

O.A. 833/2020 (D.B.)

**Coram:Shri Shree Bhagwan,  
Vice-Chairman and  
Shri A.D. Karanjkar,  
Member(J)**

**Dated : 20/10/2020.**

Shri S.S. Ghatge, Id .counsel for the applicant, Shri A.P. Potnis, Id. P.O. for R-1 to 3 and none for R-4.

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

**Member (J)**

**Vice-Chairman**

dnk.

**O.A. 538/2020 (D.B.)**

**Coram: Shri Shree Bhagwan,  
Vice-Chairman and  
Shri A.D. Karanjkar,  
Member(J)**

**Dated : 20/10/2020.**

Smt. Charlewar, Id .counsel holding for Shri I.S. Charlewar, Id .counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the respondents.

The Id. P.O. seeks time to file reply. The applicant was appointed in service in the year 1992. By the impugned order dated 14/1/2020 the applicant is brought on supernumerary post for a period of 11 months. As this order was passed without giving opportunity of hearing, it shall be stayed till filing of the reply by the respondents.

**S.O. four weeks.**

**Member (J)**

**Vice-Chairman**

dnk.

**C.P. 37/19 in O.A. 607/2017 (D.B.)**

**Coram:Shri Shree Bhagwan,  
Vice-Chairman and  
Shri A.D. Karanjkar,  
Member(J)**

**Dated : 20/10/2020.**

Heard Mrs. M.D. Awachat, Id .counsel for the applicant, Shri M.I. Khan, Id. P.O. for R-1 to 3 & 6 and Shri J. Mokadam, Id. counsel for R-4.

2. We have heard the submission on behalf of the respondent no.4. It is informed by the respondent no.4 that the case of the applicant is lying with the Pay Verification Unit and unless pay of the applicant is finalised and fixed by the Pay Verification Unit, it is not possible for the respondent no.4 to prepare and forward the pension case. The Pay Verification Unit is under control of the Government of Maharashtra, therefore, the respondent no.1 is directed to issue direction to the Pay Verification Unit to verify the pay of the applicant within a period of six weeks from the date of this order.

3. The applicant is at liberty to join Pay Verification Unit as party to this proceeding.

**S.O. Six weeks.**

Steno copy be supplied.

**Member (J)**

**Vice-Chairman**

dnk.

**O.A. 656/2020 (D.B.)**

**Coram:Shri Shree Bhagwan,  
Vice-Chairman and  
Shri A.D. Karanjkar,  
Member(J)**

**Dated : 20/10/2020.**

**C.A. No. 260/2020 -**

Heard Shri M. V. Bute, Id. counsel for the applicants and Shri P.N. Warjurkar, Id. P.O. for the State.

2 As the authority who have passed the impugned orders are different, it will embarrass the trial, therefore, permission to prosecute the application jointly is refused. The applicant no.2 is at liberty to file separate O.A. The applicant to make necessary amendment in this O.A.

**Member (J)**

**Vice-Chairman**

dnk.

**C.P. 47/19 in O.A. 685/10 (D.B.)**

**Coram:Shri Shree Bhagwan,  
Vice-Chairman and  
Shri A.D. Karanjkar,  
Member(J)**

**Dated : 20/10/2020.**

Heard Shri S. Khandekar, Id. counsel holding for Shri A. Deshpande, Id. counsel for the applicant, Shri V.A. Kulkarni, Id. P.O. for the respondent nos.1 to 3. Heard Shri H.G. Gadve, the respondent no.4 who is present in person.

2. The respondent no.4 has submitted that the order is passed by the Commissioner to release the provisional pension. However, no justification is given why the order passed in O.A. 685/2010, dated 8/10/2018 is not complied within a period as laid down. The respondent no.4 has made submission that he would look after the matter personally and pension would be paid to the applicant within two months.

**S.O. two months.**

**Member (J)**

**Vice-Chairman**

dnk.

**O.A. 414/2020 (D.B.)**

**Coram:Shri Shree Bhagwan,  
Vice-Chairman and  
Shri A.D. Karanjkar,  
Member(J)**

**Dated : 20/10/2020.**

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

2. In view of the Pursis, the applicant is permitted to withdraw the O.A.
3. The O.A. stands disposed of as withdrawn. No order as to costs.

**Member (J)**

**Vice-Chairman**

dnk.

**O.A. 657/2020 (D.B.)**

**Coram: Shri Shree Bhagwan,  
Vice-Chairman and  
Shri A.D. Karanjkar,  
Member(J)**

**Dated : 20/10/2020.**

Heard Shri R.D. Karode, Id. counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the State.

2. The applicant was appointed on 11/6/1986 in the Government Dairy Development Department. In pursuance of the G.R. dated 21/12/2019 the applicant's service conditions are modified vide order dated 27/02/2020. In the interest of justice and equality, the impugned order is stayed till filing of the reply by the respondents.

3. In the meantime, issue notice to the respondents returnable in **four weeks**. Learned P.O. waives notice for 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. four weeks.**

**Member (J)**

**Vice-Chairman**

dnk.



O.A. Nos. 959/19 & 11/20 (D.B.)

**Coram: Shri Shree Bhagwan,  
Vice-Chairman and  
Shri A.D. Karanjkar,  
Member(J)**

**Dated : 20/10/2020.**

Heard Shri S.P. Palshikar, Id. counsel  
for the applicants, Shri H.K. Pande, Id. P.O. for  
R-1 and Smt. J.J. Alkari, Id .counsel for R-2.

The matters be taken up for hearing **on**  
**20/11/2020.**

**Member (J)**

**Vice-Chairman**

dnk.

**O.A. 668/2019 (D.B.)**

**Coram:Shri Shree Bhagwan,  
Vice-Chairman and  
Shri A.D. Karanjkar,  
Member(J)**

**Dated : 20/10/2020.**

**Per ; Member (J).**

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

2. The applicant is challenging the impugned order dated 6/7/2019 by which the respondent no.2 dismissed the applicant from the service exercising the powers under Section 311 (2) (b) of the Constitution of India.

3. The relevant facts were that the applicant was attached to Police Station, Kalmeshwar, he received the complaint lodged by Sau. Rina A. Bambal on 9/6/2019. The allegation against the applicant was that instead of investigating the crime, the applicant demanded bribe and in this situation, the respondent no.2 came to the conclusion that he was of the opinion that it was not necessary to conduct the disciplinary inquiry. The respondent no.2 came to this conclusion for the reason that no witness would depose against the applicant and for this reason the respondent no.2 was pleased to dispense with

the inquiry as contemplated in the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 and straight way dismissed the applicant from the service.

4. The respondent no.2 has filed the reply and justified the action.

5. We have heard the submissions on behalf of the applicant and on behalf of the respondents. After reading the reply of the respondent no.2, it seems that no special reasons are recorded for dispensing with the inquiry. It is settled legal position that the disciplinary inquiry is a rule and dispensing with the inquiry is an exception to the rule, therefore, we have to seek whether the jurisdiction was exercised by the respondent no.2 in a manner as contemplated under Article 311 (2) (b) of the Constitution of India. The Clause (b) is as under –

*“where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry .”*

6. After reading Clause (b), it transpires that the authority was bound to satisfy itself that it was a case where to conduct the disciplinary inquiry was not reasonably practicable. After reading the reply, it seems that the respondent no.2 was of the view that no

witness would come forward to depose against the applicant and therefore he dispensed with the inquiry. In our opinion merely by recording such view the disciplinary inquiry cannot be dispensed with. The disciplinary inquiry mandatory as per the Service rules cannot be dispensed with, unless there are cogent reasons. The respondent no.2 was bound to show such circumstances on which he arrived to the conclusion that it was not reasonably practicable to conduct the disciplinary inquiry. Merely observing that the witness would not support the case of the Department cannot form the basis for taking away the legal protection, therefore, we are of the view that the dismissal of the applicant from the service is illegal and it cannot be sustained. In view of this matter, we pass the following order-

### **ORDER**

The O.A. stands allowed. The impugned order dated 6/7/2019 is hereby set aside. The respondent no.2 is directed to reinstate the applicant in service. The respondent no.2 is at liberty to take recourse to initiate the disciplinary proceeding against the applicant as per the rules. The respondent no.2 shall decide the

question of payment of backwages to the applicant. This order shall be complied within three weeks. No order as to costs.

**Member (J)**

**Vice-Chairman**

dnk.

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O.A. No. 654 of 2020 (SB)

**Coram : Hon. Shri A.D. Karanjkar,  
Member (J).**

**Dated : 20.10.2020**

Heard Shri N.D. Thombre, Id. counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the State.

2. The applicant stood retired on 29/02/2012. The respondent no.3 passed the order to recover the amount of Rs.1,75,427/- @ Rs.7,000/- per month from the pension of the applicant. The impugned order is passed without hearing of the applicant, therefore, it shall be stayed till filing of the reply by the respondents.

3. Issue notice to the respondents returnable in **four weeks**. Learned P.O. waives notice for 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. four weeks.**

**Member (J)**

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(SB)

**Coram** : Hon. Shri A.D. Karanjkar,  
Member (J).

**Dated** : 20.10.2020

**O.A. 597/20 with C.A. 234/20, O.A. 598/20 with C.A.235/20, O.A. 599/20 with C.A.236/20, O.A.600/20 with C.A.237/20, O.A.601/20 with C.A. 252/20, O.A.602/20 with C.A.238/20, O.A.603/20 with C.A.239/20, O.A.604/20 with C.A.240/20, O.A.605/20 with C.A.241/20, O.A.606/20 with C.A.242/20, O.A.607/20 with C.A.243/20 and O.A.617/2020.**

Heard Shri D.M. Kakani, Id. counsel for the applicants, Shri A.M. Ghogre, Id. PO for R-1 to 3 in all O.As., Shri Khubalkar, Id. counsel holding for Shri F.I. Khan, Id. counsel for R-4 (in O.A. 597 of 2020), Shri G.N. Khanzode, Id. counsel for R-4 (In O.As.601/20, 603/20,604/20 & 606/20) and none for R-4 in other O.As.

2. In O.A. 597/20 the reply is filed by the R-4 along with compilation of citation.

3. The Id. P.O. has filed the Minutes of Meeting of Civil Services Board of the cadre of Dy. Collector and Tahsildar.

4. Oral arguments of the applicants, respondent nos. 1 to 3 and respondent no.4 in all the matters are heard.

**Closed for orders.**

**Member (J)**

dnk.

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