

O.A. 336/2021 (S.B.)

(Dhananjay V. Deo Vs. State of Mah. & Ors.)

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

Dated : 06/05/2021.

Heard Shri R.M. Fating, learned counsel for the applicant and Shri S.A. Deo, learned CPO for the State.

2. As per record the applicant retired from the service on 31/7/2019 (A-3,P-52). The applicant was granted third time bound promotion/ACPS vide order 20/10/2020 (A-11, P-49). Now the said order has been cancelled vide order dated 16/3/2021 (A-14,P-53). The applicant is apprehending that the recovery will be done from pension by the respondents and therefore he approached before the Tribunal.

3. In view thereof, the respondents are directed not to take any coercive action of recovery against the applicant till filing of reply by the respondents.

4. Issue notice to the respondents returnable **after six weeks**. The learned C.P.O. waives notice for the State. Hamdast allowed.

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

6. Applicant is authorized and directed to serve on Respondents intimation / notice of date

of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

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

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

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

S.O. after six weeks.

Steno copy is granted.

Vice-Chairman

dnk.

O.A. 337/2021 (S.B.)

(Shrikrushna T. Lahase Vs. State of Mah.)

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

Dated : 06/05/2021.

Heard Shri R.M. Fating, learned counsel for the applicant and Shri S.A. Deo, learned CPO for the State.

2. The applicant retired as Junior Engineer from the Government service on 30/9/2019 as per letter dated 23/9/2019 (A-12,P-58). The applicant was granted third time bound promotion/ACPS vide order 20/10/2020 (A-11, P-56). Now the said order has been cancelled vide order dated 16/3/2021 (A-13,P-59). The applicant is apprehending that the recovery will be done from pension by the respondents and therefore he approached before the Tribunal.

3. In view thereof, the respondents are directed not to take any coercive action of recovery against the applicant till filing of reply by the respondents.

4. Issue notice to the respondents returnable **after six weeks**. The learned C.P.O. waives notice for the State. Hamdast allowed.

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

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

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

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

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

S.O. after six weeks.

Steno copy is granted.

Vice-Chairman

dnk.

O.A. 338/2021 (S.B.)

(Deepak H. Ghodeswar Vs. State of Mah.)

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

Dated : 06/05/2021.

Heard Shri R.M. Fating, learned counsel for the applicant and Shri S.A. Deo, learned CPO for the State.

2. The applicant was granted third time bound promotion vide order dated 2/1/2020 (A-12,P-53). Subsequently, the said order has been revised vide order dated 15/9/2020 (A-13,P-55). Accordingly, the applicant's pension has been fixed as per revised order dated 15/9/2020 (A-13,P-55) by which the applicant was granted third time bound promotion/ACPS. The said order dated 15/9/2020 (A-13,P-55) has been cancelled by the impugned order dated 16/3/2021 (A-16, P-59). The applicant is aggrieved by this impugned order and apprehending that recovery will be done from his pension therefore he approached to this Tribunal. The applicant retired on 30/9/2020 (A-15,P-58).

3. In view thereof, the respondents are directed not to take any coercive action of recovery against the applicant till filing of reply by the respondents.

4. Issue notice to the respondents returnable **after six weeks**. The learned C.P.O. waives notice for the State. Hamdast allowed.
5. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
6. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.
7. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules,1988, and the questions such as limitation and alternate remedy are kept open.
8. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.
9. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

S.O. after six weeks.

Steno copy is granted.

Vice-Chairman

O.A. 305/2021 (S.B.)

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

Dated : 06/05/2021.

C.A. No. 132/2021 -

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

2. The Id. counsel for the applicant has filed C.A.No. 132/2021 and prayed for interim stay of the impugned recovery order dated 29/9/2020 (A-1, P-10). As submitted by the learned counsel for the applicant, the applicant retired on attaining superannuation on 30/9/2010 from Chandrapur District as per page no.3 of the O.A. Now the applicant has received letter dated 29/9/2020 issued by the Additional Treasury Officer, Chandrapur (A-1.P-10) for recovery of amount of Rs.2,59,154/- from the pension of the applicant. Almost after 10 years of retirement the recovery has been started without giving opportunity of hearing to the applicant. In view of principle of natural justice, the impugned order dated 29/9/2020 (A-1,P-10) is stayed till filing of the reply by the respondents.

3. In view of above, the C.A. stands allowed.

O.A. 305/2021 -

S.O. after four weeks.

Steno copy is granted.

Vice-Chairman

dnk.

O.A. 306/2021 (S.B.)

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

Dated : 06/05/2021.

C.A. No. 133/2021 -

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

2. The Id. counsel for the applicant has filed C.A.No. 133/2021 and prayed for interim stay of the impugned recovery order dated 6/1/2021 (A-1, P-10). As submitted by the learned counsel for the applicant, the applicant retired on attaining superannuation on 31/7/2012 from Chandrapur District as per page no.3 of the O.A. Now the applicant has received letter dated 6/1/2021 issued by the Additional Treasury Officer, Chandrapur (A-1.P-10) for recovery of amount of Rs.2,92,145/- from the pension of the applicant. Almost after 8 years of retirement, the recovery has been started without giving opportunity of hearing to the applicant. In view of principle of natural justice, the impugned order dated 6/1/2021 (A-1,P-10) is stayed till filing of the reply by the respondents.

3. In view of above, the C.A. stands allowed.

O.A. 306/2021 -

S.O. after four weeks.

Steno copy is granted.

Vice-Chairman

dnk.

O.A. 307/2021 (S.B.)

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

Dated : 06/05/2021.

C.A. No. 134/2021 -

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

2. The Id. counsel for the applicant has filed C.A.No. 134/2021 and prayed for interim stay of the impugned recovery order dated 28/5/2020 (A-1, P-10). As submitted by the learned counsel for the applicant, the applicant retired on attaining superannuation on 30/9/2011 from Chandrapur District as per page no.3 of the O.A. Now the applicant has received letter dated 28/5/2020 issued by the Additional Treasury Officer, Chandrapur (A-1.P-10) for recovery of amount of Rs.2,82,446/- from the pension of the applicant. Almost after 9 years of retirement, the recovery has been started without giving opportunity of hearing to the applicant. In view of principle of natural justice, the impugned order dated 28/5/2020 (A-1,P-10) is stayed till filing of the reply by the respondents.

3. In view of above, the C.A. stands allowed.

O.A. 307/2021 -

S.O. after four weeks.

Steno copy is granted.

Vice-Chairman

dnk.

O.A. 308/2021 (S.B.)

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

Dated : 06/05/2021.

C.A. No. 135/2021 -

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

2. The Id. counsel for the applicant has filed C.A.No. 135/2021 and prayed for interim stay of the impugned recovery order dated 4/6/2020 (A-1, P-10). As submitted by the learned counsel for the applicant, the applicant retired on attaining superannuation on 31/7/2007 from Chandrapur District as per page no.3 of the O.A. Now the applicant has received letter dated 4/6/2020 issued by the Additional Treasury Officer, Chandrapur (A-1.P-10) for recovery of amount of Rs.9,79,235/- from the pension of the applicant. Almost after 13 years of retirement, the recovery has been started without giving opportunity of hearing to the applicant. In view of principle of natural justice, the impugned order dated 4/6/2020 (A-1,P-10) is stayed till filing of the reply by the respondents.

3. In view of above, the C.A. stands allowed.

O.A. 308/2021 -

S.O. after four weeks.

Steno copy is granted.

Vice-Chairman

dnk.

O.A. 309/2021 (S.B.)

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

Dated : 06/05/2021.

C.A. No. 136/2021 -

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

2. The Id. counsel for the applicant has filed C.A.No. 136/2021 and prayed for interim stay of the impugned recovery order dated 31/12/2020 (A-1, P-10). As submitted by the learned counsel for the applicant, the applicant retired on attaining superannuation on 31/1/2013 from Chandrapur District as per page no.3 of the O.A. Now the applicant has received letter dated 31/12/2020 issued by the Additional Treasury Officer, Chandrapur (A-1.P-10) for recovery of amount of Rs.2,02,268/- from the pension of the applicant. Almost after 7 years of retirement, the recovery has been started without giving opportunity of hearing to the applicant. In view of principle of natural justice, the impugned order dated 31/12/2020 (A-1,P-10) is stayed till filing of the reply by the respondents.

3. In view of above, the C.A. stands allowed.

O.A. 309/2021 -

S.O. after four weeks.

Steno copy is granted.

Vice-Chairman

dnk.

O.A. 361/2021 (S.B.)

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

Dated : 06/05/2021.

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

2. As submitted by the learned counsel for the applicant in O.A. on page no.3 the applicant stood retired on attaining superannuation on 30/9/2012 from the Chandrapur District. Then the applicant started getting pension. However, by the applicant has received correspondence dated 12/4/2021 (A-1,P-10) issued by the Additional Treasury Officer, Chandrapur for the recovery of Rs. 4,62,109/-. The said order is issued without giving opportunity of hearing to the applicant.

3. In view of this situation, the impugned order of recovery dated 12/4/2021(A-1,P-10) is stayed till filing of reply by the respondents.

4. Issue notice to the respondents returnable **after vacation**. The learned C.P.O. waives notice for the State. Hamdast allowed.

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

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

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

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

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

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

S.O. after vacation.

Steno copy is granted.

Vice-Chairman

dnk.

O.A. 304/2021 (S.B.)

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

Dated : 06/05/2021.

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

At the request of Id. counsel for the applicant, the matter be kept for hearing **on 17/5/2021.**

Vice-Chairman

dnk.

O.A. 312/2021 (S.B.)

(Rajabhau T. Ghogare Vs. State of Maharashtra & Ors.)

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

Dated : 06/05/2021.

ORDER

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

2. The applicant was suspended vide order dated 5/1/2021 (A-1,P-15). After 90 days the applicant has made representation dated 5/4/2021 (A-2,P-17). As submitted by the learned counsel till now no charge sheet has been served to the applicant. In similar situation, various Hon'ble Apex Court, Hon'ble High Court Judgment and Government of Maharashtra G.R. dated 9/7/2019 have settled the legal of continuation of suspension order which are reproduced below –

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

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

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

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

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

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

(ii) fuyfcr 'kkI dh; I o d l k ; k T ; k i d j . h 3 e f g u ; k p k d k y k o / h r f o H k x h ; p l d ' h l q d : u n k s k j k i i = c t k o . ; k r v k y s u l g h] v ' k i d j . h e k - l o l p U ; k ; k y ; k p s v i n s k i l g r k] f u y e u l e k r d j . ; k ' k o k ; v U ; i ; k z ; j l g r u l g h R ; k e G s f u y f c r ' k k I d h ; I o d l k e c r f o H k x h ; p l d ' k p h d k ; b l g h l q d : u n k s k j k i i = c t k o . ; k p h d k ; b k ; h f u y e u k i k l u 90 f n o l k e ; k v k r d k v d l g i . l s d y h t k b z y ; k p h n { k r k @ [k c j n k j h ? s ; k r ; k o h -

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

fuyfcr 'kkI dh; I o d l k ; k T ; k i d j . h 3 e f g u ; k p k d k y k o / h r f o H k x h ; p l d ' h l q d : u n k s k j k i i = c t k o . ; k r v k y s u l g h] v ' k i d j . h e k - l o l p U ; k ; k y ; k p s v i n s k i l g r k] f u y e u l e k r d j . ; k ' k o k ; v U ; i ; k z ; j l g r u l g h R ; k e G s f u y f c r ' k k I d h ; I o d l k e c r f o H k x h ; p l d ' k p h d k ; b l g h l q d : u n k s k j k i i = c t k o . ; k p h d k ; b k ; h f u y e u k i k l u 90 f n o l k e ; k v k r d k v d l g i . l s d y h t k b z y ; k p h n { k r k @ [k c j n k j h ? s ; k r ; k o h -

3. This O.A. is squarely covered by Government of Maharashtra G.A.D. 'kkI u fu. k z d z 118 @ i z d z 11 @ 11 v] f n u k d 09-07-2019.

4. The respondents have not followed settled legal citations, as discussed above and 'kkI u fu. k z d z 118 @ i z d z 11 @ 11 v] f n u k d 09-07-2019 and orders of Hon'ble Apex Court and Hon'ble High Court as discussed above.

5. In view of above discussions, the suspension order dated 5/1/2021 (A-1,P-15) is required to be revoked from the date of receipt of this order. Hence, the following order –

//3//

ORDER

- (i) The O.A. is allowed.
- (ii) The suspension order dated 5/1/2021 (A-1,P-15) is revoked with immediate effect.
- (iii) The respondents are directed to issue suitable order along with suitable posting order as per para-24 of the Hon'ble Apex Court Judgment in case of **State of Tamil Nadu Vs. Pramod Kumar IPS and Anr. delivered on 21/08/2018** within 45 days from the date of receipt of this order.
- (iv) **No order as to costs.**

Vice-Chairman

dnk.

O.A. 221/2021 (S.B.)

(P. T. Sakhare Vs. State of Mah. & Ors.)

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

Dated : 06/05/2021.

Heard Smt. S.V. Kolhe, Id. Counsel for the applicant and Shri M.I. Khan, Id. P.O. for the respondents.

2. In order sheet dated 12/3/2021 in para-2 the facts are mentioned as below –

“ Admittedly, the applicant was suspended vide order dated 12/6/2020 (A-2,P-18) and served charge sheet dated 7/12/2020 (A-3,P-20). The applicant made representation dated 19/10/2020 (A-6,P-32) to respondent no.2.”

3. Now today, the learned counsel for the applicant submitted that the inquiry is completed and report is submitted to the respondent no.2. As per Hon'ble Apex Court Judgment in case of

“Prem Nath Bali Vs. Registrar, High Court of Delhi & Ano., AIR 2016 SCC,101. *In Civil Appeal No.958/2010 decided on 16/12/2015. It is laid down in para-33 of the Judgment and specific direction was given by the Hon'ble Apex Court that every employer (whether State or Private) shall make sincere endeavour to conclude the departmental proceedings once*

initiated against the delinquent employee within a reasonable time by giving priority and it should be within a period of six months. It is further laid down that if it is not possible for the employer to conclude the inquiry due to unavoidable reasons then it shall be concluded within a period of not more than one year”.

4. In view of above direction, of Hon'ble Apex Court since charge sheet was served in this case on 7/12/2020 (A-3,P-20) so the respondent no.2 is directed to take final decision within 30 days from the date of receipt of this order.

5. The respondent no.2 is at liberty to decide representations as per order dated 12/3/2021. The respondent no.2 should also decide and pay subsistence allowance of suspension period of the applicant.

6. With above direction, the O.A. stands disposed of. No order as to costs.

Vice-Chairman

dnk.

O.A. 222/2021 (S.B.)

(S. V. Tarhate Vs. State of Mah. & Ors.)

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

Dated : 06/05/2021.

Heard Smt. S.V. Kolhe, Id. Counsel for the applicant and Shri M.I. Khan, Id. P.O. for the respondents.

2. In order sheet dated 12/3/2021 in para-2 the facts are mentioned as below –

“ Admittedly, the applicant was suspended vide order dated 1/7/2020 (A-2,P-19) and served charge sheet dated 8/1/2021 (A-3,P-21). The applicant made representation dated 13/10/2020 (A-5,P-34) to respondent nos.1&2.”

3. As per Hon’ble Apex Court Judgment in case of “ **Prem Nath Bali Vs. Registrar, High Court of Delhi & Ano., AIR 2016 SCC,101.** *In Civil Appeal No.958/2010 decided on 16/12/2015. It is laid down in para-33 of the Judgment and specific direction was given by the Hon’ble Apex Court that every employer (whether State or Private) shall make sincere endeavour to conclude the*

departmental proceedings once initiated against the delinquent employee within a reasonable time by giving priority and it should be within a period of six months. It is further laid down that if it is not possible for the employer to conclude the inquiry due to unavoidable reasons then it shall be concluded within a period of not more than one year”.

4. In view of above direction, of Hon'ble Apex Court since charge sheet was served in this case on 8/1/2021 (A-3,P-21) so the respondent nos.1& 2 are directed to complete the D.E. within three months from the date of receipt of this order and communicate to the applicant and file on record to this Tribunal.

5. The respondent nos.1&2 are at liberty to decide representation as per order dated 12/3/2021. The respondent nos.1&2 should also decide and pay subsistence allowance of suspension period of the applicant.

6. With above directions, the O.A. stands disposed of. No order as to costs.

Vice-Chairman

dnk.

*

O.A.No.357/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 06/05/ 2021.

C.A.No.130/2021:-

Heard Shri Sandeep Dere holding for Shri K.P.Mahalle, the Id. Counsel for the applicant and Shri S.A.Deo, the Id. C.P.O. for the State.

2. C.A. No. 130/2021 for Jt. O.A. is allowed; since applicants grievances are same.

3. The Id. counsel for the applicant has relied on Judgment of **Hon'ble Supreme Court in Civil Appeal No. 9849 of 2014 (Arising Out of SLP (C) No. 18639 of 2012) delivered on 17/10/2014** and he mainly submitted that applicants case are covered by Judgment's para nos. 23 (1) and (3) which are reproduced below:-

"23. The legal principles which emerge from the reading of the aforesaid judgments, cited both by the appellants as well as the respondents, can be summed up as under:

(1) Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of [Article 14](#) of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

(3) However, this exception may not apply in those cases where the judgment pronounced by the Court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the Court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated person. Such a situation can occur when the subject matter of the decision touches upon the policy matters, like scheme of regularisation and the like (see [K.C. Sharma & Ors. v. Union of India](#) (supra). On the other hand, if the judgment of the Court was in personam holding that benefit of the said judgment shall accrue to the parties before the Court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence.”

4. The Id. counsel for the applicant further submits that though training was supposed to be started from 26.04.2021 but due to pandemic situation; now it will start from 21.06.2021. In the light of Hon'ble Supreme Court Judgment; respondents are directed to verify if applicants are covered by Hon'ble Supreme Court Judgment in para nos. 23 (1) & (3); then these applicants should also be given same relief. The Id. counsel for the applicants also pointed out letter dated 05.03.2018 to Director General of Police, Mumbai by Deputy Secretary, Home Department in which para no. 6 following points have been observed:-

“I njgweG vtZiZj.kh fof/k o U; k; foHkxkusfnysvffHki k; fopkjk r ?kru I njgw i jh{k; k vfire xqoRRk ; knhrhy xqkucpes i fgY; k 828 menokjkuk i ksyI mi fufj {kd i nlp; k i f'k{k.kk1 kBh i kBfo.ls vko'; d vI Y; kus egkj'V^a ykdl ok vk; kskus ; ki nhz i kBfoyy; k 828 menokjk; k f'kQkj I ; knhrhy] [kY; k i dxkz'hy 642 tkxkoj f'kQkj I dj.; kr vkyY; k menokjk; frjDr] ekxkl i dxkl kBh vjff{kr vI yY; k i nkoj i f'k{k.kk1 kBh i kBfo.; kr vkyY; k 186 menokjkuk I nLFkrhr

i f'k{k.kko: u ek?kjh u cksyfork] R; ki f<y xqkoRrk dzekudkj kj 186
menokjkuk] ek-l okp U; k; ky; krhy fo'ksk vuwrh ; kfpdk dz
28306@2017 P; k fudkyP; k vf/kujkgw] i f'k{k.kkI kBh i kBfo.; kPk
/kij.kRed fu.kz 'kkI ukus?krky vkgS R; ki ek.ksxqkoRrk dzekudkj 828
menokjkph; knh vk; kskdMsekxfo.; kr vkyhgkrh."

5. Similarly, if applicants are similarly placed as referred in para no. 6 of letter dated 05.03.2018; then they should also be treated at par with other candidates and included in the training commencing from 21.06.2021.

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

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

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

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

10. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week.

Applicant is directed to file Affidavit of compliance and notice.

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

12. **S.O. 25.06.2021.**

Vice Chairman

Date:-06/05/2021.

aps.

O.A.No.506/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 06/05/ 2021.

Heard Shri R.V.Shiralkar, the Id. Counsel for the applicant, Shri A.P.Potnis, the Id. P.O. for the Respondent nos. 1 & 2 and Shri S.C.Deshmukh, the Id. counsel for the respondent no. 3.

2. The matter is related to transfer and it was heard earlier in Single Bench. The G.R. was challenged and so matter came to the Division Bench. Today, the Id. counsel for the applicant has submitted representation of the applicant in which it is pointed out that he has certain personal problem like his mother is suffering from Breast Cancer and some Kidney problem too. The applicant has been transferred from Nagpur to Gondia and he has joined also. However, by this representation; applicant has requested that during May-June,2021 transfer season; he should be considered for any choice posting. So, that proper treatment can be given to his close family members.

3. In view of this, respondents are directed to consider representation of applicant dated 02.05.2021 during transfer season of May-June, 2021 and then issue transfer order.

4. With this direction, **O.A. is disposed of with no order as to costs.**

Vice Chairman

Date:-06/05/2021.

aps.

O.A.No.241/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 06/05/ 2021.

Heard Shri V.Dahat, the Id. Counsel for the applicant and Shri S.A.Deo, the Id. C.P.O. for the Respondents.

2. As pointed out by Id. C.P.O., there is a G.R. dated 15.12.2017 (Annexure-A-4, P.B., Pg. No. 28); where applicant appear at Sr. No. 19 (P.B., Pg. No. 29). As further submitted by Id. C.P.O, applicant joined as a Group-A, Medical Officer on 09.05.2015 and served from 13.05.2015 to 04.12.2015 i.e. only for 07 months. After that he was absent and then subsequently he joined service after G.R. dated 15.12.2017; which clearly stipulate in condition no. 1 and 4 that previous service will not be counted as total service and so these 07 months service is not be counted for any benefits to the applicant. It is only presumed that applicant joined in service after the G.R. dated 15.12.2017.

3. As per original condition in G.R. dated 19.03.2019 (Annexure-A-6, P.B., Pg. No. 36) in para no. 6.1; it is mentioned that total regular service required is not less than 05 years. Even presuming that the Id. counsel for the applicant submits that as mentioned on P.B., Pg. No. 17 that new clause 6.5 was added in G.R. dated 19.03.2019 and condition was changed regarding tenure of service which was in earlier G.R. and applicant appear for examination

due to inserting of clause 6.5, but applicant is not considered for Post Graduate Course. Even if point no. 6.5 would not have been added the length of service of the applicant is not 05 years and he would not have been eligible as per original G.R. also. So, by adding 6.5 has no effect on applicant's eligibility.

4. In view of this, the applicant is not eligible and prayer clause of the applicant is not as per the G.R. and condition mentioned in G.R. dated 19.03.2019.

5. Hence, **O.A. does not survive and O.A. stands dismissed with no order as to costs.**

Vice Chairman

Date:-06/05/2021.

aps.

O.A.No.339/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 06/05/ 2021.

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

2. Applicant was promoted in pursuant to G.R. dated 18.02.2021 (Annexure-A-2, P.B., Pg. No. 11) and subsequently applicant has been reverted in accordance with the G.R. dated 20.04.2021 (Annexure-A-4, P.B., Pg. No. 33). The Id. counsel for the applicant has not filed order copy of reversion of the applicant; hence, no relief can be granted at this stage.

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. *Interim relief can be kept open till next date of hearing.*

Vice Chairman

Date:-06/05/2021.
aps.

O.A.No.358/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 06/05/ 2021.

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

2. Applicant was promoted in pursuant to G.R. dated 18.02.2021 (Annexure-A-1, P.B., Pg. No. 10) and subsequently applicant has been reverted in accordance with the G.R. dated 20.04.2021 (Annexure-A-3, P.B., Pg. No. 14). The applicant has been reverted vide order dated 22.04.2021 (Annexure-A-4, P.B., Pg. No. 17) in which applicant is at Sr. No. 7. By order dated 22.04.2021 applicant has been reverted without giving any chance of hearing. So, the reversion order dated 22.04.2021 (Annexure-A-4, P.B., Pg. No. 17) is stayed as far as applicant is concerned 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.**

Vice Chairman

Date:-06/05/2021.
aps.

O.A.No.359/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 06/05/ 2021.

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

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

Vice Chairman

Date:-06/05/2021.

aps.