents and requested for his transfer to the Washim considering his father case. Meanwhile, **order dated 09.08.2021 is stayed till filing of the reply.** Respondents are directed to consider applicant's representation sympathetic considering the treatment of his father and policy of G.R. dated 09.04.2018 before filing of the reply.

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

10. **S.O. three weeks.**

11. **Steno copy is granted.**

Vice Chairman

Date:-17/08/2021.

aps.

O.A.No.683/2021 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :17/08/2021.

Heard Shri S.N.Gaikwad, the Id. counsel for the applicant and Shri S.A.Deo, the Id. C.P.O. for the State.

2. The applicant was transferred vide order dated 09.08.2021 (A-A-3, Pg. No. 40) from Amravati to Varud. Admittedly, applicant has completed his tenure but considering Medical Ground of the applicant, his name was not published in the list of employee to be transferred at Pg. Nos. 15 to 17 and then after vacant position from Pg. Nos. 18 to 37 in which his post is not mentioned but all of sudden; applicant has been transferred by G.R. dated 09.04.2018. The Id. counsel for the applicant has mainly relied on para no. 3, Pg. No. 55 of the said G.R., which is reproduced below:-

3- ts 'kkI dh; deþkjh Lor% dclj kskus %dwl j½ vktkjhe i {kk?kkrkus vktkjhe e=fi M 'kl=fdz k fdok Mk; yfl l l w vl yy@ cu V; þj fdok empjhy 'kl=fdz k @ fu'prukoflk %dkek½ @ eulðodrh us xLr @ gn; jkskusvktkjh vigr] v'kk 'kkI dh; deþk&; kulk ojhy vktkjkcrcr vlsk/kki plj pkywvl Y; kckcrpsos] dh; i ek.ki =fn- 30 , fi y i mðzcnyh i kf/kcl&; kdMsl knj dY; kl R; kph i zkkI dh; l ks huq kj o i n mi yC/krsud kj R; kR; k l ks hp; k fBck.kh cnyh dj.; kr ; koh-

3. The Id. counsel for the applicant has filed documents at Annexure-A-5, P.B., Pg. Nos. 67 & 68 about the medical report of the applicant; since applicant left kidney has been removed. So, applicant case is squarely covered by G.R. dated 09.04.2018 (Annexure-A-4, P.B., Pg. No. 42). Already in O.A. No. 954/2019 of Mumbai Bench as pointed out by Id. counsel for the applicant and mainly in para nos. 7 & 8 following observations have been made about G.R. dated 09.04.2018:-

“7. True, transfer is the incidence of service and no Government servant can insist for any particular post. It falls exclusively within prerogative of the executive. However, where the Government has taken policy decision in terms of G.R. dated 09.04.2018 to make transfers with counseling so that difficulties faced by the Government servant can be alleviated and minimum inconvenience is caused to them by accommodating them as per options given by them then needs to be followed unless there is reason to differ with it. One can understand if there are some genuine administrative difficulties for not considering options given by

Government servant, in that event, rejection of options given by the Government servant may not be interfered with. However, in the present case absolutely no such reason or ground is forthcoming so as to deny at least one option out of ten options given by the Applicant which were admittedly vacant.

8. The Applicant has explained that her parents reside at Mumbai, and therefore, they can help her to look after her baby who is eight months now. As such, difficulty of the Applicant could have been considered in appropriate manner so as to accommodate the Applicant as per options given by her as there seems to be no other administrative reason for not giving any of the options claimed by her. Indeed, in view of the policy decision of the Government by G.R. dated 09.04.2018 it was obligatory on the part of Competent Authority to consider at least one option to accommodate the Applicant as per the options given by her. In such circumstance, rejection of request for out of district transfer is in contravention of G.R. is unjust and rather arbitrary. Suffice to say, where the transfer order is found not in consonance with the policy adopted by the Government itself and found arbitrary then interference by the Tribunal is imperative.”

4. In this situation, it clearly shows that provisions of this G.R. have not been followed by the respondents. Since, in the interest of justice, after issuing a policy decision in G.R., respondents should themselves not following the same. The ld. C.P.O. further submits that applicant has been relieved. However, in the interest of justice, this cannot be accepted because if this kind of arguments is accepted then Justice can't be granted to the applicant.

5. In view of this situation, **the impugned order dated 09.08.2021 (A-A-3, Pg. No. 40) is stayed till filing of the reply.**

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

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

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

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

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

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

12. **S.O. three weeks.**

13. **Steno copy is granted.**

Vice Chairman

Date:-17/08/2021.

aps.

O.A.No.684/2021 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :17/08/2021.

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

2. The applicant was posted at Amgaon, Gondia which is Naxal and Tribal Affected Area again he has been posted at Aheri which is also Naxal and Tribal Affected Area. The applicant's case is squarely covered by G.R. dated 06.08.2002 (A-A-7, Pg. No. 76). The applicant's case is squarely covered by provisions of G.R. dated 12.06.2017 at Pg. No. 18. The applicant has given choices at Pg. Nos. 60 to 62, he has given 10 choices and Id. counsel for the applicant submits that all the choices are vacant.

3. Since, applicant has already worked in Naxal and Tribal Affected Area; the very purpose of such employees would be solved vide G.R. dated 06.08.2002 and if applicant's choice is vacant then his choice should be considered.

4. In view of this situation, **transfer order dated 09.08.2021 (A-A-6, Pg. No. 71) is stayed to the extent of applicant and respondents are directed to consider the applicant's choice at Pg. Nos. 60-62; in view of G.R. dated 06.08.2002 within three weeks from the date of receipt of this order.**

5. Issue notice to Respondents, returnable on three weeks. Learned P.O. waives notice for R-1. 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.
11. **S.O. three weeks.**
12. **Steno copy is granted.**

Date:-17/08/2021.
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Vice Chairman