

O.A. No. 314/2014 (D.B.)

**Coram: Hon'ble Shri Shree Bhagwan,
Vice-Chairman and
Hon'ble Shri Justice M.G. Giratkar,
Member(J)**

Dated : 06/06/2022.

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

At the request of Id. P.O., **S.O.**
13/06/2022.

Member (J)

Vice-Chairman

dnk.

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

Coram: Hon'ble Shri Shree Bhagwan,
Vice-Chairman and
Hon'ble Shri Justice M.G. Giratkar,
Member(J)

Dated : 06/06/2022.

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

At the request of Id. counsel for the applicant, **S.O. 14/06/2022.**

Member (J)

Vice-Chairman

dnk.

O.A. No. 785/2014 (D.B.)

**Coram: Hon'ble Shri Shree Bhagwan,
Vice-Chairman and
Hon'ble Shri Justice M.G. Giratkar,
Member(J)**

Dated : 06/06/2022.

Heard Shri Gawai, Id. counsel holding
for Shri G.K. Bhusari, Id. counsel for the
applicant and Shri A.M. Khadatkar, Id. P.O. for
R-1 to 3. None for other respondents.

S.O. three weeks for filing reply.

Member (J)

Vice-Chairman

dnk.

O.A. No. 702/2020 (D.B.)

**Coram: Hon'ble Shri Shree Bhagwan,
Vice-Chairman and
Hon'ble Shri Justice M.G. Giratkar,
Member(J)**

Dated : 06/06/2022.

C.A. No. 85/2022 -

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

2. The applicant retired in the year 2019, but all the pensionary benefits have been paid in the year 2022. For delay payment, the learned counsel for the applicant wants to amend the O.A. and for that the learned counsel for the applicant has filed C.A.No.85/2022 for amendment the O.A.

3. For the reasons stated in the C.A., the C.A. for amendment is allowed and disposed off.

4. The learned counsel for the applicant is directed to make necessary amendment within one week and amended copy be supplied to the other side.

O.A. No. 702/2020 -

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

The learned P.O. is directed to file reply
before the next date.

S.O. after six weeks.

Member (J)

Vice-Chairman

dnk.

O.A. No. 409/2021 (D.B.)

Coram: Hon'ble Shri Shree Bhagwan,
Vice-Chairman and
Hon'ble Shri Justice M.G. Giratkar,
Member(J)

Dated : 06/06/2022.

None for the applicant. Heard Shri A.P. Potnis, Id. P.O. for the respondents.

The learned P.O. files reply of R-1 to 4. It is taken on record.

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

S.O. after eight weeks.

Member (J)

Vice-Chairman

dnk.

O.A. No. 546/2021 (D.B.)

**Coram: Hon'ble Shri Shree Bhagwan,
Vice-Chairman and
Hon'ble Shri Justice M.G. Giratkar,
Member(J)**

Dated : 06/06/2022.

Heard Shri S.M. Khan, 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. Copy is supplied to the applicant.

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

S.O. in due course.

Member (J)

Vice-Chairman

dnk.

O.A. No. 594/2021 (D.B.)

Coram: Hon'ble Shri Shree Bhagwan,
Vice-Chairman and
Hon'ble Shri Justice M.G. Giratkar,
Member(J)

Dated : 06/06/2022.

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

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

Member (J)

Vice-Chairman

dnk.

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

Coram: Hon'ble Shri Shree Bhagwan,
Vice-Chairman and
Hon'ble Shri Justice M.G. Giratkar,
Member(J)

Dated : 06/06/2022.

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

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

Member (J)

Vice-Chairman

dnk.

O.A. No. 1089/2021 (D.B.)

Coram: Hon'ble Shri Shree Bhagwan,
Vice-Chairman and
Hon'ble Shri Justice M.G. Giratkar,
Member(J)

Dated : 06/06/2022.

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

The Id. P.O. submits that he has received parawise reply and he desires three weeks time to file reply.

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

Member (J)

Vice-Chairman

dnk.

O.A. No. 203/2022 (D.B.)

Coram: Hon'ble Shri Shree Bhagwan,
Vice-Chairman and
Hon'ble Shri Justice M.G. Giratkar,
Member(J)

Dated : 06/06/2022.

Heard Shri S.P. Palshikar, Id. counsel
for the applicants and Shri A.P. Potnis, Id. P.O.
for the respondents.

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

Member (J)

Vice-Chairman

dnk.

O.A. No. 309/2019 (D.B.)

**Coram: Hon'ble Shri Shree Bhagwan,
Vice-Chairman and
Hon'ble Shri Justice M.G. Giratkar,
Member(J)**

Dated : 06/06/2022.

None for the applicant. Heard Shri A.P. Potnis, Id. P.O. for R-1 to 3. None for R-4.

The matter is admitted and kept for final hearing. The Id. P.O. waives notice for R-1 to 3.

S.O. in due course.

Member (J)

Vice-Chairman

dnk.

O.A. No. 60/2019 (D.B.)

**Coram: Hon'ble Shri Shree Bhagwan,
Vice-Chairman and
Hon'ble Shri Justice M.G. Giratkar,
Member(J)**

Dated : 06/06/2022.

Heard Shri P.A. Kadu, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for R-1 to 3. None for respondent no.4.

Since learned counsel for R-4 is not present today, the matter be kept on the next date for hearing.

S.O. 20/06/2022.

Member (J)

Vice-Chairman

dnk.

O.A. No. 396/2022 (D.B.)

**Coram: Hon'ble Shri Shree Bhagwan,
Vice-Chairman and
Hon'ble Shri Justice M.G. Giratkar,
Member(J)**

Dated : 06/06/2022.

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

2. The learned counsel for the applicant submits that the respondent no.2 is served and he has already filed service affidavit.

3. The applicant was appointed as a Police Sipahi in Group-9, Amravati. The applicant is dismissed from service under Article 311 (2) (b) of the Constitution of India vide impugned order dated 7/6/2020 (A-2,P-19) without any departmental inquiry or without any opportunity of hearing on the side of applicant. The Article 311 (2) (b) of the Constitution of India reads as follows –

“ 311. Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a state - (1) No person who is a member of civil service of the Union or an all-India service or a civil service of a State or holds civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed.

(2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

Provided that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed;

Provided further that this clause shall not apply –

(a) Where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or

(b) Where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry.”

4. On this issue many Judgments have been delivered in which almost settled the principles of law.

5. In view of this situation, the impugned order dated 7/6/2020 (A-2,P-19) is quashed and set aside. The respective Appointing Authorities are directed to reinstate the applicant in service within a period of 30 days from the date of this order. 50% back wages be paid to the applicant till he joins. The respondents are at liberty to conduct preliminary inquiry as per Maharashtra Civil Services (Disciplinary & Appeal) Rules, 1979 against the applicant and take appropriate action as per the law.

6. With this direction, the O.A. is disposed off. No order as to costs.

Member (J)

Vice-Chairman

dnk.

O.A. St. No. 307/2018 (D.B.)

**Coram: Hon'ble Shri Shree Bhagwan,
Vice-Chairman and
Hon'ble Shri Justice M.G. Giratkar,
Member(J)**

Dated : 06/06/2022.

C.A. No. 41/2018 -

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

2. Vide order dated 1/10/2010 (A-1,P-13) the applicant was compulsorily retired under Section 80 of the Maharashtra Civil Services (Pension) Rules, 1982. The Para-1 of the order is reproduced as under –

“ श्री.डी.डी. लोखंडे, अब्बल कारकुन जिल्हाधिकारी कार्यालय, वाशिम यांना वैघकिय मंडळ, यवतमाळ यांनी त्यांच्या दिनांक २३/०९/२०१० च्या प्रमाणपत्राद्वारे शासकीय सेवा करण्यात कायम स्वरुपी असमर्थ असल्याबाबत प्रमाणित केले आहे.”

3. The learned counsel for the applicant has filed C.A. No.41/2018 to condone delay of 6 years, 4 months and 20 days.

4. For the reasons stated in the application, the C.A.No. 41/2018 is allowed and disposed off.

O.A. St. No. 307/2018 -

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

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

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

4. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.
5. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.
6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.
7. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.
8. **S.O. after six weeks.**

Member (J)

Vice-Chairman

dnk.

O.A. No. 700/2016 (D.B.)

**Coram: Hon'ble Shri Shree Bhagwan,
Vice-Chairman and
Hon'ble Shri Justice M.G. Giratkar,
Member(J)**

Dated : 06/06/2022.

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

2. The learned counsel for the applicant has filed letter dated 11/11/2008 (A-1,P-10) issued by the Urban Development Department. As per Clause-2 of the order the probation period will be for two years. The grievance of the applicant is that she has not been confirmed till now.

3. We have perused the reply. The relevant para nos.3,4 and 5 reads as under –

“(3) It is submitted that the applicant was appointed as Chief Officer (Group-B) on probation period of two years w.e.f. 27th July,2009. As the applicant was on leave during the probation period of two years, her probation period was supposed to be completed on 29th October, 2012. It is further submitted that due to some indiscipline committed by the applicant during her tenure as Chief Officer, Ramtek Municipal Council, District Nagpur, the State Government has accorded its sanction to initiate

Departmental Enquiry under the Rule 8 of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 against her in the year 2012. The process of issuing charge sheet against her in this D.E. is under process.

(4) It is further submitted that the State Government vide memorandum dated 27th April,2016 has initiated D.E. against the applicant under Rule 10 of the MCS (D&A) Rules, 1979, in respect of irregularities committed by her during her tenure as a Chief Officer, Kamthi Municipal Council, District Nagpur.

(5) In view of above Department Enquiries, the probation period of the applicant was extended till the completion of the D.E. as per the guidelines prescribed in this G.R. GAD dated 29th February, 2016 and as advised by the GAD. The G.R. to that effect has been issued on 6th September,2016 by taking prior approval of the Competent Authority. As stated above, the G.R. dated 6/9/2016 which is under challenge has been issued as per the prevalent Government Policy in this regard'.

4. In view of above, at this stage relief cannot be granted.

S.O. after eight weeks.

Member (J)

Vice-Chairman

dnk.

O.A. No. 67/2022 (D.B.)

**Coram: Hon'ble Shri Shree Bhagwan, Vice-Chairman and
Hon'ble Shri Justice M.G. Giratkar, Member(J)**

Dated : 06/06/2022.

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

Similar case i.e. O.A.No. 672/2021 was heard by this Tribunal and order was delivered on 11/10/2021.

2. As pointed out by Id. counsel for the applicant order in O.A. 879/2017 was passed on 11.03.2020 and in para no. 10 on Pg. No. 32 following observation was made:-

"In view of above discussion, we are of the view that it is necessary to issue direction to the respondent no. 2 to examine and consider the case of the applicant in view of the procedure laid down in para-1(9) of the G.R. dated 15.12.2017 and to take conscious decision regarding promotion of the applicant."

3. After the observation; following order was passed on Pg. No. 33 which is mentioned below:-

"The application is partly allowed. The respondent no. 2 is directed to arrange the D.P.C. for consideration of the case of the applicant in view of the directions issued in the G.R. dated 15.12.2017 in para - 1 (6), 1 (9) and 1 (11). The decision shall be taken by the respondent no. 2 within a period of three months from the date of this order. No order as to costs."

4. The Id. counsel for the applicant submits that respondent no. 2 has issued promotion order of one Shri Satish Martand Gotekar (A-9, Pg. Nos. 82 to 84), secondly Shri Vilas Harischandra Jadhav (Pg. Nos. 85 to 87) and thirdly Shri Amol Chandrakant Gawali (Pg. Nos. 88 to 90). In all these three orders in para no. 2 following points have been considered:-

"२. महाराष्ट्र शासन, सामान्य प्रशासन विभाग, शासन निर्णय क्र.एसआरव्ही-२०१५/प्र.क्र.३१०/कार्या.१२, दिनांक १५/१२/२०१७ मधील नियम क्र. ९ व ११ अन्वये नियुक्ती प्राधिकारी यांनी सपोनि/सतिश मार्टंड घोटेकर यांना ११ महिन्यासाठी किंवा विभागीय चौकशी/ निलंबन कार्यवाही/ न्यायालयीन कार्यवाही अंतिम होईल यापैकी जे अगोदर होईल तेवढ्या कालावधीसाठी खालील अटीच्या अधिन राहून पोलिस निरीक्षक पदी निव्वळ तदर्थ पदोन्नती देण्याचा निर्णय घेतला आहे"

5. On parity of above candidates, applicant's case needs to be decided as per para 1 (11) of G.R. dated 15/12/2017.

6. In Tribunal's order dated 11.03.2020 (para Nos. 1.6 & 1.9) is about G.R. dated 15.12.2017. However, in para no. 1.9; the appointing authority was supposed to take conscious decision.

7. Respondent no. 2 is reminded that in Public Governance conscious decision does not mean that decision should be taken like the king, conscious decision or discriminatory power decision must be taken with some Judicial and Logical backing of facts.

8. When these three orders were issued under the garb of conscious decision; what prevented Respondent no. 2 to use the same conscious decision against the applicant.

9. In reply also filed on 1.4.2022 it is mentioned that para nos. 1.6 & 1.9 are about conscious decision; it is appreciated that respondent no. 2 has further implemented this consciousness in case of three cases by extending provisions of G.R. dated 15.12.2017 Section 11 also but it is not understood that why he fails to do the same in applicant's case also.

10. In the reply in para 3 (c) it is mentioned that 2nd DPC was held in the year 2020-2021. However date of DPC is not mentioned. However it appears that previous DPC has taken place in the year 2019-2020. It appears that the respondents have mentioned about two DPCs.

11. The learned counsel for the applicant has filed copy of order dated 7/8/2014 passed by this Tribunal in O.A.170/2010 (A-8,P-52). In para-9 it has been mentioned as follows –

“(9) In the result, we are of the view that this O.A. deserves to be allowed in the following terms :

The DPC shall immediately consider the case of the applicant for promotion to the post of Police Inspector ignoring pendency of the criminal proceeding against him, provided, he is otherwise eligible for promotion to the post of Police Inspector. In the event the DPC considers him fit, it may clarify that it shall be subject to the outcome of the criminal case and till that time the promotion, if any, given shall be provisional.”

12. The respondent no.2 is directed to open the envelope of the applicant kept after DPC and take decision regarding promotion as per the provisions in para nos. 1 (6), 1 (9) and 1 (11) of the G.R. dated 15.12.2017 within three months from the date of receipt of this order and take decision accordingly.

13. It should be also seen to be not discriminatory against anyone. All persons before decision maker be treated at par while using conscious decision.

14. With this direction, the O.A. is disposed off. No order as to costs.

Member (J)
dnk...

Vice-Chairman

O.A.No.57/2020 (S.B.)

Coram : Shri M.A.Lovekar, Member (J)
Dated : 06/06/2022.

None for the applicant. Shri S.A.Sainis, the Id.
P.O. for the State. Await service of R-2.

2. Perused pursis for unconditional
withdrawal. Hence, **the application is disposed of
as withdrawn.**

Date:-06/06/2022.
aps.

Member (J)

O.A.No.588/2021 (S.B.)

Coram : Shri M.A.Lovekar, Member (J)
Dated : 06/06/2022.

C.A.No.208/2022:-

Heard Shri N.R.Saboo, the ld. Counsel for the applicant and Shri S.A.Sainis, the ld. P.O. for the State. Await service of R-2 to 4.

2. Perused Original Application as well as Civil Application.

3. In para no. 3 of the Civil Application it is stated that:-

“Applicant submits that respondent no. 2 already vide order dated 10.08.2021, posted respondent no. 4 at Sirolcha Division. It is submitted that recently respondent no. 2 issued General Transfer order dated 26.05.2022 as per recommendation of Civil Service Board dated 24.05.2022. Name of the applicant does not appear in the said transfer order. Thus there will be no inconvenience to the department and as per recommendation of R-3 further extension can be granted to the applicant to continue at present post in Bhamragad Forest Division. Applicant submits that even recently vide representation dated 31.05.2022, he brought to the notice of respondent no. 2, about recommendation of respondent no. 3 for

extension of tenure at present post and also alternatively requested for nereby posting, to enable him to look after illness of his mother. Copy of representation dated 31.05.2022 is annexed herewith and marked as Annexure-III.”

4. On behalf of the applicant attention of the Tribunal is invited to page no. 5 of the C.A. (A-I). By this communication dated 04.05.2022, respondent no. 3 has recommended that prayer of the applicant be considered favourably. On 30.07.2021, this Tribunal has passed an interim order. Relevant portion of stay order is as follows:-

“The respondents should take undertaking from the applicant that in the next year, he will be ready to go on transfer anywhere and after getting such undertaking his representation for extension for one year may be considered. Till that time status-quo be maintained.”

5. It is submitted by Adv. Shri N.R.Saboo that so far no undertaking has been obtained from the applicant though pursuant to the interim order he has been continued on the same post.

6. To the Civil Application representation dated 31.05.2022 made by the applicant to respondent no. 3 is attached.

7. It is submitted by Adv. Shri Saboo that Respondent no. 2 is directed to decide representation dated 31.05.2022 made by the

applicant in the light of recommendation made by the respondent no. 3 dated 02.05.2022, the purpose behind filing this O.A. shall be served. On behalf of

the Respondent nos. 1 to 3, it is submitted by Id. P.O. that since General Transfer Orders are likely to be issued soon after 30.06.2022, the aforesaid recommendation as well as representation can be suitably considered by respondent no. 2 and this O.A. with C.A. can be disposed of accordingly. Hence, the order:-

ORDER

1. Respondent no. 2 shall consider recommendation dated 04.05.2022 made by respondent no. 3 as well as representation dated 02.05.2022 made by the applicant suitably at the time of ensuing General Transfer Orders.
2. **In the light of the above Original Application and all the pending Civil Application stand disposed of.**

Member (J)

Date:-06/06/2022.

aps.

O.A.No.610/2021 (S.B.)

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

Dated : 06/06/2022.

Heard Shri A.Motlog holding for Shri R.V.Shiralkar, the Id. Counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the Respondents.

2. Onoral request of Id. P.O., **S.O. three weeks to file reply.**

Member (J)

Date:-06/06/2022.

aps.

O.A.No.611/2021 (S.B.)

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

Dated : 06/06/2022.

Heard Shri N.R.Saboo, the ld. Counsel for the applicant and Shri A.M.Ghogre, the ld. P.O. for the Respondents. None for the R-4.

2. On oral request of ld. P.O., **S.O. three weeks to file reply.**

Member (J)

Date:-06/06/2022.

aps.

O.A.No.661/2021 (S.B.)

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

Dated : 06/06/2022.

None for the applicant.Shri A.M.Ghogre, the
ld. P.O. for the Respondents.None for the respondent
no. 3.

2. On oral request of ld. P.O., **S.O. three weeks
to file reply.**

Member (J)

Date:-06/06/2022.

aps.

O.A.No.657/2021 (S.B.)

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

Dated : 06/06/2022.

Heard Shri N.R.Saboo, the ld. Counsel for the applicant and Shri S.A.Sainis, the ld. P.O. for the Respondents. None for the R-3.

2. On oral request of ld. P.O., **S.O. three weeks to file reply.**

Member (J)

Date:-06/06/2022.

aps.

O.A.No.686/2021 (S.B.)

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

Dated : 06/06/2022.

Heard Shri A.Motlog holding for Shri R.V.Shiralkar, the Id. Counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the Respondents.

2. By consent of both the counsels, **S.O. two weeks.**

Member (J)

Date:-06/06/2022.

aps.

O.A.No.689/2021 (S.B.)

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

Dated : 06/06/2022.

Heard Shri A.Motlog holding for Shri R.V.Shiralkar, the Id. Counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the Respondents. None for the R-3.

2. On oral request of Id. P.O., **S.O. three weeks to file reply.**

Member (J)

Date:-06/06/2022.

aps.

O.A.No.724/2021 (S.B.)

Coram : Shri M.A.Lovekar, Member (J)
Dated : 06/06/2022.

Heard Shri P.S.Patil, the Id. Counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the State. Await service of R-2 & 3.

2. The Id. P.O. has filed reply on behalf of the respondent nos. 1 to 3. It 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. 17.06.2022.**

6. Interim order is extended till 17.06.2022.

7. Meanwhile, the Id. counsel for the applicant is at liberty to file Rejoinder, if any.

Member (J)

Date:-06/06/2022.
aps.

O.A.No.754/2021 (S.B.)

Coram : Shri M.A.Lovekar, Member (J)
Dated : 06/06/2022.

C.A.No.333/2021:-

Heard Shri N.R.Saboo, the ld. Counsel for the applicant and Shri S.A.Deo, the ld. C.P.O. for the Respondents.

2. The ld. C.P.O. seeks time of two days to take instructions, **S.O. 08.06.2022.**

Date:-06/06/2022.
aps.

Member (J)

O.A.No.783/2021 (S.B.)

Coram : Shri M.A.Lovekar, Member (J)
Dated : 06/06/2022.

Heard Shri N.R.Saboo, the ld. Counsel for the applicant and Shri A.M.Ghogre, the ld. P.O. for the State. Await service of R-2 & 3.

2. The ld. P.O. has filed reply on behalf of the respondent no. 2. It is taken on record. Copy is served to the other side. He further submit that it is sufficient to decide the matter.

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

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

5. **S.O. 13.06.2022 for final hearing.**

6. *Meanwhile, the ld. counsel for the applicant is at liberty to file Rejoinder, if any.*

Member (J)

Date:-06/06/2022.

aps.

O.A.No.836/2021 (S.B.)

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

Dated : 06/06/2022.

Heard Shri S.P.Chaware holding for Shri A.P.Tathod, the ld. Counsel for the applicant and Shri A.M.Ghogre, the ld. P.O. for the State. Await service of R-2 to 4.

2. On oral request of ld. Counsel for the applicant, **S.O. one week to file service affidavit.**

Member (J)

Date:-06/06/2022.

aps.

O.A.No.973/2021 (S.B.)

Coram : Shri M.A.Lovekar, Member (J)
Dated : 06/06/2022.

Heard Shri S.M.Pande holding for Shri S.N.Gaikwad, the ld. Counsel for the applicant and Shri M.I.Khan, the ld. P.O. for the Respondents. None for the R-4.

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

Member (J)

Date:-06/06/2022.
aps.

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

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

Dated : 06/06/2022.

Heard Shri S.M.Pande holding for Shri S.N.Gaikwad, the ld. Counsel for the applicant and Shri M.I.Khan, the ld. P.O. for the Respondents.

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

Member (J)

Date:-06/06/2022.

aps.

O.A.No.534/2022 (S.B.)

Coram : Shri M.A.Lovekar, Member (J)
Dated : 06/06/2022.

None for the applicant. Shri S.A.Deo, the Id.
C.P.O. for the State.

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

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

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

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

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

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

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

Date:-06/06/2022.
aps.

Member (J)

O.A.No.589/2022 (S.B.)

Coram : Shri M.A.Lovekar, Member (J)
Dated : 06/06/2022.

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. In this original application order dated 17.05.2022 (A-16) is impugned. By this order an amount of Rs. 13,57,110/- is proposed to be recovered from the applicant on the ground of unauthorised occupation of Government quarter. The applicant is relying on the facts, that initially she was transferred to Nandurbar, so long as she was working at Nandurbar, she was entitled to retain the quarter at Nagpur, only after she was transferred from Nandurbar to Amravati she was required to vacate the quarter but after a period of three months during which she could have retained the quarter, after this period of three months expired Covid-19 situation arose, she had made representation dated 11.09.2020 (A-8), before making this representation she had made representation dated 18.10.2019 (A-6), considering these details the applicant could rely on G.R. dated 15.06.2015 (A-9, Para no. 7) and considering all these circumstances the applicant would be entitled to interim order in terms of prayer clause no. (i) in para no. 11 of the O.A..

3. The applicant has also relied on Office Memoranda issued by the Central Government by which it was stipulated that on account of

prevalence of Covid-19 situation, rent at Commercial Rate along with penalty cannot be recovered for the occupancy of Government quarter.

4. It is submitted by ld. C.P.O. that when the applicant became liable to vacate the quarter at Nagpur by virtue of her transfer from Nandurbar to Amravati, Covid-19 situation was not there, such situation arose at the start of March, 2020 and under such circumstances if at all interim order as prayed by the applicant is to be passed the applicant should show her bonafides by depositing part of the amount which she is liable to pay under the impugned order. It is further submitted by ld. C.P.O. that various Office Memoranda issued by the Central Government shall not be applicable to the case of the applicant since no policy decision on par with the Central Government is taken by the Government of Maharashtra.

5. Considering rival submissions, I have come to the conclusion that **interim order in terms of prayer clause (i) in para 11 of the O.A. is required to be passed till returnable date.** So far as question of the applicant being required to deposit part of the amount recoverable from her, the ld. C.P.O. shall be at liberty to re-agitate this submission on next date. Hence, the order:-

O R D E R

Effect and implementation of the impugned order dated 17.05.2022 (A-16) issued

by respondent no. 3 is stayed till the returnable date.

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

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

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

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

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

11. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original

Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

12. **S.O. four weeks.**
13. **Steno copy is granted.**

Member (J)

Date:-06/06/2022.
aps.

O.A.No.457/2020 (S.B.)

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

Dated : 06/06/2022.

None for the applicant.Shri S.A.Sainis, the Id.
P.O. for the Respondents.None for the R-3.

2. **S.O. tomorrow i.e. 07.06.2022.**

Member (J)

Date:-06/06/2022.

aps.

O.A.No.511/2020 (S.B.)

Coram : Shri M.A.Lovekar, Member (J)
Dated : 06/06/2022.

Heard Shri G.N.Khanzode, 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 placed on record copy of order dated 24.11.2021. In this order of promotion name of the applicant features at Sr. No. 23. In this order, place new posting of the applicant is also shown. It is further submitted that in view of this order the application is become infructuous and it may disposed of. Hence, **O.A. is disposed of accordingly.**

Member (J)

Date:-06/06/2022.
aps.

O.A.No.668/2021 (S.B.)

Coram : Shri M.A.Lovekar, Member (J)
Dated : 06/06/2022.

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

2. The Id. Counsel for the applicant has invited attention of the Tribunal to para no. 25 of reply of respondent nos. 2 & 3. It reads as under:-

“Without prejudice the right of the respondent no. 3, as per the order of this Hon’ble Tribunal the applicant was accommodated in the office at District Deputy Registrar of Co-operative Societies, Yavatmal and the applicant has joined at Yavatmal. Thus, considering the legal submission the application for interim relief be vacated and the Original Application deserves to be dismissed with cost in the interest of justice and equity.”

3. On the basis of contents of aforequoted para no. 25, it is submitted that grievance of the applicant is no longer remains. Hence, **O.A. is disposed of accordingly.**

Member (J)

Date:-06/06/2022.
aps.

O.A.No.865/2021 (S.B.)

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

Dated : 06/06/2022.

Heard Shri N.R.Saboo, the ld. Counsel for the applicant and Shri S.A.Sainis, the ld. P.O. for the Respondents.

2. **Closed for orders.**

Member (J)

Date:-06/06/2022.

aps.

O.A.No.886/2021 (S.B.)

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

Dated : 06/06/2022.

Heard Shri S.M.Pande holding for Shri S.N.Gaikwad, the ld. Counsel for the applicant and Shri M.I.Khan, the ld. P.O. for the Respondents.

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

Member (J)

Date:-06/06/2022.

aps.

O.A.No.595/2022 (S.B.)

Coram : Shri M.A.Lovekar, Member (J)
Dated : 06/06/2022.

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. By the impugned order, the applicant is deputed to work at Sangali. This order is assailed mainly on the ground that it has been made to operate till further order without mentioning specific period. It is pointed out by Id. C.P.O. that the applicant and 11 Ors. have been sent on deputation because of requirement of various regions. It is also pointed out that pursuant to the impugned order the applicant has been relieved. Under these circumstances notice is required to be issued.

3. Liberty is given to the applicant to re-agitate the question of passing an interim order on next date.

4. Issue notice to Respondents, returnable on 16.06.2022. Learned C.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. 16.06.2022.**

Member (J)

Date:-06/06/2022.

aps.