

O.A. 1218/2022 (S.B.)

(Santosh K. Jumde Vs. State of Mah. & Ors.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

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

2. The learned counsel for the applicant has pointed out the impugned transfer order dated 02/12/2022. From the perusal of order, no any reason is given for his transfer. **Hence, the impugned transfer order is stayed till returnable date.**

3. Issue notice to the respondents returnable **after three weeks**. Learned C.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. 1223/2022 (S.B.)

(Ravindra B. Jagtap Vs. State of Mah. & Ors.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

Heard Shri N.B. Rathod, learned counsel for the applicant and Shri S.A. Deo, Id. CPO for the State.

2. As per the submission of learned counsel for applicant, the applicant is working at Central Jail, Chandrapur. As per G.R. dated 6/8/2002, he is entitled for choice posting after completion of normal tenure of two years. As per the said G.R., the applicant has requested for transfer as per representation 03/12/2022 again. He had already made representations earlier, but those representations are not considered.

3. Hence, **the respondents are directed to decide the representations of the applicant, more particularly, the representation dated 03/12/2022 within a period of 45 days.**

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

Steno copy is granted.

Vice Chairman

dnk.

O.A. 209/2021 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

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

At the request of Id. counsel for applicant, **S.O. 22/12/2022.**

Vice Chairman

dnk.

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

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

Heard Saboo, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for R-1 to 3. None for other respondents.

At the request of Id. counsel for applicant, **S.O. After Vacation.**

Vice Chairman

dnk.

O.A. 382/2020 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

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

At the request of Id. counsel for applicant, **S.O. After Vacation.**

Vice Chairman

dnk.

O.A. 582/2022 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

Heard Saboo, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for R-1&2. None for R-3.

At the request of Id. counsel for applicant, **S.O. After Vacation.**

Vice Chairman

dnk.

O.A. 406/2018 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

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

At the request of Id. counsel for applicant, **S.O. 5/1/2023.**

Vice Chairman

dnk.

O.A. 99/2020 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

Heard Shri Barhate, Id. counsel holding for Shri U.J. Deshpande, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for respondents.

At the request of Id. counsel for applicant, **S.O. 3/1/2023.**

Vice Chairman

dnk.

O.A. 1017/2018 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

Heard Shri Bhusari, Id. counsel for applicant and Shri M.I. Khan, Id. P.O. for R-1&2. Shri Malokar, Id. counsel for R-3&4. Shri Girdekar, Id. counsel for R-4.

At the request of Id. P.O., **S.O. 5/1/2023.**

Vice Chairman

dnk.

O.A. 792/2016 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

Heard Ms. Krishna Patel, Id. counsel holding for Shri S.S. Shingane, Id. counsel for applicant and Shri M.I .Khan, Id. P.O. for respondents.

At the request of Id. counsel for applicant, **S.O. 6/1/2023.**

Vice Chairman

dnk.

O.A. 75/2021 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

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

At the request of Id. counsel for applicant, **S.O. 3/1/2023.**

Vice Chairman

dnk.

O.A. 1105/2022 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

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

At the request of Id. P.O., **S.O. 6/1/2023** for filing reply.

Vice Chairman

dnk.

O.A. 385/2022 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

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

At the request of Id. counsel for applicant, **S.O. 23/12/2022.**

Vice Chairman

dnk.

O.A. 644/2021 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

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

At the request of Id. P.O., **S.O. 9/1/2023.**

Vice Chairman

dnk.

O.A. 102/2017 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

C.A. 499/2017 in O.A. 102/2017-

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

At the request of Id. counsel for applicant, **S.O. 3/1/2023.**

Vice Chairman

dnk.

O.As. 168 & 169 of 2018 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

Heard K.N. Saboo, Id. counsel for the applicants and Shri A.M. Ghogre, Id. P.O. for respondents.

Both the O.As. pertain to the jurisdiction of Division Bench.

Put up the matters before Division Bench.

Vice Chairman

dnk.

O.A. 742/2019 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

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

Reply of R-1 is not filed on record.

S.O. 12/1/2023 for final hearing.

Vice Chairman

dnk.

O.A. 244/2021 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

Heard Shri P.V. Thakre, Id. counsel for the applicant and Shri S.A. Sainis, Id. P.O. for R-1. Await service of R-2 to 4.

As per the submission of learned counsel for applicant, the respondents are served and he will file service affidavit.

At the request of Id. P.O., **S.O. After Vacation for filing reply.**

Vice Chairman

dnk.

O.A. 1113/2021 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

Heard Shri Suryawanshi, Id. counsel for applicant, Shri V.A. Kulkarni, Id. P.O. for R-1 to 3 and Shri K.S. Malokar, Id. counsel for R-4.

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

Vice Chairman

dnk.

O.As. 99,357,358 & 361 of 2022 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

Heard Shri P.P. Khaparde, Id. counsel for the applicants and Shri A.M. Ghogre, Id. P.O. for R-1&2. None for other respondents.

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

Vice Chairman

dnk.

O.A. 704/2022 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

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

At the request of Id. P.O., S.O. 22/12/2022 for filing reply.

Vice Chairman

dnk.

O.A. 905/2022 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

Heard V.Dahat, Id. counsel for the applicant and Shri V.A. Kulkarni, Id. P.O. for R-1 to 4. None for R-5.

The Id. P.O. seeks further time to file reply. The Id. P.O. is directed to file reply on the next date positively without fail.

S.O. 4/1/2023.

Vice Chairman

dnk.

O.A. 917/2022 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

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

At the request of Id. P.O., **S.O. 6/1/2023** for filing reply.

Vice Chairman

dnk.

O.A. 930/2022 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

Heard A.D. Girdekar, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for R-1. Await service of R-2&3.

The Id. counsel for applicant submits that he will file service affidavit today itself.

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

Vice Chairman

dnk.

O.A. 961/2022 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

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

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

Vice Chairman

dnk.

O.A. 1001/2022 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

Heard Shri R.M. Fatinig, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for respondents.

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

Vice Chairman

dnk.

O.A. 1008/2022 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

Heard Shri S. Khandekar, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for respondents.

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

Vice Chairman

dnk.

O.A. 1040/2022 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

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

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

Vice Chairman

dnk.

O.A. 1041/2022 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

None for applicant. Shri H.K. Pande, Id.
P.O. for R-1. Await service of R-2&3.

S.O. four weeks.

Vice Chairman

dnk.

O.A. 1075/2022 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

None for applicant. Shri H.K. Pande, Id.
P.O. for R-1. Await service of R-2.

The applicant to remove office
objections.

S.O. after four weeks.

Vice Chairman

dnk.

O.A. 1175/2022 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

C.A. 510/2022 -

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

2. Notice on civil application be issued returnable **After Vacation**.
3. The learned P.O. waives notice for State. Hamdast granted.
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 the O.A.
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 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.

S.O. after vacation.

Vice Chairman

dnk.

O.A.St. 1589/2022 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

C.A. 265/2022 -

Heard Smt. S.V. Kolhe, Id. counsel for applicant and Shri H.K. Pande, Id. P.O. for State.

2. The Id. counsel for applicant has pointed out the Judgment of Hon'ble Bombay High Court, Bench at Aurangabad in Writ Petition No.7933/2022 in the case of **Vishal Vijaysingh Thakur Vs. State of Maharashtra & Ors.** The Hon'ble Bombay High Court has held that it is for the department to guide the dependent of the deceased and therefore the respondents department cannot say that there is a delay.

3. Looking to the ground, the delay is condoned. The C.A. is allowed and disposed off.

C.A. 266/2022 -

Looking to the ground, the C.A. for filing Jt. O.A. is allowed and disposed of.

O.A.St. 1589/2022 -

Heard Smt. S.V. Kolhe, Id. counsel for applicant and Shri H.K. Pande, Id. P.O. for State.

2. Issue notice to the respondents returnable **16/1/2023.** Learned P.O. waives notice for State. Hamdast allowed.

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

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

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

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

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

S.O. 16/1/2023.

Vice Chairman

dnk.

Rev.A. 25/2018 in O.A. 650/2017 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

Heard Smt. Saboo, Id. counsel for applicant and Shri A.M. Ghogre, Id. P.O. for respondents.

At the request of Id .counsel for applicant, **S.O. after three weeks** for filing C.A. for condonation of delay.

Vice Chairman

dnk.

O.A. 98/2018 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

Heard Shri R.M. Fating, Id. counsel for applicant, Shri A.M. Ghogre, Id. P.O .for R-1&4 and Shri P.R. Puri, Id. counsel for R-2&3.

At the request of Id. counsel for applicant, **S.O. 3/1/2023.**

Vice Chairman

dnk.

O.A. 641/2018 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

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

At the request of Id. counsel for applicant, **S.O. 6/1/2023.**

Vice Chairman

dnk.

O.A. 901/2020 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

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

At the request of Id. counsel for applicant, **S.O. 13/1/2023.**

Vice Chairman

dnk.

O.A. 962/2020 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

None for the applicant. Heard Shri V.A. Kulkarni, Id. P.O. for R-1 and Shri T.N. Thombre, Id. counsel for R-3 to 5.

Lateron –

Shri S.V. Bhoskar, Id. counsel for applicant appeared.

S.O. after three weeks.

Vice Chairman

dnk.

O.A. 79/2021 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

Heard Saboo, 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. 4/1/2023.**

Vice Chairman

dnk.

O.A. 319/2021 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

Heard Shri N.D. Thombre, Id. counsel for applicant, Shri A.M. Ghogre, Id. P.O. for R-1 to 3 and Shri S. Majid, Id. counsel for R-4.

2. As per submission of the learned counsel for applicant, the applicant has received all other benefits except arrears of time bound promotion.

3. Shri S. Majid, Id. counsel for R-4 has filed communication dated 15/12/2022 issued by the District Health Officer, Zilla Parshad, Nagpur. It is marked Exh-X. As per this communication, the applicant has received the pensionary benefits except the arrears of time bound promotion and revision of pay, pension and pensionary benefits.

4. As per the said communication dated 15/12/2022, the bill is submitted to the Pay Verification Unit and after sanction, the arrears will be paid.

5. Looking to the communication dated 15/12/2022, the grievances of the applicant are now satisfied.

6. Hence, the O.A. is disposed of with direction to the respondents to pay the arrears of time bound promotion and arrears in respect

of revision of pay by granting time bound promotion within a period of three months. In the meanwhile, the point of interest is kept open.

Vice Chairman

dnk.

O.A. 505/2021 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

Heard Shri K.J. Khanorkar, Id. counsel
for the applicant and Shri S.A. Sainis, Id. P.O.
for the respondents.

S.O. 6/1/2023.

Vice Chairman

dnk.

O.As. 935 & 936 of 2021 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

Heard P. Joshi, Id. counsel for the applicant and Shri S.A. Sainis, Id. P.O. for the respondents.

At the request of Id. P.O., **S.O. After
Vacation.**

Vice Chairman

dnk.

O.A. 1155/2021 with C.A. 398/22 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

Heard Shri Bhise, Id. counsel holding or
Shri C.A. Babrekar, Id. counsel for applicant and
Shri A.M. Khadatkhar, Id. P.O. for respondents.

At the request of Id. counsel for
applicant, **S.O. After Vacation.**

Vice Chairman

dnk.

O.A. 575/2022 with C.A. 503/2022 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

Heard Shri A.C. Dharmadhikari, Id. counsel for applicant, Shri M.I. Khan, Id. P.O. for R-1 to 6 and Smt. Saboo, Id. counsel for R-7.

The Id. P.O. has filed reply on behalf of R-2 to the amended portion. It is taken in record. Copy is given to the other side.

At the request of Id. P.O., **S.O. 3/1/2023.**

Vice Chairman

dnk.

O.A. 944/2022 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

Heard Shri S.P. Bhandarkar, Id .counsel for applicant, Shri M.I. Khan, Id. P.O. for R-1 to 3 and Shri T.U. Tathod, Id. counsel for R-4 (Caveator). Shri N.B. Kalwaghe, Id. counsel appeared and submit that he will file power on behalf of R-4.

At the request of Id. counsel for R-4, **S.O. 21/12/2022.**

Vice Chairman

dnk.

O.A. 740/2018 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

Heard Shri V.G. Bawangarh, Id. counsel holding for Shri S.M. Khan, Id. counsel for applicant and Shri M.I. Khan, Id. P.O. for respondents.

At the request of Id. counsel for applicant, **S.O. 13/01/2023.**

Vice Chairman

dnk.

O.A.No.1039/2022 (S.B.)

Coram:Shri M.A.Lovekar, Member (J)
Dated :15/12/2022.

M.C.A.No.45/2022:-

Heard Shri H.D.Futane, ld. counsel for the applicant and Shri S.A.Deo, ld. C.P.O. for the Respondents.

2. It is submitted on behalf of the applicant that the applicant has filed a writ petition in the Hon'ble High Court challenging order passed by this Tribunal on 12.12.2022 and because of heavy rush of matters on account of forthcoming winter vacation the applicant could not get circulation within the time which was given by the Tribunal during which the interim order was to stand extended. On behalf of the applicant further extension is sought. This is vehemently opposed by the ld. C.P.O. It is pointed out that the original application was already dismissed. It is further pointed out that immediately after dismissal of the original application the applicant had sought continuation of interim order for a further period of two weeks but after considering said prayer the interim order was extended only till today. According to him, in this factual background no further extension should be granted, and no further extension can, in fact, be granted.

3. On considering rival submissions on the point of extension of interim order, I have come to

the conclusion that the interim order should be extended till 19.12.2022. It is extended till 19.12.2022. On behalf of the applicant a statement is made that no further extension of interim order shall be sought. Hence, **M.C.A. No. 45/2022 is disposed of.**

Member (J)

Date:-15/12/2022.
aps.

O.A.No.970/2019 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

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

2. At the request of Id. P.O., **S.O. one week to carry out the amendment.**

3. **S.O. after winter vacation.**

Member(J)

Date:-15/12/2022.

aps.

Vice Chairman

O.A.No.960/2021 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

Heard Shri R.S.Naktode, ld. Counsel for the applicant and Shri S.A.Deo, ld. C.P.O. for the respondents.

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

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

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

5. **S.O. in due course.**

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

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

O.A.Nos.1142&1143/2021 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

Heard Ms. Ashwini S. Uikey holding for Shri N.B.Rathod, ld. Counsel for the applicant and Shri S.A.Deo, ld. C.P.O. for the respondents. Await service of R-2.

2. Ld. Counsel for the applicant submits that she will service affidavit today itself.

3. **S.O. after winter vacation.**

Member(J)

Date:-15/12/2022.

aps.

Vice Chairman

O.A.No.228/2022 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

C.A.No.509/2022:-

Heard Shri A.P.Barahate, ld. Counsel for the applicant and Shri A.M.Khadatkar, ld. P.O. for the respondents.

2. Ld. Counsel for the applicant submits that subsequent developments are taken place. Hence, **C.A. No. 509/2022 for amendment are allowed and disposed of.**

3. **S.O. after winter vacation.**

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

O.A.No.567/2022 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

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

2. **S.O. six weeks.**

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

O.A.No.966/2022 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

Heard Shri Z.Shakir, Id. Counsel for the applicant and Shri S.A.Sainis, Id. P.O. for the respondents.

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

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

O.A.No.1216/2022 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

C.A.No.516/2022:-

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

2. **C.A.No.516/2022 for Jt. O.A. is allowed and disposed of.**

3. As submitted by Id. Counsel for the applicant, applicants were recruited vide letter dated 31.07.2014 (A-1, P.17).

4. Id. Counsel for the applicant has filed recruitment rule which is at A-3, P. 76 the relevant para is reproduced below:-

“3. Period and number of chances:-Subject to the provisions of these rules, every Lower Division Clerk shall be required to pass the Examination within four years from the date of his appointment as a Lower Division Clerk and within three chances including any chance which he may have been already availed of under the existing rules.”

5. However Clerk has to pass examination within four years and three chances. As submitted by the Id. Counsel for the applicant, after appointment of the applicants only two times examinations have been conducted. Applicants are yet to avail the third chance because third examination has not held as on today. They cannot be deprived from availing third chance, if department is proceeding with the promotion as per document filed by the Id. Counsel for the applicant on page 81 letter dated 08.12.2022 (A-4). They must ensure that as and when applicants will pass the examination they will be considered for promotion and if promoted they should be given deemed date of seniority as per Rule.

6. As further submitted by Id. Counsel for the applicant, the first applicant belongs to Scheduled Caste Category and second applicant belongs to Open Category. In view of this situation, **if promotion is made it should be made clear in case of last promoted candidate of S.C. Category and Open Category that their promotion is subject to outcome of the original application.**

7. Issue notice to Respondents, returnable on four weeks. Learned C.P.O. waives notice for R-1. Hamdast allowed.
8. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
9. 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.
10. 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.
11. 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.
12. 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.
13. **S.O. four weeks.**
14. **Steno copy is granted.**

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

C.A.66/22inC.P.53/21inO.A.405/2021 with

C.P.No.46/2021inO.A.No.405/2021 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

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

2. **S.O. 03rd Week of January, 2023.**

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

C.A.517/22inC.P.37/22inO.A.126/2017 with

C.A.292/22inRev.St.1723/22inO.A.126/17D.B.

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

None for the applicant. Shri A.M.Khadatkar,
ld. P.O. for the respondents. None for the R-2 & 4.

2. **S.O. six weeks.**

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

C.P.No.71/2022inO.A.No.644/2020 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

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

2. Ld. P.O. has filed reply of R-1 & 2. It is taken on record. Copy is served to the other side.

3. **S.O. after winter vacation.**

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

C.P.No.73/2022inO.A.No.03/2020 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

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

2. Ld. Counsel for the applicant submits that he will service affidavit during the course of the day.

3. **S.O. after winter vacation.**

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

C.P.No.77/2022inO.A.No.703/2020 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

Heard Shri A.Barahate holding for Shri N.R.Saboo, ld. Counsel for the applicant and Shri A.M.Khadatkar, ld. P.O. for the State. Await service of R-2 to 5.

2. Ld. Counsel for the applicant submits that he will service affidavit during the course of the day.

3. **S.O. after winter vacation.**

Member(J)

Date:-15/12/2022.

aps.

Vice Chairman

C.P.No.76/2022inO.A.No.224/2022 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

Heard Shri R.M.Fating, Id. Counsel for the applicant and Shri S.A.Sainis, Id. P.O. for the Respondents.

2. At the request of Id. P.O., **S.O. after winter vacation.**

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

Rev.No.17/2019inO.A.No.793/2017 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

Heard Shri A.Barahate holding for Shri N.R.Saboo, ld. Counsel for the applicant and Shri A.M.Khadatkar, ld. P.O. for the State. Await service of R-2 to 5.

2. At the request of ld. Counsel for the applicant, **S.O. after winter vacation to file service affidavit.**

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

O.A.No.969/2022 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

Heard Shri G.K.Bhusari, ld. Counsel for the applicant and Shri A.M.Ghogre, ld. P.O. for the State.

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

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

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

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

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

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

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

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

O.A.No.1202/2022 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

None for the applicant. Shri A.M.Ghogre, Id.
P.O. for the State.

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

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

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

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

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

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

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

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

C.P.No.42/2022 in O.A.No.549/2020 with

**C.P.No.43/2022 in O.A.No.578/2020 with
C.P.No.44/2022 in O.A.No.551/2020 with
C.P.No.61/2022 in O.A.No.545/2020 with
C.P.No.57/2022 in O.A.No.546/2020 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

Heard Shri A.P.Sadavarte, ld. Counsel for the applicant and Shri A.M.Ghogre, ld. P.O. for the Respondents.

2. The ld. P.O. is directed to file number of all the Writ Petitions, **S.O. after winter vacation.**

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

C.P.No.54/2022inO.A.No.791/2021 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

Heard Shri A.P.Barahate, ld. Counsel for the applicant and Shri M.I.Khan, ld. P.O. for the Respondents.

2. Ld. P.O. has filed reply on behalf of the respondent no. 4. It is taken on record. Copy is served to the other side.

3. **S.O. after winter vacation.**

Member(J)

Date:-15/12/2022.

aps.

Vice Chairman

C.P.No.69/2022inO.A.No.570/2021 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

None for the applicant. Shri M.I.Khan, Id. P.O.
for the Respondents.

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

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

O.A.No.514/2021 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

Heard Shri A.Motlog holding for Shri R.V.Shiralkar, Id. Counsel for the applicant and Shri M.I.Khan, Id. P.O. for the Respondents.

2. It is submitted on behalf of the Id. Counsel for the applicant that the applicant does not have either the copy of chargesheet or the report of Inquiry Officer and, therefore, copies of these documents could not be filed. The Original Application arises out of the punishment inflicted in departmental inquiry. Respondents are directed to produce record of departmental inquiry.

3. **S.O. after winter vacation.**

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

O.A.No.319/2015withC.A.No.323/2015 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

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

2. **S.O. after winter vacation.**

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

O.A.No.621/2017 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

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

2. The Id. Counsel for the applicant submits that applicant is agitating for 1st and 2nd A.C.P. In this situation **respondents are directed to file five years C.Rs. of 01st and 02nd A.C.P., S.O. after winter vacation.**

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

O.A.No.103/2018 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

Heard Shri S.D.Malke, Id. Counsel for the applicant, Shri S.A.Sainis, Id. P.O. for the Respondents and Ms. Shraddhaya Kulkarni holding for Shri S.S.Ghate, Id. Counsel for the R-5.

2. At the request of Id. Counsel for the applicant, **S.O. after winter vacation.**

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

O.A.No.601/2018 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

Heard Shri T.U.Tathod, Id. Counsel for the applicant and Shri M.I.Khan, Id. P.O. for the Respondents.

2. At the request of Id. Counsel for the applicant, **S.O. after winter vacation.**

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

O.A.No.709/2019 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

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

2. At the request of Id. Counsel for the applicant, **S.O. after winter vacation.**

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

O.A.No.778/2021 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

None for the applicant. Shri A.M.Khadatkar,
ld. P.O. for the Respondents.

2. **S.O. six weeks.**

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

O.A.No.897/2021 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

Heard Shri A.Barahate holding for Shri R.M.Fating, ld. Counsel for the applicant and Shri A.M.Khadatkar, ld. P.O. for the Respondents.

2. At the request of ld. Counsel for the applicant, **S.O. after winter vacation.**

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

O.A.No.915/2021 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

Heard Mrs. S.Tripathi, ld. Counsel for the applicant, Shri A.M.Khadatkar, ld. P.O. for the Respondents and Shri P.P.Khaparde, ld. Counsel for the Intervenor. None for the R-5.

2. At the request of ld. Counsel for the applicant, **S.O. 19.12.2022.**

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

O.A.Nos.1116&1117/2021 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

Heard Shri S.N.Gaikwad holding for Shri M.L.Vairagade, ld. Counsel for the applicant and Shri A.M.Khadatkar, ld. P.O. for the Respondents.

2. At the request of ld. Counsel for the applicant, **S.O. after winter vacation.**

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

O.A.No.43/2022 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

Heard Smt. S.W.Deshpande, Id. Counsel for the applicant, Shri A.M.Khadatkar, Id. P.O. for the Respondents and Shri A.Motlog holding for Shri H.D.Marathe, Id. Counsel for the R-3 to 6.

2. At the request of Id. Counsel for the respondent nos. 3 to 6, **S.O. 19.12.2022.**

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

O.A.No.118/2022 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

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

2. At the request of Id. Counsel for the applicant, **S.O. after winter vacation.**

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

O.A.No.287/2022withC.A.No.406/2022 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

Heard Ms.Ashwini Uikey holding for Shri N.B.Rathod, ld. Counsel for the applicant and Shri A.M.Khadatkar, ld. P.O. for the Respondents.

2. At the request of ld. P.O., **S.O. 05.01.2023.**

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

O.A.No.946/2022 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman &
Shri M.A.Lovekar, Member (J)**

Dated : 15/12/2022.

There is a leave note of ld. counsel for the applicant. Shri A.M.Khadatkar, ld. P.O. for the Respondents.

2. **S.O. after winter vacation.**

Member(J)
Date:-15/12/2022.
aps.

Vice Chairman

C.A. No. 511 of 2022 in O.A. No. 1159 / 2022 (S.B.)

(Ajagar Ali S/o Bashiruddin Sayyad Vs. State of Maharashtra and others)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated : 15/12/2022.

ORDER

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

2. This O.A. is filed seeking to quash and set aside the recovery order dated 01/04/2021 of Rs.2,41,525 from the applicant's pension.

3. The O.A. was first listed on 09/12/2022. On that date, interim relief was not granted. Notices were issued to the respondents. Thereafter, C.A. No.511/2022 is filed to grant interim relief to the recovery order dated 01/04/2021.

4. With the consent of learned counsel for the applicant and learned P.O. for the respondents Shri M.I. Khan, the O.A. is admitted and decided finally.

5. The case of the applicant in short is as under –

That the applicant was initially appointed as a Police Constable on 02/08/1977. Thereafter, he was promoted to the post of Assistant Sub Inspector (ASI), i.e., Group-C post in the year 2011 and retired from the said post and during the said period, he served at various places and he came to be retired from the service on attaining the age of superannuation on 30/09/2013. His pension was fixed on the basis of higher pay scale. The applicant was in service in naxalite area and therefore he was granted promotional pay as per G.R. dated 06/08/2002. At the time of retirement, he was in naxalite area. The office has fixed the pay considering promotional pay. Thereafter, the office has noted that

there was a mistake for granting pension on the basis of promotional pay as per the G.R. dated 6/8/2002. Therefore, issued impugned recovery order.

6. Heard Shri V.R. Borkar, Id. counsel for applicant. He has pointed out the Judgment of this Tribunal in O.A. 419/2020 with other connected matters, delivered by this Tribunal. As per the submission of learned counsel for applicant Shri Borkar, all the Judgments were considered and relying on the Judgment of **Hon'ble Apex Court in case of State Of Punjab & Ors vs. Rafiq Masih (White Washer) decided on 18 December, 2014** in Civil Appeal No. 11527 OF 2014 (Arising out of SLP(C) No. 11684 of 2012), this Tribunal has allowed the O.A. and quashed and set aside the impugned order.

7. The learned counsel for applicant has submitted that the Judgment in the case of **State Of Punjab & Ors vs. Rafiq Masih (White Washer)** is not considered in the Judgment of Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.1701/2015. The learned counsel for applicant has submitted that in view of Judgment of **Hon'ble Apex Court in case of State Of Punjab & Ors vs. Rafiq Masih (White Washer)**, the O.A. is liable to be allowed and the impugned order is liable to be quashed and set aside.

8. Heard learned P.O. for the respondents Shri M.I. Khan. He has pointed out the G.R. dated 06/08/2002. The G.R. dated 06/08/2002 reads as under –

“ घनदाट जंगलाने व्यापलेल्या चंद्रपूर व गडचिरोली जिल्हयातील दुर्गम व मागासलेल्या आदिवासी भागाचा जलद गतीने विकास व्हावा यासाठी शासन निर्णय, नियोजन विभाग, कमांक विकृका-१०८८/प्र.६४/योजना-१२,दिनांक १९ जानेवारी,१९८९ अन्वये विशेष कृती कार्यक्रम जाहीर करण्यात आला होता. या शासन निर्णयासोबतच्या परिशिष्ट-४ परिच्छेद-२ (२) मध्ये सर्व विभागांनी गडचिरोली जिल्हा चंद्रपूर जिल्हयाच्या निवडक क्षेत्रात चांगल्या, होतकरु व कार्यक्षम अधिका-यांची नेमणूक करण्याची बाब अंतर्भूत करण्यात आली आहे. तथापि, या संदर्भात निश्चित स्वरुपाची मार्गदर्शक तत्वे सुस्पष्टपणे विहित केलेली नव्हती. त्यामुळे राज्यातील सर्वच आदिवासी/नक्षलग्रस्त भागात अधिकारी/कर्मचारी यांच्या नियुक्तीसाठी काही मार्गदर्शक तत्वे विहित करण्याचे शासनाचे विचाराधीन होते.

आदिवासी क्षेत्रातील बिकट परिस्थितीत शासनाच्या योजनांची प्रभावीपणे अंमलबजावणी करणा-या शासकीय अधिकारी/कर्मचारी यांना त्या भागात काम करतांना येणा-या विविध अडचणींचा विचार करून तसेच नक्षलग्रस्त/संवेदनशील भागात (जिविताची) सुरक्षितता इत्यादी बाबी लक्षात घेवून त्यांना काही प्रोत्साहनपर सवलतीही देण्यात आलेल्या आहेत. आदिवासी भागाच्या विकासासाठी राबविण्यात येत असलेल्या शासनाच्या विविध योजनांचा पुरेपूर लाभ तेथील जनतेला मिळावा, त्यांचा विकास व्हावा यासाठी तळमळीने काम करणा-या अधिकारी/ कर्मचा-यांच्या अडीअडचणी दूर व्हाव्यात आणि त्यांना जोमाने काम करण्यास प्रोत्साहन मिळावे या करिता विविध सवलती देण्यात आलेल्या आहेत. त्यात सुधारणा करणे तसेच काही अतिरिक्त सवलती देण्याची बाब शासनाच्या विचाराधीन होती.

(७) सर्व पदांसाठी एकस्तर पदोन्नती -

आदिवासी व नक्षलग्रस्त क्षेत्रात काम करण्यासाठी प्रोत्साहन म्हणून गट 'अ' ते 'ड' मधील सर्व पदधारकांना संबंधित कर्मचारी/ अधिकारी त्या क्षेत्रात कार्यरत असेपर्यंतच्या काळात त्यांनी धारण केलेल्या मूळ पदाच्या नजीकची वरिष्ठ/ पदोन्नतीची वेतनश्रेणी व त्या अनुषंगाने वेतननिश्चितीचा लाभ देण्यात यावा. ज्या कर्मचारी/ अधिका-यांना सेवांतर्गत आशवासित प्रगती योजनेचा लाभ देण्यात आलेला आहे त्यांना आणखी वरिष्ठ पदाच्या वेतनश्रेणीचा लाभ अनुज्ञेय नसेल. ही एकस्तर पदोन्नतीची योजना १ जूलै, २००२ पासून अंमलात येईल आणि ती संबंधित कर्मचारी/अधिकारी आदिवासी/ नक्षलग्रस्त क्षेत्रात कार्यरत असेपर्यंतच अनुज्ञेय राहिल. त्या क्षेत्रातून कर्मचारी/ अधिकारी बिगर आदिवासी क्षेत्रात परत आल्यावर तो त्याच्या मूळच्या संवर्गातील वेतनश्रेणीत पूर्वीच्या वेतनाच्या अनुषंगाने वेतन घेईल.”

9. The G.R. dated 06/08/2002 was issued by the Government with an intention that the employees shall not hesitate to work in the naxalite area and therefore incentives of promotional pay were given who supposed to be posted in naxalite area. The wording in the G.R. dated 06/08/2002 is very clear. The G.R. dated 06/08/2002 is applicable to the employees who are posted in the naxalite area, till they actually worked in the naxalite area. Whenever they are transferred in other area, then they shall not get benefit of the G.R. dated 06/08/2002.

10. In the present O.A., the applicant was retired in the naxalite area. His pension was fixed considering the promotional pay as per the G.R. dated

06/08/2002. The Judgment of **Hon'ble Apex Court in case of State Of Punjab & Ors vs. Rafiq Masih (White Washer)** is not applicable in the present case because applicant is not entitled for pension as per G.R. dated 06/08/2002.

11. The learned counsel for the applicant Shri V.R. Borkar has pointed out the decision in the case of **Thomas Daniel Vs. State of Kerala and others, 2022 SCC Online SC 536**. This Judgment is also based on the Judgment of **Hon'ble Apex Court in case of State Of Punjab & Ors vs. Rafiq Masih (White Washer)**.

12. The cited Judgments are not applicable, because, the G.R. dated 06/08/2002 is very clear. The incentives are given as per the G.R. dated 06/08/2002 to the employees who actually worked in the naxalite area. They are not entitled to get the benefit of the G.R. dated 06/08/2002 after the retirement or transfer.

13. The learned counsel for the applicant has pointed out the Judgment of this Tribunal in O.A. No.419/2020, decided on 13/10/2022. As per the submission of learned counsel for applicant Shri Borkar, all the Judgments were considered and relying on the Judgment of **Hon'ble Apex Court in case of State Of Punjab & Ors vs. Rafiq Masih (White Washer) decided on 18 December, 2014** in Civil Appeal No. 11527 OF 2014 (Arising out of SLP(C) No. 11684 of 2012). In this O.A., the Judgment in O.A.No. 146/2016, decided on 04/03/2018 and the Judgment in O.A.No. 285/2020, decided on 28/07/2022 were not pointed out, hence, it is not helpful to the applicant.

14. The learned P.O. for respondents has pointed out the Judgment of this Tribunal in O.A.No. 146/2016 delivered on 14/03/2018 and submitted that in the present case also the applicant could not place on record any convincing

evidence to show that his pension is fixed as per the G.R. dated 06/08/2002 therefore the O.A. is liable to be dismissed.

15. The learned P.O. has also pointed out the Judgment of this Tribunal in O.A.285/2020, delivered on 28/07/202 holding that the pension is not fixed as per the G.R. dated 6/8/2002 and therefore the O.A. was dismissed by this Tribunal. The relevant para no.7 is reproduced as under –

*“7. It is specifically mentioned in the G.R. dated 6/8/2002 that one step promotional pay is to be paid to the employees working in naxalite affected / tribal area. That extra payment is till the employee worked in that area. After the transfer of that employee from naxalite / tribal area, he shall get his original pay scale. In view of this G.R., it is very clear that whatever the amount of one step promotional pay granted to the employees working in naxalite area, are not the pay, but it is incentive so that the employee shall be interested to work in the naxalite area. As per the clause 7 of the said G.R., the respondents have paid the incentives to the applicant and it was applicable till the actual working in the naxalite area. Therefore, the respondents have re-fixed the pay after his retirement. It is inconsonance with the G.R. dated 6/8/2002. The same situation was in the case of **Tarachand S/o Urkudaji Gajbhiye Vs. State of Maharashtra & Ors.**, who had filed the O.A.186/2016. This Tribunal has recorded its findings in para-6 as under–*

“6. Coming to the issue whether Circular dated 17.12.2013 has retrospective application or not, it is seen that the applicant claims that it has no retrospective application. However, Para 3 of this Circular reads as follows.

“या संदर्भातील शासनाचा निर्णय प्रलंबित असल्यामुळे अशा सुचना देण्यात येत आहेत की, आदिवासी व नक्षलग्रस्त भागातून दिनांक ०१.०१.२००६ रोजी किंवा त्यानंतर सेवानिवृत्त झालेल्या अधिकारी/कर्मचारी यांना निवृत्तीच्या दिनांकास ते ज्या मूळ पदावर कार्यरत आहेत (एकतर पदोन्नतीचे पद वगळून), त्या पदाच्या पे-बॅन्डमध्ये ते घेत असलेले वेतन + अनुज्ञेय ग्रेड वेतनावर निवृत्तीवेतनाची परिगणना करावी. ज्या कर्मचा-यांना अशा परिगणनेनुसार अनुज्ञेय निवृत्तीवेतनापेक्षा जास्त निवृत्तीवेतन अदा करण्यात आले आहे, त्या निवृत्तीवेतनधारकांकडून जास्त अदा केलेले निवृत्तीवेतन महाराष्ट्र नागरी सेवा (निवृत्तीवेतन) नियम १९८२ मधील नियम १३४ (ए) (दि.३०.०७.२००७ नुसार केलेली सुधारणा) नुसार वसूल करण्याची कार्यवाही या नियमातील परंतुकानुसार करण्यात यावी.”

There is a clear provision in this Circular that all Government servants, who retired from Tribal/Naxal affected areas on 01.01.2006 or thereafter, will be entitled to draw pension on the basis of their original pay and not on the pay they were drawing on one step promotion. This is a clear provision which suggest retrospective application of the Circular. Similarly, the relevant Maharashtra Civil Services (Pension) (Amendment) Rules, 2014 have been notified on 27.10.2014 and a new rule has been added to Rule 9(36), which reads:-

“2. In rule 9 of the Maharashtra Civil Services (Pension) Rules, 1982 (hereinafter referred to as “the principal Rules”)-

(a)in clause (36), after sub-clause (iii), the following sub-clause shall be added, namely-

“(iv) Any kind of financial incentive, including different in pay on account of one-step promotion (other than by way of Time Bound Promotion of Assured Career Progression) as per any policy of the Government, shall not be admissible for calculating pay.”

The Applicant has not challenged the Constitutional validity of the aforesaid Circular. There is no request in the relief clause 11 in the

Original Application in that regard. Otherwise also, looking into the philosophy behind issuing the G.R. dated 06.08.2002, this Circular appears to be fully justified. A Government servant appointed to a Tribal/Naxal affected area is not given permanent one step promotion. Such promotion is given to him as long as he is working in such areas. Such a posting is supposed to be temporary and only young officer below the age of 50 years are expected to be posted in Tribal/Naxal affected areas. Ordinarily, therefore, situation where a person retires from Tribal/Naxal affected areas should not arise. If a person retiring in such areas given pension on one step promotion basis when he is no longer required to work in that area will be highly discriminatory vis-à-vis other persons similarly situated and who retire from areas other than Tribal/Naxal affected area. It is my considered opinion that Circular dated 17.12.2013 is fully in consonance with the G.R. dated 6.8.2002. The only issue is regarding recovery of excess payment which has already been discussed in the preceding paragraph.”

16. The Hon'ble Bombay High Court in Writ Petition No. 1701/2015 in the case of the **Principal Secretary, Department of Finance, Mantralaya, Mumbai and 2 ors. Versus Ashok S/o J. Aknurwar, DRDA, Gadchiroli, Dist. Gadchiroli** has held in para nos.5 and 6 as under –

“5. For answering the issue involved in this case, it would be necessary to consider the relevant provisions of the Rules of 1982. It would be necessary to refer to rule 9(36) of the Rules which defines "pay". Rule 9 (36) reads thus :-

"9(36) "Pay" means the amount drawn monthly by a Government servant as -

(i) the pay (including special dearness pay) which has been sanctioned for a post held by him substantively or in an officiating capacity, or to which he is entitled by reason of his position in a cadre ; and

(ii) personal pay, and special pay ; and

(iii) any other emoluments which may be specially classed as pay by Government."

The word "pensionable pay" is explained in rule 60(1) of the Rules. Rule 60(1) of the Rules with which we are concerned reads thus :-

"60. Pensionable pay. - (1) The "Pensionable pay" means the average pay earned by a Government servant during the last ten months' service."

On a reading of the aforesaid relevant rules, it is clear that 'pensionable pay' would mean the average pay earned by a government servant during the last ten months' service. 'Pensionable pay' refers to the 'pay' earned by a government servant. "Pay" is defined in rule 9(36) of the Rules. As per rule 9(36) "pay" would mean the pay which has been sanctioned for a post held by a government servant substantively or in an officiating capacity and / or to which he is entitled, by reason of his position in a cadre. Rule 9(36)(ii) includes "personal pay" and "special pay" in the definition of the word "pay". It is apparent from a reading of rule 9(36) of the Rules that "pay" would mean the pay which has been sanctioned for a post held by a government servant by reason of his position in a cadre. On a reading of the definition of the word "pay", it is clear that 'pay' means the pay which is sanctioned for a post and is drawn by an employee. Pay would include "personal pay" and "special pay". The Tribunal, however lost sight of the words "pay which has been sanctioned for a post held by a government servant". The respondent was holding the post of an accounts officer D.R.D.A. at the time of his retirement. Admittedly, the pay sanctioned for the post of accounts officer D.R.D.A. was in the pay scale of Rs.9,300-34,800 with grade pay of Rs.4,400/-. The respondent was however drawing a higher pay in the scale of Rs.15,600-39,100 with grade pay of Rs.5,400/- as an incentive for working in the naxalite affected area. On a reading of the

government resolution dated 06/08/2002 under which a higher pay scale was granted to the respondent, it appears that higher pay scale is granted to a government servant posted in a naxalite affected area only as an incentive to encourage him to work in the said area. It is apparent from a reading of the government resolution, dated 06/08/2002 that the special incentive is granted to the employee with a view to ensure that he is encouraged for working in the naxalite affected area and hence, as soon as he stops working in the naxalite affected area and is transferred to a non-naxalite affected area or a non-tribal area, he would be brought on the scale that is sanctioned for the post and not the higher pay scale which he was drawing as a result of his being posted in the naxalite affected area. The pay sanctioned for the post of an accounts officer was Rs.9,300-34,800 with grade pay of Rs.4,400/-, but the respondent was drawing the pay in the scale of Rs.15,600-39,100 with grade of Rs.5,400/- which was not sanctioned for the post, but was only granted as an incentive for working in the naxalite affected areas or the tribal areas. 'Pay' under rule 9(36) of the Rules would only include the pay sanctioned for a post, personal pay and special pay and any emolument classed as 'pay'. The pay received by the respondent in the higher pay scale cannot be termed as a special pay as it is only in the nature of an incentive, as could be gathered from a reading of the government resolution dated 06/08/2002. On a reading of the government resolution, it is clear that higher pay scale is provided for a government servant, only for the period during which he works in the naxalite affected areas. That is not a 'pay' sanctioned for the post that he is holding. The government servant would be entitled to the higher pay scale as an incentive in terms of the government resolution dated 06/08/2002, only from the date of joining the posting in the naxalite affected area and till the date he continues to work in the naxalite affected area. The government servant working on a particular post would stop drawing a higher pay scale as soon as he is transferred out of the naxalite affected area or the tribal area. It is apparent from a reading of the government resolution that the special incentive is sought to be granted to the employees only for the period during which they work in the naxalite affected areas or the tribal areas. On a reading of rule 9(36) of the Rules, it cannot be said that

the higher pay scale drawn by the respondent during the last ten months of his service would fall within the definition of the word "pay" and that the higher pay scale is a special pay which was drawn by the respondent. The Tribunal did not consider the government resolution dated 06/08/2002 as also the provisions of rule 9(36) of the Rules of 1982 in the right perspective before holding that the higher pay drawn by the respondent was a special pay drawn by him and his pension was liable to be computed on the basis of the last pay drawn by him in the scale of Rs.15,600-39,100, with grade pay of Rs.5,400/-. While allowing the original application filed by the respondent, the Tribunal failed to notice the provisions of rule 9(36)(i) of the Rules which makes a reference to the pay which has been sanctioned for a post. The Tribunal gave undue weightage to the department's circulars dated 19/01/2007 and 24/07/2008 while deciding the issue in favour of the respondent, without considering the import of the government resolution dated 06/08/2002 and the provisions of rule 9(36) of the Rules of 1982. Since there was some confusion about the correct position of law in this regard, it appears that the State Government, by resolution dated 17/12/2013, clarified the position. As per the government resolution, it was not permissible to compute the pension on the basis of the higher pay scale received by a government servant for working in the naxalite affected areas or the tribal areas. We do not find that the government resolution dated 17/12/2013 is in any way, violative of the provisions of rule 9(36) or rule 60(1) of the Maharashtra Civil Services (Pension) Rules as held by the Tribunal. The government resolution dated 17/12/2013 is in consonance with the provisions of rule 9(36)(i) of the Rules of 1982.

6. There is one more aspect of the matter which needs to be considered. If we accept the submission made on behalf of the respondent in regard to the computation of the pensionary benefits on the basis of the pay drawn by him during the last ten months of his service, grave injustice would be caused to the employees that were holding the same post of accounts officer but were not posted in the naxalite affected areas or the tribal areas during the last ten months of their service. If the submission made on behalf of the respondent is accepted, there would be a mad rush for seeking a transfer to a

place located in the naxalite affected areas or the tribal areas during the last year of service of the employees. In a given case a person may have worked for a period of nearly ten years in a naxalite affected area or a tribal area till the penultimate year of his service and during the last year if he is transferred in a non-naxalite affected area or a non-tribal area, the pension drawn by such an employee would be computed on the basis of the lesser pay drawn by him, whereas a person who may have enjoyed his postings during his entire services in a non-naxalite affected area or a non-tribal area would be entitled to a much higher pension merely because he is posted in the naxalite affected area or the tribal area during the last year of his service. There is a great difference in the pay scale drawn by a government servant working in a non-naxalite affected area and the naxalite affected area, for the same post. For example, in the present case, an accounts officer working in a non-naxalite affected area would receive pay in the scale of Rs.9,300- 34,800 with grade pay of Rs.4,400/-, whereas an accounts officer working in a naxalite affected area would receive the pay in the scale of Rs.15,600-39,100 with grade pay of Rs.5,400/-. There is a vast difference between the pay drawn by an employee working in the naxalite affected area and the non-naxalite affected area. On a reading of the provisions of rules 60(1) and 9(36) of the Rules and the government resolution dated 06/08/2002, it is clear that the intention of the government was not to grant considerably higher pension to a government servant, who has worked in the tribal area or the naxalite affected area in the last year of his service, vis-a-vis a government servant, who has worked in a non-naxalite affected area during the last year of his service. There would be a great difference in the monthly pension drawn by a government servant holding the same post in non-naxalite affected area and the naxalite affected area during the last year of his service. The State Government did not intend to do so. It would also be necessary to consider that a government servant posted at a distance of barely five or ten kilometers from a naxalite affected area during most part of his service including the last year of his service would draw a much lower pension as compared to the government servant who is posted barely five or ten kilometers away from him in a naxalite affected area, if the submission made on behalf

of the respondent is accepted. The Tribunal did not consider these aspects of the matter and also the import of the provisions of rule 9(36)(i) of the Rules while granting the relief in favour of the respondent. While holding so, we may note that the judgment reported in 2002 (5) Mh.L.J. 265 and relied on by the counsel for the respondent cannot be applied to the facts of this case. In the said case an amount of Rs.150/- per month was granted to judicial officers showing their willingness for working on ex-cadre posts of judge-labour court, member-school tribunal. The special pay of Rs.150/- per month was granted with a view to attract the judges from regular judiciary to the labour judiciary. The amount of Rs.150/-, that was drawn by the judges of the labour judiciary was considered as a 'special pay' drawn by them. In the case in the reported judgment, the appointment letter clearly mentioned that Rs.150/- per month was drawn by the petitioner therein as a "special pay" which was subsequently raised to Rs.300/- per month. Since in the reported judgment, the petitioner was admittedly drawing a 'special pay' of Rs.300/- per month at the time of his retirement, this court had held that the special pay drawn by the petitioner therein, could be included within the definition of the term "pay" in rule 9(36) of the Rules. Such is not the case here. In the instant case, the petitioners have not granted a higher pay scale to the government servants as a 'special pay' but have granted it as an incentive only for the period during which they work in the naxalite affected areas or the tribal areas. The government resolution dated 17/12/2013 clearly provides that the government servants retiring after the coming into force of the sixth pay commission recommendations on 01/01/2006 would be entitled to receive the pension by considering the last pay sanctioned for the post and not on the basis of the higher pay scale drawn in pursuance of the government resolution dated 06/08/2002."

17. In para-6 of the Judgment, the Hon'ble Bombay High Court has held that if such a position granting the pension to the employees on the basis of the G.R. dated 06/08/2002 is continued, then there will be a mad rush for seeking a transfer to a place located in the naxalite affected area or tribal area during the

last year of service of the employees. The actual meaning of the G.R. dated 06/08/2002 is to give the incentives to the employees who are actually working in the naxalite affected / tribal area and that benefit cannot be given after retirement considering the higher pay scale which was granted as per the G.R. dated 06/08/2002.

18. The pension of the applicant was fixed considering his higher promotional pay scale, as per the G.R. dated 06/08/2002. It was a wrong fixation. In fact, the applicant was not entitled to get pension as per the G.R. dated 06/08/2002. The G.R. dated 06/08/2002 itself says that it is applicable till the actual working of the employees in the naxalite affected / tribal area. There is no merit in the O.A. Hence, the following order –

ORDER

The O.A. and C.A. are dismissed. No order as to costs.

Vice Chairman

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