

O.A. 262/2019 (S.B.)

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

Dated : 18/06/2021.

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

2. The Id. P.O. files reply on behalf of R-1 to 3. It is taken on record. Copy is given to the other side. The learned counsel for the applicant desires some time to go through the same.

3. The learned counsel for the applicant submits that proceeding of O.A.No. 499/2014 decided on 3/3/2015 will be kept at the time of final hearing.

S.O. 28/06/2021.

Vice-Chairman

dnk.

O.A. 321/2021S.B.)

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

Dated : 18/06/2021.

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

2. As per letter dated 25/2/2021 (A-2,P-24) issued by the Dean, Government Medical College, Ambejogai to the Dean, Government Medical College, Nagpur it is pointed out that the applicant has been paid excess amount of non-practicing amount between 4/12/2007 to 6/6/2011 to the tune of Rs. 7,63,727/-. It has been also pointed out by the Dean, Government Medical College, Ambejogai that in Certificate dated 25/2/2021 at page no.25 it is mentioned that amount of Rs. 7,63,727/- has been paid in excess to the applicant.

3. As submitted by the learned counsel for the applicant, the applicant is retiring in December, 2021. The learned counsel for the applicant has relied on the Judgment of Hon'ble High Court, Aurangabad Bench in W.P. No. 6261/2017 & Ors. (P-27) and mainly he relied on para-16 at page nos. 37&38 which is reproduced as below –

“(16) We do not find that petitioners in any way had misrepresented the authorities. It is probably on interpretation (though erroneous) of the G.R. dated 10/11/2009 the benefit was accorded to some of the petitioners of payment of non-practicing allowance as per the revised pay scale. In view of that, we direct that if the recovery has not been made by the respondents from petitioners regarding the excess amount of non-practicing allowance paid, the same shall not be made as the same would be inequitable.”

4. The learned P.O. submits that he desires two weeks time to take necessary instructions. At his request, **S.O. 2/7/2021.**

Steno copy is granted...

Vice-Chairman

dnk.

O.A. 139/2020 (S.B.)

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

Dated : 18/06/2021.

C.A. 154/2021 -

Heard Shri A.N. Dighore, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for the respondents.

2. The Id. counsel for the applicant submits that the respondent no.3 has removed the name of applicant from the list of compassionate ground candidate and for that he requires amendment to the O.A.

3. In view of above, the C.A. is allowed and disposed of.

O.A. 139/2020 –

Heard Shri A.N. Dighore, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for the respondents.

2. The learned P.O. seeks four weeks time to file reply on amended portion of O.A. At his request, **S.O. four weeks.**

Vice-Chairman

dnk.

O.A. Nos. 360 & 361 of 2020 (S.B.)

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

Dated : 18/06/2021.

Heard Shri P.S. Verma, Id. counsel for the applicants and Shri A.M. Ghogre, Id. P.O. for the respondents.

2. The learned counsel for the applicants submitted that in these matters the applicants are not interested in prosecuting the O.As., therefore, they want to withdraw the O.As.

3. The learned counsel for the applicants is directed to file Pursis for withdraw the O.As. in the Office till the next date.

S.O. 21/6/2021.

Vice-Chairman

dnk.

O.A. Nos. 420,421,422,423,424 & 425 of 2020
(S.B.)

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

Dated : 18/06/2021.

Heard Shri P.S. Verma, Id. counsel for the applicants and Shri A.M. Ghogre, Id. P.O. for the respondents.

At the request of learned counsel for the applicants, **S.O. after three weeks.**

Vice-Chairman

dnk.

O.A. 208/2020 (S.B.)

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

Dated : 18/06/2021.

Shri V.B. Bhise, 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.

Vice-Chairman

dnk.

O.A. 343/2020 (S.B.)

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

Dated : 18/06/2021.

Heard Shri V.B. Bhise, Id. counsel for the applicant and Shri S.A. Sainis, Id. P.O. for R-1. Await service of R-2.

2. At the request of Id. counsel for the applicant, Issue fresh notice respondent no.2 returnable **after three weeks.** 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. 209/2021 (S.B.)

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

Dated : 18/06/2021.

Shri P.P. Khaparde, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for R-1. Await service of R-2 to 5.

At the request of Id. counsel for the applicant, **S.O. 23/6/2021** for filing service affidavit.

Vice-Chairman

dnk.

Rev. A. 655/21 in O.A. 868/2020 (S.B.)

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

Dated : 18/06/2021.

**C.A. No. 123/2021 in Rev. A. 655/21 in O.A.
868/2020**

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. 2/7/2021** for filing reply on C.A.

Vice-Chairman

dnk.

O.A. 311/2021 (S.B.)

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

Dated : 18/06/2021.

Smt. K.N. Saboo, Id. counsel for the applicant, Shri A.P. Potnis, Id. P.O. for R-1 to 3 and Shri R.D. Karode, Id. counsel for R-4 to 6 (intervener).

S.O. 21/06/2021.

I.R. to continue till then.

Vice-Chairman

dnk.

O.A. 445/2021 (S.B.)

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

Dated : 18/06/2021.

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

2. Issue notice to the respondents returnable on **27/2021**. Learned C.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.

S.O. 02/07/2021.

Vice-Chairman

dnk.

O.A. 735/2018 (S.B.)

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

Dated : 18/06/2021.

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

With the consent of learned counsel for the parties, **S.O. 28/6/2021 (PH).**

Vice-Chairman

dnk.

O.A. 02/2021 with C.A. No. 01/2021 (S.B.)

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

Dated : 18/06/2021.

ORDER

Heard Shri Y.P. Kaslikar, Id. counsel for the applicant and Shri A.M. Ghogre, Id. P.O. for the respondents.

2. As submitted by the learned counsel for the applicant, the applicant was suspended vide order dated 13/11/2020 (A-2,P-18).

4. After hearing pleadings from 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 'kkI dh; I sdtl; kT; k i dzj .lh 3 efgU; kpk dkyko/hr foHkxh; pld' h l q d: u nskjki i = ctlo.; kr vkysulgh] v'kk i dzj .lh ek- I olt p U; k; ky; kpsvlnsk i lgrk] fuyau l ekr dj.; k'kok; vU; i; k; jigr ulgh- R; keGsfuyfcr 'kkI dh; I sdtl; kcr foHkxh; pld' kph dk; bkgh l q d: u nskjki i = ctlo.; kph dk; bk; h fuyauki kl u 90 fnoI l; k vkr dkVdlj i .ksdyh t kbj; ; kph n{krk@ [kcj nkjh ?s; kr ; koh-

(vi) The Government of Maharashtra vide its G.R. G.A.D. 'kkI u fu.kz dz 118@i dz11@11v] fnukd 09-07-2019 in para nos. **1 (ii)** following decisions have been taken :-

fuyfcr 'kkI dh; I sdtl; kT; k i dzj .lh 3 efgU; kpk dkyko/hr foHkxh; pld' h l q d: u nskjki i = ctlo.; kr vkysulgh] v'kk i dzj .lh ek- I olt p U; k; ky; kpsvlnsk i lgrk] fuyau l ekr dj.; k'kok; vU; i; k; jigr ulgh- R; keGsfuyfcr 'kkI dh; I sdtl; kcr foHkxh; pld' kph dk; bkgh l q d: u nskjki i = ctlo.; kph dk; bk; h fuyauki kl u 90 fnoI l; k vkr dkVdlj i .ksdyh t kbj; ; kph n{krk@ [kcj nkjh ?s; kr ; koh-

5. This O.A. is squarely covered by Government of Maharashtra G.A.D. 'kkI u fu.kz dz 118@i dz11@11v] fnukd 09-07-2019 and above Judgments of Hon'ble Apex Court and Hon'ble High Court.

6. The respondents have not followed settled legal principle about continuation of suspension period.

7. In view of above discussions, the respondents are directed to take decision as per Government policy and GAD G.R. dated 9/7/2019 within six weeks from the date of receipt of this order.

8. With this direction, the O.A. along with C.A. stand disposed off. No order as to costs.

Vice-Chairman

dnk.

O.A. 459/2021 (S.B.)

(Pradip U. Giri & Ors. Vs. State of Mah.)

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

Dated : 18/06/2021.

C.A.No. 159/2021 -

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

2. For the reasons stated in the application, with the consent of learned counsel for both the parties, the C.A.No. 159/2021 for filing joint O.A. is allowed.

O.A. 459/2021 -

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

2. The learned counsel for the applicant has pointed out in para-2 of letter dated 7/6/2021 issued by the Assistant Director of Health Services (Faleria), Akola to the District Malaria Officer, Akola/Amravati/Buldhana/Washim/Yavatmal. In para-2 he has given reasons which are reproduced as follows –

^ R; k vuqkusk; k dk; ky; kdMu T; k vkjk; depkjh] vkjk;
l gk; d o vkjk; i; bdkd ; k l dxkjh depk& kdk l qkfr
l dxkjh vk'okfl r ixrh ; kst upk frl jk ykHk vnk dj.; kr

vkysyk vkgsv'kk deþk&; ki sdh ts deþkj h voþkdh; vkjkk;
vf/kdkjh ; k inkph ch, LI h gh 'kkf.kcd vgrk i qkz djhr ukghr
v'kk deþk&; kkk fnysyk 30 o'kkþk ykkk ¼frl jk ykkk½ dk<u
?kou R; kkk vnk dj.; kr vkysysoru] HRRso orukrhy Qjdkph
jDde rkkdkG ol wj dj.; kr ; koh- r'kh ukn deþk&; kR; k eG
I siki þrdkr ?ks; kr ; koh- r l p vki ysdk; kÿ; krhy vkkkki uk
o yqkk foHkkxkl ; kÿ; dk; þkgh dj.; kckcr l þr djkos o
dyy; k dk; þkghpk vgoxy ; k dk; kÿ; kl o l o l ælþkkl
l knj djkok**

3. The learned counsel for the applicant has relied on O.A.No. 453/2021 decided on 16/06/2021. However, in that O.A. the applicants were retired person, but in this O.A. the applicants are still in service and they are not yet retired. Therefore, the issue of both the O.As. are different. The copy of order dated 16/06/2021 passed in O.A. 453/2021 is placed on record and marked Exh-X. The present O.A. is not covered by issue related in O.A. 453/2021. So Judgment in O.A. 453/2021 cannot be implied in this O.A. The issue of both the O.As are different.

4. However, the respondents are directed to maintain status-quo as on today regarding letter dated 7/6/2021 (A-9,P-57). At the same time, the learned counsel for the applicant is directed to ask the applicants to make representation to the respondents and the respondents are directed to decide representation within three weeks after receipt of the representation with speaking order.

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

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

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

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

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

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

S.O. after three weeks.

Steno copy is granted...

Vice-Chairman

dnk.

O.A. 790/2020 (S.B.)

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

Dated : 18/06/2021.

Heard Shri D.M. Kakani, Id. counsel for the applicant, Shri H.K. Pande, Id. P.O. for R-1 to 3 and Shri V.B. Gawali, Id. counsel for R-4.

2. In order dated 19/4/2021 in para-2 it is mentioned that the applicant personally appeared and submitted that he had given choice to the respondents for posting and if the matter is remanded back to the respondents he will get relief.

3. However, it seems this fact was not brought to the notice of learned counsel by the applicant. Today the learned counsel mentions that applicant has been issue show cause notice for not joining as per order. In view of this situation, learned counsel for the applicant is directed to take further clarification and instructions from the applicant before next date of hearing.

4. The learned P.O. has filed reply on behalf of R-3. It is taken on record and copy is given to the Id. Counsel for the applicant. In para-2 of reply, respondent no.3 has submitted that he has no role to play in the entire matter hence his name should be deleted from the respondents.

S.O. after two weeks.

Vice-Chairman

dnk.

O.A. 359/2020 (S.B.)

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

Dated : 18/06/2021.

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

2. The applicant was posted at Salekasa from July,2019 (as per page 4 of O.A. para-4.7) subsequently vide order dated 1/6/2020 (A-1,P-10) where applicant's name appears at Sr.No.32 was deputed to a Special Task Force. Aggrieved with this order, the applicant has approached to this Tribunal.

3. As submitted by the learned P.O. the applicant was appointed in Police Force vide order dated 14/3/2011 (A-2,P-12) and para-10 of page no.13 is reproduced below –

^10- i ksyhl f'ki kbZEG.ku l sr l kekoµ ?kr-Y; ku r j R; kauk
dlskr; kgh ekghedj egkjk"V jkT; kr dØgh rØkrhl kBh
i kBfoY; kl R; kauk tk.kscalkudkj d jkghy- rl p u{kxyLr
Hkkxkr l Øk djkoh ykxy- ; kl kBh vko'; d vl ysys l oz
idkxpsfoghr delØkst o vU; i f'k{k.k i qlz djkos ykxy-
tj u{kxyLr Hkkxkrhy l Øk dj.; kl fdØk brj jkT; kr
dØgh drØ; kl kBh rl p vU; i f'k{k.k dj.; kl udkj
fnY; kl R; kph l Øk dlskrgh i Øz l Øuk u nsk l ektr
dj.; kr ; Øy**-

4. Hence it is crystal clear that at the time of joining service applicant had accepted this condition and now he is taking different term after issue of order dated 1/6/2020 (A-1,P-10). However, if the applicant has some problem and aggrieved with this order, he is directed to make representation to respondent no.4 explaining his tenure in naxalite area and problems face by him. The respondent no.4 is directed to decide the applicant's representation within four weeks after its receipt.

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

Vice-Chairman

dnk.
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O.A.No.37/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 18/06/ 2021.

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

2. At the request of Id. P.O., **S.O. 28.06.2021.**

Vice Chairman

Date:-18/06/2021.
aps.

O.A.No.263/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 18/06/ 2021.

C.A.Nos.223/2020 & 149/2021:-

Heard Shri R.V.Shiralkar, the Id. Counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the respondents.

2. The Id. counsel for the applicant has pointed out G.R. dated 15.12.2020 (P.B., Pg. NO. 4) attached along with C.A. No. 149/2021 and in para no. 2 of the said G.R.; names are to be considered for selection list of the year 2019-2020, Group-A. The Id. counsel for the applicant pointed out that as per C.A.No.149/2021, Pg. No. 5, names included from Sr. Nos. 7 to 14 are juniors to applicant. As per G.R. dated 31.12.2020 (P.B., Pg. NO. 14) of C.A. NO. 149/2021 is attached and showing seniority of Deputy Collector Cadre from 01.01.1999 to 31.12.2003 as on dated 01.01.2004 and on P.B., Pg. No. 35; applicant name appeared at Sr. No. 286. The grievances of the applicant is that as per list as on 01.01.2004 (P.B., Pg. No. 5) Sr. No. 7 to 13 are Junior to him. Hence, applicant's name should have been included for considering.

3. Notice on C.A. to Respondent no. 3 be issued returnable in **four weeks**.

4. Shri M.I.Khan, the learned P.O. waives notice for respondent no.1. Hamdast granted.

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 the O.A.

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 an affidavit of compliance in the Registry as far as possible once week before the date fixed by this Tribunal. 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. four weeks.**

Vice Chairman

Date:-18/06/2021.

aps.

O.A.No.574/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 18/06/ 2021.

Heard Shri R.V.Shiralkar, the Id. Counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the respondents.

2. The Id. Counsel for the applicant submits that applicant retired on 30.11.2018 and after filing the O.A., department has issued chargesheet to the applicant. Till now, department has not released the full pension, gratuity, leave encashment and group insurance amount.

3. The Id. P.O. submits that he has received the parawise comment. He further seeks time to file reply, **S.O. 02.07.2021 for reply.**

Vice Chairman

Date:-18/06/2021.

aps.

O.A.St.No.29/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 18/06/2021.

C.A.No.11/2021:-

Heard Shri V.B.Bhise, the Id. Counsel for the applicant, Shri M.I.Khan, the Id. P.O. for the Respondent no. 1 and Shri R.V.Shiralkar, the Id. counsel for the Respondent nos. 2 & 3.

2. The Id. P.O. Shri M.I.Khan submits that Id. P.O. Shri V.A.Kulkarni is appearing in this matter; so, kindly grant time. However, the Id. counsel for the Respondent nos. 2 & 3 submits that till the next hearing he will file reply of Respondent nos. 2 & 3.

3. **S.O. 05.07.2021.**

Vice Chairman

Date:-18/06/2021.
aps.

O.A.No.455/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 18/06/ 2021.

C.A.No.155/2021:-

Heard Smt. K.N.Saboo, the Id. Counsel for the applicant and Shri S.A.Deo, the Id. C.P.O. for the State.

2. The Id. counsel for the applicant has filed **C.A. No. 155/2021 for Jt. O.A.**. As pleaded by Id. counsel for the applicant and agreed by Id. C.P.O.; the grievances of both the applicants are same. Hence, **C.A. No. 155/2021 for Jt. O.A. is allowed.**

3. Issue notice to Respondents, returnable on 25.06.2021. Learned C.P.O. waives notice for R-1. Hamdast allowed.

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

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

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

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

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

9. **S.O. 25.06.2021.**

Vice Chairman

Date:-18/06/2021.
aps.

O.A.No.55/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 18/06/ 2021.

Heard Shri S.P.Palshikar, the Id. Counsel for the applicant and Shri A.P.Potnis, the Id. P.O. for the respondents. None for the respondent no. 4.

2. The Id. P.O. has filed letter from Deputy Director dated 09.04.2021 which is marked Exh-X for the purpose of identification. As per this letter, Tribunal's order dated 19.03.2021 is complied and Id. counsel for the applicant submits that grievances of the applicant is solved and nothing survives in this O.A.

3. Hence, **O.A. is disposed of with no order as to costs.**

Vice Chairman

Date:-18/06/2021.

aps.

O.A.No.454/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 18/06/ 2021.

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

2. As submitted by Id. counsel for the applicant, applicant suffered from Stroke and he produce certificate dated 17.08.2020 (Annexure-A-2, P.B., Pg. No. 12) from Global Hospital, Nanded. The Respondent no. 3 asked applicant to produce certificate from Shri Vasantnao Naik, Government Medical College, Yavatmal for the period from 17.08.2020 to 31.12.2020 total 137 days. Applicant approached to Medical Board of Yavatmal and the Medical Board Yavatmal referred the applicant to the Professor and Head of the Department, Neuro Physician, Government Medical College, Nagpur dated 15.03.2021 (Annexure-A-4, P.B., Pg. No. 14). The letter was issued by President Medical Board, Shri Vasantnao Naik, Government Medical College, Yavatmal and medical certificate dated 15.04.2021 (Annexure-A-7, P.B., Pg. No. 17) showing the applicant unfit for the post of Driver.

3. Respondents have issued letter dated 07.06.2021 (Annexure-A-10, P.B., Pg. No. 20) to applicant about compulsory retirement on Medical Ground from 07.06.2021 without considering **Section 47 of The Disabilities Act 1995**. Aggrieved

with this order, applicant approached to this Tribunal.

4. The Id. counsel for the applicant has also relied upon Judgment of Hon'ble High Court, Mumbai, Bench at Aurangabad in W.P. No. 6939 of 2017 decided on 01.10.2019. He mainly relied on para no. 11 of the Judgment. *Prima facie*, it appears that impugned order issued by respondent no. 2 dated 07.06.2021 had not considered Disabilities Act, 1995 and mainly Section 47. In view of this legal settled position **order dated 07.06.2021 (Annexure-A-10, P.B., Pg. NO. 20) is stayed till filing of the reply.**

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

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

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

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

9. The service may be done by Hand delivery, speed post, courier and acknowledgement be

obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

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

11. **S.O. four weeks.**

12. **Steno copy is granted.**

Vice Chairman

Date:-18/06/2021.

aps.

O.A.No.436/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 18/06/ 2021.

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

2. At the request of Id. counsel for the applicant, **S.O. 09.07.2021.**

Vice Chairman

Date:-18/06/2021.
aps.