

(S.B.)

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

Dated : 04/09/2021.

**O.A. Nos. 439,153,197,325,329,344,345,346,
362,363,364,365, 366,367,368, 369,370,371,
372,373,374,375,376,377,378,440,438 & 437 of
2021**

Heard Shri M.R. Khan, Id. counsel for the applicants and Shri S.A. Deo, Id. CPO for the respondents.

2. The learned counsel for the applicants submits that respondents are served in all the O.As.

3. The learned CPO submits that in all the O.As. main grievance of the applicants is that pay fixation of the applicants as per 5th Pay Commission, 6th Pay Commission and 7th Pay Commission are wrong. The applicants have also made representation to the respondent no.2, but nowhere it has been pointed out that on what point the applicants disagreed that pay fixation as per 5th, 6th & 7th Pay Commission is wrong. Secondly, they have not filed seniority list showing that who were juniors to the applicants and whose pay have been fixed more the applicants.

4. The learned counsel for the applicants is directed to amend the application to that effect pointing out on what point the applicants disagreed with the pay fixation as per 5th Pay Commission, 6th Pay Commission and 7th Pay Commission and also for seniority list by which it can be seen that who are juniors to the applicants and whose pay have been fixed more the applicants.

S.O. four weeks.

Vice-Chairman

dnk.

O.A. 779/2021 (S.B.)

(Ganesh R. Thakre Vs. State of Mah. & ors.)

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

Dated : 04/09/2021.

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

2. The learned counsel relied on G.R .dated 10/1/2012 (A-7,P-24 to 30) by which six more division offices have been created for Woman & Child Development Commissionerate, Pune and Officer incharge in those offices is Divisional Deputy Commissioner. The impugned order dated 25/8/2021 (A-9,P-36) is issued by the Divisional Deputy Commissioner, Woman and Child Development Department, Amravati by which the applicant has been posted from Washim to Amravati. Vide order dated 9/8/2021 (A-4,P-20) the applicant was transferred from Yavatmal to Washim and this order was issued by the Commissioner, Woman and Child Development Department (M.S.), Pune.

3. The learned CPO relied on para-3 of the G.R. dated 10/1/2012 (A-7,P-24) in which it is mentioned that Divisional Deputy Commissioner will be responsible for all kind of work in the Division and accordingly the impugned order has been issued by the Divisional Deputy Commissioner and the applicant has been posted to Amravati vide order dated 25/8/2021 (A-9,P-36). However, argument is canvassed by the learned counsel is that Divisional Deputy Commissioner is not Competent Authority to issue such order because earlier transfer order is issued by the Commissioner of Woman & Child Development Department therefore the impugned order dated 25/8/2021 (A-9,P-36) is not legal. He further submits that the applicant is still working on the present post and he is not relieved from the post.

4. In view of this situation, **the impugned order dated 25/8/2021 (A-9,P-36) is stayed till filing of reply.**

5. The respondents are directed to clarify the para-3 of the G.R. dated 10/1/2012 (A-7, P-24) that what are the powers and what kind of work can be done by the Divisional Deputy Commissioner in the Woman & Child Development Department.

6. Issue notice to the respondents returnable **after four weeks**. Learned C.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 four weeks.

Steno copy is granted.

Vice-Chairman

dnk.

O.A. 783/2021 (S.B.)

(Ku. Meena K. Rane Vs. State of Mah.)

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

Dated : 04/09/2021.

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

2. The applicant is a Forest Guard and as per impugned order dated 6/8/2021 (A-1,P-15 to 21) the applicant has been transferred from Goregaon Beat, Lakhara Circle, Morshi Range to Pandhari Beat, Wai Circle, Warud Range. As pointed out by the learned counsel the applicant has filed proforma application in which it is mentioned that the applicant has already worked in Wildlife from 13/12/2011 to 15/06/2016 for 4 years and 6 months i.e. difficult area also. She has also worked at present post i.e. Morshi for 5 years. Admittedly, she is due for transfer and she has no objection for transfer, however, due to personal difficulty she has made representation dated 22/4/2021 (A-2,P-22&23) and pointed out her personal difficulty and she has given four choices on page no. 23 i.e. (1) Hiwarkhed Beat (Morshi Range) (2) Kedarkhed Beat (Morshi Range) (3) Pala Beat (Morshi Range) and (4) Khanapur (North) Beat (Morshi Range).

3. It was pointed out by the respondent no.2 that all choices are at Morshi Range and she should submit choices in another Range also. Thereafter she submitted another representation dated 5/7/2021 (A-3,P-24 to 27) and she has included choices (1) Wadali Range and (2) Social Forestry (i) Tiwasa (ii) Nandgaon Khandeshwar.

4. The learned counsel submits that without considering the request and problems of the applicant vide transfer order dated 30/8/2021 (A-5,P-30) the respondent no.3 has been transferred in place of applicant and the applicant's case has not been considered. The applicant has again submitted representation dated 9/8/2021 (A-4,P-28&29) in which she has mentioned that as per choice the posts at Pimpalkhuta Beat, Wadali Range and Lontek Beat, Wadali Range are still vacant and she is ready to go there.

5. The learned counsel further submits that the applicant is still working in present capacity at Morshi and she is not relieved. The learned counsel also submits that the respondent no.3 Gaurav D. Jabhe is also not relieved.
6. In this situation, **the transfer order dated 6/8/2021 (A-1,P-15 to 21) to the extent of applicant is stayed till decision on the representations of the applicant as well as order dated 30/8/2021 (A-5,P-30&31) to the extent of respondent no.3 is stayed till further orders.**
7. The respondent no.2 is directed to consider all the representations of the applicant and take suitable direction as early as possible within 15 days.
8. Issue notice to the respondents returnable **after three weeks**. Learned C.P.O. waives notice for State. 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.

S.O. after three weeks.

Steno copy is granted.

Vice-Chairman

dnk.

O.A. 784/2021 (S.B.)

(Ravindra U. Gedam Vs. State of Mah. & Ors.)

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

Dated : 04/09/2021.

Heard Shri S.M. Khan, Id. counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the State.

2. Vide order dated 30/8/2021 (A-1,P-9) the applicant has been transferred from Bramhapuri to Warora and in that letter at reference no.4 it is mentioned that the respondent no.2 has taken prior approval from the higher authority as per provisions of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (In short "Transfers Act,2005") and in reference no.1 it is also mentioned that it is done as per provisions of Transfers Act,2005.

3. Today the learned P.O. has filed document of applicant dated 20/8/2020 (P-11) in which the applicant has mentioned that due to kidney stone and other health problems he has requested to transfer him from Bramhapur to other place where the urological services are available.

4. It appears that the respondents have processed the applicant's application and after processing the transfer order dated 30/8/2021 (A-1,P-9) is issued as per convenience of the applicant only. However, today the applicant aggrieved with this order and desires to continue at Bramhapuri.

5. In this situation, the respondents are directed not to relieve the applicant from Bramhapuri, if at all not relieved till filing of reply.

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.No.780/2021 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 04/09/ 2021.**

C.A.No.265/2021:-

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

2. C.A.No. 265/2021 for Jt. O.A. is allowed.

3. The Id. counsel for the applicant submits that he is not challenging the seniority list of 01.01.2020 (A-3, Pg. No. 75), his submission is that list prepared for the promotion from Senior Clerk/ Avval Karkoon to Naib Tahsildar and respondents are intending to take meeting shortly. Further as submitted by Id. counsel for the applicant; similarly placed employees are aggrieved with the select list who are not included in that select list. The contention is that from all the Six Districts seniority list is submitted by District Collector to Divisional Commissioner who compiles and finalizes the list and after compilation of all the seniority list; Commissioner publishes Divisional Seniority list. In this case Seniority list has been prepared till 01.01.2020 as per (A-3, Pg. No. 75). Ideally before publication of any seniority list certain period should be granted for inviting any objections from all the employees and after redressal of all the objections of employees; final seniority list should be published.

In this case, there were certain employees who are aggrieved with the seniority list.

4. In view of this, respondents are directed that first they should redressed the grievances of all the employees and then finalized the list before conducting any D.P.C. for promotion for the post of Naib Tahsildar from feeder cadre of Avval Karkoon/ Senior Clerk.

5. The Id. counsel for the applicant further submits that seniority list published by District Collector as on 01.01.2020 (A-1, Pg. No. 75) was not against the applicant, applicant was to be considered in the select list for promotion to Naib Tahsildar. However, the select list which is prepared as per seniority list of 01.01.2021 (A-4, Pg. No. 86). Applicant is deprived of his genuine in the seniority list.

6. As submitted by Id. P.O., the Id. counsel for the applicant is directed that since initially list originate from the District Collectors and then it goes to the Divisional Commissioner, after compilation of the list; a common list is published by the Divisional Commissioner. So, respective Collectors should also be made party as a respondents in the present O.A.. The Id. counsel for the applicant is directed to do the same.

7. **S.O. four weeks.**

8. **Steno copy is granted.**

Vice Chairman

Date:-04/09/2021.

aps.

O.A.No.786/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 04/09/ 2021.

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

2. As pointed out by Id. counsel for the applicant; in view of G.R. dated 21.12.2019 (A-7, Pg. No. 25) applicant service condition has been changed. As per para no. 5; applicant service has been placed to supernumerary post which has been done without giving hearing to the applicant. The Id. counsel for the applicant further submits that applicant got Caste Certificate on 31.05.2012 (A-4, Pg. No. 22) in the category of N.T.C.; applicant has submitted this certificate on 24.12.2012 (A-3, Pg. No. 21).

3. As pointed out by Id. counsel for the applicant as per A-2, Pg. No. 19 applicant name appeared at Sr. No. 61 by Deputy Director, Health Services, Nagpur Circle, Nagpur and asked the applicant vide this communication dated 27.08.2009 (A-2, Pg. No. 19) to produce the validity certificate of N.T.C.. Apparently, applicant has received this validity certificate on 31.05.2012 (A-4, Pg. No. 22) and submitted it to the department on 24.12.2012 (A-3, Pg. No. 21).

4. In view of this situation, it appears that applying G.R. dated 21.12.2019 (A-7, Pg. No. 25) is not applicable against the applicant. Hence,

impugned order dated 06.07.2021 (A-6, Pg. No. 24) is stayed till filing of the reply.

5. Meanwhile to make issue more clear, the Id. counsel for the applicant is directed to file appointment letter of the applicant/ absorption of service book which shows that applicant was appointed from which category.

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.

Vice Chairman

Date:-04/09/2021.

aps.