

O.A. 567 of 2019 (S.B.)

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

Dated : 30/07/2021.

Shri N.R. Saboo, 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. three weeks** for filing reply.

Vice-Chairman

dnk.

O.A. 568 of 2019 (S.B.)

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

Dated : 30/07/2021.

Shri N.R. Saboo, Id. counsel for the applicants and Shri P.N. Warjurkar, Id. P.O. for the respondents.

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

S.O. three weeks.

Vice-Chairman

dnk.

O.A. 903/2019 (S.B.)

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

Dated : 30/07/2021.

Shri R.V. Shiralkar, Id. counsel for the applicant and Shri A.M. Ghogre, 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. 489/2020 (S.B.)

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

Dated : 30/07/2021.

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

At the request of Id. P.O., **S.O. 25/8/2021** for filing reply.

Vice-Chairman

dnk.

O.A. 525/2020 (S.B.)

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

Dated : 30/07/2021.

Heard Shri A.S. Shukla, Id. counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the respondents.

The Id. P.O. files reply of R-1&2. Same are taken on record.

The matter is admitted and kept for final hearing.

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

S.O. in due course.

Vice-Chairman

dnk.

O.A. 863/2020 (S.B.)

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

Dated : 30/07/2021.

Shri R.V. Shiralkar, 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. three weeks** for filing reply.

Vice-Chairman

dnk.

O.A. 877/2020 (S.B.)

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

Dated : 30/07/2021.

C.A. 335/2020 -

Heard Shri D.M. Surjuse, Id .counsel holding for Shri N.D. Thombre, Id .counsel for the applicants and Shri P.N. Warjurkar, Id. P.O. for the respondents.

For the reasons stated in the application, the C.A. for Jt. O.A. is allowed and disposed of.

O.A. 877/2020 -

Heard Shri N.D. Thombre, Id .counsel for the applicants and Shri P.N. Warjurkar, 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. 121/2021 (S.B.)

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

Dated : 30/07/2021.

Shri A.R. Fule, 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. 231/2021 (S.B.)

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

Dated : 30/07/2021.

Shri R.V. Shiralkar, 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. two weeks** for filing reply.

Vice-Chairman

dnk.

O.A. 238/2021 (S.B.)

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

Dated : 30/07/2021.

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

The P.O. files reply of R-2&3. It is taken on record. copy is served on the applicant.

The matter is admitted and kept for final hearing.

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

S.O. 11/8/2021

Vice-Chairman

dnk.

O.A. 513/2021 (S.B.)

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

Dated : 30/07/2021.

C.A. 188/2021 -

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

For the reasons stated in the application, the C.A. for Jt. O.A. is allowed and disposed of.

O.A. 513/2021 -

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

2. Issue notice to the respondents returnable **after four weeks**. 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. after four weeks.

Vice-Chairman

dnk.

O.A. 572/2021 (S.B.)

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

Dated : 30/07/2021.

Heard Shri S.D. Borkute, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for the State.

2. Issue notice to the respondents returnable **after four weeks**. 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. after four weeks.

Vice-Chairman

dnk.

Rev. A. 15/21 in O.A. 818/17 (S.B.)

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

Dated : 30/07/2021.

Heard Smt. Neelam Biala, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for the State.

2. Issue notice to the respondents returnable **after four weeks**. 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. after four weeks.

Vice-Chairman

dnk.

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

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

Dated : 30/07/2021.

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

The Id. P.O. files reply of R-6. It is taken on record. Copy is served on the applicant.

The matter is admitted and kept for final hearing.

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

S.O. 25/8/2021.

Vice-Chairman

dnk.

O.A. 08/2020 (S.B.)

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

Dated : 30/07/2021.

Heard Shri D.M. Surjuse, Id. counsel for the applicant and Shri V.A. Kulkarni, Id. PO for the State.

The learned counsel submits that in view of O.A. 49/2020 filed by him, he wants to withdraw the present O.A. Hence, the O.A. stands disposed of as withdrawn. No order as to costs.

Vice-Chairman

dnk.

O.A. 821/2020 (S.B.)

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

Dated : 30/07/2021.

C.A. No. 214/2020

Heard Shri G.K. Bhusari, Id. counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the respondents.

C.A. for amendment is allowed and disposed of. Necessary amendment be carried out and amended copy be supplied to the other side.

O.A. 821/2020 -

Heard Shri G.K. Bhusari, Id. counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the respondents.

S.O. two weeks for filing reply on amended portion of O.A.

Vice-Chairman

dnk.

*** O.A. 588/2021 (S.B.)**

Coram: Shri Shree Bhagwan,
Vice-Chairman.

Dated : 30/07/2021.

Heard Shri N.R. Saboo, Id. counsel for the applicant and Shri M.I. Khan, Id. PO for the State.

2. In the correspondence at Annex-A-4, P-14 it is written that 30% eligible employee should be transferred. However in the correspondence at Annex-A-4 (a), P-15 it is written that as per G.R. dated 9/4/2018 only 15% eligible employee should be transferred. As pointed out by the learned P.O. as per Annex-A-4(a) the Department has also mentioned 15% employees for transfers. It also appears that the applicant Shri Manoj Khobragade was working in Bhamragarh Forest Divisional and in column no.6 it is mentioned fcXj v0tM which is wrong. The applicant has also submitted request application dated 22/5/2021 at Annex-A-1,P-10 and requested that due to personal problems he may be continued for one more year. The respondent no.3 has also recommended vide correspondence dated 7/7/2021 Annex-A-2,P-11 to consider the

representation of the applicant. No record has been filed before Civil Services Board. Since the applicant in his representation requested for extension of one year and same has been recommended by the respondent no.3 also, therefore, in the interest of justice the respondents should take undertaking from the applicant that in the next year, he will be ready to go on transfer anywhere and after getting such undertaking his representation for extension for one year may be considered. Till that time status-quo be maintained.

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

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

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

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

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

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

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

S.O. after three weeks.

Steno copy is granted...

Vice-Chairman

dnk.

***O.A. 589/2021 (S.B.)**

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

Dated : 30/07/2021.

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

2. The learned counsel for the applicant has relied on G.R. dated 9/4/2018 (A-1,P-9). By record it appears that as per Annex-A-2,P-31 the applicant is working at Bhamragarh Forest Division since 6/6/2015 and till today the period of 5 years, 11 months and 25 days is completed at Bhamragarh Forest Division. The applicant has already completed full tenure at Bhamragarh Forest Division. As per page no.32 the applicant has given only seven choices for transfer. However as per G.R. dated 9/4/2018, the applicant should have given 10 choices for transfer. So it appears that the applicant has also not followed the provisions of the G.R. dated 9/4/2018.

3. However, issue notice to the respondents returnable **after three weeks.** Learned P.O. waives notice for State. Hamdast allowed.

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

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

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

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

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

9. However, the respondents are at liberty to decide the applicant's representation on page no.31 & 32 (Annex-A-2) while filing the reply.

S.O. after three weeks.

Vice-Chairman

dnk.

O.A. 420/2017 (S.B.)

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

Dated : 30/07/2021.

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

At the request of Id. counsel, **S.O.**
4/8/2021.

Vice-Chairman

dnk.

O.A. 384/2021 (S.B.)

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

Dated : 30/07/2021.

Heard Shri M.R. Khan, Id. counsel for the applicant and Shri A.M. Khadatkhar, Id. P.O. for the respondents.

At the request of Id. counsel, **S.O.**
2/8/2021.

Vice-Chairman

dnk.

O.A. 262/2018 (S.B.)

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

Dated : 30/07/2021.

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

At the request of Id. counsel, **S.O. two weeks.**

Vice-Chairman

dnk.

O.A. 202/2020 (S.B.)

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

Dated : 30/07/2021.

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

At the request of Id .counsel, **S.O.**
11/8/2021.

Vice-Chairman

dnk.

O.A. 280/2020 (S.B.)

Coram: Shri Shree Bhagwan,
Vice-Chairman.

Dated : 30/07/2021.

Heard Shri N.R. Saboo, Id. counsel for the applicant, Shri H.K. Pande, Id. P.O. for R-1 to 3 and none for other respondents.

2. The respondent have filed reply on 22/4/2021 and in para-5&6 they have made following submissions on page no.77 & 78 –

“ (5) It is reiterated that the applicant was initially appointed as Jr. Clerk on 26/10/1989 but he cleared the SSD examination on 1/7/20000 which is absolutely beyond the prescribed time limit.

(6) It is further submitted that whoever enters the service of Revenue and Forest Department need to qualify both SSD examination and the RQ examinations within prescribed time and chances as per rules. The applicant joined the service in the year 1989 and since then the respondent no.3 regularly conducted both examinations and those need to qualify the said examinations were duly informed with appropriate correspondence. It needs to be noted that there has been no apprehension casted upon by anyone till date. The respondent no.3 had regularly directed Superintendent, Collector office to hold the examination and give permission to those employees to appear in the said examinations.”

3. In para-6 of reply they have admitted that applicant had cleared RQE within prescribed time and chances as per rules.

However, in para-5 they have mentioned that applicant cleared the SSD examination on 1/7/2000 which absolutely beyond prescribed time limit. The applicant has made presentation dated 22/5/2020 A-9,P-48&49 which was remanded back to the respondents for deciding. The respondents vide their order dated 18/10/20 A-11,P49C,D& E have rejected the representation. The Id. P.O. is directed to file specifically dates on which the SSD examination took place between 26/10/1989 to 1/7/2020 and whether it was published and the applicant had a chance to get this information where he was posted. The Id. Counsel for the applicant has filed document dated 30 Sept.,2020 and 18/8/2020 (P49 A to D). The Id. Counsel has also filed document dated 3/7/2020 (A-12,P49F to I). The Id. Counsel is directed to supply these documents to the Id. P.O. The Id. Counsel has also filed document dated 26th Sept.,2017 (A-17,P-49J & K). He is directed to supply to the Id. P.O.

S.O. 4/8/2021.

Vice-Chairman

dnk.

O.A. 380/2021 (S.B.)

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

Dated : 30/07/2021.

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

2. As submitted by the Id. counsel in the reply filed by the respondents on 29/6/2021 and on page no.48 in para-d they have mentioned about Govt.GAD G.R. dated 28/4/2015 which is not filed on record. The Id. P.O. is directed to file that G.R. on record and supply copy to the learned counsel so that the matter can be heard on the next date.

S.O. 11/8/2021 (PH)

Vice-Chairman

dnk.

O.As. 399,400,401,402 & 403 of 2021 (S.B.)

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

Dated : 30/07/2021.

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

At the request of Id. counsel, **S.O.**
11/8/2021 (PH).

Vice-Chairman

dnk.

***O.A. 601/2021 (S.B.)**

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

Dated : 30/07/2021.

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

2. The Id .counsel submits that the applicant has been working in Wildlife area for last 20 years and now he has crossed 50 years of age. The learned counsel has pointed out G.R. dated 22/5/2017 (A-2,-16) in which the Department has explained its policy regarding transfer of Foresters in para-B (1). The impugned transfer order dated 26/7/2021 (A-1,P-13) is not as per policy prescribed in G.R. dated 22/5/2017. The applicant's name appears in the transfer order dated 26/7/2021 at Sr.No.9 on page 14 of O.A.

3. In view of this, **the transfer order dated 26/7/2021 (A-1,P-13) is stayed to the extent of applicant only till filing of reply.**

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

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

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

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

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

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

S.O. after two weeks.

Vice-Chairman

dnk.

O.A. 590/2021 (S.B.)

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

Dated : 30/07/2021.

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

2. As submitted by the learned counsel, the applicant was earlier transferred vide order dated 28/5/2013. On request he was given posting at Gondia and since then he is working there. The learned counsel submitted that now the applicant has crossed 56 years and he has made representation dated 24/7/2021 (A-1,P-9).

3. In view thereof, if the transfer orders are issued, the respondents are directed to consider the applicant's representation dated 24/7/2021 (A-1,P-9) as per existing rules and regulations.

4. With this direction, the O.A. stands disposed off. No order as to costs.

Vice-Chairman

dnk.

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

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

Dated : 30/07/2021.

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

2. As pointed out by the learned counsel for the applicant, as per Annex-A-4 page nos.32 to 34 the report of Inquiry Officer in D.E. has been placed on record and as per page no.34 the applicant has been exonerated from the charges. The remark of Inquiry Officer is reproduced as below –

^ojhy foopu y{tkr /krk l nj nks'kkjki vi pkjh vf/kdkjh MKWJh-i koMs; kpsfo#/n fl /n gkr ukgh**

3. As per Annex-A-5, P-35 dated 21st September, 2017 the memorandum has been issued by the respondents to the applicant about proposed punishment and explanation has been called. It has been also mentioned in the said letter that they have not agreed with the remark of Inquiry Officer exonerating the applicant from the charges. However, as per Section 9 of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 (P-59) in para nos.1&2 it is mentioned as below :

“(9) Action on the inquiry report

(1) The disciplinary authority, if it is itself the inquiring authority may, for reasons to be recorded by it in writing, remit the case to the inquiring authority for further inquiry and report, and the inquiring authority shall thereupon proceed to hold the further inquiry according to the provisions of rule 8 of these rules as far as may be.

(2) The disciplinary authority shall forward or cause to be forwarded a copy of the report of the inquiry, if any, held by the disciplinary authority or where the disciplinary authority is not the inquiring authority, a copy of the report of the inquiring authority together with its own tentative reasons for disagreement, if any with the findings of inquiring authority on any article of charge to the Government servant who shall be required to submit, if he so desires, his written representation of submission to the disciplinary authority within fifteen days, irrespective of whether the report is favourable or not the said Government servant.”

4. Since this procedure of Section 9 of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 has not been followed and applicant has been awarded punishment vide order dated 11/3/2019 (P-16 to 19). The learned counsel has relied on Judgment of this Tribunal in O.A. 449/2014 decided on 3/3/2015 and he has mainly relied on para-5 which is reproduced below –

“(5) The learned counsel for the applicant vehemently submitted that the inquiry officer has considered the matter in detail and has given sound reasoning and has reached to the conclusion. However, disciplinary authority without sufficient reason had disagreed the findings and issued the notice dated 8/10/2012 under rule 2 of the MCS (Discipline & Appeal) Rules, 1979. He proceeded to argue that however this notice is not in tune with the principles laid down in Yoginath D. Bagde Vs. State of Maharashtra & Ano. 1999 SCC (L&S), 1385. In the show cause notice before forming its final opinion, has to convey to charged employee its tentative reasons for withheld for the recovery of Rs.1,22,835/-. Their Lordships observed that the penalty must correlative with loss and must commensurate with gravity of the misconduct. In the case in hand, the applicant was exonerated by Inquiry Officer and in absence of any justifying the reason the order is passed which is completely contrary to the observations made in Massoud case (cited supra). In that case the recovery was done for 18 years. The applicant is just retired and recover of such huge amount is certainly against the principles laid down in Massuood case (cited supra). “

5. The said order was challenged by the respondents by Writ Petition NO. 1147/2016 which was decided on 18/10/2016. The Hon'ble High Court confirmed the Judgment of MAT and dismissed the Writ Petition. The present O.A. is squarely covered by Judgment of this Tribunal in O.A. 499/2014 decided on 3/3/2015 and upheld by Hon'ble High Court vide Writ Petition No. 1147/2016.

6. In view of discussions in above paras, the applicant is entitled to get the relief. Hence, the following order –

ORDER

(i) The O.A. is partly allowed in terms of prayer clause no. 10 (i), (ii) & (iii) except interest part.

(ii) All the pensionary benefits should be given to the applicant within 90 days from the date of receipt of this order .

(iii) No order as to costs.

Vice-Chairman

**dnk.

O.A.No.1003/2018
(D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/07/ 2021.

C.A.No.292/2020:-

Heard Shri N.D.Thombre, the Id. Counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the respondents. None for the respondent no. 6.

2. The Id. P.O. has filed reply on behalf of the respondent nos. 1 to 5 on C.A. No. 292/2020. It is taken on record. Copy is served to the other side.

3. As submitted by Id. P.O., applicant is already retired. However, Id. counsel for the applicant is questioning on promotion of Respondent no. 6. As per C.A. No. 292/2020, the Id. counsel for the applicant pressing for stay on promotion. It will be decided during next date of hearing.

4. **S.O. 25.08.2021.**

Vice Chairman

Date:-30/07/2021.
aps.

O.A.No.388/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/07/ 2021.

There is a leave note of the Id. counsel for the applicant. Shri S.A.Sainis, the Id. P.O. for the respondents.

2. **S.O. four weeks.**

Date:-30/07/2021.
aps.

Vice Chairman

O.A.Nos.299&300/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/07/ 2021.

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

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

Vice Chairman

Date:-30/07/2021.
aps.

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

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/07/ 2021.

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

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

Vice Chairman

Date:-30/07/2021.
aps.

O.A.Nos.40,41&42/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/07/ 2021.

Heard Shri S.D.Kati, 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. four weeks to file reply.**

Vice Chairman

Date:-30/07/2021.

aps.

O.A.No.155/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/07/ 2021.

Heard Shri M.R.Khan, the Id. Counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the State.
Await service of respondent no. 2.

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

Vice Chairman

Date:-30/07/2021.
aps.

O.A.No.228/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/07/ 2021.

C.A.No.78/2021:-

Heard Shri J.S.Wankhede, the Id. Counsel for the applicant and Shri S.A.Deo, the Id. C.P.O. for the State. Await service of respondent nos. 2 to 8.

2. The Id. counsel for the applicant submits that he will file service affidavit during the course of the day. He further submits that petitioner no. 3 is willing to withdraw his name from original application. He is directed to file the pursis in this regard and supply the same to the other side.

3. As agreed by both the counsels,
C.A.No.78/2021 for Jt. O.A. is allowed.

4. At the request of Id. counsel for the applicant, **S.O. four weeks.**

Vice Chairman

Date:-30/07/2021.
aps.

O.A.No.387/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/07/ 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. 3.

2. The Id. counsel for the applicant submits that there is no need to file Rejoinder. Hence, matter is **admitted** and kept for final hearing.

3. The Id. P.O. waives notices for the respondents.

4. The Id. counsel for the applicant further submitted that in order dated 14.07.2021; in para no. 3 it is written 'till filing of the reply, I.R. is to be continued' this requires to be corrected 'till filing of Rejoinder, I.R. is to be continued.'

5. **S.O. 25.08.2021.**

6. **I.R. to be continued.**

Vice Chairman

Date:-30/07/2021.

aps.

O.A.No.451/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/07/ 2021.

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

2. It is contention of the applicant that he is in service since long and thereafter G.R. dated 21/12/2019 is issued by the Government and in pursuance of the G.R., the respondent no. 2 has passed the order dated 31/01/2020 giving appointment to the applicant only for a period of 11 months and further extend the order of 11 months on 25/02/2021. The said order has been passed without giving an opportunity of hearing to the applicant. It is submitted that in similar matters interim relief is granted to the applicants. In view of the facts on the ground of parity the interim stay is granted to the orders dated 31/01/2020 and 25/02/2021 till filing of the reply.

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

10. **Steno copy is granted.**

Vice Chairman

Date:-30/07/2021.

aps.

C.P.No.18/2021inO.A.No.334/2019 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/07/ 2021.

Heard Shri G.D.Asole, the Id. Counsel for the applicant and Shri A.M.Ghogre, the Id. P.O. for the State.

2. The Id. counsel for the applicant submits that order was passed on 23.01.2020 and six weeks time was granted for respondents to hear the applicants personally. However, by record it appears that due to Covid-19 situation and Lockdown; both the parties could not do much progress. Even applicants have written letter on 14.07.2020 (Annexure-A-8, P.B., Pg. No. 30) that because of problems they are not able to attend.

3. In view of this situation, at this stage we cannot proceed with the C.P.. Since for last one year either by lockdown or due to Covid-19 situation, normal functioning of the Government offices are not taking place.

4. **Respondents are directed to conduct the enquiry within three months from the date of receipt of this order** at the same time applicants are also directed to co-operate with the respondents for taking decision and remain present if the dates are given by the respondents for hearing. If applicants will not co-operate then decision cannot be taken by the respondents.

5. Hence, **C.P. stands disposed of with no order as to costs.**

Vice Chairman

Date:-30/07/2021.

aps.

C.P.No.32/2021inO.A.No.614/2014 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/07/ 2021.

Heard Shri B.J.Lonare, the Id. Counsel for the applicant and Shri P.N.Warjekar, the Id. P.O. for the State.

2. The Tribunal's order was passed on 14.02.2020. However, the Id. counsel for the applicant has filed C.P..

3. Issue Notice to the respondents returnable in **four weeks** under Rule 8 of the MAT (Contempt of Courts) Rules, 1996 as to why they should not be proceeded for committing contempt of this Tribunal's order and as to why they shall not be punished under the Contempt of Court Act.

4. Shri P.N.Warjekar, the learned P.O. waives notice for respondent No. 1. Hamdast granted.

5. **S.O. six weeks.**

Vice Chairman

Date:-30/07/2021.
aps.

C.P.No.18/2019inO.A.No.123/2017 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/07/ 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. As pointed out by Id. P.O. in O.A. at page no. 23 relief clause no. 8 (i), (i-a) & (ii) which are reproduced below:-

"8(i) Quash and set aside the order dated 14.09.2016 received by the Applicant on 19.01.2017 as illegal, bad in law.

(i-a) Further be pleased to hold and declare that the applicant is also entitled to get the amount of gratuity of Rs. 2,50,000/- with interest @ 18 % p.a. from 31.08.2005 till its actual realization.

(ii) Further be pleased to hold and declare that the applicant is entitled to get full Pension from April 2006 till date with interest @ 18 % per annum from April 2006 till its actual realization. "

3. As per the order of Tribunal passed on dated 17.11.2017; which are below:-

"(i) The application is allowed in terms of prayer clause 8(i) and 8(ii) and amended prayer clause no. 8(i)(a).

(ii) The respondents are directed to refund the amount of gratuity to the applicant within three months from the date of this order, failing which the applicant will be entitled to claim interest as per Maharashtra Civil Services (Pension) Rules, 1982 by filing representation to that effect. No order as to costs."

4. Today, the Id. P.O. submits that for paying the gratuity and pension to the applicant's proposal has been submitted to the Government by Civil Surgeon, Amravati and he will take instructions within two weeks time. The Id. P.O. should take instructions that whether the proposal is according to the relief clause in the O.A. and decision are also according to that or against any difference and submit it during next date of hearing.

5. **S.O. two weeks.**

Vice Chairman

Date:-30/07/2021.

aps.

C.P.No.45/2020inO.A.No.1025/2018 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/07/ 2021.

Heard Shri N.B.Rathod, the Id. Counsel for the applicant and Shri H.K.Pande, the Id. P.O. for the respondents.

2. The Id. counsel for the applicant has filed affidavit on C.P. which is marked Exh.-X for the purpose of identification. It is taken on record. Copy is served to the other side.

3. He further submits that order of this Tribunal has not been fully complied. The Id. P.O. submits that he seeks time to take certain instructions from the department.

4. **S.O. two weeks.**

Vice Chairman

Date:-30/07/2021.
aps.

O.A.No.612/2017 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/07/ 2021.

Heard Shri P.S.Sahare, the Id. Counsel for the applicant, Shri S.A.Deo, the Id. C.P.O. for the respondents and Shri S.Yerawar, the Id. counsel for the respondent no. 3.

2. At the request of Id. C.P.O., the original copy is yet to receive from Hon'ble High Court, **S.O. 04.08.2021.**

Vice Chairman

Date:-30/07/2021.
aps.

O.A.No.676/2019 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/07/ 2021.

Heard Shri B.Kulkarni, the Id. Counsel for the applicant and Shri A.P.Potnis, the Id. P.O. for the respondents.

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

Vice Chairman

Date:-30/07/2021.

aps.

O.A.No.945/2019 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/07/ 2021.

Heard Shri M.R.Khan, the Id. Counsel for the applicant and Shri S.A.Sainis, the Id. P.O. for the respondents. None for the respondent no. 4.

2. The Id. P.O. submits that consent has not been given by the department. The matter be heard before regular D.B.. **S.O. 18.08.2021.**

Vice Chairman

Date:-30/07/2021.
aps.

O.A.No.28/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/07/ 2021.

Heard Shri B.Kulkarni, the Id. Counsel for the applicant and Shri A.P.Potnis, the Id. P.O. for the respondents.

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

Vice Chairman

Date:-30/07/2021.
aps.

O.A.No.565/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman

Dated : 30/07/ 2021.

C.A.No. 218/2021:-

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

2. In the earlier round of litigations, the O.A. was filed before this Tribunal in O.A. No. 366/2003. The O.A. was decided on 19.09.2003 (Annexure-A-1, P.B., Pg. Nos. 14 to 26). On P.B., Pg. No. 25 of the order which is above para no. 10, following observation has been made:-

"Therefore, even if the name of the applicant in the seniority list appeared and he has not raised any objection, that will not nullify his right that he has acquired on the basis and the treatment given to him by the respondents by recognizing him as a Craft Instructor. Subsequently, after the hearing i.e. on 17.09.2003, the applicant produced the order dated 07.10.1996 showing that the applicant has been considered as a permanent employee in the cadre of Craft Instructor w.e.f. 07.05.1984 i.e. the date of appointment."

3. As per this observation, applicant was considered in the cadre of Craft Instructor w.e.f. 07.05.1984 i.e. the date of appointment. Respondents approached to the Hon'ble High Court in W.P. No. 1375/2004 and the order is at P.B., Pg. Nos. 28 and 29 and in last para following observation has been made by Hon'ble High Court, which is below:-

"Therefore, we find that Maharashtra Administrative Tribunal has not committed any error or illegality in the order passed by it. There is no merit in the petition and hence the same is dismissed"

4. By the above observation, Hon'ble High Court has upheld the decision of the M.A.T. in O.A. No. 366/2003 and dismissed the petition. The Hon'ble High Court order was passed on 12.04.2004 (Annexure-A-2, P.B., Pg. No. 27 - 29). The applicant stood retired in September,

2020. Subsequently before retirement of applicant, I/c Joint Director, Technical Education and Training, Regional Officer, Amravati has written a letter to applicant dated 09.09.2020 (Annexure-A-16, P.B., Pg. Nos. 63&64). On P.B., Pg. No. 64 in para no. 2; it is mentioned that seniority of the applicant is dated 03.06.1988 as a Craft Instructor. The appointment of applicant as Craft Instructor was decided in O.A. No. 366/2003 by M.A.T. and Hon'ble High Court had upheld the same by order dated 12.04.2004.

5. The issue was decided in O.A. No. 366/2003 on 19.09.2003 and as per that order applicant's date of appointment and date of seniority was fixed in the cadre of Craft Instructor w.e.f. 07.05.1984. The Hon'ble High Court also vide order dated 12.04.2004 W.P. No. 1375/2004 has confirmed M.A.T. order. Now by correspondence dated 09.09.2020 (Annexure-A-16, P.B., Pg. No. 63 and 64); the observations in para no. 2 that his seniority as a Craft Instructor cadre is as on 03.06.1988 is totally beyond jurisdiction of I/c Joint Director, or anybody else and their observations on P.B., Pg. No. 64 that his seniority will be as a Craft Instructor from 03.06.1988 becomes totally illegal against the order of M.A.T. which has been confirmed by Hon'ble High Court and after attaining the order of Judicial finality nobody has right to interfere in the date of 07.05.1984 for seniority in the cadre of Craft Instructor. This correspondence is totally illegal. Now, since applicant is retired in September, 2020. Respondents have legal morality to consider the applicant's seniority from the date of 07.05.1984 in the cadre of Craft Instructor and granting all retiral benefits. Accordingly, if they are ignoring the order of M.A.T. and Hon'ble High Court; this will amount to contempt of Hon'ble High Court Order as well as contempt of M.A.T. order also.

6. In view of these facts, it appears that respondents are either deliberately or unknowingly ignoring two judicial orders and harassing the applicant. Hence, prayer in C.A. 218/2021 is allowed. Respondents are directed to finalise the pension of the applicant and give him retiral benefits subject to decision of the C.A.. Respondents are also directed to release leave encashment, gratuity and other benefits of the applicant as early as possible. Correspondence made by the respondents dated 09.09.2020 (Annexure-A-16, P.B., Pg. Nos. 63 & 64) is totally bad in law and hence, stayed till applicant be paid all retiral benefits.

7. **S.O. three weeks.**
8. **Matter be treated as P.H..**
9. **Steno copy is granted.**

Date:-30/07/2021.
aps.

Vice Chairman

O.A.Nos.602,603,604,605&606/2021 (S.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/07/ 2021.

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

2. In all the O.As., applicants have been transferred vide order dated 26.07.2021 (Annexure-A-1, P.B., Pg. No. 12). However, respondents have not filed minutes of meeting of C.S.B., they have also not considered options of the applicants and provisions of G.R. dated 06.08.2002 regarding Tribal Area.

3. In view of these, the order dated 26.07.2021 (Annexure-A-1, P.B., Pg. No. 12) should be kept in abeyance in respect of applicants. Hence, **status-quo be maintained as on today till filing of the reply.** The Id. counsel for the applicant further submitted that applicant have not been relieved till new.

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

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

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

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

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

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

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

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

11. **Steno copy is granted.**

Vice Chairman

Date:-30/07/2021.

aps.

O.A.No.607/2021 (S.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 30/07/ 2021.

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

2. As submitted in representation to respondent no. 2 that applicant desires to retire on superannuation on 31.03.2022; it means that he has only left with 7-8 months of service. In view of his short period of service left before his retirement; applicant should not have been considered for transfer. However, he has been transferred vide order dated 26.07.2021 (Annexure-A-3, P.B., Pg. Nos. 11 to 15). The applicant name appeared on P.B., Pg. No. 30 at Sr. No. 13. The said order of transfer dated 26.07.2021 (Annexure-A-3, P.B., Pg. Nos. 11 to 15) is stayed so far as applicant is concerned till outcome of the O.A.

3. For such kind of employees who is retiring, government policy is not to disturbed them. So, such order of transfer is against the policy of Transfer Act too.

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

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

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

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

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

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

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

11. **Steno copy is granted.**

Vice Chairman

Date:-30/07/2021.

aps.

