

O.A. 755/2019 (S.B.)

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

**Dated : 11/08/2021.**

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

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

**Vice-Chairman**

dnk.

**O.A. 1079/2019 (S.B.)**

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

**Dated : 11/08/2021.**

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

The Id. P.O. files reply of R-2 to 4. It is taken on record. Copy is served on the applicant.

The matter is admitted and kept for final hearing.

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

**S.O. two weeks.**

**Vice-Chairman**

dnk.

O.A. 151/2020 (S.B.)

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

**Dated : 11/08/2021.**

Shri S.N. Gaikwad, Id .counsel for the applicant and Shri A.M. Khadatkar, Id. P.O. for R-1. Await service of R-2&3.

**S.O. two weeks** for filing service affidavit.

**Vice-Chairman**

dnk.

**O.A. 194/2020 (S.B.)**

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

**Dated : 11/08/2021.**

Heard Shri A.B. Moon, Id .counsel for the applicant and Shri H.K. Pande, Id. P.O. for R-1. Await service of R-2 to 5.

2. At the request of Id. counsel for the applicant, Issue fresh notice to the respondent nos. 2 to 5 returnable **in four weeks**. Hamdast allowed.

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

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

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

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

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

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

**S.O. four weeks.**

**Vice-Chairman**

dnk.

**O.A. 705/2020 (S.B.)**

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

**Dated : 11/08/2021.**

**C.A. No. 271/2020 -**

Shri G.G. Bade, Id .counsel for the applicants and Shri S.A. Sainis, Id. P.O. for the State.

For the reasons stated in the application, the C.A. for permission to Jt. O.A. is allowed.

**O.A. 705/2020 –**

Shri G.G. Bade, Id .counsel for the applicants and Shri S.A. Sainis, Id. P.O. for the State.

Await service of R-2 to 4.

**S.O. two weeks.**

**Vice-Chairman**

dnk.

O.A. 708/2020 (S.B.)

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

**Dated : 11/08/2021.**

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

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

**Vice-Chairman**

dnk.

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

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

**Dated : 11/08/2021.**

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

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

**Vice-Chairman**

dnk.

**O.A. 926/2020 (S.B.)**

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

**Dated : 11/08/2021.**

Shri N.D. Thombre, 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. 25/8/2021** for filing reply.

**Vice-Chairman**

dnk.

**O.A. 47/2021 (S.B.)**

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

**Dated : 11/08/2021.**

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

At the request of Id. P.O., **S.O. 30/8/2021** for filing reply.

**Vice-Chairman**

dnk.

O.A. 144/2021 (S.B.)

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

**Dated : 11/08/2021.**

Shri S.G. Lacharwar, 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. two weeks** for filing reply.

**Vice-Chairman**

dnk.

O.A. 145/2021 (S.B.)

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

**Dated : 11/08/2021.**

Shri S.G. Lacharwar, 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. two weeks** for filing reply.

**Vice-Chairman**

dnk.

O.A. 146/2021 (S.B.)

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

**Dated : 11/08/2021.**

Shri S.G. Lacharwar, 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. two weeks** for filing reply.

**Vice-Chairman**

dnk.

O.A. 161/2021 (S.B.)

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

**Dated : 11/08/2021.**

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

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

**Vice-Chairman**

dnk.

O.A. 162/2021 (S.B.)

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

**Dated : 11/08/2021.**

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

At the request of Id. P.O., **S.O. 30/8/2021** for filing reply.

**Vice-Chairman**

dnk.

O.A. 163/2021 (S.B.)

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

**Dated : 11/08/2021.**

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

At the request of Id. P.O., **S.O.**  
**30/8/2021**for filing reply.

**Vice-Chairman**

dnk.

**O.A. 340/2021 (S.B.)**

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

**Dated : 11/08/2021.**

Shri G.G. Bade, Id .counsel for the applicant and Shri A.M. Ghogre, Id. P.O. for R-1. Await service of R-2 to 5.

**S.O. two weeks** for filing service affidavit.

**Vice-Chairman**

dnk.

**O.A. 343/2021 (S.B.)**

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

**Dated : 11/08/2021.**

Shri G.G. Bade, Id .counsel for the  
applicant and Shri A.M. Ghogre, Id. P.O. for R-1.  
R-2&3.

**S.O. four weeks.**

**Vice-Chairman**

dnk.

O.A. 410/2021 (S.B.)

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

**Dated : 11/08/2021.**

Shri M.M. Sudame, Id .counsel for the applicant and Shri A.M. Khadatkar, Id. P.O. for the respondents.

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

**Vice-Chairman**

dnk.

**O.A. 447/2021 (S.B.)**

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

**Dated : 11/08/2021.**

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

2. As submitted by the Id. counsel, the applicant retired as per order dated 2/4/2016 (A-2,P-12) from 3/4/2016 (A.N.) as V.Rs. Almost five years have been passed, but the applicant has not been yet given any pensionary benefits.

3. The Id. P.O. seeks three weeks time to file reply. Time is granted as prayed for. In the meanwhile, the respondents are directed atleast to start pensionary benefits to the applicant with immediate effect.

**S.O. three weeks.**

**Vice-Chairman**

dnk.

O.A. 4892021 (S.B.)

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

**Dated : 11/08/2021.**

Shri P.D. Meghe, Id .counsel for the applicant and Shri S.A. Sainis, Id. P.O. for R-1. Await service of R-2 to 7.

**S.O. two weeks** for filing service affidavit.

**Vice-Chairman**

dnk.

O.A. 522/2021 (S.B.)

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

**Dated : 11/08/2021.**

Shri J.H. Aloni, Id .counsel for the applicant, Shri M.I. Khan, Id. P.O. for R-1,4&5 and Shri Almelkar, Id. counsel for R-2&3.

At the request of Id. Id. counsel for R-2&3, **S.O. three weeks.**

**Vice-Chairman**

dnk.

O.A. 545/2021 (S.B.)

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

**Dated : 11/08/2021.**

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

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

**Vice-Chairman**

dnk.

**O.A. 556/2021 (S.B.)**

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

**Dated : 11/08/2021.**

**C.A. No. 198/2021 -**

Heard Shri S.K. Wankhede, Id. counsel for the applicant and Shri A.P. Potnis, Id. P.O. for the State.

For the reasons stated in the application, the C.A. for permission to file Jt. O.A. is allowed.

**O.A. 556/2021 –**

Heard Shri S.K. Wankhede, Id. counsel for the applicant and Shri A.P. Potnis, Id. P.O. for the State.

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

**Vice-Chairman**

dnk.

**O.A. 599/2021 (S.B.)**

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

**Dated : 11/08/2021.**

**C.A. No. 225/2021 -**

Heard Shri S.K. Wankhede, Id. counsel for the applicant and Shri A.P. Potnis, Id. P.O. for the State.

For the reasons stated in the application, the C.A. for permission to file Jt. O.A. is allowed.

**O.A. 599/2021 –**

Heard Shri S.K. Wankhede, Id. counsel for the applicant and Shri A.P. Potnis, Id. P.O. for the State.

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

**Vice-Chairman**

dnk.

**O.A. 619/2021 (S.B.)**

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

**Dated : 11/08/2021.**

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

2. It is submitted that the applicant retired on 31/1/2012 and impugned order is passed on 1/7/2021 (A-1,P-10). The impugned order is passed without giving any opportunity of hearing to the applicant. Hence, the impugned order dated 1/7/2021 (A-1,P-10) is stayed till filing of the reply.

3. Issue notice to the respondents returnable **after four weeks**. The learned P.O. waives notice for the 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 four weeks.**

**Vice-Chairman**

dnk.

**O.A. 620/2021 (S.B.)**

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

**Dated : 11/08/2021.**

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

2. It is submitted that the applicant retired on 30/06/2013 and impugned order is passed on 18/5/2021 (A-1,P-10). The impugned order is passed without giving any opportunity of hearing to the applicant. Hence, the impugned order dated 18/5/2021 (A-1,P-10) is stayed till filing of the reply.

3. Issue notice to the respondents returnable **after four weeks**. The learned P.O. waives notice for the 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 four weeks.**

**Vice-Chairman**

dnk.

**O.A. 621/2021 (S.B.)**

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

**Dated : 11/08/2021.**

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

2. It is submitted that the applicant retired on 31/3/2012 and impugned order is passed on 3/2/2021 (A-1,P-11). The impugned order is passed without giving any opportunity of hearing to the applicant. Hence, the impugned order dated 3/2/2021 (A-1,P-11) is stayed till filing of the reply.

3. Issue notice to the respondents returnable **after four weeks**. The learned P.O. waives notice for the 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 four weeks.**

**Vice-Chairman**

dnk.

**O.A. 623/2021 (S.B.)**

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

**Dated : 11/08/2021.**

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

2. It is submitted that the applicant retired on 31/12/2013 and impugned order is passed on 28/1/2021 (A-1,P-11). The impugned order is passed without giving any opportunity of hearing to the applicant. Hence, the impugned order dated 28/1/2021 (A-1,P-11) is stayed till filing of the reply.

3. Issue notice to the respondents returnable **after four weeks**. The learned P.O. waives notice for the 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 four weeks.**

**Vice-Chairman**

dnk.

O.A. 312/2018 (S.B.)

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

**Dated : 11/08/2021.**

Shri R.A. Gupte, Id .counsel for the applicant and Shri S.A. Sainis, Id. P.O. for the respondents.

At the request of Id. counsel, **S.O. Next week.**

**Vice-Chairman**

dnk.

O.A. 312/2018 (S.B.)

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

**Dated : 11/08/2021.**

Shri R.A. Gupte, Id .counsel for the applicant and Shri S.A. Sainis, Id. P.O. for the respondents.

At the request of Id. counsel, **S.O. Next week.**

**Vice-Chairman**

dnk.

O.A. 34/2021 (S.B.)

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

**Dated : 11/08/2021.**

Shri M.R. Rajgure, Id. counsel for the applicant, Shri A.M. Khadatkar, Id. P.O. for R-1 and Shri T.M. Zaheer, Id. counsel for R-2 to 4.

With the consent of Id. counsel for parties, **S.O. 27/8/2021.**

**Vice-Chairman**

dnk.

**O.A. 404/2021 (S.B.)**

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

**Dated : 11/08/2021.**

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

2. Issue notice to the respondents returnable **after four weeks**. The learned P.O. waives notice for the State. Hamdast allowed.

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

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

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

6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced

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

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

**S.O. after four weeks.**

**Vice-Chairman**

dnk.

**O.A. 444/2015 (S.B.)**

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

**Dated : 11/08/2021.**

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

**S.O. 30/08/2021 (PH).**

**Vice-Chairman**

dnk.

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

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

**Dated : 11/08/2021.**

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

With the consent of both the learned counsel for parties, **S.O. 25/8/2021.**

**Vice-Chairman**

dnk.

**O.A. 849/2018 (S.B.)**

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

**Dated : 11/08/2021.**

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

With the consent of both the learned counsel for parties, **S.O. 27/8/2021.**

The matter be kept high on board.

**Vice-Chairman**

dnk.

O.A. 180/2019 (S.B.)

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

**Dated : 11/08/2021.**

Shri I.N. Choudhari, Id. counsel for the applicant, Shri A.M. Khadatkar, Id. P.O. for R-1 to 3 and Shri V.S. Mishra, Id. counsel for R-4.

With the consent of both the learned counsel for parties, **S.O. 25/8/2021.**

**Vice-Chairman**

dnk.

O.A. 523/2019 (S.B.)

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

**Dated : 11/08/2021.**

Shri A. P. Chaware, Id. counsel for the applicant and Shri A.M. Ghogre, Id. P.O. for the respondents.

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

**Vice-Chairman**

dnk.

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

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

**Dated : 11/08/2021.**

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, **S.O.**  
**25/8/2021.**

**Vice-Chairman**

dnk.

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

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

**Dated : 11/08/2021.**

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

At the request of Id. counsel for the applicants, **S.O. 27/8/2021.**

**Vice-Chairman**

dnk.

O.A. 527/2019 (S.B.)

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

**Dated : 11/08/2021.**

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 the applicant, **S.O. 31/8/2021.**

**Vice-Chairman**

dnk.

O.A. 214/2020 (S.B.)

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

**Dated : 11/08/2021.**

Heard the applicant in person and Shri  
H.K. Pande, Id. P.O. for the respondents.

With the consent of both the parties, **S.O.**  
**25/8/2021.**

**Vice-Chairman**

dnk.

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

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

**Dated : 11/08/2021.**

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

At the request of Id. counsel for the applicant, **S.O. 9/9/2021.**

**Vice-Chairman**

dnk.

**O.A. 377/2020 (S.B.)**

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

**Dated : 11/08/2021.**

Shri R.V. Shiralkar, Id. counsel for the applicant and Shri V.A. Kulkarni, Id. P.O. for the respondents.

At the request of Id. counsel for the applicant, **S.O. 8/9/2021.**

**Vice-Chairman**

dnk.

**O.A. 720/20 with C.A. 321/20 (S.B.)**

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

**Dated : 11/08/2021.**

Shri M.M. Sudame, Id. counsel for the applicant, Shri P.N. Warjurkar, Id. P.O. for R-1&2 and Shri S.P. Palshikar, Id. counsel for R-3.

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

**Vice-Chairman**

dnk.

O.A. 729/2020 (S.B.)

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

**Dated : 11/08/2021.**

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

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

**Vice-Chairman**

dnk.

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

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

**Dated : 11/08/2021.**

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

With the consent of learned counsel for both the parties, **S.O. 25/8/2021 (PH).**

The matter be kept high on board.

**Vice-Chairman**

dnk.

**Rev. A. 03/20 in O.A. 84/2019 (S.B.)**

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

**Dated : 11/08/2021.**

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

At the request of Id. counsel, **S.O.**  
**25/8/2021.**

**Vice-Chairman**

dnk.

**O.A. 337/2020 (S.B.)**

**(Shri Suresh M. Chaukhade Vs. State of Mah.  
& 5 ors.)**

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

**Dated : 11/08/2021.**

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

2. As submitted by the learned counsel, the applicant was Junior Clerk (Class-III) employee and he is failing short of 7 months for pensionary benefits. The provision of Rule 54 under the Maharashtra Civil Services (Pension) Rules,1982 has been considered by the respondents and as per Section 54 of the Maharashtra Civil Services (Pension) Rules,1982 they have rejected the claim of the applicant in Class-II employee by the order dated 16/10/2020 (A-9,P-61A) of Water Supply Department. However, the learned counsel has relied upon the Judgment of Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition NO.4581/2019 decided on 12/02/2020. The relevant para nos.3&4 are reproduced below –

*“(3) The provision of Rule 54 under the Maharashtra Civil Services (Pension) Rules,1982 is reproduced below –*

***Rule 54 Condonation of deficiency and addition in service.***

Government may, for special reasons to be recorded in writing.

(1) Condone a deficiency, which may not ordinarily exceed one year, in the period of service qualifying for pension performed by a Government servant in order to qualify him to receive a Retiring pension or to receive a pension as distinct from a gratuity; or

(2) make an addition, which may not ordinarily exceed one year, to the period of service qualifying for pension, performed by a retiring Government servant which under the provisions of these rules may be counted for pension.

Note – The power under (Sub rule (1) ) shall be exercised only in respect of low paid Government servants retiring on Invalid or Compensation pension.”

The words sub rule (2) “substituted by words “sub rule (1)” by not, No.MCS 1085/CR-54/SER-6/ dated 18/7/1985, with effect from 15/8/1982.”

(4) The Deputy Director of Education has obviously judged the case of petitioner with reference to Clause (1) under Rule 54 of the Maharashtra Civil Services (Pension) Rules, 1982. Obviously, it applies only in respect of low paid Government Servants retiring on Invalid or Compensation pension. The petitioner is not the low paid Government servant. The petitioner is working as an Assistant Teacher, which falls in Class-III post and would, therefore, be governed by Clause (2) of Rule 54 of the Maharashtra Civil Services (Pension) Rules, 1982 reproduced above, which enables the Competent Authority to make addition, which may not ordinarily exceed one year, to the period of service qualifying for pension, performed by a retiring Government servant which under the provisions of these Rules may be counted for pension. The petitioner is running short of five months and two days to complete the period of qualifying service of ten years for getting pension. The Deputy Director of Education shall examine the matter from this aspect of the matter.”

3. The respondents in their order have mainly relied that the Rule 54 of the

Maharashtra Civil Services (Pension) Rules,1982 can be considered only for Class-IV employees. However, the Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.4581/2019 has observed the Rule 54 of the Maharashtra Civil Services (Pension) Rules,1982 in para-3&4 as above.

4. In view of this Judgment, the respondents are directed to consider the grievance of the applicant as per observations made in para-3&4 of the Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.4581/2019 within three months from the date of this order. Consequently, the order dated 16/10/2020 issued by the respondent no.1 is quashed and set aside.

5. The O.A. stands disposed off. No order as to costs.

**Vice-Chairman**

dnk.

**O.A. 645/2020 (S.B.)**

**(Shri Kondba S. Kadam Vs. State of Mah. & 2  
ors.)**

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

**Dated : 11/08/2021.**

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

2. The applicant was working as Talathi and he retired on 30/11/2010 after completion of 9 years and five months service and he is failing short 7 months for pensionary benefits.

3. The learned counsel has relied upon similarly situated order dated 1/3/2018 (A-7,P-42) issued by the Forest and Revenue Department in which the period of 7 months has been considered for pensionary to an employee Shri Vitthal J. Kulkarni as per Section 54 of the Maharashtra Civil Services (Pension) Rules,1982. The learned counsel has also relied upon the Judgment of Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition NO.4581/2019 decided on 12/02/2020. The relevant para nos.3&4 are reproduced below –

*“(3) The provision of Rule 54 under the Maharashtra Civil Services (Pension) Rules,1982 is reproduced below –*

***Rule 54 Condonation of deficiency and addition in service.***

Government may, for special reasons to be recorded in writing.

(1) Condone a deficiency, which may not ordinarily exceed one year, in the period of service qualifying for pension performed by a Government servant in order to qualify him to receive a Retiring pension or to receive a pension as distinct from a gratuity; or

(2) make an addition, which may not ordinarily exceed one year, to the period of service qualifying for pension, performed by a retiring Government servant which under the provisions of these rules may be counted for pension.

Note – The power under (Sub rule (1) ) shall be exercised only in respect of low paid Government servants retiring on Invalid or Compensation pension.”

The words sub rule (2) “substituted by words “sub rule (1)” by not, No.MCS 1085/CR-54/SER-6/ dated 18/7/1985, with effect from 15/8/1982.”

(4) The Deputy Director of Education has obviously judged the case of petitioner with reference to Clause (1) under Rule 54 of the Maharashtra Civil Services (Pension) Rules, 1982. Obviously, it applies only in respect of low paid Government Servants retiring on Invalid or Compensation pension. The petitioner is not the low paid Government servant. The petitioner is working as an Assistant Teacher, which falls in Class-III post and would, therefore, be governed by Clause (2) of Rule 54 of the Maharashtra Civil Services (Pension) Rules, 1982 reproduced above, which enables the Competent Authority to make addition, which may not ordinarily exceed one year, to the period of service qualifying for pension, performed by a retiring Government servant which under the provisions of these Rules may be counted for pension. The petitioner is running short of five months and two days to complete the period of qualifying service of ten years for getting pension. The Deputy Director of Education shall examine the matter from this aspect of the matter.”

3. The respondents are directed to take decision about the applicant as per their own

decision taken vide order dated 1/3/2018 in respect of Shri Vitthal J. Kulkarni and as per observations made in para-3&4 of the Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.4581/2019 within three months from the date of this order.

4. In view of above, the O.A. stands disposed off. No order as to costs.

**Vice-Chairman**

dnk.

**O.A. No. 520 of 2021 –**

**( Atmaram Ukandi Dhabe Vs. State of Mah. & Ors. )**

**Coram :- Hon'ble Shri Shree Bhagwan,  
Vice-Chairman.**

**Dated :- 09/08/2021.**

**ORDER**

Heard Shri D.M. Kakani, Id. counsel for the applicant and Shri S.D. Deo, Id. CPO for the respondents.

2. The learned P.O. files reply on behalf of R-3. It is taken on record. Copy is served to the learned counsel for the applicant.

3. As pointed out by the learned counsel, the applicant was posted as Project Officer, ITDP at Pusad vide order dated 28/7/2020 (A-8,P-51) and joined on 31/7/2020. Now another officer has been posted vide order dated 2/7/2021 (A-1,P-15). Hence indirectly the applicant has been displaced from the post of Project Officer, ITDP at Pusad within less than one year. The Id. Counsel has placed on record G.R. 9/11/1993 (A-3,P-18) in which out of 21 P.O. ITDP post 10 have been identified as sensitive ITDP post which are listed below.

(1) Jawhar, Dist. Thane (2) Dhanu, Dist. Thane (3) Nashik, Dist. Thane (4) Kalwan, Dist. Nashik (5) Taloda, Dist. Dhule (6) Kinwat, Dist. Nanded (7) Dharni, Dist. Amravati (8) Aheri, Dist. Gadchiroli (9) Bhamragarh, Dist. Gadchiroli (10) Gadchiroli, Dist. Gadchiroli.

Further Dharni was devoiced into Dharni and Chikhaldara. So altogether 11 ITDP posts were identified as sensitive post. In para-6 of the said G.R., it is mentioned that

these posts will not be filled by Maharashtra Tribal Development Officers i.e. Department Officers.

4. Again the Government has issued G.R. dated 29/12/1993 (A-4,P-32) and in para-1 same 11 ITDP posts have been mentioned.

(1) Jawhar, Dist. Thane (2) Dhanu, Dist. Thane (3) Nashik, Dist. Thane (4) Kalwan, Dist. Nashik (5) Taloda, Dist. Dhule (6) Kinwat, Dist. Nanded (7) Dharni, Dist. Amravati (8) Aheri, Dist. Gadchiroli (9) Bhamragarh, Dist. Gadchiroli (10) Gadchiroli, Dist. Gadchiroli (11) Chikhaldara, Dist. Amravati.

5. Subsequently, another G.R. was issued on 30/10/2002 (A-5,P-37) referring that administration of tribal area will be strengthened. In this G.R. also same 11 ITDP posts have been mentioned.

(1) Jawhar, Dist. Thane (2) Dhanu, Dist. Thane (3) Nashik, Dist. Thane (4) Kalwan, Dist. Nashik (5) Taloda, Dist. Dhule (6) Kinwat, Dist. Nanded (7) Dharni, Dist. Amravati (8) Aheri, Dist. Gadchiroli (9) Bhamragarh, Dist. Gadchiroli (10) Gadchiroli, Dist. Gadchiroli (11) Chikhaldara, Dist. Amravati.

6. Meanwhile, Writ Petition No.3278/2010 was going on in Bombay High Court, Bench at Nagpur and another G.R. was issued dated 28/12/2015 (A-6,P-39) and in this G.R. also same 11 posts have been mentioned.

(1) Jawhar, Dist. Thane (2) Dhanu, Dist. Thane (3) Nashik, Dist. Thane (4) Kalwan, Dist. Nashik (5) Taloda, Dist. Dhule (6) Kinwat, Dist. Nanded (7) Dharni, Dist. Amravati (8) Aheri, Dist. Gadchiroli (9) Bhamragarh, Dist. Gadchiroli (10) Gadchiroli, Dist. Gadchiroli (11) Chikhaldara, Dist. Amravati.

7. The respondents have filed their reply on 4/8/2021 and in para-3 they have mentioned about following points –

*“ (3) On the onset, I say and submit that District Yavatmal is Tribal District densely populated with Kolam community which is particularly vulnerable Tribal Group (PVTG) of Maharashtra. During Fifth Five Year Plan for the year 1974-79, Tribal Sub-Plan (TSP) was developed exclusively for the socioeconomic amelioration of the tribal communities. TSP areas falls in 15 out of 36 Districts of Maharashtra which cover Yavatmal as one of the TSP.”*

8. In view of above para, Bench feels to appraise the respondents that there are three primitive vulnerable tribal groups in Maharashtra (1) Madia-Gond (2) Kolam (3) Katkari. If contention of para-3 of reply is considered then similar posting order should have been done for Madia-Gond and Kartkari area also. While transferring the applicant in this O.A. the Maharashtra Government servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred as “Transfers Act,2005”) has been violated since the applicant has been transferred less than one year and Pusad was never mentioned as sensitive ITDP in any of the G.R. Bench would like to clarify constitutional position of Governance of such area. The tribal areas in this Country are in two categories, one is in sixth schedule of constitution which is in north eastern India and second category is fifth schedule areas. In Maharashtra we have fifth schedule area. Constitution provisions are reproduced below regarding fifth schedule areas.

***“ Fifth Schedule (Article 244 (1))***

*PROVISIONS AS TO THE ADMINISTRATION AND CONTROL OF SCHEDULED AREAS AND SCHEDULED TRIBES*

***PART B***

*ADMINISTRATION AND CONTROL OF SCHEDULED AREAS AND SCHEDULED TRIBES*

**(4) Tribes Advisory Council** – (1) *There shall be established in each State having Scheduled Areas therein and, if the President so directs, also in any State having Schedule Tribes but not Scheduled Areas therein, a Tribes Advisory Council consisting of not more than twenty members of whom, as nearly as may be, three fourths shall be the representatives of the Scheduled Tribes in the Legislative Assembly of the State.*

*Provided that if the number of representatives of the Scheduled Tribes in the Legislative Assembly of the State is less than the number of seats in the Tribes Advisory Council to be filled by such representatives, the remaining seats shall be filled by other members of those tribes.*

(2) *It shall be the duty of the Tribes Advisory Council to advise on such matters pertaining to the welfare and advancement of the Scheduled Tribes in the State as may be referred to them by the Governor.*

(3) *The Governor may make rules prescribing or regulating, as the case may be ;*

(a) *the number of members of the Council, the mode of their appointment and the appointment of the Chairman of the Council and of the officers and servants thereof,*

(b) *the conduct of its meetings and its procedure in general ; and*

(c) *all other incidental matters.*

**(5) Law applicable to Scheduled Areas** – (1) *Notwithstanding anything in this Constitution, the Governor may by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area or any part thereof in the State or shall apply to a Scheduled Area or any part thereof in the State subject to such exceptions and modifications as he may specify in the*

*notification and any direction given under this sub-paragraph may be given so as to have retrospective effect.*

*(2) The Governor may make regulations for the peace and good government of any area in a State which is for the time being Scheduled Area”.*

9. It will be appropriate to remind the respondents that Civil Services in India and particularly All India Services are creation of Constitution and first Civil Services Day was celebrated on 21<sup>st</sup> April.

It was on this day that the first Home Minister of Independent India. Late Sardar Vallabhbhai Patel, addressed the first batch of civil servants and referred to them as the “steel frame of India”

10. While taking any decision Officers of Civil Service and mainly of All India Services must keep in mind these words of late Sardar Vallabhbhai Patel and so their allegiance to the Constitution of India. All the G.Rs. are referred above regarding governance of tribal areas of Maharashtra i.e. G.R. dated 9/11/1993, 29/12/1993, 30/10/2002 and finally 28/12/2015 were having a spirit beyond strengthening the tribal administration and give a better quality of administration to sensitive tribal areas and sensitive areas have been identified by all the G.Rs.

11. In view of above discussions, order dated 2/7/2021 (A-1,P-15) does not have legal backing of G.Rs. and it has simultaneously violated Transfers Act,2005 by prematurely transferring the applicant. So, it requires to be quashed and set aside. Hence, the following order –

**ORDER**

- (i) The order dated 2/7/2021 (A-1,P-15) is hereby quashed and set aside.
- (ii) However, the respondents are at liberty to give suitable posting order to the respondent no.4 at any vacant Project Officer, ITDP post in Nagpur Revenue Division or elsewhere with immediate effect.
- (iii) The O.A. stands disposed of.
- (iv) No order as to costs.

Steno copy is granted.

**Vice-Chairman**

dnk.

**O.A. 520/2021 (S.B.)**

**(Atmaram Ukandi Dhabe Vs. State of Maharashtra & 3 others )**

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

**Dated : 11/08/2021.**

**ORDER**

**MCA No. 20/2021 in Original Application No.520/2021 -**

Heard Shri D.M. Kakani, Id. counsel for the applicant and Shri A.P. Potnis, Id. P.O. for the respondents. The Id. P.O. also agreed with the points mentioned in the MCA.

2. After going through the MCA No.20/2021 for speaking to minutes, the relevant portion of the order dated 9/8/2021 in O.A. No. 520/2021 is as under –

(i) In para-10 the typographical mistake of word “beyond” should be read as “behind”.

(ii) Below para-6, para- 6 (a) read as under– The submission made during the pleading on 9/8/2021 about Judgment of Hon’ble Supreme Court was in advertently not mentioned in the Judgment, the same is inserted at relevant place in the Judgment below para-6 -

(6) (a) The Hon’ble Bombay High Court (Civil Appellate Jurisdiction) has passed the Judgment in Suo Motu Writ Petition No.3278/2010 dated 29<sup>th</sup> April,2013 (Annex-R-1) in which relevant portion on page nos. 60 & 61 are reproduced below –

“ The State Government must formulate norms laying down the stage at which an IAS Officer should be assigned the work of Project Officer, Integrated Tribal Development Project. For instance, **it will be appropriate if the Second posting of an IAS Officer** is made as a Project Officer.

Such aspects of governance should not be dependent on judicial orders. The State Government must take steps forthwith to ensure that the tribal areas of the State which fall within fifteen tribal districts are duly taken care of by formulation and implementation of a well defined policy for the posting of IAS Officer. We direct that such a policy shall be

formulated no later than within a period of two months from today and that the existing sanctioned posts shall be filled up well before the onset of monsoon.”

3. In view of above, the MCA No. 20/2021 is allowed and disposed off. No order as to costs.

4. The necessary correction as per MCA is done in the Judgment.

5. The office is directed to upload this corrected Judgment on the website after removing previous Judgment dated 9/8/2021 from the concerned and to supply corrected Judgment copy to both the parties.

**Vice-Chairman**

dnk.

**O.A. No. 520 of 2021 –**

**( Atmaram Ukandi Dhabe Vs. State of Mah. & Ors. )**

**Coram :- Hon'ble Shri Shree Bhagwan,  
Vice-Chairman.**

**Dated :- 11/08/2021.**

**ORDER**

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

2. The learned P.O. files reply on behalf of R-3. It is taken on record. Copy is served to the learned counsel for the applicant.

3. As pointed out by the learned counsel, the applicant was posted as Project Officer, ITDP at Pusad vide order dated 28/7/2020 (A-8,P-51) and joined on 31/7/2020. Now another officer has been posted vide order dated 2/7/2021 (A-1,P-15). Hence indirectly the applicant has been displaced from the post of Project Officer, ITDP at Pusad within less than one year. The Id. Counsel has placed on record G.R. 9/11/1993 (A-3,P-18) in which out of 21 P.O. ITDP post 10 have been identified as sensitive ITDP post which are listed below.

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Further Dharni was devoiced into Dharni and Chikhaldara. So altogether 11 ITDP posts were identified as sensitive post. In para-6 of the said G.R., it is mentioned that

these posts will not be filled by Maharashtra Tribal Development Officers i.e. Department Officers.

4. Again the Government has issued G.R. dated 29/12/1993 (A-4,P-32) and in para-1 same 11 ITDP posts have been mentioned.

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5. Subsequently, another G.R. was issued on 30/10/2002 (A-5,P-37) referring that administration of tribal area will be strengthened. In this G.R. also same 11 ITDP posts have been mentioned.

(1) Jawhar, Dist. Thane (2) Dhanu, Dist. Thane (3) Nashik, Dist. Thane (4) Kalwan, Dist. Nashik (5) Taloda, Dist. Dhule (6) Kinwat, Dist. Nanded (7) Dharni, Dist. Amravati (8) Aheri, Dist. Gadchiroli (9) Bhamragarh, Dist. Gadchiroli (10) Gadchiroli, Dist. Gadchiroli (11) Chikhaldara, Dist. Amravati.

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(6) (a) The Hon'ble Bombay High Court (Civil Appellate Jurisdiction) has passed the Judgment in Suo Motu Writ Petition No.3278/2010 dated 29<sup>th</sup> April,2013 (Annex-R-1) in which relevant portion on page nos. 60 & 61 are reproduced below –

“ The State Government must formulate norms laying down the stage at which an IAS Officer should be assigned the work of Project Officer, Integrated Tribal Development Project. For instance, **it will be appropriate if the Second posting of an IAS Officer** is made as a Project Officer.

Such aspects of governance should not be dependent on judicial orders. The State Government must take steps forthwith to ensure that the tribal areas of the State which fall within fifteen tribal districts are duly taken care of by formulation and implementation of a well defined policy for the posting of IAS Officer. We direct that such a policy shall be formulated no later than within a period of two months from today and that the existing sanctioned posts shall be filled up well before the onset of monsoon.”

7. The respondents have filed their reply on 4/8/2021 and in para-3 they have mentioned about following points –

“ (3) *On the onset, I say and submit that District Yavatmal is Tribal District densely populated with Kolam community which is particularly vulnerable Tribal Group (PVTG) of Maharashtra. During Fifth Five Year Plan for the year 1974-79, Tribal Sub-Plan (TSP) was developed exclusively for the socioeconomic amelioration of the tribal communities. TSP areas falls in 15 out of 36 Districts of Maharashtra which cover Yavatmal as one of the TSP.*”

8. In view of above para, Bench feels to appraise the respondents that there are three primitive vulnerable tribal groups in Maharashtra (1) Madia-Gond (2) Kolam (3) Katkari. If contention of para-3 of reply is considered then similar posting order should have been done for Madia-Gond and Kartkari area also. While transferring the applicant in this O.A. the Maharashtra Government servants Regulation of Transfers

and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred as "Transfers Act,2005") has been violated since the applicant has been transferred less than one year and Pusad was never mentioned as sensitive ITDP in any of the G.R. Bench would like to clarify constitutional position of Governance of such area. The tribal areas in this Country are in two categories, one is in sixth schedule of constitution which is in north eastern India and second category is fifth schedule areas. In Maharashtra we have fifth schedule area. Constitution provisions are reproduced below regarding fifth schedule areas.

***" Fifth Schedule (Article 244 (1))***

***PROVISIONS AS TO THE ADMINISTRATION AND CONTROL OF SCHEDULED AREAS AND SCHEDULED TRIBES***

***PART B***

***ADMINISTRATION AND CONTROL OF SCHEDULED AREAS AND SCHEDULED TRIBES***

***(4) Tribes Advisory Council – (1) There shall be established in each State having Scheduled Areas therein and, if the President so directs, also in any State having Schedule Tribes but not Scheduled Areas therein, a Tribes Advisory Council consisting of not more than twenty members of whom, as nearly as may be, three fourths shall be the representatives of the Scheduled Tribes in the Legislative Assembly of the State.***

*Provided that if the number of representatives of the Scheduled Tribes in the Legislative Assembly of the State is less than the number of seats in the Tribes Advisory Council to be filled by such representatives, the remaining seats shall be filled by other members of those tribes.*

*(2) It shall be the duty of the Tribes Advisory Council to advise on such matters pertaining to the welfare and advancement of the Scheduled Tribes in the State as may be referred to them by the Governor.*

*(3) The Governor may make rules prescribing or regulating, as the case may be ;*

*(a) the number of members of the Council, the mode of their appointment and the appointment of the Chairman of the Council and of the officers and servants thereof,*

*(b) the conduct of its meetings and its procedure in general ; and*

*(c) all other incidental matters.*

**(5) Law applicable to Scheduled Areas** – *(1) Notwithstanding anything in this Constitution, the Governor may by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area or any part thereof in the State or shall apply to a Scheduled Area or any part thereof in the State subject to such exceptions and modifications as he may specify in the notification and any direction given under this sub-paragraph may be given so as to have retrospective effect.*

*(2) The Governor may make regulations for the peace and good government of any area in a State which is for the time being Scheduled Area”.*

9. It will be appropriate to remind the respondents that Civil Services in India and particularly All India Services are creation of Constitution and first Civil Services Day was celebrated on 21<sup>st</sup> April.

It was on this day that the first Home Minister of Independent India. Late Sardar Vallabhbhai Patel, addressed the first batch of civil servants and referred to them as the “steel frame of India”

10. While taking any decision Officers of Civil Service and mainly of All India Services must keep in mind these words of late Sardar Vallabhbhai Patel and so their allegiance to the Constitution of India. All the G.Rs. are referred above regarding governance of tribal areas of Maharashtra i.e. G.R. dated 9/11/1993, 29/12/1993, 30/10/2002 and finally 28/12/2015 were having a spirit **behind** strengthening the tribal administration and give a better quality of administration to sensitive tribal areas and sensitive areas have been identified by all the G.Rs.

11. In view of above discussions, order dated 2/7/2021 (A-1,P-15) does not have legal backing of G.Rs. and it has simultaneously violated Transfers Act,2005 by prematurely transferring the applicant. So, it requires to be quashed and set aside. Hence, the following order –

### **ORDER**

- (i) The order dated 2/7/2021 (A-1,P-15) is hereby quashed and set aside.
- (ii) However, the respondents are at liberty to give suitable posting order to the respondent no.4 at any vacant Project Officer, ITDP post in Nagpur Revenue Division or elsewhere with immediate effect.
- (iii) The O.A. stands disposed of.
- (iv) No order as to costs.

Steno copy is granted.

**Vice-Chairman**

dnk.

**O.A. No. 521 of 2021 –**

**( Vikas Shamraoji Rachelwar Vs. State of Mah. & Ors. )**

**Coram :- Hon'ble Shri Shree Bhagwan,  
Vice-Chairman.**

**Dated :- 09/08/2021**

**ORDER**

Heard Shri D.M. Kakani, Id. counsel for the applicant and Shri S.D. Deo, Id. CPO for the respondents.

2. The learned P.O. files reply on behalf of R-3. It is taken on record. Copy is served to the learned counsel for the applicant.

3. As pointed out by the learned counsel, the applicant was posted on the post of Project Officer, ITDP at Deori vide order dated 14/1/2021 (A-8,P-50) and joined on 18/1/2021. Now another officer has been posted vide order dated 2/7/2021 (A-1,P-15). Hence indirectly the applicant has been displaced from the post of Project Officer, ITDP at Deori within less than seven months. The Id. Counsel has placed on record G.R. 9/11/1993 (A-3,P-18) in which out of 21 P.O. ITDP post 10 have been identified as sensitive ITDP post which are listed below.

(1) Jawhar, Dist. Thane (2) Dhanu, Dist. Thane (3) Nashik, Dist. Thane (4) Kalwan, Dist. Nashik (5) Taloda, Dist. Dhule (6) Kinwat, Dist. Nanded (7) Dharni, Dist. Amravati (8) Aheri, Dist. Gadchiroli (9) Bhamragarh, Dist. Gadchiroli (10) Gadchiroli, Dist. Gadchiroli.

Further Dharni was devoiced into Dharni and Chikhaldara. So altogether 11 ITDP posts were identified as sensitive post. In para-6 of the said G.R., it is mentioned that these posts will not be filled by Maharashtra Tribal Development Officers i.e. Department Officers.

4. Again the Government has issued G.R. dated 29/12/1993 (A-4,P-32) and in para-1 same 11 ITDP posts have been mentioned.

(1) Jawhar, Dist. Thane (2) Dhanu, Dist. Thane (3) Nashik, Dist. Thane (4) Kalwan, Dist. Nashik (5) Taloda, Dist. Dhule (6) Kinwat, Dist. Nanded (7) Dharni, Dist. Amravati (8) Aheri, Dist. Gadchiroli (9) Bhamragarh, Dist. Gadchiroli (10) Gadchiroli, Dist. Gadchiroli (11) Chikhaldara, Dist. Amravati.

5. Subsequently, another G.R. was issued on 30/10/2002 (A-5,P-37) referring that administration of tribal area will be strengthened. In this G.R. also same 11 ITDP posts have been mentioned.

(1) Jawhar, Dist. Thane (2) Dhanu, Dist. Thane (3) Nashik, Dist. Thane (4) Kalwan, Dist. Nashik (5) Taloda, Dist. Dhule (6) Kinwat, Dist. Nanded (7) Dharni, Dist. Amravati (8) Aheri, Dist. Gadchiroli (9) Bhamragarh, Dist. Gadchiroli (10) Gadchiroli, Dist. Gadchiroli (11) Chikhaldara, Dist. Amravati.

6. Meanwhile, Writ Petition No.3278/2010 was going on in Bombay High Court, Bench at Nagpur and another G.R. was issued dated 28/12/2015 (A-6,P-39) and in this G.R. also same 11 posts have been mentioned.

(1) Jawhar, Dist. Thane (2) Dhanu, Dist. Thane (3) Nashik, Dist. Thane (4) Kalwan, Dist. Nashik (5) Taloda, Dist. Dhule (6) Kinwat, Dist. Nanded (7) Dharni, Dist. Amravati (8) Aheri, Dist. Gadchiroli (9) Bhamragarh, Dist. Gadchiroli (10) Gadchiroli, Dist. Gadchiroli (11) Chikhaldara, Dist. Amravati.

7. The respondents have filed their reply on 4/8/2021 and in para-3 they have mentioned about following points –

*“ (3) On the onset, I say and submit that District Yavatmal is Tribal District densely populated with Kolam community which is particularly vulnerable Tribal Group (PVTG)*

*of Maharashtra. During Fifth Five Year Plan for the year 1974-79, Tribal Sub-Plan (TSP) was developed exclusively for the socioeconomic amelioration of the tribal communities. TSP areas falls in 15 out of 36 Districts of Maharashtra which cover Yavatmal as one of the TSP.”*

8. In view of above para, Bench feels to appraise the respondents that there are three primitive vulnerable tribal groups in Maharashtra (1) Madia-Gond (2) Kolam (3) Katkari. If contention of para-3 of reply is considered then similar posting order should have been done for Madia-Gond and Kartkari area also. While transferring the applicant in this O.A. the Maharashtra Government servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred as “Transfers Act,2005”) has been violated since the applicant has been transferred less than one year and Pusad was never mentioned as sensitive ITDP in any of the G.R. Bench would like to clarify constitutional position of Governance of such area. The tribal areas in this Country are in two categories, one is in sixth schedule of constitution which is in north eastern India and second category is fifth schedule areas. In Maharashtra we have fifth schedule area. Constitution provisions are reproduced below regarding fifth schedule areas.

***“ Fifth Schedule (Article 244 (1))***

*PROVISIONS AS TO THE ADMINISTRATION AND CONTROL OF SCHEDULED AREAS AND SCHEDULED TRIBES*

***PART B***

*ADMINISTRATION AND CONTROL OF SCHEDULED AREAS AND SCHEDULED TRIBES*

**(4) Tribes Advisory Council** – (1) *There shall be established in each State having Scheduled Areas therein and, if the President so directs, also in any State having Schedule Tribes but not Scheduled Areas therein, a Tribes Advisory Council consisting of not more than twenty members of whom, as nearly as may be, three fourths shall be the representatives of the Scheduled Tribes in the Legislative Assembly of the State.*

*Provided that if the number of representatives of the Scheduled Tribes in the Legislative Assembly of the State is less than the number of seats in the Tribes Advisory Council to be filled by such representatives, the remaining seats shall be filled by other members of those tribes.*

(2) *It shall be the duty of the Tribes Advisory Council to advise on such matters pertaining to the welfare and advancement of the Scheduled Tribes in the State as may be referred to them by the Governor.*

(3) *The Governor may make rules prescribing or regulating, as the case may be ;*

(a) *the number of members of the Council, the mode of their appointment and the appointment of the Chairman of the Council and of the officers and servants thereof,*

(b) *the conduct of its meetings and its procedure in general ; and*

(c) *all other incidental matters.*

**(5) Law applicable to Scheduled Areas** – (1) *Notwithstanding anything in this Constitution, the Governor may by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area or any part thereof in the State or shall apply to a Scheduled Area or any part thereof in the State subject to such exceptions and modifications as he may specify in the notification and any direction given under this sub-paragraph may be given so as to have retrospective effect.*

*(2) The Governor may make regulations for the peace and good government of any area in a State which is for the time being Scheduled Area”.*

9. It will be appropriate to remind the respondents that Civil Services in India and particularly All India Services are creation of Constitution and first Civil Services Day was celebrated on 21<sup>st</sup> April.

It was on this day that the first Home Minister of Independent India. Late Sardar Vallabhbhai Patel, addressed the first batch of civil servants and referred to them as the “steel frame of India”

10. While taking any decision Officers of Civil Service and mainly of All India Services must keep in mind these words of late Sardar Vallabhbhai Patel and so their allegiance to the Constitution of India. All the G.Rs. are referred above regarding governance of tribal areas of Maharashtra i.e. G.R. dated 9/11/1993, 29/12/1993, 30/10/2002 and finally 28/12/2015 were having a spirit beyond strengthening the tribal administration and give a better quality of administration to sensitive tribal areas and sensitive areas have been identified by all the G.Rs.

11. In view of above discussions, order dated 2/7/2021 (A-1,P-15) does not have legal backing of G.Rs. and it has simultaneously violated Transfers Act,2005 by prematurely transferring the applicant. So, it requires to be quashed and set aside. Hence, the following order –

**ORDER**

- (i) The order dated 2/7/2021 (A-1,P-15) is hereby quashed and set aside.
- (ii) However, the respondents are at liberty to give suitable posting order to the respondent no.4 at any vacant Project Officer, ITDP post in Nagpur Revenue Division or elsewhere with immediate effect.
- (iii) The O.A. stands disposed of.
- (iv) No order as to costs.

Steno copy is granted.

**Vice-Chairman**

**O.A. 521/2021 (S.B.)**

**(Vikas Shamraoji Rachelwar Vs. State of Maharashtra & 3 others )**

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

**Dated : 11/08/2021.**

**ORDER**

**MCA No. 21/2021 in Original Application NO.521/2021 -**

Heard Shri D.M. Kakani, Id. counsel for the applicant and Shri A.P. Potnis, Id. P.O. for the respondents. The Id. P.O. also agreed with the points mentioned in the MCA.

2. After going through the MCA No.21/2021 for speaking to minutes, the relevant portion of the order dated 9/8/2021 in O.A. No. 521/2021 is as under –

(i) In para-10 the typographical mistake of word “beyond” should be read as “behind”.

(ii) Below para-6, para- 6 (a) read as under– The submission made during the pleading on 9/8/2021 about Judgment of Hon’ble Supreme Court was inadvertently not mentioned in the Judgment, the same is inserted at relevant place in the Judgment below para-6 -

The Hon’ble Bombay High Court (Civil Appellate Jurisdiction) has passed the Judgment in Suo Motu Writ Petition No.3278/2010 dated 29<sup>th</sup> April,2013 (Annex-R-2) in which relevant portion on page nos. 63 & 64 are reproduced below –

“ The State Government must formulate norms laying down the stage at which an IAS Officer should be assigned the work of Project Officer, Integrated Tribal Development Project. For instance, **it will be appropriate if the Second posting of an IAS Officer is made as a Project Officer.**

Such aspects of governance should not be dependent on judicial orders. The State Government must take steps forthwith to ensure that the tribal areas of the State which fall within fifteen tribal districts are duly taken care of by formulation and implementation of a well defined policy for the posting of IAS Officer. We direct that such a policy shall be formulated no later than within a period of two months from today and that the existing sanctioned posts shall be filled up well before the onset of monsoon.”

(iii) The para-7 of the order dated 9/8/2021 should be replaced by para-3 on page no. 55 of reply of respondents filed on 4/8/2021 which is reproduced below –

*“(3) On the onset I say and submit that District Gondia is densely populated with Tribal. During Fifth Five-Year Plan for the year 1974-79, Tribal Sub-Plan (TSP) was developed exclusively for the socioeconomic amelioration of the tribal communities. TSP areas falls in 15 out of 36 Districts of Maharashtra which cover Gondia as one of the TSP. Moreover, Ministry of Home Affairs posted a List of 90 districts in 11 states of India affected by Left Wing Extremism (LWE) on 5/2/2019 wherein District Gondia is specified as one of the three Districts in Maharashtra. Copy of PIB release of Ministry of Home Affairs on 5/2/2019 is attached herewith as Annexure-R-1.”*

(iv) In para-8 the word “Pusad” should be read as “Gondia”.

3. In view of above, the MCA No. 21/2021 is allowed and disposed off. No order as to costs.

4. The necessary correction as per MCA is done in the Judgment.

5. The office is directed to upload this corrected Judgment on the website after removing previous Judgment dated 9/8/2021 from the concerned and to supply corrected Judgment copy to both the parties.

**Vice-Chairman**

dnk.

**O.A. No. 521 of 2021 –**

**( Vikas Shamraoji Rachelwar Vs. State of Mah. & Ors. )**

**Coram :- Hon'ble Shri Shree Bhagwan,  
Vice-Chairman.**

**Dated :- 11/08/2021.**

**ORDER**

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

2. The learned P.O. files reply on behalf of R-3. It is taken on record. Copy is served to the learned counsel for the applicant.

3. As pointed out by the learned counsel, the applicant was posted on the post of Project Officer, ITDP at Deori vide order dated 14/1/2021 (A-8,P-50) and joined on 18/1/2021. Now another officer has been posted vide order dated 2/7/2021 (A-1,P-15). Hence indirectly the applicant has been displaced from the post of Project Officer, ITDP at Deori within less than seven months. The Id. Counsel has placed on record G.R. 9/11/1993 (A-3,P-18) in which out of 21 P.O. ITDP post 10 have been identified as sensitive ITDP post which are listed below.

(1) Jawhar, Dist. Thane (2) Dhanu, Dist. Thane (3) Nashik, Dist. Thane (4) Kalwan, Dist. Nashik (5) Taloda, Dist. Dhule (6) Kinwat, Dist. Nanded (7) Dharni, Dist. Amravati (8) Aheri, Dist. Gadchiroli (9) Bhamragarh, Dist. Gadchiroli (10) Gadchiroli, Dist. Gadchiroli.

Further Dharni was devoiced into Dharni and Chikhaldara. So altogether 11 ITDP posts were identified as sensitive post. In para-6 of the said G.R., it is mentioned that

these posts will not be filled by Maharashtra Tribal Development Officers i.e. Department Officers.

4. Again the Government has issued G.R. dated 29/12/1993 (A-4,P-32) and in para-1 same 11 ITDP posts have been mentioned.

(1) Jawhar, Dist. Thane (2) Dhanu, Dist. Thane (3) Nashik, Dist. Thane (4) Kalwan, Dist. Nashik (5) Taloda, Dist. Dhule (6) Kinwat, Dist. Nanded (7) Dharni, Dist. Amravati (8) Aheri, Dist. Gadchiroli (9) Bhamragarh, Dist. Gadchiroli (10) Gadchiroli, Dist. Gadchiroli (11) Chikhaldara, Dist. Amravati.

5. Subsequently, another G.R. was issued on 30/10/2002 (A-5,P-37) referring that administration of tribal area will be strengthened. In this G.R. also same 11 ITDP posts have been mentioned.

(1) Jawhar, Dist. Thane (2) Dhanu, Dist. Thane (3) Nashik, Dist. Thane (4) Kalwan, Dist. Nashik (5) Taloda, Dist. Dhule (6) Kinwat, Dist. Nanded (7) Dharni, Dist. Amravati (8) Aheri, Dist. Gadchiroli (9) Bhamragarh, Dist. Gadchiroli (10) Gadchiroli, Dist. Gadchiroli (11) Chikhaldara, Dist. Amravati.

6. Meanwhile, Writ Petition No.3278/2010 was going on in Bombay High Court, Bench at Nagpur and another G.R. was issued dated 28/12/2015 (A-6,P-39) and in this G.R. also same 11 posts have been mentioned.

(1) Jawhar, Dist. Thane (2) Dhanu, Dist. Thane (3) Nashik, Dist. Thane (4) Kalwan, Dist. Nashik (5) Taloda, Dist. Dhule (6) Kinwat, Dist. Nanded (7) Dharni, Dist. Amravati (8) Aheri, Dist. Gadchiroli (9) Bhamragarh, Dist. Gadchiroli (10) Gadchiroli, Dist. Gadchiroli (11) Chikhaldara, Dist. Amravati.

(6) (a) The Hon'ble Bombay High Court (Civil Appellate Jurisdiction) has passed the Judgment in Suo Motu Writ Petition No.3278/2010 dated 29<sup>th</sup> April,2013 (Annex-R-2) in which relevant portion on page nos. 63 & 64 are reproduced below –

“ The State Government must formulate norms laying down the stage at which an IAS Officer should be assigned the work of Project Officer, Integrated Tribal Development Project. For instance, **it will be appropriate if the Second posting of an IAS Officer is made as a Project Officer.**

Such aspects of governance should not be dependent on judicial orders. The State Government must take steps forthwith to ensure that the tribal areas of the State which fall within fifteen tribal districts are duly taken care of by formulation and implementation of a well defined policy for the posting of IAS Officer. We direct that such a policy shall be formulated no later than within a period of two months from today and that the existing sanctioned posts shall be filled up well before the onset of monsoon.”

7. The respondents have filed their reply on 4/8/2021 and in para-3 they have mentioned about following points –

*“(3) On the onset I say and submit that District Gondia is densely populated with Tribal. During Fifth Five-Year Plan for the year 1974-79, Tribal Sub-Plan (TSP) was developed exclusively for the socioeconomic amelioration of the tribal communities. TSP areas falls in 15 out of 36 Districts of Maharashtra which cover Gondia as one of the TSP. Moreover, Ministry of Home Affairs posted a List of 90 districts in 11 states of India affected by Left Wing Extremism (LWE) on 5/2/2019 wherein District Gondia is specified as one of the three Districts in Maharashtra. Copy of PIB release of Ministry of Home Affairs on 5/2/2019 is attached herewith as Annexure-R-1.”*

8. In view of above para, Bench feels to appraise the respondents that there are three primitive vulnerable tribal groups in Maharashtra (1) Madia-Gond (2) Kolam (3) Katkari. If contention of para-3 of reply is considered then similar posting order should

have been done for Madia-Gond and Kartkari area also. While transferring the applicant in this O.A. the Maharashtra Government servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred as "Transfers Act,2005") has been violated since the applicant has been transferred less than one year and Gondia was never mentioned as sensitive ITDP in any of the G.R. Bench would like to clarify constitutional position of Governance of such area. The tribal areas in this Country are in two categories, one is in sixth schedule of constitution which is in north eastern India and second category is fifth schedule areas. In Maharashtra we have fifth schedule area. Constitution provisions are reproduced below regarding fifth schedule areas.

***" Fifth Schedule (Article 244 (1))***

***PROVISIONS AS TO THE ADMINISTRATION AND CONTROL OF SCHEDULED AREAS AND SCHEDULED TRIBES***

***PART B***

***ADMINISTRATION AND CONTROL OF SCHEDULED AREAS AND SCHEDULED TRIBES***

***(4) Tribes Advisory Council*** – (1) *There shall be established in each State having Scheduled Areas therein and, if the President so directs, also in any State having Schedule Tribes but not Scheduled Areas therein, a Tribes Advisory Council consisting of not more than twenty members of whom, as nearly as may be, three fourths shall be the representatives of the Scheduled Tribes in the Legislative Assembly of the State.*

*Provided that if the number of representatives of the Scheduled Tribes in the Legislative Assembly of the State is less than the number of seats in the Tribes*

*Advisory Council to be filled by such representatives, the remaining seats shall be filled by other members of those tribes.*

*(2) It shall be the duty of the Tribes Advisory Council to advise on such matters pertaining to the welfare and advancement of the Scheduled Tribes in the State as may be referred to them by the Governor.*

*(3) The Governor may make rules prescribing or regulating, as the case may be ;*

*(a) the number of members of the Council, the mode of their appointment and the appointment of the Chairman of the Council and of the officers and servants thereof,*

*(b) the conduct of its meetings and its procedure in general ; and*

*(c) all other incidental matters.*

**(5) Law applicable to Scheduled Areas** – *(1) Notwithstanding anything in this Constitution, the Governor may by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area or any part thereof in the State or shall apply to a Scheduled Area or any part thereof in the State subject to such exceptions and modifications as he may specify in the notification and any direction given under this sub-paragraph may be given so as to have retrospective effect.*

*(2) The Governor may make regulations for the peace and good government of any area in a State which is for the time being Scheduled Area”.*

9. It will be appropriate to remind the respondents that Civil Services in India and particularly All India Services are creation of Constitution and first Civil Services Day was celebrated on 21<sup>st</sup> April.

It was on this day that the first Home Minister of Independent India. Late Sardar Vallabhbhai Patel, addressed the first batch of civil servants and referred to them as the “steel frame of India”

10. While taking any decision Officers of Civil Service and mainly of All India Services must keep in mind these words of late Sardar Vallabhbhai Patel and so their allegiance to the Constitution of India. All the G.Rs. are referred above regarding governance of tribal areas of Maharashtra i.e. G.R. dated 9/11/1993, 29/12/1993, 30/10/2002 and finally 28/12/2015 were having a spirit **behind** strengthening the tribal administration and give a better quality of administration to sensitive tribal areas and sensitive areas have been identified by all the G.Rs.

11. In view of above discussions, order dated 2/7/2021 (A-1,P-15) does not have legal backing of G.Rs. and it has simultaneously violated Transfers Act,2005 by prematurely transferring the applicant. So, it requires to be quashed and set aside. Hence, the following order –

### **ORDER**

(i) The order dated 2/7/2021 (A-1,P-15) is hereby quashed and set aside.

(ii) However, the respondents are at liberty to give suitable posting order to the respondent no.4 at any vacant Project Officer, ITDP post in Nagpur Revenue Division or elsewhere with immediate effect.

(iii) The O.A. stands disposed of.

(iv) No order as to costs.

Steno copy is granted.

**Vice-Chairman**

dnk.



O.A.No.844/2017 (D.B.)

**Coram** : Shri Shree Bhagwan, Vice Chairman  
**Dated** : 11/08/ 2021.

**C.A.No.200/2021:-**

Heard Shri G.G.Bade, the Id. Counsel for the applicant and Shri A.P.Potnis, the Id. P.O. for the State. Await service of respondent nos. 2 to 5.

2. In the last hearing i.e. on 09.09.2019 in para no. 2 following observation has been made:-

*"2. It seems that the SLP is pending before the Hon'ble Apex Court. In this situation, it is suitable in the interest of justice to keep this matter pending till decision in the SLP."*

3. Today, as submission made by both the counsels, SLP is yet to be decided. The Id. P.O. pointed out that service affidavit is not filed by Id. counsel for the applicant.

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

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

6. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with

complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

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

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

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

10. **S.O. after two weeks.**

**Vice Chairman**

**Date:-11/08/2021.**

aps.

**O.A.No.710/2019 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman**  
**Dated : 11/08/ 2021.**

**C.A.No.192/2021:-**

Heard Shri G.K.Bhusari, the Id. Counsel for the applicant and Shri P.N.Warjekar, the Id. P.O. for the Respondents.

2. In order dated 28.07.2021 in para no. 2 following observation has been made:-

*"The Id. counsel for the applicant has filed C.A. No. 192/2021 for passing appropriate order along with C.A. he has also filed letter dated 06.07.2021 of Desk Officer, Mantralaya. He has written a letter to Collector, Nashik in which points have been cleared about recruitment of kotwal. It appears that this direction has not reached to the office of Collector, Nagpur."*

3. Today, the Id. P.O. submits that he requires further two weeks time to file reply of respondent nos. 2 & 3.

4. In view of this situation, if at all any appointment is made, respondents should make it clear to the appointed persons that there appointments should be subject to outcome of the O.A..

5. **S.O. two weeks to file reply.**

**Vice Chairman**

**Date:-11/08/2021.**

aps.

O.A.No.1083/2019 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman**  
**Dated : 11/08/ 2021.**

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

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

**Date:-11/08/2021.**  
aps.

**Vice Chairman**

**M.C.A.Nos.08&18/21inO.A.No.220/19 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman**  
**Dated : 11/08/ 2021.**

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

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

**Vice Chairman**

**Date:-11/08/2021.**  
aps.

O.A.No.75/2020 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman**  
**Dated : 11/08/ 2021.**

Heard Shri S.K.Mathpati, the Id. Counsel for the applicant and Shri H.K.Pande, the Id. P.O. for the Respondents.

2. The Id. P.O. has filed reply on behalf of the respondent no. 6. It is taken on record. Copy is served to the other side.

3. He further requested time to file reply of respondent nos. 1 to 3, **S.O. three weeks.**

**Vice Chairman**

**Date:-11/08/2021.**  
aps.

O.A.No.912/2020 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman**  
**Dated : 11/08/ 2021.**

Heard Shri N.D.Thombre, the Id. Counsel for the applicant and Shri V.A.Kulkarni, the Id. P.O. for the Respondents.

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

**Vice Chairman**

**Date:-11/08/2021.**

aps.

O.A.No.54/2021 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman**  
**Dated : 11/08/ 2021.**

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

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

**Vice Chairman**

**Date:-11/08/2021.**

aps.

**O.A.No.164/2021 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman**  
**Dated : 11/08/ 2021.**

None for the applicant. Shri A.P.Potnis, the  
Id. P.O. for the State. Await service of respondent  
nos. 2 to 4.

2. **S.O. six weeks to file service affidavit.**

**Vice Chairman**

**Date:-11/08/2021.**  
aps.

**O.A.No.206/2021 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman**  
**Dated : 11/08/ 2021.**

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

2. Today, the Id. counsel for the applicant has filed letter dated 18.06.2021 by I/c Regional Deputy Commissioner, Municipal Counsel (Administrative), Nagpur Division, Nagpur. In the said letter below at para no. 3, Respondent no. 4 has been directed to handover charge to the applicant as a Deputy Chief Officer, Class-B(B-Class, Nagar Parishad) within three days. He has also been asked to report back. Respondent no. 4 is directed to comply the order dated 18.06.2021 by I/c Regional Deputy Commissioner, Nagar Parishad (Administrative), Nagpur within three days and make compliance to the superiors and also through Id. P.O. to this Tribunal.

**3. S.O. three weeks.**

**4. Steno copy is granted.**

**Vice Chairman**

**Date:-11/08/2021.**

aps.

O.A.No.335/2021 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman**  
**Dated : 11/08/ 2021.**

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

2. The Id. counsel for the applicant is directed to remove all the objections as pointed out by the office and also do proper paging of the O.A. as desires by Id. P.O., **S.O. three weeks.**

3. **The applicant has already granted I.R. in the order dated 14.07.2021, para no. 2.**

**Vice Chairman**

**Date:-11/08/2021.**

aps.

**O.A.No.347/2021 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman**  
**Dated : 11/08/ 2021.**

Heard Shri I.A.Fidvi holding for Shri M.M.Sudame, 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., point of Jurisdiction is also involved in this O.A..

3. The Id. counsel for the applicant seeks some time as his senior is not present today. At his request, **S.O. after two weeks.**

**Vice Chairman**

**Date:-11/08/2021.**  
aps.

**O.A.No.348/2021 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman**  
**Dated : 11/08/ 2021.**

Heard Shri I.A.Fidvi holding for Shri M.M.Sudame, the Id. Counsel for the applicant and Shri P.N.Warjekar, the Id. P.O. for the Respondents.

2. It appears that as per Annexure-A-7, P.B., Pg. No. 41; chargesheet was served on 29.07.2013 to the applicant. According to the order dated 12.07.2021; in para no. 2; another chargesheet has been filed on 05.06.2015 (Annexure-A-8, P.B., Pg. Nos. 61 to 70). Hence, it appears that chargesheet are almost five years old.

3. In order dated 12.07.2021 in para no. 2 following observation was made:-

*"As pointed out by Id. P.O. the chargesheet has been served by order dated 05.06.2015 (Annexure-A-8, P.B., Pg. No. 61 to 70). In view of Hon'ble Apex Court Delhi Judgment in Prem Nath Bali Vs. Reg., High Court of Delhi and Another in Civil Appeal No. 958 of 2010 decided on 16.12.2015 and G.O.M., G.R. dated 24.02.1997."*

4. However, today Id. P.O. desires time to file reply, **S.O. three weeks.**

5. **Steno copy is granted.**

**Date:-11/08/2021.**  
aps.

**Vice Chairman**

O.A.No.419/2021 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman**  
**Dated : 11/08/ 2021.**

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

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

**Vice Chairman**

**Date:-11/08/2021.**  
aps.

O.A.No.484/2021 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman**  
**Dated : 11/08/ 2021.**

Heard Smt. Saboo, the Id. Counsel for the applicant and Shri A.P.Potnis, the Id. P.O. for the Respondents.

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

**Vice Chairman**

**Date:-11/08/2021.**

aps.

O.A.No.512/2021 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman**  
**Dated : 11/08/ 2021.**

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

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

**Date:-11/08/2021.**  
aps.

**Vice Chairman**

O.A.No.515/2021 (D.B.)

**Coram : Shri Shree Bhagwan, Vice Chairman**  
**Dated : 11/08/ 2021.**

Heard Shri M.R.Khan, the Id. Counsel for the applicant and Shri S.A.Deo, the Id. C.P.O. for the State. Await service of respondent nos. 2 & 3.

2. At the request of Id. counsel for the applicant, **S.O. four weeks to file service affidavit.**

**Vice Chairman**

**Date:-11/08/2021.**

aps.

**C.P.No.08/2020inO.A.No.444/2015 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman**  
**Dated : 11/08/ 2021.**

None for the applicant. Shri V.A.Kulkarni, the  
Id. P.O. for the Respondents.

2. The Id. P.O. has filed decision of Hon'ble High Court, Nagpur Bench in W.P. No. 1320/2021 and in the Writ Petition the order passed by M.A.T. on 23.10.2018 has been quashed and set aside. The original application no. 444/2015 has been restored to the Tribunal.

3. In view of this situation, C.P. No. 08/2020 is becomes infructuous. **Hence, it is disposed of with no order as to costs.**

**Vice Chairman**

**Date:-11/08/2021.**  
aps.

**C.P.No.10/2020inO.A.No.642/2010 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman**  
**Dated : 11/08/ 2021.**

Heard Shri R.V.Shiralkar, the Id. Counsel for the applicant and Shri A.M.Ghogre, the Id. P.O. for the State. Await service of respondent nos. 2 & 3.

2. The Id. counsel for the applicant requires two weeks to file service affidavit and Id. P.O. requires four weeks time to file reply, **S.O. four weeks.**

**Vice Chairman**

**Date:-11/08/2021.**  
aps.

**C.P.No.37/2020inO.A.No.871/2017**

**&C.P.38/2020in O.A.113/2018 (D.B.)**

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

**Dated : 11/08/2021.**

Heard Shri S.N.Gaikwad, the Id. Counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the Respondents.

2. The Id. P.O. has filed reply on behalf of the respondent no. 1. It is taken on record. Copy is served to the other side.

3. At the request of Id. counsel for the applicant, **S.O. two weeks to file Rejoinder.**

**Vice Chairman**

**Date:-11/08/2021.**

aps.

**O.A.No.755/2020 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman**  
**Dated : 11/08/ 2021.**

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

2. The Id. P.O. has already filed reply in this matter. The Id. counsel for the applicant further submits that he is not intended to file any Rejoinder.

3. Matter be heard on 18.08.2021 for final hearing.

**Vice Chairman**

**Date:-11/08/2021.**  
aps.

**O.A.No.627/2021 (D.B.)**

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

**Dated : 11/08/ 2021.**

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

2. As submitted by Id. counsel for the applicant, applicant was selected as R.F.O., Group-B post vide Annexure-A-1, P.B., Pg. No. 29 and he was sent on training at Kundal Training School, Administration and Development, Tal. Palus, District. Sangali as per Annexure-A-1, P.B., Pg. No. 29 where applicant is at Sr. No. 2. Subsequently, he was posted vide order dated 24.08.2015 (Annexure-A-3, P.B., Pg. No. 36) to Umred kanhadala, District Nagpur as an Open Candidate. Applicant submitted resignation from service vide letter dated 03.11.2015 (Annexure-A-4, P.B., Pg. No. 40) by further communication dated 27.11.2015 (A-A-5, Pg. No. 41). It was pointed out by Respondent no. 3 that his resignation cannot be accepted due to following two reasons:-

A. Specific reason for resignation is not given.

B. He has to first deposit training cost from 17.02.2014 to 16.08.2015 i.e. for 18 months at Kundal School.

3. Applicant again submitted application dated 05.03.2018 (A-A-8, Pg. No. 44) and explained the reason that due to domestic issue he had submitted resignation but now he requests to withdraw it and desires to be reinstated in service. Vide by correspondence dated 14.08.2018 (Annexure-A-14, P.B., Pg. No. 52) as per para no. 3; it appears that there was a bond by applicant before joining training at Kundal for the amount Rs. 5,50,000/-, however by correspondence dated 28.09.2018 written by C.C.F., Nagpur to applicant and in para no. 3 the amount is changed to Rs. 5,82,800/-. This difference in amount is not understood? This requires to be explained in the reply of the respondents. D.E. has been started against the applicant vide letter dated 02.02.2019 (Annexure-A-19, P.B., Pg. No. 63) and only change on P.B., Pg. No. 65 is unauthorised absence from Government Services.

4. On P.B., Pg. No. 69, Exh. 3 it is mentioned that there was no witness as per Maharashtra (Discipline and Appeal) Rule, 1979, Rule 8 (3) (2) (b). The Id. counsel for the applicant further submits that he is relying on M.C.S. Leaving Rule 1981, Section 64 Act. He has further relied on MAT Judgment in O.A. 487/2018

delivered on 03.08.2020 and also correspondence dated 17.10.2018 by C.C.F., Nagpur on P.B., Pg. No. 60 and 62. At present, applicant is aggrieved with impugned order of enquiry dated 02.02.2019 (Annexure-A-19, P.B., Pg. No. 63) and in prayer clause on P.B., Pg. No. 22 clause no. 8 (i) desires to be quashed and set aside the chargesheet dated 02.02.2019. However, post correspondence and several issues are require to be examined before arriving on any decision. Respondents should also clarify in the reply that what is the position of applicant today; whether he is in service or not? If not in the department then how he has gone out of department?

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

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

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

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

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

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

11. S.O. four weeks.

**Vice Chairman**

**Date:-11/08/2021.**

aps.

**O.A.No.637/2021 (D.B.)**

**(Mrs. Savita W/o Surajsingh Thakur Vs. State of Mah. & 3 Ors.)**

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

**Dated : 11/08/ 2021.**

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

2. The Id. counsel for the applicant submits that applicant was terminated from service vide order dated 02.07.2021 (Annexure-A-14, P.B., Pg. No. 40) issued by the Respondent no. 2 i.e. Deputy Director, Health Services, Akola. As per Annexure-A-14 in the last para; it has been mentioned that as per Caste Verification Act, 2000, Section 10, the Deputy Director, Medical Services, Akola Circle, Akola has terminated the services of applicant.

3. The Id. counsel for the applicant submits that applicant has already filed application to Caste Verification Unit, Buldhana i.e. Respondent No. 4 which is filed on Annexure-A-11, P.B., Pg. No. 37 and this application was filed on 04.06.2021. The Id. counsel for the applicant has also filed Maharashtra S.C., S.T., De-notified Tribes, (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of issuance and verification of) Caste Certificate Act, 2000 hereinafter called as Caste Verification Certificate Act, 2000, Section 10 on P.B., Pg. No. 51 which stipulates that action will be taken against the applicant after cancellation of Caste Verification Certificate by the Scrutiny Committee. He has also relied on Judgment of Hon'ble High Court in W.P. NO. 7599/2017 & Ors. and mainly in para no. 7 on P.B., Pg. No. 59 and para no. 10 on P.B., Pg. No. 60 which are reproduced below:-

*"7. A bare perusal of the provisions of Section 10 of the Act indicates that the Collector is not empowered to terminate services of employees, who failed to produce Caste Validity Certificate or failed to submit an application to be forwarded to the concerned Scrutiny Committee after resuming their duties.*

*10. In any case, the impugned orders have far reaching civil consequences and in our view the Collector should have caused inquiry before resorting to the drastic step of terminating the services of the petitioners. Admittedly no inquiry is conducted by the Collector and for this reason also the impugned termination orders are unsustainable."*

4. It is also pointed out that High Court Observations in W.P. No. 2646/2021 decided on 06.08.2021 and in para no. 7 on P.B., Pg. No. 60 which is reproduced below:-

*“The conduct of the petitioner, who was appointed in the year 1994 on a reserved seat and who applied for validation of her claim in the year 2021, after about 20 years or so, (Act of 2000 came into force in May 2001), shows that she did not do her duty so necessary to claim protection of Section 10 of the Act of 2000.”*

5. The Id. counsel for the applicant has also placed on record W.P. No. 2646/2021 decided on 28.07.2021. It is also taken on record. Copy is served to the other side.

6. Considering all these, **termination order dated 02.07.2021 (Annexure-A-14, P.B., Pg. No. 40) is stayed till filing of the reply.**

7. Hon'ble High Court has also directed Respondent no. 4 to decide the applicant's Caste expeditiously.

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

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

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

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

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

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

14. S.O. four weeks.

15. Steno copy is granted.

Date:-11/08/2021.

aps.

ViceChairman

**C.P.22/2020inO.A.No.541/2016 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman**  
**Dated : 11/08/ 2021.**

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

2. The Id. counsel for the applicant has filed G.R. dated 03.05.2021 at P.B., Pg. No. 53 to 55 (both inclusives). On P.B., Pg. No. 54 all the benefits have been decided by the Government; only disbursement of monetary benefits is awaited. The Id. P.O. has filed letter dated 10.08.2021, as per this letter; the Deputy Director, Health Services, Akola submits that out of 09 and one more applicant, 02 applicants have been already disbursed the monetary benefits and department is in the process of giving monetary benefits to other applicants too.

3. As submission made by the Id. P.O., it is expected to disburse the amount of other applicants within one month. **S.O. 08.09.2021.**

**Vice Chairman**

**Date:-11/08/2021.**  
aps.

**O.A.No.223/2018 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman**  
**Dated : 11/08/ 2021.**

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

2. At the request of Id. P.O., **S.O. 27.08.2021.**

**Vice Chairman**

**Date:-11/08/2021.**  
aps.



**O.A.No. 224/2018 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman**  
**Dated : 11/08/2021.**

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

2. At the request of Id. P.O., **S.O. 27.08.2021.**

**Vice Chairman**

**Date:-11/08/2021.**  
aps.

**O.A.No.561/2020 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman**  
**Dated : 11/08/2021.**

Heard Shri R.M.Tahaliyani, the Id. Counsel for the applicant and Shri A.P.Potnis, the Id. P.O. for the Respondents.

2. At the request of Id. P.O., **S.O. 27.08.2021.**

**Vice Chairman**

**Date:-11/08/2021.**  
aps.

**O.A.No.651/2021 (D.B.)**

**Coram : Shri Shree Bhagwan, Vice Chairman  
Dated : 11/08/ 2021.**

**C.A.No.232/2021:-**

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

2. **C.A.No.232/2021 for Jt. O.A. is allowed.**

3. The matter pertains to filling of the post of Maharashtra Nursing Posts. The Id. counsel for the applicant submits that against the total posts, 90% of seats have been reserved for female candidates and 10% are reserved for male candidates.

4. Issue notice to Respondents, returnable on 18.08.2021. Learned C.P.O. waives notice for R-1. Hamdast allowed.

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

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

7. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal

(Procedure) Rules,1988, and the questions such as limitation and alternate remedy are kept open.

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

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

10. **S.O. 18.08.2021.**

11. **Steno copy is granted.**

**Vice Chairman**

**Date:-11/08/2021.**

aps.

**O.A.No.668/2021 (S.B.)**

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

**Dated : 11/08/2021.**

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

2. The applicant was transferred vide dated 29.07.2021 (Annexure-A-1, P.B., Pg. No. 21) and name appears at Sr. No. 6 which relates to the Co-operative Department and she has been completed her tenure. However, she has requested for choice at P.B., Pg. No. 28 to another office of Yavatmal only and reason given is that two sons which are studying in 10<sup>th</sup> and 12<sup>th</sup>. Her transfer is made in mid-academic session and as per relief clause 8 (ii) asked by the applicant, in view of academic necessity of applicant's children, direct the respondents authorities to accommodate her in existing vacant post in the office of District Deputy Registrar, Taluka Yavatmal. The Id. counsel for the applicant further submits that the said post is still vacant.

3. In view of vacant post and applicant's request at P.B., Pg. No. 28, **the transfer order dated 29.07.2021 to the extent of applicant is stayed till filing of the reply. Respondents are directed to consider the request of the applicant as per relief clause 8 (ii).**

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

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

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

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

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

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

10. **S.O. four weeks.**

11. **Steno copy is granted.**

**Vice Chairman**

**Date:-11/08/2021.**

aps.

**O.A.No.662/2021 (S.B.)**

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

**Dated : 11/08/2021.**

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

2. The Id. counsel for the applicant is aggrieved with transfer order dated 08.08.2021 (Annexure-A-1, P.B., Pg. No. 11) in which his name appears at Sr. No. 38. In his transfer order; C.S.B. meeting dated 08.08.2021 is mentioned, however, nothing is on record. Admittedly, applicant is completed his tenure and given his choice as per Government G.R. dated 09.04.2018 on P.B., Pg. Nos. 52 & 53 (Annexure-A-5). The Id. counsel for the applicant further submits that out of his 10 choices not a single choice is considered and nobody is posted at his place. The Id. P.O. pointed that as per Rule, out of his 10 choices, there are 03 choices are from Wild Life and 01 is for from Social Forestry.

3. The Id. counsel for the applicant has also filed G.R. dated 22.05.2017 (Annexure-A-6, P.B., Pg. No. 54 & 61) and in this G.R. Government has taken policy decision regarding transfer of various posts in the department. In the said G.R. of 22.05.2017 on P.B., Pg. No. 56 from point nos. 5, 6, 7 & 8 seems to be not considered for the applicant; particularly point no. 6 is fully covered by the choice given by the applicant.

4. In view of this situation, transfer order dated 08.08.2021 (A-A-1, P.B., Pg. No. 11) is stayed to the extent of applicant till filing of the reply. Respondents should ensure to place on record; minutes of meeting of C.S.B. dated 08.08.2021 which is mentioned in the transfer order.

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

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

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

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

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

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

11. **S.O. three weeks.**

12. **Steno copy is granted.**

**Date:-11/08/2021.**

aps.

**Vice Chairman**

**O.A.No.660/2021 (S.B.)**

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

**Dated : 11/08/2021.**

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

2. The applicant is *Physically Challenged* person and he has been appointed in the co-operative department on the basis of *physically challenged* candidate category. He is posted at Tumsar and admittedly as per para no. 4.3 of P.B., Pg. No. 3 of the O.A., he has completed his tenure at Tumsar which is also a Naxal and Tribal Affected Area. Applicant has given choices on P.B., Pg. No. 26. The Id. counsel for the applicant further relies on G.R. dated 09.04.2018 (A-A-4, Pg. No. 30). In the said G.R. at Pg. No. 42 point no. 1 specific category has been carved out of Government Employees who are *physically challenged* employees and it has also been mentioned in the said G.R. that as per choice submitted by the said employee; considering the administrative convenience and availability of post, as per the convenience of the applicant posting should be done.

3. Since applicant has been admitted that he has completed his tenure. So, he has not challenged transfer order, he is only aggrieved with the transfer order dated 09.08.2021 (A-A-1, Pg. No. 13). Civil Services Board meeting is also mentioned in the order dated 09.08.2021, however nothing is on the record.

4. Considering the special category of applicant, **the transfer order dated 09.08.2021 (A-A-1, Pg. No. 13) is stayed to the extent of applicant till filing of the reply along with minutes of meeting of C.S.B. dated 09.08.2021.** Meanwhile, applicant is also submitted representation dated 30.07.2021 (Annexure-A-3, P.B., Pg. No. 25) and representation dated 09.08.2021 (Pg. No. 28). He has also submitted his certificate of *physically challenged* which is at P.B., Pg. No. 27. Respondents are at liberty to consider the representation of the applicant dated 30.07.2021 (Annexure-A-3, P.B., Pg. No. 25) and representation dated 09.08.2021 (Pg. No. 28) before filing of the reply.

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

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

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

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

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

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

11. **S.O. three weeks.**

12. **Steno copy is granted.**

**Vice Chairman**

**Date:-11/08/2021.**

aps.

**O.A.No.661/2021 (S.B.)**

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

**Dated : 11/08/2021.**

Heard Shri G.K.Bhusari, the Id. Counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the State.

2. The applicant has been transferred vide order dated 09.08.2021 (A-A-10, Pg. No. 44) from Agricultural Officer, Yavatmal to Buldana. The Id. counsel for the applicant has filed service copy of the applicant which is at Pg. No. 14 and D.O.B. is mentioned as 01.07.1964. Now applicant is having less than one year to superannuate and retire. He has submitted his application dated 01.07.2021 (A-A-6, Pg. No. 38) requesting that since his retirement period is less than one year; so he should be exempted from transfer during transfer season 2021; the same has been forwarded by C.E.O., Z.P., Yavatmal to Commissioner Agriculture, Pune vide letter dated 17.06.2021 (Pg. No. 35). The General Policy of Government is also related to the employees who are having less than one year of service either they should exempted from transfer or if at all they have been transferred they should be transferred at their choice posting.

3. In view of discussions in above para, **transfer order dated 09.08.2021(A-A-10, Pg. No. 44) of the applicant is stayed till filing of the reply along with minutes of meeting of C.S.B. which is not mentioned in the transfer order.**

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

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

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

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

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

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

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

11. **Steno copy is granted.**

**Vice Chairman**

**Date:-11/08/2021.**

aps.

**O.A.No.664/2021 (S.B.)**

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

**Dated : 11/08/2021.**

Heard Shri S.N.Gaikwad, the Id. Counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the State.

2. The applicant is admitted that he has completed his tenure and he further pointed out that transfer order dated 06.08.2021 (A-A-2, Pg. No. 12) (typographically it is mentioned that the order is of 2019 but actually the order year is of 2021). Applicant name appears at Sr. No. 5 and he has been transferred from Washim to Yavatmal. The Id. counsel for the applicant further submits that there is no whisper of G.R. dated 09.04.2018 and nowhere mentioned of any C.S.B. meeting.

3. In view of this situation, **transfer order dated 06.08.2021 (A-A-2, Pg. No. 12) is stayed to the extent of applicant which is at Sr. No. 5 till filing of the reply** along with relevant documents which respondents desires to place before the Tribunal.

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

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

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

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

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

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

10. S.O. three weeks.

11. Steno copy is granted.

Date:-11/08/2021.

aps.

Vice Chairman

**O.A.No.665/2021 (S.B.)**

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

**Dated : 11/08/2021.**

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

2. The applicant is an employee of Women Welfare and Child Development Department and applicant has been transferred from Nagpur to Buldhana by the order dated 09.08.2021 (A-A-6, Pg. No. 20). Aggrieved with this order, applicant has been approached to this Tribunal. As submitted by Id. counsel for the applicant, applicant is given application to Nagpur Office dated 27.04.2021 (A-A-1, Pg. No. 9) that she was under pregnancy and tentative date of her delivery was 20.04.2021. She has also attached birth certificate of baby which is at A-A-2, Pg. No. 12. The Id. counsel for the applicant has also relied upon letter issued by Women and Child Development Department, Pune dated 27.04.2021 (A-A-3, Pg. No. 11) in which detailed guidelines were given and asked the Officer to follow G.R. dated 09.04.2018.

3. Considering the case of the applicant, where she has delivered a child and under maternity leave, transferring the applicant will cause problems to her family. In view of this situation, **the transfer order dated 09.08.2021 (A-A-6, Pg. No. 20) is stayed to the extent of applicant till filing of the reply.**

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

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

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

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

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

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

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

11. **Steno copy is granted.**

**Vice Chairman**

**Date:-11/08/2021.**

aps.

**O.A.No.667/2021 (S.B.)**

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

**Dated : 11/08/ 2021.**

Heard Shri A.K.Neware, the Id. Counsel for the applicant and Shri A.M.Ghogre, the Id. P.O. for the State.

2. The applicant has been transferred vide order dated 09.08.2021 (A-A-7, Pg. No. 41) from Gondia District, Nagpur Division to Jalgaon District, Nashik Division. The applicant is Legal Advisor (Group-B, Non-Gazetted) post as per document on Pg. No. 38. Admittedly, applicant has completed 08 years, 02 months and 12 days on the same post and she has joined there on 19.03.2013. The Id. counsel for the applicant has relied on G.R. dated 09.04.2018 and in point no. 1 it is mentioned as below:-

“e=ky; hu l oxzo jkT; 'kkI dh; xV&v e/khy vf/kdkjh oxGw jkT; 'kkI dh; xV&c e/khy vf/kdkjh] rI p xV&d o xV&M e/khy deplk; ; kuk I eij nskuknkj scnyhps/kj .k ykxngkby-

Cnyh vf/kfu; e 2005 e/hu i kfyI nykrhy deplk; ; kuk oxG.; kr vkysvl Y; keGs; k deplk; ; kuk I eij nskuknkj scnyhps /kj .k ykxngkklj ukgh-”

3. As per the above guidelines, applicant can be retained in the same division for 09 years; since applicant is yet to complete 09 years. Applicant is aggrieved with this transfer order dated 09.08.2021 (A-A-7, Pg. No. 41) and approached to this Tribunal. However, Id. P.O. has pointed out order dated 09.08.2021 (Annexure-A-7, P.B., Pg. No. 41), by this order Shri Gautam Tilaksingh Vinodsingh has been posted in the place of applicant from Yavatmal to Gondia.

4. The Id. P.O. is not aware that whether this persons are relieved or not and he is not before this Tribunal. Since he has not made party. In view of this situation, **status-quo is granted as on today to order dated 09.08.2021 (A-A-7, Pg. No. 41) till filing of the reply.**

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

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

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

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

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

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

11. **S.O. three weeks.**

12. **Steno copy is granted.**

**Vice Chairman**

**Date:-11/08/2021.**

aps.

**O.A.No.663/2021 (S.B.)**

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

**Dated : 11/08/2021.**

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

2. The applicant is aggrieved with transfer order dated 09.08.2021 (A-A-2, Pg. No. 28) and approached to this Tribunal. Applicant name appears at Sr. No. 36; where he has been transferred from Hingna to Kalmeshwar. The Id. counsel for the applicant further submits the document dated 11.08.2021 which is marked Exh. 'X' for the purpose of identification. As per this letter at Kalmeshwar there are two posts and both the posts of Medical Officer (Group-A) are already filled; there are not a single post vacant for Medical Officer (Group-A). The Id. P.O. has also pointed out letter dated 19.07.2021 (Pg. No. 47) by C.E.O., Z.P., Nagpur. However, it is difficult to understand that how applicant will join at Kalmeshwar if both the posts are already filled.

3. In view of this situation, **transfer order dated 09.08.2021 (A-A-2, Pg. No. 28) is stayed to the extent of applicant till filing of the reply.**

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

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

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

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

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

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

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

11. **Steno copy is granted.**

**Vice Chairman**

**Date:-11/08/2021.**

aps.

**O.A.No.648/2021 (S.B.)**

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

**Dated : 11/08/ 2021.**

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

2. The impugned order is dated 08.08.2021 (A-A-1, Pg. No. 14) where applicant's name appears at Sr. No. 26 . Aggrieved by this order, applicant has approached to this Tribunal. In the Transfer order at Sr. No. 4; Civil Services Board meeting is mentioned as 08.08.2021. However, same is not on record. As pointed out by Id. counsel for the applicant, Respondent no. 2 vide letter dated 30.04.2021 (A-A-3, Pg. No. 27) has given guidelines vide his circular dated 30.04.2021 and as per Pg. No. 28, Sr. No. 3 following guidelines is given:-

"3- ouiky l oxkzhy tsdepljh ol; tho] l kekftd ouhdj.k fdok vdk; Zlkjh 'kk[kr' dkk; jr vkgz o inko/th i wkZ >kyyk vkgz R; kkk i knf'kd 'kk[kr' cnyhusi nLFki uk ns; kr ; koth"

3. The applicant has completed his tenure at present posting which is considered to be non-functional post. Applicant has also given choice at Pg. No. 29 (A-A-4). The Id. counsel for the applicant submits that none of his choice has been considered.

4. In view of this situation, **transfer order dated 08.08.2021 (A-A-1, Pg. No. 14) is stayed to the extent of applicant till filing of the reply along with minutes of meeting of C.S.B.** The Id. counsel for the applicant has further relied in O.A. No. 586/2019 of MAT, Mumbai Bench Judgment where elaborate extension has been given in para nos. 6 & 7 of the said Judgment.

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

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

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

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

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

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

11. **S.O. three weeks.**

12. **Steno copy is granted.**

**Date:-11/08/2021.**

aps.

**Vice Chairman**

**O.A.No.656/2021 (S.B.)**

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

**Dated : 11/08/2021.**

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

2. The applicant has been transferred from Nagpur to Nashik. The applicant is working in Agriculture Department and she has been transferred from Nagpur To Nashik by order dated 29.07.2021 (A-A-3, Pg. No. 17). Aggrieved with this order, she has approached to this Tribunal. As pointed out by Id. counsel for the applicant G.A.D., Circular dated 27.11.1997 (A-A-1, Pg. No. 11) in para no. 1-B; It is mentioned that for keeping the husband and wife at one place it should be treated exceptional transfer. As submitted by Id. counsel for the applicant, applicant's husband is also working in Government Medical College, Nagpur and as per his application dated 30.07.2021 (A-A-5, Pg. No. 22) husband is working in Covid-19 ward in Medical College. Government G.R. was issued on 29.07.2021 (A-A-3, Pg. No. 17); according to that transfer of only 15 % employees are permitted till 31.07.2021 due to Covid-19 situation. However, on the same date i.e. on 29.08.2021 (A-A-3, Pg. No. 19) another G.R. was issued and in para no. 1, it is mentioned that 25% employees are permitted to transfer. The grievance of the applicant is that since Government within same date percentage of transfer of employees are changed from 15% to 25%. There are many vacancy created at Nagpur and in view of G.R. dated 27.11.1997 (A-A-1, Pg. No. 11) clause 1-B; since applicant's husband is working in Medical College, Nagpur, she should be accommodated at vacant post of Nagpur only.

3. In view of this situation, **the transfer order of applicant dated 29.07.2021 (A-A-3, Pg. No. 17) is stayed till filing of the reply.** Meanwhile, respondents are directed to decide the representation of the applicant dated 30.07.2021 (A-A-5, Pg. No. 22) as per G.R. dated 29.07.2021 (A-A-4, Pg. No. 19). Since, applicant has submitted his representation dated 30.07.2021 (A-A-5, Pg. No. 22) in the interest of justice, respondents should decide the representation before filing of the reply.

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

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

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

**Date:-11/08/2021.**  
aps.

**Vice Chairman**

**O.A.Nos.657&658/2021 (S.B.)**

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

**Dated : 11/08/2021.**

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

2. The applicant was transferred vide order dated 06.08.2021 (A-A-4, Pg. No. 23) from Chikaldara to Amravati by Director/ Commissioner, Health Services and in subject line it is mentioned that Maharashtra Medical and Health Services (Group-B). The main grievance of the applicant is that he is Group-A, Medical Officer and his transferring authority is Government.

3. The Id. counsel for the applicant has pointed out that in O.A. No. 254/2015 in that O.A. also both these applicants i.e. Satish Govindrao Pradhan and Rajendra Ramkrishna Rahate were party and Judgment in O.A. Nos. 254/2015 and 350/2015 was disposed of by common order which was delivered on 06.01.2016 and both the O.As. were allowed and in para no. 13 it was observed that the order dated 31.05.2014 *qua* the applicants passed by the Director of Health Services, Mumbai transferring them, assuming that they are Group-B Medical Officers is quashed and set aside. In that order of MAT, respondents were made it clear that applicant are Group-A officer. Now, after having this order of MAT it seems from the record that on Pg. No. 20 (A-A-2), Dr. Satish Pradhan was given additional charge vide order dated 01.01.2013 by Government G.R. and not by Director/Commissioner. The impugned order dated in O.A. No. 658/2021 is 06.08.2021 (A-A-4, Pg. No. 23) and O.A. No. 657/2021 is 06.08.2021 (A-A-4, Pg. No. 23) are from Director/Commissioner, Health Services. So, the main grievance of the applicant is that they have been transferred by the authority who is not competent to transfer them.

4. In view of this situation, **the order dated 06.08.2021 (A-A-4, Pg. No. 23) is stayed till filing of the reply.**

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

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

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

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

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

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

11. **S.O. three weeks.**

12. **Steno copy is granted.**

**Vice Chairman**

**Date:-11/08/2021.**

aps.

**O.A.No.649/2021 (S.B.)**

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

**Dated : 11/08/ 2021.**

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

2. The impugned order is dated 08.08.2021 (A-A-1, Pg. No. 15) where applicant's name appears at Sr. No. 12. Aggrieved by this order, applicant has approached to this Tribunal. In the Transfer order at Sr. No. 12; Civil Services Board meeting is mentioned as 08.08.2021. However, same is not on record. As pointed out by Id. counsel for the applicant, Respondent no. 2 vide letter dated 30.04.2021 (A-A-3, Pg. No. 28) has given guidelines vide his circular dated 30.04.2021 and as per Pg. No. 29, Sr. No. 3 following guidelines is given:-

"3- ouiky l oxkzhy tsdepljh ol; tho] l kekftd ouhdj.k fdok vdk; Zlkjh 'kk[kr' dkk; jr vkgz o inko/th i wkZ >kyyk vkgz R; kkk i knf'kd 'kk[kr' cnyhusi nLFki uk ns; kr ; kot-"

3. The applicant has completed his tenure at present posting. Applicant has also given choice at Pg. No. 58 (A-A-7). The Id. counsel for the applicant submits that none of his choice has been considered.

4. In view of this situation, **transfer order dated 08.08.2021 (A-A-1, Pg. No. 15) is stayed to the extent of applicant till filing of the reply along with minutes of meeting of C.S.B.** The Id. counsel for the applicant has further relied in O.A. No. 586/2019 of MAT, Mumbai Bench Judgment where elaborate extension has been given in para nos. 6 & 7 of the said Judgment.

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

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

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

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

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

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

11. **S.O. three weeks.**

12. **Steno copy is granted.**

**Date:-11/08/2021.**

aps.

**Vice Chairman**

**O.A.No.655/2021 (S.B.)**

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

**Dated : 11/08/2021.**

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

2. The impugned order is dated 09.08.2021 (A-A-1, Pg. No. 14) where applicant's name appears at Sr. No. 23. Aggrieved by this order, applicant has approached to this Tribunal. In the Transfer order at Sr. No. 4; Civil Services Board meeting is mentioned as 08.08.2021. However, same is not on record.

3. The applicant has completed his tenure at present posting. Applicant has also given choice at Pg. No. 16 (A-A-2). The Id. counsel for the applicant submits that none of his choice has been considered.

4. In view of this situation, **transfer order dated 09.08.2021 (A-A-1, Pg. No. 14) is stayed to the extent of applicant till filing of the reply along with minutes of meeting of C.S.B.** The Id. counsel for the applicant has further relied in O.A. No. 586/2019 of MAT, Mumbai Bench Judgment where elaborate extension has been given in para nos. 6 & 7 of the said Judgment.

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

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

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

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

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

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

11. **S.O. three weeks.**

12. **Steno copy is granted.**

**Vice Chairman**

**Date:-11/08/2021.**

aps.

**O.A.No.659/2021 (S.B.)**

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

**Dated : 11/08/2021.**

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

2. The impugned order is dated 09.08.2021 (A-A-1, Pg. No. 13) where applicant's name appears at Sr. No. 88. Aggrieved by this order, applicant has approached to this Tribunal. In the Transfer order at Sr. No. 4; Civil Services Board meeting is mentioned as 08.08.2021. However, same is not on record.

3. The applicant has completed his tenure at present posting. Applicant has also given choice at Pg. No. 18 (A-A-2). The Id. counsel for the applicant submits that none of his choice has been considered.

4. In view of this situation, **transfer order dated 09.08.2021 (A-A-1, Pg. No. 13) is stayed to the extent of applicant till filing of the reply along with minutes of meeting of C.S.B.** The Id. counsel for the applicant has further relied in O.A. No. 586/2019 of MAT, Mumbai Bench Judgment where elaborate extension has been given in para nos. 6 & 7 of the said Judgment.

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

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

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

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

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

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

11. **S.O. three weeks.**

12. **Steno copy is granted.**

**Vice Chairman**

**Date:-11/08/2021.**

aps.

**O.A.No.653/2021 (S.B.)**

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

**Dated : 11/08/2021.**

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

2. The impugned order is dated 08.08.2021 (A-A-1, Pg. No. 13) where applicant's name appears at Sr. No. 34. Aggrieved by this order, applicant has approached to this Tribunal. In the Transfer order at Sr. No. 4; Civil Services Board meeting is mentioned as 07.08.2021. However, same is not on record.

3. The applicant has completed his tenure at present posting. Applicant has also given choice at Pg. No. 45 (A-A-4). The Id. counsel for the applicant submits that none of his choice has been considered.

4. In view of this situation, **transfer order dated 08.08.2021 (A-A-1, Pg. No. 13) is stayed to the extent of applicant till filing of the reply along with minutes of meeting of C.S.B.** The Id. counsel for the applicant has further relied in O.A. No. 586/2019 of MAT, Mumbai Bench Judgment where elaborate extension has been given in para nos. 6 & 7 of the said Judgment.

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

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

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

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

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

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

11. **S.O. three weeks.**

12. **Steno copy is granted.**

**Vice Chairman**

**Date:-11/08/2021.**

aps.

**O.A.No.654/2021 (S.B.)**

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

**Dated : 11/08/2021.**

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

2. The impugned order is dated 08.08.2021 (A-A-1, Pg. No. 13) where applicant's name appears at Sr. No. 19. Aggrieved by this order, applicant has approached to this Tribunal. In the Transfer order at Sr. No. 4; Civil Services Board meeting is mentioned as 07.08.2021. However, same is not on record.

3. The applicant has completed his tenure at present posting. Applicant has also given choice at Pg. No. 19 (A-A-3). The Id. counsel for the applicant submits that none of his choice has been considered.

4. In view of this situation, **transfer order dated 08.08.2021 (A-A-1, Pg. No. 13) is stayed to the extent of applicant till filing of the reply along with minutes of meeting of C.S.B.** The Id. counsel for the applicant has further relied in O.A. No. 586/2019 of MAT, Mumbai Bench Judgment where elaborate extension has been given in para nos. 6 & 7 of the said Judgment.

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

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

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

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

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

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

11. **S.O. three weeks.**

12. **Steno copy is granted.**

**Vice Chairman**

**Date:-11/08/2021.**

aps.