

O.A. 860/2020 (S.B.)

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

Dated : 29/09/2021.

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

2. As pointed out by the learned counsel, the standing order issued by the Department on 18/10/2019 (A-2,P-17 to 22) and as per para-2 on page no.20 the grievances of the applicant are covered which is reproduced as follows –

^2- cnyh dk; nk 2005 e/khy rjrqhuq kj , [kkn; k i nkoj vl .; kpk l kkk; dkyko/kh rhu o"kkpk vl q l nj dk; n; krhy i jrqhuq kj depk&; kwh/kkj.k dsv; k i nkoj nku i qkz i nko/khph %6 o"kkz l dk i qkzdsv; kuarj] R; kph cnyh nq &; k dk; ky; kr fdok foHkkxkr dj.; kckcrph rjrm vkgs l nj rjrm fo'ksk 0; k?kz l j{k.k nykrhy ouj{kcd ; kkk l qnk ykxq jkrhy r l p 'kk l u 'kqnh i =d fnukad 22@5@2017 v l o; s i f l /n cnyh /kkj.kkrhy rjrqh cny; k l mHkkz 'kk l ukus oGkoGh fuxIer dsv; k l puk fo'ksk 0; k?kz l j{k.k nykrhy ouj{kcd ; kkk l qnk ykxq jkrhy.**

3. The respondents were directed vide order dated 21/06/2021 to decide the applicant's representations dated 30/1/2020 (A-6,a,P-32)

and 18/08/2020 (A-6b,P-34). However, it appears that till now no action has been taken. The learned P.O. desires three weeks time to file reply.

4. At the request of Id. P.O. three weeks time is granted as a last chance.

S.O. three weeks.

Vice-Chairman

dnk.

O.A. 121/2021 (S.B.)

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

Dated : 29/09/2021.

Shri Shri N.B. Rathod, Id. counsel holding for Shri A.R. Fule, Id. counsel for the applicant and Shri A.P. Potnis, Id. P.O. for the respondents.

2. The learned P.O. desires three weeks time to file reply. Time is granted as prayed for.

3. The learned counsel is directed to file recent G.R. issued by the Government related to appointment on compassionate ground.

S.O. three weeks.

Vice-Chairman

dnk.

O.A. 262/2021 (S.B.)

(P. D. Chavan Vs. State of Mah. & Ors.)

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

Dated : 29/09/2021.

Heard Adv. Shri N.B. Rathod with Adv. Shri Rahul Waghmare, Id. counsel for the applicant and Shri V.A. Kulkarni, Id. P.O. for the respondents.

2. The applicant was suspended vide order dated 11th September, 2020 (A-6,P-32) and Corrigendum dated 15/09/2020 (P-35) since he was arrested by the Anti Corruption Bureau on 9/9/2020 and he was placed in police custody less than 48 hours and hence suspension order was effected from 9/9/2020. The matter was heard on 30/03/2021 and in paa-3 following observations have been given which is reproduced below –

*“3 The applicant has approached to Hon’ble High Court in Criminal Application NO. 662/2020 where in para no. 6; Hon’ble High Court has given following order on P.B., Pg. No. 13 (Annexure-A-1):-
“Though the investigating agency may continue with the investigation, shall not file the charge-sheet without leave of the court against the present applicant only”*

3. The Hon’ble High Court has asked not to file charge sheet in Court. However nothing on record is seen which prohibits respondents to proceed with D.E. process. On record, it appears that no progress has taken place in the D.E. after suspension order dated 11th September, 2020 (A-6,P-32).

4. After hearing pleadings of both the sides, various Judgments of Hon’ble Apex Court and Hon’ble High Court and Government of Maharashtra G.Rs. were also considered. In view of this following Judgments of Hon’ble Apex Court are reproduced as follows –

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

14 We, therefore, direct that the currency of a Suspension Order should not extend beyond three months if within this period the Memorandum of Charges/Chargesheet is not served on the delinquent officer/employee; if the

Memorandum of Charges/Chargesheet is served a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the concerned person to any Department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognize that previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time limits to their duration. However, the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us.

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

24. This Court in **Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291** has frowned upon the practice of protracted suspension and held that suspension must necessarily be for a short duration. On the basis of the material on record, we are convinced that no useful purpose would be served by continuing the first Respondent under suspension any longer and that his reinstatement would not be a threat to a fair trial. We reiterate the observation of the High Court that the Appellant State has the liberty to appoint the first Respondent in a non sensitive post.

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

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

(ii) fuyfcr 'kkl dh; I ocll; kT; k i dzj .lh 3 efgl; kpk dkyko/hr foHkxh; plkl'lh l q d: u nkskjk i = ctlo.; kr vlysulgh] v'kk i dzj .lh ek- l ocll U; k; ky; kpsvlnsk i lgrk] fuyau l ekr dj.; k'kok; vU; i; k; jkgr ulgh R; keGsfuyfcr 'kkl dh; I ocll; kcr foHkxh; plkl' kph dk; bkgh l q d: u nkskjk i = ctlo.; kph dk; bk; h fuyauki kl u 90 fno l kl; k vkr dklvclj i .ksdyh t kby; kph n{krk@ [kcjnkjh?ks; kr; koh-

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

fuyfcr 'kkl dh; I ocll; kT; k i dzj .lh 3 efgl; kpk dkyko/hr foHkxh; plkl'lh l q d: u nkskjk i = ctlo.; kr vlysulgh] v'kk i dzj .lh ek- l ocll U; k; ky; kpsvlnsk i lgrk] fuyau l ekr dj.; k'kok; vU; i; k; jkgr ulgh R; keGsfuyfcr 'kkl dh; I ocll; kcr foHkxh; plkl' kph dk; bkgh l q d: u nkskjk i = ctlo.; kph dk; bk; h fuyauki kl u 90 fno l kl; k vkr dklvclj i .ksdyh t kby; kph n{krk@ [kcjnkjh?ks; kr; koh-

5. This O.A. is squarely covered by Government of Maharashtra G.A.D. 'kkl u fu.k dē 118@i z dē 11@11v] f n u k d 09-07-2019 and above Judgments of Hon'ble Apex Court and Hon'ble High Court.
6. The learned P.O. desires three weeks time to file reply.
7. The respondents have not followed settled legal principle about continuation of suspension period.
8. In view of above discussions, the suspension order dated 11th September, 2020 (A-6,P-32) and Corrigendum dated 15/09/2020 (P-35) are revoked with immediate effect. The respondents are directed to issue necessary orders along with suitable posting order as per observations made in para-24 above by the Hon'ble Apex Court in case of **State of Tamil Nadu Vs. Pramod Kumar IPS and Anr. delivered on 21/08/2018..**
9. The O.A. was filed on 10/3/2021 but till today the respondents have not filed reply.

S.O. three weeks.

Steno copy is granted...

Vice- Chairman

dnk.

O.A. 285/2021 (S.B.)

(D.G. Suryawanshi Vs. State of Mah.)

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

Dated : 29/09/2021.

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

2. The learned P.O. has filed reply of R-1&3 separately. Same are taken on record and copies are supplied to the other side. In para-2 of reply of R-1 it is mentioned as follows –

“(1) It is submitted that the applicant was initially appointed in the reserve category and subsequently promoted from reserved category of VJNT on the post of ASI by order dated 2/7/2015. The office of the answering respondent has repeatedly giving reminders to the applicant for submitting the caste validity of his caste. The applicant failed to submit the caste validity till he attained the age of superannuation.”

3. However, the learned counsel submits that the applicant was appointed in open category and he never took benefit of reservation in promotion of ASI and he was under impression that since he was appointed in open category he does not require validity of caste certificate. The applicant was appointed as Police Constable on 15/10/1983 and stood retired on 31/7/2017 from the post of ASI. So he was in the Department for 34 years. It is not understood why the Department did not forward his documents to Caste Validity Committee to verify his caste. At the same time, why the applicant did not place his caste certificate for verification as demanded by the Department. As submitted by the Id. counsel, the applicant was under impression that since he was appointed from open category and he does not require validity of caste certificate. The respondents have relied on Govt. GAD G.R. dated 18/5/2013 (A-R-1,P-53) in their reply and accordingly they have given various reminders to the applicant for caste verification, but the applicant did not submit any documents. According to the Id. counsel, for admission of applicant's son, the applicant approached to the Caste Verification Committee and caste validity committee vide order dated 18/5/2018 invalidated the Caste certificate.

The applicant has approached to the Hon'ble High Court and the matter is still pending there. Now question involved is whether the applicant was appointed under open category and was promoted from open category on the post of ASI and for this following two documents are required –

(i) Applicant's appointment order as Police Constable

(ii) Applicant's promotion order as ASI.

4. The learned counsel as well as Id. P.O. are directed to produce documentary evidence like applicant's appointment order and promotion order and also service book of applicant to substantiate their arguments.

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

6. If the Id. counsels are able to produce the documents earlier they may move application for early hearing.

S.O. after four weeks.

Vice-Chairman

dnk.

O.A. 406/2021 (S.B.)

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

Dated : 29/09/2021.

Shri R.M. Fating, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for the respondents.

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

Vice-Chairman

dnk.

O.A. 418/2021 (S.B.)

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

Dated : 29/09/2021.

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

At the request of Id. P.O., **S.O.**
13/10/2021 for filing reply.

Vice-Chairman

dnk.

O.A. 452/2021 (S.B.)

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

Dated : 29/09/2021.

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

The Id. P.O. files reply of R-2&3. It is taken on record.

The matter is admitted and kept for final hearing.

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

S.O. four weeks.

Vice-Chairman

dnk.

O.A. 522/2021 (S.B.)

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

Dated : 29/09/2021.

Shri J.H. Aloni, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for the respondents.

At the request of Id. P.O., **S.O.**
08/10/2021 for filing reply.

Vice-Chairman

dnk.

O.A. 670/2021 (S.B.)

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

Dated : 29/09/2021.

Shri N.D. Thombre, Id. counsel for the applicant, Shri H.K. Pande, Id. P.O. for R-1 and Shri R.D. Tajne, Id. counsel for R-2.

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

Vice-Chairman

dnk.

O.A. 738/2021 (S.B.)

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

Dated : 29/09/2021.

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

2. The learned counsel files relevant documents on record and copies are supplied to the Id. P.O. same are taken on record and marked Exh-X.

3. It appears that the applicant was placed under suspension and after reinstatement the applicant has been posted. The grievance of the applicant is that his posting is not justified. The Id. counsel submits that as per G.R. dated 20/4/2013 (A-7,P-31) in para-2 (A) if the applicant is of state level cadre or seniority is maintained at state level, then he should be posted out of revenue division in which he was placed under suspension. The Id. counsel is not clear about it and desires to take instructions in this regard. Both the counsels are directed to make submission in this regard within one week.

S.O. one week.

Vice-Chairman

dnk.

Rev. A. 04/2021 in O.A. 351/2019 (S.B.)

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

Dated : 29/09/2021.

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

At the request of Id. P.O., **S.O.**
20/10/2021 for filing reply.

Vice-Chairman

dnk.

O.A. 426/2021 (S.B.)

(Dr. S.G. Khobragade Vs. State of Mah.)

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

Dated : 29/09/2021.

Heard Shri S.N. Gaikwad, Id. counsel for the applicant, Shri V.A. Kulkarni, Id. P.O. for R-1to3 and Smt. P.M. Giratkar, Id. counsel for R-4.

At the request of Id. counsel for the applicant, **S.O. 06/10/2021.**

Vice-Chairman

dnk.

O.A. 334/2021 (S.B.)

(Dr. V.R. Sirsath Vs. State of Mah. & ors.).

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

Dated : 29/09/2021.

Heard K. Satpute, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for the State.

2. It appears that the learned counsel has first approached to the Hon'ble High Court, Bench at Nagpur in Writ Petition No.1460/2002. The applicant's name appears at Sr.No.3 i.e. Vijay S. Sirsat. It was decided on 27th June, 2017 and in para-8 following observations were made on page no. 66.

“(8) In the result, we dispose of this petition with liberty to the petitioners nos.1&3 to approach the competent authority making such grievance, which shall be considered in the light of the relevant provisions of law, rules and regulations and the G.R./Circulars applicable and non-consideration of the claims of the petitioners in this judgment shall not come in their way. No costs.”

3. Subsequently, the applicant appeared in the CAT in O.A.2141/2020 with M.A. No. 2132/2020 and order was pronounced on 19/1/2021 by the D.B. of CAT which is at page nos. 80&81. It appears that the applicant was previously Teacher in Government of Maharashtra and then he joined in Central Government in MSME Institute, Nagpur. Since the applicant's service falls within Maharashtra Govt. the CAT vide its decision dated 19/1/2021 observed in para-4 which is reproduced as below –

“(4) Since the earlier service of the applicant with State Govt. of Maharashtra has not yet been regularised, he cannot approach this Tribunal for grant of benefit of that service by the Central Government organization. First he should get his earlier service period regularised and in this regard he can seek relief from the appropriate forum. In view of this, the applicant's counsel seeks permission to withdraw this O.A.”

4. Accordingly, the applicant approached to this Tribunal. As pointed out by Id. P.O., the applicant is directed to delete names which are related to Govt. of India i.e. Sr.Nos.3,4&5 and which

are not related with MAT. After deleting these names, the matter will be heard. The Id. counsel submits that he will delete the names within one week.

5. After amendment, issue notice to the respondents returnable **after four weeks**. Learned P.O. waives notice for the State. Hamdast allowed.

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

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

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

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

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

S.O. after four weeks.

Vice-Chairman

dnk.

O.A. 797/2021 (S.B.)

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

Dated : 29/09/2021.

Heard Shri R.L. Kadu, Id. counsel for the applicant and Shri S.A. Sainis, Id. P.O. for the State.

2. Issue notice to the respondents returnable **after four weeks**. Learned P.O. waives notice for the 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.

S.O. after four weeks.

Vice-Chairman

dnk.

O.A. 830/2021 (S.B.)

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

Dated : 29/09/2021.

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

2. Issue notice to the respondents returnable **in next week**. Learned P.O. waives notice for the 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.

S.O. next week.

Vice-Chairman

dnk.

O.A. 848/2021 (S.B.)

(Prof. A.R. Takale Vs. State of Mah. & ors.).

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

Dated : 29/09/2021.

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

2. Issue notice to the respondents returnable **in next week**. Learned P.O. waives notice for the 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.

S.O. next week.

Vice-Chairman

dnk.

O.A. 865/2021 (S.B.)

(K.M. Gite Vs. State of Mah. & ors.).

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

Dated : 29/09/2021.

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

2. Issue notice to the respondents returnable **after three weeks**. Learned P.O. waives notice for the 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.

S.O. after three weeks.

Vice-Chairman

dnk.

O.A. 869/2021 (S.B.)

(S.K. Bharti Vs. State of Mah. & ors.).

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

Dated : 29/09/2021.

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

2. Issue notice to the respondents returnable **next week**. Learned P.O. waives notice for the 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.

S.O. next week.

Vice-Chairman

dnk.

O.A. 870/2021 (S.B.)

(M.C. Thakur Vs. State of Mah. & ors.).

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

Dated : 29/09/2021.

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

2. Issue notice to the respondents returnable **next week**. Learned P.O. waives notice for the 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.

S.O. next week.

Vice-Chairman

dnk.

O.A. 874/2021 (S.B.)

(A.T. Sakundarwar Vs. State of Mah. & ors.).

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

Dated : 29/09/2021.

Heard Shri S.Y. Deopujari, 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 transferred vide order dated 10/8/2020 (A-2,P-29&30) from Tahsil Office, Amgaon, Dist. Gondia to SDO Office, Umred, Dist. Nagpur. The applicant is in the rank of Naib Tahsildar. Subsequently, the applicant has been transferred vide order dated 22/9/2021 (A-1,P-26 to 28) and his name appears at Sr.No.6. The transfer order is issued within 13 months which is premature and without completion of applicant's normal tenure and it is clear cut violation of Section 4 (4) 4 (5) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred to as "Transfers Act,2005").

The learned counsel submitted that the applicant is not yet relieved.

3. In view of this, **the order dated 22/9/2021 (A-1,P-26 to 28) to the extent of applicant is stayed till filing of reply.**

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

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

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

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

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

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

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

S.O. after four weeks.

Steno copy is granted.

Vice-Chairman

dnk.

O.A. 173/2019 (S.B.)

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

Dated : 29/09/2021.

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

With the consent of Id .counsel for both the parties, **S.O. 11/10/2021.**

Vice-Chairman

dnk.

O.A. 468/2017 (S.B.)

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

Dated : 29/09/2021.

Heard Shri R.V. Shiralkar, Id. counsel for the applicant, Shri H.K. Pande, Id. P.O. for R-1&2 and Shri N.S. Khandewale, Id. counsel for R-3.

With the consent of Id .counsel for both the parties, **S.O. 8/10/2021.**

Vice-Chairman

dnk.

O.A. 565/2018 (S.B.)

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

Dated : 29/09/2021.

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

With the consent of Id .counsel for both
the parties, **S.O. two weeks.**

Vice-Chairman

dnk.

O.A. 49/2020 (S.B.)

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

Dated : 29/09/2021.

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

With the consent of Id .counsel for both the parties, **S.O. 8/10/2021.**

Vice-Chairman

dnk.

O.A. 642/2020 (S.B.)

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

Dated : 29/09/2021.

Heard Shri I.N. Choudhari, Id. counsel for the applicant and Shri V.A. Kulkarni, Id. P.O. for the respondents.

With the consent of Id .counsel for both the parties, **S.O. 11/10/2021.**

Vice-Chairman

dnk.

*

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

**Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 29/09/ 2021.**

C.A.No.437/2017:-

Heard Shri A.A.Syed, the Id. Counsel for the applicant, Shri A.M.Khadatkar, the Id. P.O. for the respondent nos. 1 & 2. None for the respondent nos. 3 & 4.

2. On Civil Application No. 437/2017; the respondent nos. 1 & 2 have filed reply and in para no. 2 he has mentioned that applicant is a public servant not a Government Servant. As a Government Servant he should approach to the Tribunal for redressal of his grievance, he is mentioned that applicant was appointed by Zilla Parishad and service of applicant are administered and Governed by the provisions contemplated under the Zilla Parishad, District Service (Recruitment), 1967.

3. In para no. 5; again they have mentioned that for resolving their grievances under the provisions contemplated in the Maharashtra Zilla Parishad, District Services (Discipline and Appeal) Rules, 1964. The provisions contemplated u/r 14 of the Rules of 1964 provided provisions the challenge any service dispute pertaining to impugned order is available before this answering respondent i.e. Divisional Commissioner.

4. Applicant has an alternative to approach before Divisional Commissioner for his grievance. Accordingly, **the applicant is directed to approach before Divisional Commissioner within fifteen days from the date of receipt of this order** as per Zilla Parishad Act and Rule and if he is aggrieved with the Divisional Commissioner's order he may approach to the Tribunal. **Further direction is given to the Divisional Commissioner to dispose of the representation of the applicant within four months after receipt of his representation.** However, applicant is at liberty to approach before Tribunal, if aggrieved by order of Divisional Commissioner.

5. Hence, **C.A. along with O.A. disposed of with no order as to costs.**

Vice Chairman

Date:-29/09/2021.

aps.

O.A.No.989/2018 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 29/09/ 2021.

Heard Shri N.R.Saboo, the Id. Counsel for the applicant, Shri S.A.Sainis, the Id. P.O. for the respondent nos. 1 to 3. None for the respondent nos. 4, 5 & 6.

2. The respondent no. 5, Shri L.H.Kothari appeared for R-5 is absent. He appeared on 12.03.2021 but today he is absent. If in subsequent date Nagar Parishad will not come and file his reply; the matter will be decided on merit.

3. **S.O. four weeks to file reply as a last chance.**

Vice Chairman

Date:-29/09/2021.
aps.

O.A.No.94/2020 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 29/09/ 2021.**

Heard Shri N.B.Rathod, the Id. Counsel for the applicant and Shri A.M.Khadatkar, the Id. P.O. for the respondent nos. 1 to 3 & 5. None for the respondent no. 4.

2. The Id. counsel for the applicant has filed reply on behalf of the respondent no. 1. It is taken on record. Copy is served to the other side.

3. He has also filed correspondence dated 17.09.2021 which is marked Exh. 'X' for the purpose of identification. It is written by Collector, Ratnagiri and forwarded to Head of Department of Mumbai University for his opinion. The Collector has forwarded to Government and Government has forwarded to University.

4. However, on perusal of documents filed by Id. P.O., letter written by Collector, Ratnagiri to H.O.D., English Mumbai University is not seen. The Id. P.O. is directed to file correspondence by Collector and University of Mumbai on record within two weeks and supply the same to the other side.

5. As pointed out by Id. counsel for the applicant, in the previous order Collector, Ratnagiri who is respondent no. 1 and Chairman, District Selection Committee was directed to obtain opinion of Head of Department of English Department of

Mumbai University directly and not through Government of Maharashtra.

6. Today whatever correspondence has been placed on record. It appears that Respondent no. 1 had corresponded through Government. Now respondent no. 1; Chairman District Selection Committee is again directed that he should directly correspond through Mumbai University and submit it on record.

7. **S.O. two weeks.**

Vice Chairman

Date:-29/09/2021.

aps.

O.A.No.348/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 29/09/ 2021.

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

2. The Id. P.O. submits that he has received parawise reply on behalf of the respondent no. 3. He will file reply within two weeks.

3. As per order of this Tribunal, respondents were directed to complete the D.E. before 10.11.2016. But still they are asking time. It is made clear that if within two weeks time reply will not file. Matter be heard on merit.

4. However, as per synopsis of the O.A., the applicant appointed as Range Forest Officer in 1983 in Maharashtra Forest Services and as pointed out by Id. P.O. as per Pg. No. 5 of the O.A.; applicant was sent on deputation as Project Officer in the office of Additional Tribal Commissioner, Amravati. He was Project Officer between 01.02.2009 to 22.02.2012. The applicant was working as Project Officer in Integrated Tribal Development, Project, Akola (*here in after referred as I.T.D.P.*). During this period some irregularities were committed by applicant and enquiry was started by Tribal Development department. The said enquiry is yet not completed.

5. The Id. counsel for the applicant is directed to make party to the enquiry officer. So that this Tribunal can issue notice and take reply from him. The Id. counsel for the applicant is also directed to make party respondents to the parent department otherwise decision on the enquiry report will not be taken.

6. The Id. counsel for the applicant submits that he will make amendments in the O.A. within one week time. Office is further directed to issue notice to the newly added respondents. As submitted by Id. P.O., he will file reply of respondent no. 3 within two weeks time. The Id. P.O. is also directed to supply the same in advance to the other side.

7. S.O. three weeks.

8. Steno copy is granted.

Vice Chairman

Date:-29/09/2021.

aps.

O.A.No.414/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman

Dated : 29/09/2021.

Heard Shri P.S.Wathore, the Id. Counsel for the applicant and Shri H.K.Pande, the Id. P.O. for the respondent nos. 1 to 3. None for the respondent no. 4.

2. As pointed out by Id. counsel for the applicant; applicant was served chargesheet vide order dated 21.10.2020 (A-18, Pg. No.158) and on Pg. No. 161 two charges have been mentioned. But actually both the charges are only one i.e. unauthorised absent from 01.04.2020. However, it is not mentioned that duration for which respondents considered the applicant to be unauthorised absent that means from 01.04.2020 upto which date. Which has been considered as unauthorised absent; it is not clear in the chargesheet.

3. The Id. counsel for the applicant has also invited my attention on correspondence at Pg. No. 41; which is not legible. Hence, the Id. counsel for the applicant has filed typed copy of Pg. No. 41 as a Pg. No. 41-A (Annexure-A-3). It appears that since applicant does not reach to the Chandrapur during lock down period. The arrangement was made for drawing and disbursement office to another person. It means that it is clear that during that period due to Cowid – 19 situation; there was lock down situation in Chandrapur and applicant could not reach to the town.

4. According to the chargesheet dated 21.10.2020 (A-18, Pg. No. 158); it was mandatory to mention the duration of unauthorised absent of the applicant in the chargsheet. However, in Complaint no. 1 they have only mentioned that absent is from 01.04.2020. The Id. counsel for the applicant has pointed out that applicant written a reply to Assistant Commissioner, Skill Development, Centre, Chandrapur on 11.05.2020 (A-8, Pg. No. 49). He was never absent unauthorised till 31.03.2020. He was working at

Chandrapur and then after oral discussion with Assistant Commissioner he has started working in Nagpur.

5. The Id. P.O. has also pointed out letter by Assistant Commissioner dated 04.05.2020 (A-7, Pg. No. 48) and in last para; it is mentioned that applicant left head quarter without taking permission from Collector. Both the statements are contradictory, as per applicant's application; applicant left Chandrapur after oral discussion with Assistant Commissioner. Whereas as per letter of Assistant Commissioner dated 04.05.2020 (A-7, Pg. NO. 48) he left office without permission of Collector. It is not clear that who was immediate boss of applicant? Whether Assistant Commissioner or Collector?

6. So, the Id. P.O. is permitted to file reply within three weeks time. He is further directed to clarify following points:-

A. Who is immediate boss of applicant, whether Collector, Chandrapur or Assistant Commissioner, Skill Development, Nagpur.

B. Duration of unauthorised absent treated by respondents as per their chargsheet dated 21.10.2020.

7. The Id. counsel for the applicant is also directed to file on record if any representation has been submitted by applicant to the respondents for his payment. Since he has submitted that applicant has not made any representation for salary of the month of April, May, June and July, 2020.

8. Meanwhile, the respondents are directed not to proceed with the enquiry till filing of the reply.

9. S.O. three weeks.

10. Steno copy is granted.

Vice Chairman

Date:-29/09/2021.

aps.

O.A.No.627/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 29/09/ 2021.

Heard Shri S.P.Palshikar, the Id. Counsel for the applicant and Shri P.N.Warjekar, the Id. P.O. for the respondents.

2. Today the Id. counsel for the applicant has shown the documents of correspondence dated 08.09.2021 by Respondent no. 5 which is marked Exh. 'X' for the purpose of identification. Along with this enquiry report dated 31.08.2021 by Regional Enquiry Officer has enclosed. Respondent no. 5 has sent this letter along with the enquiry report to applicant. The Id. counsel for the applicant has also filed reply submitted by applicant to respondent no. 5 dated 20.09.2021; which is marked Exh. 'X-1' for the purpose of identification. It is taken on record. Copy is served to the other side.

3. **S.O. 20.10.2021 for reply.**

Vice Chairman

Date:-29/09/2021.

aps.

O.A.No.632/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 29/09/ 2021.

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

2. The matter was heard on 15.09.2021 and detailed order has been passed on 15.09.2021. On 15.09.2021; it is clearly mentioned that if they have taken any decision before today that should be communicated and if not taken any decision then they are not allowed to take decision. However, since today nothing is on the record. So, it clarifies that department has not taken any decision till 15.09.2021. Now, they forfeit the right to take any decision against the applicant.

3. The Id. P.O. desires time to file reply, **S.O. three weeks.**

4. Steno copy is granted.

Vice Chairman

Date:-29/09/2021.
aps.

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

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 29/09/ 2021.

Heard Shri R.M.Fating, the Id. Counsel for the applicant, Shri V.A.Kulkarni, the Id. P.O. for the respondents and Shri D.M.Surjuse, the Id. counsel for the respondent no. 4.

2. The Id. counsel for the respondent no. 4 is going to file power on behalf of the respondent nos. 2 & 3 also.

3. The Id. P.O. desires four weeks time to file reply, **S.O. four weeks.**

Vice Chairman

Date:-29/09/2021.
aps.

O.A.No.741/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 29/09/ 2021.

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

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

Vice Chairman

Date:-29/09/2021.

aps.

C.P.No.31/2020 in O.A.No.689/2014 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 29/09/2021.

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

2. The Id. P.O. has filed minutes of meeting between Respondent no. 1 and Union on 20.12.2013. It is taken on record. Copy is served to the other side.

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

Vice Chairman

Date:-29/09/2021.
aps.

O.A.Nos.523,524&525/2021 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 29/09/2021.**

**C.A.Nos.291,292,293&294/2021 (In O.A.
No.523/2021)**

Heard Shri V.Dongre and Shri R.V.Shiralkar, the Id. Counsel for the applicants and Shri P.N.Warjekar, the Id. P.O. for the respondents. Await service of respondent nos. 10 to 14 (In O.A. No. 523/2021) and Shri S.P.Palshikar, the Id. counsel for the Intervenor (O.A. No. 523/2021).

2. The Id. counsel for the applicant has filed reply for Intervention. It is taken on record. Copy is served to the other side.

3. **S.O. 06.10.2021.**

Vice Chairman

Date:-29/09/2021.
aps.

O.A.No.935/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 29/09/ 2021.

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

2. The Id. P.O. has filed reply on behalf of the respondent no. 1. It is taken on record. Copy is served to the other side.

3. The matter was heard on 27.09.2021 and the Id. counsel for the applicant has asked to file details of all the eight applicants in chart format that when they appeared or not appeared in examination. When examination didn't take place, when they failed and finally when they passed in four years criteria and three attempts. Today, the Id. counsel for the applicant has filed chart and he has also supplied the copy of G.R. dated 24.08.1976 to the other side. He further claims according of this G.R.. Since all applicants are from backward Classes; so they claim one more chance and one more year.

4. *Prima Facie* chart was examined and applicant nos. 6 & 7 has cleared the examination within four years and three chances. As per chart since 2011 examination didn't took place though he has also been taken into account and they have passed in 2013. So they complete the condition as mentioned four years within three chances as per rule 13 on Pg. No. 33. As far as others are concerned,

unless their case is covered by G.R. dated 24.08.1976; they cannot be to fulfil condition 13 of Pg. No. 33 to pass in four years and three chances. Since they have passed examination in 2014 i.e. after six. One applicant is at Sr. No. 8 is recruited in 2010.

5. The Id. P.O. desires to take instructions from the department that whether after consideration of G.R.; candidates can be passed or fulfil the condition of the recruitment rules or not?

6. In view of this, the Id. P.O. is granted two weeks time to take instructions from the department. **S.O. 20.10.2021.**

Vice Chairman

Date:-29/09/2021.

aps.

O.A.No.743/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 29/09/ 2021.

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

2. Issue notice to Respondents, returnable on four weeks. Learned 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.**

Vice Chairman

Date:-29/09/2021.

aps.

O.A.No.861/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 29/09/ 2021.

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

2. Issue notice to Respondents, returnable on four weeks. Learned 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.**

Vice Chairman

Date:-29/09/2021.

aps.

