

O.A. 32/2020 (D.B.)

Coram: Shri Shree Bhagwan,
Vice-Chairman.

Dated : 13/07/2020.

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

2. The matter pertains to the Division Bench. However, with the consent of both the learned counsel for parties and in the background that issue is covered by the Judgment of the Principal Bench of MAT, Mumbai in O.A.No. 576/2015 decided by the Division Bench of MAT, Mumbai on 3/2/2016 (A-3,P-15) and in Review Application No.06/2016, dated 16/09/2016 (A-4,P-28) and the G.R. No. S-30/20185/pra.kra.176/F-8, Revenue and Forest Department, dated 28/05/2018 of the Government, it is heard and decided.

3. The learned P.O. desires time to file reply. However, since in the similar situation the Principal Bench of MAT, Mumbai has decided the O.A.No. 576 of 2015 and Review Application No. 06/2016 has been decided and on page no.28 in para nos.12&15 of the Review

Application, the following observations have been made –

“(12) Learned counsel for the applicants argued that the Recruitment Rules, viz. the Range Forest Officer in the Maharashtra Forest Service, Group B (Recruitment Rules), 1997 (notified on 6/4/1998) has rule 3 (b), which reads-

“(b) by nomination from amongst candidates who are selected for the Range Forest Officers’ training course, on the basis of result of competitive examination held by the commission in accordance with the rules made in this behalf from time to time and have successfully completed the training course”.

This rules is exact replica of Rule 3 (b) of the Assistant Conservator of Forest in the Maharashtra State Service, Group-A (Junior Scale) (Recruitment) Rules, 1998 (Notified on 12/8/1998). As per Rule 6 of the Recruitment rules, a person appointed as RFO by nomination shall be on probation for a period of three years including two years of training. This Rule 6 is also identical for RFOs and ACFs. Learned counsel for the applicants argued that probationary RFOs are also required to give a Bond to serve the Government for seven years after completion of training and an agreement that during training, they will be paid Rs.20,000/- p.m. Learned counsel for the applicants argued that under Rule 9 (43) of the Maharashtra Civil Services (Pay) Rules,1981 and Rule 9 (43) of the Maharashtra Civil Services (General Conditions of Service) Rules,1981, the applicants are entitled to get salary in the minimum of the pay scale of the post of RFO when they are sent for training. State Government has issued G.R. dated 9/5/2014 regarding salary to be paid to Group A and B Officers appointed by direct recruitment on the recommendations of the MPSC on the basis of the State Civil Services Examinations. It provides that during training period, the officers appointed on probation, Group A officers would get consolidated salary of Rs.30,000/- p.m. while Group B officers

would get Rs.20,000/- p.m. After completion of Probation period successfully, after adjusting salary already paid, the officers are also entitled to get arrears as per the pay scale attached to the post, to which they are appointed. Learned counsel for the applicants argued that the applicants are also entitled to be given difference in 'stipend' or consolidated monthly salary received by them during training / probation period.

(15) Having regard to the aforesaid facts and circumstances of the case, the applicants are entitled for treatment of period of training undergone by the applicants at Central Academy for State Forest Services (Coimbatore / Tamil Nadu) which is included as probation period for all purposes, including seniority and they are entitled to get salary and allowances, after deducting salary/stipend already paid to them, in the pay scale attached to the post of RFO, after successful completion of probation period as per relevant rules. This judgment has no bearing on any other service condition, especially terms of their probation. This Original Application is allowed accordingly with no order as to costs.”

4. Specifically Government has issued G.R. No. S-30/20185/pra.kra.176/F-8, Revenue and Forest Department, dated 28/05/2018 (A-5,P-42) after the decision in O.A.576/2015 of the M.A.T., Mumbai Bench on 3/2/2016 and decision of M.A.T., Principal Bench in Rev.A. 06/2016, dated 16/9/2016 is mentioned. in the para-3 of the said G.R. Vide this G.R. the Government has issued complete order passed by the M.A.T. Principal Bench at Mumbai. In view of these circumstances, in the interest of justice and equity, the respondent nos. 1&2 are directed to decide the matter of the applicants as per its

own G.R. No. S-30/20185/pra.kra.176/F-8, Revenue and Forest Department, dated 28/05/2018 and in the background of Judgment given by the Principal Bench of M.A.T., Mumbai in O.A.576/2015 on 3/2/2016 and also in Review Application No.06/2016 dated 16/9/2016 within a period of three months from the date of this order.

5. With this direction, the O.A. stands disposed of. No order as to costs.

dnk.

Vice-Chairman.

(D.B.)

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

Dated : 13/07/2020.

**C.A.No.498/19 in O.A.St. 2045/19, C.A. No.
500/2019 in O.A. St.2509/19**

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

2. The learned counsel for the applicants submitted that the reply has been filed in O.A. 16/2020 and same can be adopted in these matters. However, the learned P.O. submits that he has received parawise reply and desires time to file reply within one week.

At the request of Id. P.O., **S.O.
23/7/2020.**

Put up along with O.A.16/2020.

Vice-Chairman.

dnk.

O.A. 16/2020 (D.B.)

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

Dated : 13/07/2020.

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

S.O. 23/7/2020.

Put up along with O.A. St.Nos.2045/19
& 2509/19.

Vice-Chairman.

dnk.

O.A. Nos. 334,335 & 336 of 2020 (D.B.)

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

Dated : 13/07/2020.

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

2. The applicants are aggrieved with the order dated 3/3/2020 (A-1,P-18) by which their service conditions have been changes and they have been appointed on supernumerary post for 11 months from 1/1/2020 to 30/11/2020. The matters will be heard on 20/7/2020. In the meantime, the Id. CPO to file reply before the next date, if possible.

3. Issue notices to the respondents, returnable on **20/07/2020**. Learned C.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. 20/07/2020.

Vice-Chairman.

dnk.

O.A. 579/2017 (D.B.)

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

Dated : 13/07/2020.

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

S.O. after four weeks.

Vice-Chairman.

dnk.

O.A. 579/2017 (D.B.)

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

Dated : 13/07/2020.

Shri S.P. Palshikar, Id. counsel for the applicant and Shri S.A. Deo, Id. C.P.O. for the respondents.

S.O. after four weeks.

Vice-Chairman.

dnk.

O.A. 193/2019 (D.B.)

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

Dated : 13/07/2020.

Shri S.P. Palshikar, Id. counsel for the applicant and Shri S.A. Deo, Id. C.P.O. for the respondents.

S.O. after four weeks.

Vice-Chairman.

dnk.

O.A. 487/2018 (D.B.)

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

Dated : 13/07/2020.

Shri S.P. Palshikar, Id. counsel for the applicant and Shri S.A. Deo, Id. C.P.O. for the respondents.

The matter is part heard. The regular Division Bench is available on 20/07/2020, therefore, the matter be kept on that date.

S.O. 20/07/2020

Vice-Chairman.

dnk.

O.A.No.324/2020 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :13/07/ 2020.

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

2. The applicant is aggrieved by order dated 03.06.2020 (Annexure-A-19, P.B., Pg. No. 79). The Id. P.O. submits that he will take necessary instructions from the department.

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

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

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

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

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

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

9. **S.O. four weeks.**

Vice Chairman

Date:-13/07/2020.

aps.

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :13/07/ 2020.

Heard Shri M.R.Khan, the Id. Counsel for the applicant and Shri V.A.Kulkarni, the Id. P.O. for the State.

2. The applicant is aggrieved by the suspension order dated 04.09.2019 (Annexure-A-1, P.B., Pg. No.14) and modified order has been issued on 16.09.2019 (Annexure-A-2, P.B., Pg. No. 15). The Id. counsel for the applicant submits that no review committee has been taken against suspension order and it is against the G.R. dated 09.07.2019 by G.O.M., G.A.D.. However, the Id. P.O. desires to take instructions from the department. The Id. P.O. is directed to take necessary instructions.

3. Issue notice to R-2 & 3, returnable on 20-07-2020. Learned P.O. waives notice for R-1. Hamdast allowed.

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

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

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

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

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

9. **S.O. 20-07-2020.**

Vice Chairman

Date:-13/07/2020.

aps.

O.A.No.322/2020 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :13/07/ 2020.

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

2. The Id. counsel for the applicant pointed out suspension order dated 16.02.2018 (Annexure-A-2, P.B., Pg. No. 17). In para no. 2 of the said order following three employees name are mentioned:-

(a) Ganesh Jankiram Kothalkar.

(b) Ashwini Ramdas Gaikwad.

(c) Sachin Wankhede.

Applicant no. 1 approached to this Tribunal vide O.A. No. 32/2020. This O.A. was decided on 01/06/2020 and respondents have revoked the suspension of Shri G.N.Kothalkar.

3. Para no. 4, 5 & 6 of O.A. No. 132/2020 (Annexure-A-3, P.B., Pg. No. 19) :-

4. *The Id. counsel for the applicant pointed out Hon'ble Supreme Court Judgment:-*

*The Hon'ble Apex Court in its Judgment in Civil Appeal No. 8427-8428 of 2018 (Arising out of S.L.P. (Civil) No. 12112-12113 of 2017) in the case of **State of Tamil Nadu Vs. Pramod Kumar IPS and Anr. delivered on 21/08/2018** in its para no. 23 had observed as follows:-*

*23. This Court in **Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291** has frowned upon the practice*

of protracted suspension and held that suspension must necessarily be for a short duration. On the basis of the material on record, we are convinced that no useful purpose would be served by continuing the first Respondent under suspension any longer and that his reinstatement would not be a threat to a fair trial. We reiterate the observation of the High Court that the Appellant State has the liberty to appoint the first Respondent in a non sensitive post.

5. *The Id. counsel for the applicant has relied on G.A.D. G.R. dated 09.07.2019 particularly on para no. 1 (ii) on P.B., Pg. No. 22 and Hon'ble Supreme Court Judgment.*

6. *In view of the above circumstances, respondents are directed to revoke the suspension order dated 16.02.2018 and reinstate the applicant and post his as per Hon'ble Supreme Court directions **within 15 days from the date of this order.***

4. In view of the facts and circumstances discussed above in O.A. No. 132/2020 (Annexure-A-3, P.B., Pg. No. 19) relief of this applicant is fully covered as per the order in O.A. No. 132/2020. Hence, following orders:-

ORDER

A. Respondents are directed to revoke the suspension order of the applicant dated 16.02.2018 and reinstate with suitable posting order as per Rules laid down by Hon'ble Supreme Court order and Government of Maharashtra G.R. dated 09.07.2019 **within 15 days from the date of this order.**

B. With the above directions, **O.A. is disposed of with no order as to costs.**

Vice Chairman

Date:-13/07/2020.

aps.

O.A.No.321/2020 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman

Dated :13/07/ 2020.

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

2. At the request of Id. counsel for the applicant, **S.O. 16.07.2020.**

Vice Chairman

Date:-13/07/2020.

aps.

O.A.No.331/2020 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman

Dated :13/07/ 2020.

C.A.No.176/2020:-

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

2. The C.A. No. 176/2020 **for Jt. O.A. is allowed.** Since all the applicants are having similar grievances.

3. Issue notice to newly added respondents, returnable on six weeks. Learned C.P.O. waives notice for R-1. Hamdast allowed.

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

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

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

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

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

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

Vice Chairman

Date:-13/07/2020.

aps.

O.A.Nos.218&219/2020 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman

Dated :13/07/ 2020.

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

2. At the request of Id. counsel for the applicant, **S.O. 23.07.2020.**

3. *Matter be treated as P.H.*

Vice Chairman

Date:-13/07/2020.

aps.

O.A.No.280/2020 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman

Dated :13/07/ 2020.

Heard Shri N.R.Saboo, the Id. Counsel for the applicant and Shri H.K.Pande, the Id. P.O. for the Respondents.

2. In order dated 04.06.2020 in para no. 3 following observations were made:-

3. *Meanwhile, respondents are at liberty to decide applicant representations dated 22.05.2020 (Annexure-A-9, P.B., Pg. No. 48) , 16.12.2016 (Annexure-A-3, P.B., Pg. No. 20) and 17.09.2017 (Annexure-A-4, P.B., Pg. No. 22).*

3. The Id. P.O. is directed to take necessary instructions from the department regarding that part of the order. **S.O. 20.07.2020.**

Vice Chairman

Date:-13/07/2020.

aps.

O.A.Nos.59&60/2017 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman

Dated :13/07/ 2020.

Heard Shri N.R.Saboo, 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 relied on three Judgments i.e. O.A. No. 626/2016 of M.A.T., Nagpur Bench delivered on 02.01.2020, W.P.No. 3484/2005 of Hon'ble High Court, Aurangabad Bench delivered on 27.11.2008 and O.A. No. 824/2016 of M.A.T., Aurangabad Bench delivered on 25.09.2018.

3. The Id. counsel for the applicant submits that the related clause of O.As. are covered as per these Judgments. However, the Id. P.O. desires to go through it and make his submission on 20.07.2020.

4. S.O. 20.07.2020.

5. *Matter be treated as P.H.*

Vice Chairman

Date:-13/07/2020.

aps.

O.A.No.71/2017 with C.A.No.41/2017 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman

Dated :13/07/ 2020.

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

2. On last date of hearing i.e. on 25.06.2020, the Id. P.O. has filed pursis, on that pursis the Id. counsel for the applicant has filed affidavit today. It is taken on record. Copy is served to the other side. The Id. P.O. desires to go through it.

3. S.O. 27.07.2020.

Vice Chairman

Date:-13/07/2020.

aps.

O.A.No.281/2020 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman

Dated :13/07/ 2020.

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

2. The applicant was suspended on 27.09.2019 (Annexure-A-1, P.B., Pg. No. 16) and subsequently applicant was dismissed vide order dated 16.12.2019 (Annexure-A-2, P.B., Pg. No. 18) under clause 311(2)(b). The dismissal order was challenged in O.A. No. 196/2020 and dismissal order dated 16.12.2019 was quashed by Tribunal and respondents were given liberty to follow the procedure as prescribed in the service rule applicable to the applicant.

3. Subsequently, the order has been issued by the respondents on 16.04.2020 which is under challenged in this O.A.. In this order it has been mentioned that suspension order dated 27.09.2019 has been continued. The Id. counsel for the applicant has objection to condition of this last part of the impugned order. The Id. counsel for the applicant submits that both these orders i.e. 27.09.2019 and 16.04.2020 are bad in law and needs to be quashed.

4. Specific query has been made to the Id. P.O. that whether respondents have served chargesheet to the applicant between 27.09.2019 and 16.12.2019

? If that has been complied, than it will not violate para no. 1 (ii) of the G.R. dated 09.07.2019.

5. In view of this situation, the Id. P.O. is directed to file the copy of chargesheet, if at all it has been served between 27.09.2019 and 16.12.2019.

6. The Id. counsel for the applicant has also submitted that in reply from P.B., Pg. Nos. 33 to 36 by respondent no. 2, there is no whisper about serving of chargesheet to the applicant. The Id. P.O. should file the copy of the same and supply the copy to the Id. counsel of the applicant.

7. S.O. 23.07.2020.

8. *Matter be treated as P.H.*

Vice Chairman

Date:-13/07/2020.

aps.