

O.A. 813/2020 (S.B.)

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

Dated : 01/03/2021.

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

2. The Id. P.O. files reply of R-3. It is taken on record. Copy is given to the Id. counsel for the applicant. The Id. P.O. submits that reply of R-3 is sufficient to decide the O.A. Hence, the O.A. is admitted and it be kept for final hearing.

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

S.O. after three weeks.

Interim relief to continue till then.

Vice-Chairman

dnk.

O.A. 814/2020 (S.B.)

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

Dated : 01/03/2021.

Heard Shri R.V. Shiralkar, Id. counsel for the applicant and Shri A.M. Khadatkar, Id. P.O. for R-1 to 3. None for R-4.

2. The learned P.O. submits that due to lockdown in Amravati, he will file reply within one week. He further submits that the matter may be admitted for final hearing.

3. As submitted by the Id. P.O., the O.A. is admitted and it be kept for final hearing. In the meantime, he must file reply on the next date.

4. The Id. P.O. waives notice for respondent nos. 1 to 3.

S.O. after three weeks.

Interim relief to continue till then.

Vice-Chairman

dnk.

O.A. 05/2021 (S.B.)

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

Dated : 01/03/2021.

Heard the applicant in person and Shri A.M. Khadatkar, Id. P.O. for the respondents.

2. The learned P.O. submitted that the suspension order is dated 3/11/2020 (A-1,P-12) and therefore he desires to take instructions from the Department in this regard and for that purpose he seeks one week time.

3. At the request of Id. P.O., **S.O. one week.**

Vice-Chairman

dnk.

(S.B.)

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

Dated : 01/03/2021.

**MCA No. 14/2020 in MCA 15/2020 in C.A.
314/2017 in O.A. 251/2017 -**

Heard Ms. S.M. Tripathi, Id. counsel holding for Shri D.I. Charlewar, Id. counsel for the applicant and Shri A.M. Khadatkar, Id. P.O. for the State.

2. As submitted by the learned P.O. the matter was dismissed in default on 14th September,2018 due to non appearance of the applicant on earlier three occasions. It appears that there is a delay of 528 days. The learned counsel for the applicant has filed MCA No. 14/2020 to condone the delay of 528 days.

3. In this situation, issue notice on MCA No. 14/2020 returnable **after six weeks.**

4. The learned P.O. waives notice for the State. Hamdast granted.

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

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

of hearing duly authenticated by Registry, along with complete paper book of the O.A.

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

8. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with an affidavit of compliance in the Registry as far as possible once week before the date fixed by this Tribunal. Applicant is directed to file Affidavit of compliance and notice.

9. **S.O. after six weeks.**

Vice-Chairman

dnk.

O.A. 661/2020 (S.B.)

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

Dated : 01/03/2021.

Shri S.N. Gaikwad, 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. three weeks** for filing reply.

Vice-Chairman

dnk.

O.A. 164/2020 (S.B.)

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

Dated : 01/03/2021.

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

S.O. four weeks.

Vice-Chairman

dnk.

O.A. 171/2021 (S.B.)

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

Dated : 01/03/2021.

Heard Shri K. Jondhale, Id. counsel holding for Shri M.P. Kariya, Id. counsel for the applicant and Shri A.M. Khadatkar, Id. P.O. for the State.

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

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

Vice-Chairman

dnk.

(S.B.)

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

Dated : 01/03/2021.

**O.A. Nos. 483/18, 255/19, 256/19, 257/19,
258/19 & O.A.02/21 with C.A. 01/21.**

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

S.O. three weeks.

Vice-Chairman

dnk.

O.A. 81/2018 (S.B.)

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

Dated : 01/03/2021.

Heard Shri K. Jondhale, Id. counsel holding for Shri M.P. Kariya, Id. counsel for the applicant and Shri A.M. Khadatkar, Id. P.O. for the respondents.

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

Vice-Chairman

dnk.

O.A. 992/2019 (S.B.)

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

Dated : 01/03/2021.

None for the applicant and Shri A.M.
Khadatkar, Id. P.O. for the respondents.

S.O. three weeks.

Vice-Chairman

dnk.

O.A. Nos. 822 & 975 of 2020 (S.B.)

Coram: Shri Shree Bhagwan,
Vice-Chairman.

Dated : 01/03/2021.

COMMON ORDER

Heard Shri S.P. Palshikar, Id. counsel for the applicants, Shri M.I. Khan, Id. P.O. in O.A.822/2020 and Shri A.M. Ghogre, Id. P.O. in O.A. 975/2020 for the respondents.

2. Both the O.As. are heard together and decided by this common order.

3. In O.A. 822/2020, the applicant Shri O.R. Thakur was placed under suspension vide order dated 4/6/2016 (A-3,P-20), but actually effect of suspension period was from 14/6/2016 (as it was received by the applicant on this date) and that was continued till 30/4/2017. The applicant's previous suspension period from 26/6/2013 to 11/9/2015 was not challenged before this Tribunal and the applicant was reinstated without intervention of the Tribunal.

4. In O.A. 975/2020, the applicant Shri C.O. Thakur was placed under suspension vide order dated 4/6/2016 (A-2,P-19). As per the correspondence dated 1/12/2019 (A-1,P-18) the applicant's first suspension period was from 19/7/2013 to 11/9/2015 and second suspension period was from 14/6/2016 to 1/5/2017. In this case the first suspension period from 19/7/2013 to 11/9/2015 was revoked by the Department itself without intervention of the Tribunal.

5. Both the O.As. were heard together in O.A.Nos. 406/2016 and 407/2016 and order was passed by this Tribunal on 28/2/2017 on page nos.31&32 (in O.A.975/2020), which is reproduced below –

“ (i) The O.As. are allowed.

(ii) The impugned order dated 4/6/2016 passed by respondent no.3 is quashed and set aside.

(iii) The respondent no.3 is directed to reinstate the applicants in service, with immediate effect.

(iv) The order dated 3/3/2016 passed by respondent no.2 so far as it relates to direction to initiate fresh preliminary enquiry is quashed and set aside.

(v) No order as to costs”.

6. So, in the said order of the Tribunal, the order dated 4/6/2016 passed by the respondent no.3 was quashed and set aside and order dated 3/3/2016 passed by the respondent no.2 so far as it relates to direction to initiate fresh preliminary enquiry was also quashed and set aside.

7. As submitted by the learned counsel, against both the applicants the case was registered in the Session Judge Court, Gadchiroli (Annex-A-6,P-35) and order was passed on 25/4/2017 and both the applicants were acquitted under various sections as per order on P-70 which is reproduced below –

“ (1) Accused (1) Omprakash Rikhdevsinh Thakur, aged about 49 years, Occ. Service and (2) Chandan Omprakash Thakur aged about 23 years, Occ. Service, both r/o MIDC Road, Complex, Gadchiroli are hereby acquitted under Section 235 (1) of Cr. P.C. of the offences punishable u/ss. 409,201,122 r/w 34,409,201, 122 r/w 120-B of the IPC, Sec.5 of Indian Explosive Substances Act,3/25, 7/25 of Arms Act.

(2) Their bail bonds shall stand cancelled.

(3) The accused nos. 1&2 are directed to execute bail bonds in the amount of Rs.50,000/- each, with surety in equal amount with undertaking to appear before the appellate Court when such Court issues notice in respect of any appeal or petition filed against the Judgement and such bail bonds shall be in force for six months as per provisions of section 437-A of Cr.P.C.

(4) Muddemal property vide MP no.75/15 be returned to Police Station, Gadchiroli after the appeal period is over.

(5) Dictated and pronounced in open Court.”

8. The learned counsel for the applicants further submits that against this Judgement of Sessions Judge, Gadchiroli, no appeal was preferred before the Hon'ble High Court and this Judgment has attained the finality.

9. In view of the Judgment of this Tribunal in O.A.Nos. 406/2016 and 407/2016 delivered on 28/2/2017 and Sessions Judge, Gadchiorli Judgment delivered on 25/4/2017, both the applicants' suspension period has become illegal and they should have been treated as on duty period during that suspension period. After the Sessions Judge, Gadchiroli Judgment dated 25/4/2017 and Tribunal's Judgment dated 28/2/2017, it is absolutely illegal to pass the impugned order dated 16/10/2019 in

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O.A.822/2020 (A-5, P-34) and in O.A. 975/2020 (A-4, P-33) by the respondent no.2, i.e. the S.P., Gadchiroli.

10. After the Judgment dated 28/2/2017 passed by this Tribunal and Judgment dated 25/4/2017 passed by the Sessions Judge, Gadchiroli, the impugned order has been passed after two and half years which can be always considered bad in law in any Court. It is also observed that executives with powers must consider and take into account all the previous judicial orders and it's background before passing any such illegal orders.

11. In view of above discussions, it appears that the impugned order dated 16/10/2019 in O.A.822/2020 (A-5, P-34) and in O.A. 975/2020 (A-4, P-33) passed by the respondent no.2, i.e. the S.P., Gadchiroli are illegal and bad in law. Hence, the following order –

ORDER

- (i) The O.A. Nos. 822/2020 and 975/2020 are allowed.
- (i) The impugned orders dated 16/10/2019 in O.A.822/2020 (A-5, P-34) and in O.A. 975/2020 (A-4,P-33) passed by the respondent no.2 are quashed and set aside and the applicants be treated as on duty during that period and they should be paid salary for the period deducting the payment already paid to them.
- (iii) The order be complied within 45 days from the date of receipt of this order.
- (iv) No order as to costs.

Vice-Chairman

**dnk.

O.A.No.928/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 01/03/ 2021.

C.A.No.68/2021:-

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

2. The Id. counsel for the applicant has filed C.A. No. 68/2021 and prayer is to appoint the Court Commissioner to verify the video footage of the physical test held at Amravati i.e. exam conducted in respect of the applicant. The Id. P.O. desires three weeks time to file reply. Respondents are directed to file reply along with the evidences which they have and particularly the video footage of the said event.

3. As per C.A. para no. 4, applicant has approached to respondent no. 2 with the appeal; whether the applicant was given any chance that also should be clarified in the reply.

4. S.O. three weeks.

5. Steno copy is granted.

Vice Chairman

Date:-01/03/2021.

aps.

C.P.No.01/2021inO.A.No.879/2017 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 01/03/ 2021.

C.A.No.67/2021:-

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

2. The Id. counsel for the applicant has filed C.A. No. 67/2021 for passing appropriate order. The Id. P.O. desires to file reply on that. However, *Prima Facie* it appears that as per M.A.T. order dated 11.03.2020 in which following order was passed:-

"The application is partly allowed. The respondent no. 2 is directed to arrange the DPC for consideration of the case of the applicant in view of the directions issued in the G.R. dated 15.12.2017 in para-1(6) & 1(9). The decision shall be taken by the respondent no. 2 within a period of three months from the date of this order. No order as to costs."

3. While conducting DPC, the provisions of para nos. 1 (6) and 1 (9) have not been clearly observed according to the G.R. dated 15.12.2017. As per the letter filed by Special I.G. (Establishment), D.G. office, Mumbai, through Id. P.O. on dated 03.02.2021 and in para no. 2, it is mentioned that para 1(6) and 1(9) of the G.R. dated 15.12.2017 must be considered. But in para no. 3, it is not clear that what point was considered in para nos. 1 (6) and

1(9) and what is the situation of the sealed envelope related to the promotion of the applicant. The Id. P.O. is directed to take care of these points while filing the reply and explicitly it should be clear that para nos. 1 (6) and 1 (9) of the G.R. dated 15.12.2017 has been followed or not?

4. S.O.22.03.2021.

5. Steno copy is granted.

Vice Chairman

Date:-01/03/2021.

aps.

O.A.No.66/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 01/03/ 2021.

Heard Shri S.M.Khan, the Id. Counsel for the applicant and Shri S.A.Deo, the Id. C.P.O. for the respondents.

2. At the request of Id. C.P.O., **S.O. 05.04.2021 to file reply.**

Vice Chairman

Date:-01/03/2021.
aps.

O.A.No.67/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 01/03/ 2021.

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

2. At the request of Id. C.P.O., **S.O. 05.04.2021 to file reply.**

Vice Chairman

Date:-01/03/2021.
aps.

O.A.No.709/2018 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 01/03/ 2021.

Heard Shri S.P.Palshikar, the Id. Counsel for the applicant and Shri P.N.Warjekar, the Id. P.O. for the respondents.

2. During hearing on 13.12.2019 in para no. 2 following observations were made:-

"The Id. P.O. submitted that the proposal is already forwarded to the A.G. (M.S.), Mumbai on 04.12.2019 along with the pension case of the applicant and four weeks time is required for compliance. The Id. P.O. has produced copy of the proposal forwarded by the Education Officer (Primary), Z.P., Sindhudurg to A.G., Mumbai."

3. Today, the Id. P.O. is not aware that what is the progress during one year and for that he requires time, he further submits that on 04.03.2021 he will take instructions and submit the same to the Tribunal.

4. **S.O. 04.03.2021.**

Vice Chairman

Date:-01/03/2021.
aps.

C.P.No.20/2020inO.A.No.696/2013 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 01/03/ 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. submits that bill was already submitted to the Treasury and he has got token number also. Now he expects that within 2-3 days bill will be cleared.

3. S.O. 08.03.2021 to take necessary instructions and factual position of the bill.

Vice Chairman

Date:-01/03/2021.
aps.

C.P.No.04/2021inO.A.No.899/2017 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 01/03/ 2021.

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

2. Issue Notice to the respondent Nos. 2 to 4 returnable in **six weeks** under Rule 8 of the MAT (Contempt of Courts) Rules, 1996 as to why they should not be proceeded for committing contempt of this Tribunal's order and as to why they shall not be punished under the Contempt of Court Act.

3. Shri A.M.Ghogre, the learned P.O. waives notice for respondent No. 1. Hamdast granted.

4. **S.O. six weeks.**

Vice Chairman

Date:-01/03/2021.

aps.