O.A. 870/2018 with C.A. No. 13/2021 (S.B.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

Heard Shri D.M. Surjuse, Id. Counsel for the applicants and Shri A.P. Potnis, Id. P.O. for the respondents.

2. The learned counsel for the applicants submit as per the order dated 11/2/2021 he will file G.R. dated 21/9/2017 on record related to the compassionate appointment. He is permitted to do so. The ld. counsel for the applicant is directed to supply the copy of the said G.R. to the other side.

3. The O.A. is admitted and it be kept for final hearing.

4. The ld. P.O. waives notice on behalf of the respondents.

S.O. four weeks.

Put the matter along with O.A. 10/2019.

Vice-Chairman

O.A. 10/2019 (S.B.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

None for the applicant. Shri A.P. Potnis, ld. P.O. for the respondents.

S.O. four weeks.

Put up the matter along with O.A. 870/2018.

Vice-Chairman

O.A. 773/2019 (S.B.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

Shri S.M. Khan, Id. Counsel for the applicant and Shri A.P. Potnis, Id. PO for the respondents.

At the request of ld. counsel for the applicant, **S.O.** 2/3/2021.

Vice-Chairman

O.A. 774/2019 (S.B.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

Shri S.M. Khan, Id. Counsel for the applicant and Shri A.P. Potnis, Id. PO for the respondents.

At the request of ld. counsel for the applicant, **S.O.** 2/3/2021.

Vice-Chairman

O.A. 1013/2019 (S.B.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

Shri N.W. Almelkar, 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 as a last chance.

Vice-Chairman

O.A. 53/2020 (S.B.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

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

- 2. As agreed by both the counsels, as per relief clause no.11 (i) the respondent no.1 is directed to decide the applicant's representation/appeal dated 3/10/2018 (A-1,P-8) within two months from the date of this order. However, the learned counsel for the applicant is at liberty to approach before this Tribunal if he is aggrieved with the order passed in the appeal.
- 3. In view thereof, the O.A. stands disposed of. No order as to costs.

Vice-Chairman

O.A. 271/2020 (S.B.)

Coram: Shri Shree Bhagwan, Vice-Chairman.

Dated: 18/02/2021.

Heard Shri N.R. Saboo, Id. Counsel for the applicants and Shri A.M. Khadatkar, Id. P.O. for R-1 to 4.

- 2. The ld. P.O. files reply of R-4. It is taken on record. Copy is served on the applicant. However, the ld. counsel for the applicant submits that after amendment notice was not issued to the respondent no.5.
- 3. Issue notice to the newly added respondent no.5, returnable <u>after four weeks</u>. 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

O.As. 325,326 & 327 of 2020 (S.B.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

Shri G.G. Bade, Id. Counsel for the applicants and Shri V.A. Kulkarni, Id. P.O. for the respondents.

At the request of ld .counsel for the applicants, $\underline{\text{S.O. } 12/3/2021}$.

Vice-Chairman

O.A. 582/2020 (S.B.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

Heard Shri N.R.Saboo, Id. Counsel for the applicant and Shri A.M. Khadatkar, Id. P.O. for R-1 to 3 and none for R-4.

The Id. P.O. submits that he has received parawise reply of R-1 and he will file reply before the next date. He is permitted to do so. Copy of the same be supplied to the other side well in advance.

The O.A. is admitted and it be kept for final hearing.

The Id. P.O. waives notice for the respondent nos. 1 to 3. The applicant is at liberty to file rejoinder, if any.

S.O. 26/2/2021.

Vice-Chairman

O.A. 641/2020 (S.B.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

Shri R.M. Fating, Id. Counsel for the applicant and Shri H.K. Pande, Id. P.O. for the respondents.

At the request of ld .counsel for the applicant, <u>S.O. 9/3/2021</u>.

Vice-Chairman

O.A. 904/2020 (S.B.)

(K.S. Zanwar Vs. State of Mah. & Ors.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

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

- 2. The ld. P.O. files reply of R-2. It is taken on record. Copy is served on the applicant.
- 3. Vide order dated 18/1/2021 the suspension order was revoked and the respondents were asked to issue suitable posting order to the applicant. As submitted by the learned counsel for the applicant, the applicant is retiring on 28/2/2021 and still he is not giving any posting order.
- 4. The respondent no.2 is directed to depute responsible person to appear before this Tribunal on Monday to clarify regarding compliance of the order dated 18/1/2021.

S.O. 23/2/2021.

Steno copy is granted.

Vice-Chairman

O.A. 51/2021 (S.B.)

<u>Coram</u>: Shri Shree Bhagwan, Vice-Chairman.

Dated: 18/02/2021.

Heard Shri N.L. Jaiswal, Id. Counsel for the applicant, Shri A.M. Khadatkar, Id. P.O. for R-1&2 and none for R-3.

- 2. The applicant is aggrieved with the suspension order dated 12/1/2021 (A-9,P-21) and therefore he approached to this Tribunal. However, the ld. counsel for the applicant is submitting that now reply is not necessary and suspension should be revoked, but as per the Hon'ble Apex Court's several Judgments 90 days is still with the respondents to serve any charge sheet or to take decision on the departmental inquiry.
- 3. In view of this, at this stage without filing reply by the respondents, relief cannot be granted and it is rejected.

S.O. 18/3/2021.

Vice-Chairman

O.A. 148/2021 (S.B.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

Heard Shri R.L. Kadu, Id. Counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for

the State.

2. It appears that since the copy of application has not been supplied to the ld. P.O.,

the ld. P.O. is not aware of the transfer order

dated 23/11/2020 (A-1,P-18).

3. In view of this situation, the matter be

kept on 22/2/2021 and till that time the

respondents are directed to maintain status-quo

as on today.

S.O. 22/2/2021.

Vice-Chairman

O.A. 62/2021 (S.B.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

Heard Shri R.V. Shiralkar, Id. Counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the respondents.

2. The applicant's suspension order was issued more than 90 days and as submitted by the learned counsel for the applicant no charge sheet has been served on the applicant, the grievance of the applicant is covered by the G.R. dated 9/7/2019. However, the ld. P.O. submits that parawise reply is received and he will file reply within one week. At his request of ld. P.O., **S.O. 25/2/2021** for filing reply.

Vice-Chairman

O.A. 702/2016 (S.B.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

Shri N.R. Saboo, Id. Counsel for the applicants and Shri P.N. Warjurkar, Id. P.O. for the respondents.

At the request of ld. counsel for the applicant, <u>S.O. 26/2/2021</u>.

Vice-Chairman

O.A. 837/2018 (S.B.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

Heard Smt. R.S. Sirpurkar, Id. Counsel for the applicant, Shri A.M. Ghogre, Id. P.O. for the respondents.

Closed for orders.

Vice-Chairman

O.A. 861/2019 (S.B.)

Coram: Shri Shree Bhagwan, Vice-Chairman.

Dated: 18/02/2021.

Shri G.G. Bade, Id. Counsel for the applicants and Shri A.M. Khadatkar, Id. P.O. for the respondents.

- 2. The respondents have filed reply on 1/2/2020 and in reply in para-6 they have observed as follows –
- It is further submitted that the Finance Department vide G.R. dated 6/12/1996 has issued directions in regard to earned leave for the employees working in long leave department. It has specifically clarified in the said G.R. that since the earned leave granted in lieu of commuted leave, therefore, this earned leave cannot be surrendered as per section 73 of MCS (leave) Rules, 1981. It will not be out of place to clarify that surrender of earned leave was only applicable to the employees who were not working in long leave department. A copy of G.R. dated 6/12/1996 is annexed herewith."
- 3. In the above para, they have referred the G.R. dated 6/12/1996 and as pointed out by the learned counsel for the applicants on page nos.67 to 69 Project Officer has issued orders for leave encashment to the applicants, when

they are filing reply regarding G.R. dated 6/12/1996 then why orders at page nos. 67 to 69 were issued and not complied also, when Project Officer himself is the DDO of the Department.

4. The ld. P.O. is directed to take necessary instructions from the Department and also file G.R. dated 6/12/1996 before the next date.

S.O. 4/3/2021 (PH)

Steno copy is granted.

Vice-Chairman

O.A. 631/2019 (S.B.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

Heard Shri R.M. Fating, Id. Counsel for the applicants and Shri A.P. Potnis, Id. P.O. for the respondents.

- 2. The applicant is entitled for pensionary benefits. The learned P.O. today submits that the process is going on and within one month the applicant will be paid pensinoary benefits.
- 3. In view of this submission, <u>S.O.</u> <u>25/3/2021</u>.

Vice-Chairman

Coram: Shri Shree Bhagwan, Vice-Chairman.

Dated: 18/02/2021.

Heard Shri R.M. Fating, Id. Counsel for the applicants and Shri A.M. Ghogre, Id. P.O. for the respondents.

2. The question involved is that from which date the second ACP should be paid. As per the Hon'ble High Court of Judicature at Bombay Judgment (Annex-A,P104) dated 6/2/2019 in Writ Petition No. 2605/2017 in case of the Association of the Sub-Ordinate Service of Engineers (M.S.) & Ors. Vs. State of Maharashtra & Ors. and in para-42 following order has been given -

" (42) In this view of the matter, the denial of the second benefit under the MACP Scheme, with reference to an exercise of cadre restructuring and the revision in pay scale, in the year 1984, appears to be legally unsustainable. We are, thus, inclined to answer the aforesaid question in the 'negative'. We hold and declare that the up gradation under G.R. dated 16th April,1984 does not constitute grant of non-functional payscale and cannot be treated as the 'first benefit' within the meaning of Clause 2 (b) (b) of the G.R. dated 1st April,2010. We are, thus, inclined to allow the petition."

In office note of the Assistant Chief 3. Engineer, Irrigation Department, Nagpur dated 20/11/2019 (P-54 to 56) and on page no.55 details of applicant has been given in the table where the applicant was first appointed on 13/6/1982 and first ACP was granted from 1/10/1994. In column no.5, it is mentioned that after first ACP and 12 years, second ACP date comes as 1/10/2006. As per the Hon'ble High Court Judgment, the applicant's grievance is fully covered and the applicant is entitled for second ACP from 1/10/2006. As per the record, the Assistant Chief Engineer, Irrigation Department Nagpur again vide correspondence dated 3/6/2020 (A-19,P-79) in the last para had asked guidance from the Secretary, Irrigation Department, Mumbai regarding from which date the second time bound promotion is given. When already the Hon'ble High Court has interpreted that when it should be given and in his own office note dated 20/11/2019 (P-54 to 56) on page no.55 as per the Hon'ble High Court Judgment there is no need to ask the Government for guidance regarding second time bound promotion. The learned counsel for the applicant also pointed by the G.R. dated 1/7/2011 (P-50) and in point no.3 the Finance Department has clarified as follows -

^; kstuß; k i fgY; k ykHkkrxlr T; k i nkpsykHk vuKs dsys vkgr R; kp i nkoj fu; fer@ rkRijirh i nkJurh feGkY; kurj ; k ; kstusvrxlr nd jk ykHk vuKs

dj.; kI kBh 12 o"kk ϕ h x.kuk dkskR; k fnuk α dki kI ψ dj.; kr ; koh\ **

4. After the Hon'ble High Court Judgment, the Finance Department in its own clarification said that there is no doubt that the applicant is entitled for second time bound promotion after 12 years from the date of first time bound promotion as mentioned on page no.55 of the office order dated 20/11/2019 (P-54 to 56). In view of this following order—

ORDER

- (i) The applicant's second time bound promotion be granted from 1/10/2006 and accordingly pay fixation should be done as per discussion above.
- (ii) As submitted by the learned counsel for the applicant this exercise has been done by the Department. The communication dated 3/6/2020 (A-19,P-69) is quashed and set aside. However all the arrears related to this fixation should be paid as per prayer clause no.16 (iii) of the O.A.
- (iii) The above order shall be complied within30 days from the date of receipt of this order.
- (iv) With this direction, the O.A. stands disposed off.
- (v) No order as to costs.

O.A. 499/2017 (S.B.)

Coram: Shri Shree Bhagwan, Vice-Chairman.

Dated: 18/02/2021.

There is a leave note from Shri S.N. Gaikwad, Id. Counsel for the applicant. Shri V.A. Kulkarni, ld. P.O. for the respondents.

S.O. three weeks.

Vice-Chairman

O.A. 611/2018 (S.B.)

Coram: Shri Shree Bhagwan, Vice-Chairman.

Dated: 18/02/2021.

Shri R.V. Shiralkar, Id. Counsel for the applicants and Shri P.N. Warjurkar, Id. P.O. for the respondents.

At the request of ld. counsel for the applicant, S.O. 15/3/2021.

Vice-Chairman

O.A. 1082/2019 (S.B.)

Coram: Shri Shree Bhagwan, Vice-Chairman.

Dated: 18/02/2021.

Shri G.N. Khanzode, Id. Counsel for the applicants and Shri A.P. Potnis, Id. P.O. for the respondents.

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

Vice-Chairman

O.A. 504/2020 (S.B.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

Heard Shri A. Sambre, Id .counsel for the applicant, Shri P.N. Warjurkar, Id. P.O. for R-1&2 and N.R. Saboo, Id. Counsel for R-3.

2. The learned counsel for respondent no.3 has filed Notification dated 2/12/2015 (A-R-3, Exh.1) by which the district level establishment board has been established and district level board comprising of the Superintendent of Police, Senior most Additional Superintendent of Police and Deputy Superintendent of Police (Head Quarter).

Closed for orders.

Vice-Chairman

O.A. 744/2020 (S.B.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

Heard Shri A.S. Dhore, Id. Counsel for the applicants and Shri P.N. Warjurkar, Id. P.O. for the respondents.

- 2. As pointed out by the Id. P.O. that the respondents have filed reply on 2/2/2021 and in para-13, it is mentioned as follows –
- "(13) It is admitted that provisions of Section 9 of the Maharashtra Village Police Act can be imposed on Police Patil who is careless or negligence in discharging his duties or duty of misconduct. During inquiry, it was found that the act of applicant was clearly under the head of misconduct and hence the order of respondent no.2 is proper and correct. Appeal against suspension order is provided u/s 12 of the Maharashtra Village Police Act before Divisional Commissioner. Hence present O.A. is not maintainable".
- 3. The learned P.O. referred the Maharashtra Village Police Act,1967 and on page no.30, Section 12 provides that any

punishment given by the lower Officer, employee can make appeal to the Divisional Commissioner and against the order of the Divisional Commissioner, he can prefer an appeal to the State Government. This should be done after receiving the order within 90 days.

- 4. In view of this, the applicant is directed first to make appeal to the concerned Divisional Commissioner as per Section 12 of the Maharashtra Village Police Act,1967 and if he is not satisfied with the order in appeal, he is at liberty to approach before this Tribunal.
- 5. With this direction, the O.A. stands disposed off. No order as to costs.

Vice-Chairman

dnk...

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O.A. 194/2017 (D.B.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

C.A.No. 437/2017 -

Heard Shri A.A. Syed, ld .counsel for the applicant, Shri A.M. Khadatkar, ld. P.O. for R-1&2 and none for R-3.

At the request of Id. P.O., $\underline{\text{S.O. 9/3/2021}}$ for filing reply on C.A.

Vice-Chairman

O.A. 989/2018 (D.B.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

Shri N.R. Saboo, Id. Counsel for the applicant, Shri S.A. Sainis, Id. P.O. for R-1 to 4 and none for R-5.

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

Vice-Chairman

O.A. 583/2019 (D.B.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

C.A.No. 364/2019 -

Shri B. Kulkarni, ld .counsel for the applicant, Shri H.K. Pande, ld. P.O. for R-1&2, none for R-3&4&5.

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

Vice-Chairman

O.A. 906/2019 (D.B.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

Shri B. Kulkarni, 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.** three weeks for filing reply along with other connected matter.

Vice-Chairman

O.A. 907/2019 (D.B.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

Shri B. Kulkarni, 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.** three weeks for filing reply along with other connected matter.

Vice-Chairman

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

C.A.Nos. 193/2020, 360/2020, 361/2020, 362/2020, 369/2020 in O.A. 409/2020 -

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

The ld. P.O. submits that he will file reply during the course of day. Copy be supplied to the other side well in advance.

The O.A. is admitted and it be kept for final hearing. The applicant is at liberty to file rejoinder, if any.

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

S.O. three weeks.

Put up this matter along with O.A.No. 461 of .

Vice-Chairman

C.P. 41/2019 in O.A. 288/2007 (D.B.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

C.A. No. 55/2021 -

Heard Mrs. A.A. Joshi, Id. Counsel for the applicant and Shri M.I. Khan, Id. P.O. for the respondents.

2. The Id. P.O. has filed copy of Judgment passed by the CAT, Allahabad Bench on 30/7/2010 in case of D.L. Bind Vs. M.L. Meena, Chairman, Kolkata Port Trust, Kolkata. Same is

taken on record and marked Exh-X for the

purposes of identification.

3. The ld. counsel for the applicant is granted three weeks time to file any other Judgment which overruled the said Judgment, otherwise, the Contempt Petition will be

dismissed.

S.O. three weeks.

Vice-Chairman

O.A. 485/2018 (D.B.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

MCA No. 02/2021 -

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

The matter be kept for re-hearing on 23/2/2021.

Put the matter along with C.P.09/21 in O.A.485/2018

Vice-Chairman

C.P. 09/2021 in O.A. 485/2018 (D.B.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

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

The matter be kept for re-hearing on 23/2/2021.

Put the matter along with MCA 02/21 in O.A.485/2018.

Vice-Chairman

C.P. 14/2020 in O.A. 58/2019 (D.B.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

Heard Shri N.R. Saboo, Id. Counsel for the applicant and Shri A.M. Ghogre, Id. P.O. for the respondents.

- 2. The learned P.O. submits that he wants to file related documents on record on Monday.
- 3. At the request of Id. P.O., <u>S.O.</u> <u>22/2/2021.</u>

Vice-Chairman

O.A. 688/2017 (D.B.)

Coram: Shri Shree Bhagwan, Vice-Chairman.

Dated: 18/02/2021.

Heard Shri S.A. Marathe, Id. Counsel for the applicants, Shri M.I. Khan, Id. P.O. for R-1 to 3 and none for other respondents.

As submitted by learned counsel for the parties, the matter be kept before regular D.B. as and when available.

Vice-Chairman

O.A. 563/2020(D.B.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

Heard Shri G.G. Bade, Id. Counsel for the applicant and Shri S.A. Sainis, Id. P.O. for

the respondents.

As submitted by learned counsel for the parties, the matter be kept before regular D.B.

as and when available.

Lateron -

Heard Shri G.G. Bade, Id. Counsel for the applicant and Shri S.A. Sainis, Id. P.O. for the

respondents.

2. By the consent of learned counsel for the

applicant and learned P.O. the matter is heard in

Chamber. In view of the Judgment passed on

9/12/2019 in O.A. 341/2019 by which grievance

of the applicant is squarely covered.

Hence, closed for orders.

Vice-Chairman

C.P. 10/21 in O.A. 530/2018 (D.B.)

Coram: Shri Shree Bhagwan,

Vice-Chairman.

Dated: 18/02/2021.

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

The matter be kept for re-hearing on 23/2/2021.

Put the matter along with C.P.09/21 in O.A.485/2018

Vice-Chairman

dnk. *