

O.A. No. 576/2022

(S.G. Chapate Vs. State of Mah. & Ors.)

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

Dated : 27/05/2022.

ORDER

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

2. The applicant was posted to Saza Akoli, Tq. and Dist. Amravati vide order dated 18/04/2022 (A-1,P-13) after suspension, as per the order of Divisional Commissioner, Amravati which is mentioned in reference of the said order. The Tahsildar, Amravati directed the applicant to join at Akoli Talathi Saza as per the order dated 22/04/2022 (A-2,P-14). The applicant joined on 25/04/2022 and joining letter is at Annex-A-3,Page no.15. Subsequently, the Sub Divisional Officer (SDO), Amravati vide his letter dated 20/05/2022 (A-4,P-16) has modified the posting order, but not given any specific posting to the applicant and the applicant is in hanging position. As per the record, it appears that the Divisional Commissioner, Amravati has issued general guide lines vide letter dated January,2020 (A-5,P-17) and in para-3 he has given following guidelines –

“ गुन्हे व अन्वेषण व फौजदारी प्रकरणातील तलाठी यांना अकार्यकारी पदावर पुनःस्थापित न करता मुळ तलाठी या पदावरच पुनःस्थापित करावे याबाबत योग्य ती कार्यवाही करावी”

3. There is nothing on record that whether this guideline is modified till today or not. Considering all these aspects, the SDO, Amravati letter dated 20/05/2022 (A-4,P-16) is stayed till further orders.

4. The respondent no.3, i.e., the Collector, Amravati is directed to follow the procedure as per the guidelines given by the Divisional Commissioner, Amravati as per letter dated January,2020 (A-5,P-17) or else any further guidelines have been given, within 15 days from the date of receipt of this order.

5. Issue notice to the respondents returnable **after three weeks**. Learned P.O. waives notice for State. 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.

S.O. after three weeks

Steno copy is granted...

Vice-Chairman

dnk.

O.A. No. 577/2022

(D.K. Garkal Vs. State of Mah. & Ors.)

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

Dated : 27/05/2022.

ORDER

C.A.No. 201/2022 -

Heard Shri S.A. Marathe, learned counsel for the applicants and Shri S.A. Deo, learned CPO for the State.

2. The learned counsel for the applicants has filed C.A.No. 201/2022 for filing joint O.A. The C.A. is allowed and disposed off.

O.A. No. 577/2022 -

Heard Shri S.A. Marathe, learned counsel for the applicants and Shri S.A. Deo, learned CPO for the State.

2. The case pertains to Collector, Yavatmal in the Establishment Section and subject matter is mainly related to interchangeable posting from Awal Karkun cadre to Circle Officer /Mandal Adhikari. On this issue, the following three Judgments have been delivered by this Tribunal.

(i) The Judgment in O.A. 388/2020 along with other connected O.As. delivered on 20/10/2020 (A-6, P-44). In the said Judgment in para-11 it has been clearly explained that cadre of Circle Officer and Awwal Karkoon are different and it has been held that transfer orders issued by respondent no.2 to implement the policy of the Divisional Commissioner to interchange 11 posts of Circle Officer / Awwal Karkoon in Gadchiroli District are contrary of law and cannot be sustained. In the internal order which is at page no.56 the final order is reproduced below –

“ All the impugned transfer orders are hereby quashed and set aside. The respondent no.2 is directed to post the applicants on the same post which were held by them before issuance of the impugned orders. No order as to costs.”

(ii) The order is passed by this Tribunal in O.A. No. 271/2020 on 17/05/2021 (A-9,P-62) and in para-4 of the said order the respondents were directed to decide first representations pending of the applicants. Till that time the respondents were directed not to issue any transfer order taking shelter of G.R. dated 21/11/1995.

However, the respondents were at liberty to transfer the Mandal Officer to Mandal Officer and similarly Awwal Karkun to Awwal karkun as per the administrative requirement.

(iii) The Judgment in O.A. 761/2020 along with connected O.A. (A-10,P-64) which is pronounced on 7/4/2022 and para-14 is reproduced as below –

“ The Circle Officer is the Superior Officer of the Talathi. He has to supervise 4-5 Talathis in a Circle. Therefore, the duties of Awal Karkoon and Circle Officer are different. Awal karkoons are the superior post of the clerks, they used to seat in the in the office and do the clerical work, whereas, the Talathis and Circle Officers have to perform their field duties and their works are related with the agricultural land etc. more particularly to collect the land revenue, prepare 7/12 extract. The work of mutation is to be done by Talathi and Circle Officer is to verify the mutation entries. Therefore, it cannot be said that the works of Circle Officer and Awal karkoon are same.” Therefore, It is clearly held that Circle Officer and Awwal Karkoon cadre are not interchangeable.

3. All these three Judgments are very clear that cadre of Awwal Karkoon and Circle Officer / Mandal Adhikari are different being with jobs and responsibilities.

4. As pointed out by the learned CPO, in all these O.As. interchangeable transfer orders have been issued, then the O.As. have been filed and after hearing the order was passed.

5. In the present O.A. the impugned proposed transfer order is not a transfer order, it is just asking the choice. In this situation, it becomes immature. Therefore, after passing the order, the the applicants are at liberty to approach to this Tribunal for their grievances.

6. However, the learned counsel for the applicant has produced representation of Awal Karkoon cadre and Circle Officer / Mandal Adhikari dated 25/5/2022 addressed to the Collector, Yavatmal which is taken on record and marked Exh-X for identification. In this representation the judgments delivered by this Tribunal are also mentioned.

7. In view of above, the respondent no.3, i.e., the Collector, Yavatmal is directed to consider the representation dated 25/05/2022 and decide within three weeks and after deciding the representation proceed with the letter dated 19/5/2022 (A-1,P-31).

8. With this direction, the O.A. is disposed off. No order as to costs.

Steno copy...

Vice-Chairman

dnk.

O.A. No. 579/2022

(R.B. Mayinde & Ors. Vs. State of Mah. & Ors.)

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

Dated : 27/05/2022.

ORDER

C.A.No. 205/2022 -

Heard Shri V.R. Deshpande, learned counsel for the applicants and Shri S.A. Deo, learned CPO and P.O. Shri M.I. Khan for the State.

2. The learned counsel for the applicants has filed C.A.No. 205/2022 for filing joint O.A. The C.A. is allowed and disposed off.

O.A. No. 579/2022 -

Heard Shri R. Deshpande, learned counsel for the applicants and Shri S.A. Deo, learned CPO for the State.

2. Prim facia, the O.A. is immature since transfer orders have not been issued and process is going on. The learned counsel for the applicants has also not filed any representation by Awwal Karkoon and Circle Officer cadre. He is directed to file representation by applicants, then only matter will be heard.

3. The respondents are directed to take into account Judgments delivered by this Tribunal in O.A. No. 388/2020, delivered on 20/10/2020, O.A.No.271/2020, delivered on 17/5/2021 and O.A. 761/2020 & 762/2020 delivered on 7/4/2022.

4. The learned counsel for the applicants is at liberty to file representation within one week and after filing representation the respondents are directed to decide the same within 15 days from the date of receipt of representation and then proceed with further action.

5. In view of above directions, the O.A. is disposed off. No order as to costs.

6. Steno copy is granted...

Vice-Chairman

dnk.

O.A. No. 580/2022

(S.D. Dhok & Ors. Vs. State of Mah. & Ors.)

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

Dated : 27/05/2022.

ORDER

C.A.No. 206/2022 -

Heard Shri V. R. Deshpande, learned counsel for the applicants and Shri S.A. Deo, learned CPO and P.O. Shri M.I. Khan for the State.

2. The learned counsel for the applicants has filed C.A.No. 206/2022 for filing joint O.A. The C.A. is allowed and disposed off.

O.A. No. 580/2022 -

Heard Shri R. Deshpande, learned counsel for the applicants and Shri S.A. Deo, learned CPO for the State.

2. Prim facia, the O.A. is immature since transfer orders have not been issued and process is going on. The learned counsel for the applicants has also not filed any representation by Awwal Karkoon and Circle Officer cadre. He is directed to file representation by applicants, then only matter will be heard.

3. The respondents are directed to take into account Judgments delivered by this Tribunal in O.A. No. 388/2020, delivered on 20/10/2020, O.A.No.271/2020, delivered on 17/5/2021 and O.A. 761/2020 & 762/2020 delivered on 7/4/2022.

4. The learned counsel for the applicants is at liberty to file representation within one week and after filing representation the respondents are directed to decide the same within 15 days from the date of receipt of representation and then proceed with further action.

5. In view of above directions, the O.A. is disposed off. No order as to costs.

6. Steno copy is granted...

Vice-Chairman

dnk.

O.A. No. 578/2022

(A.K. Bhandare & Ors. Vs. State of Mah. & Ors.)

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

Dated : 27/05/2022.

ORDER

C.A.No. 204/2022 -

Heard Shri V. R. Deshpande, learned counsel for the applicants and Shri S.A. Deo, learned CPO and P.O. Shri M.I. Khan for the State.

2. The learned counsel for the applicants has filed C.A.No. 204/2022 for filing joint O.A. The C.A. is allowed and disposed off.

O.A. No. 578/2022 -

Heard Shri V. R. Deshpande, learned counsel for the applicants and Shri S.A. Deo, learned CPO and P.O. Shri M.I. Khan for the State.

2. Prim facia, the O.A. is immature since transfer orders have not been issued and process is going on. The learned counsel for the applicants has also not filed any representation by Awwal Karkoon and Circle Officer cadre. He is directed to file representation by applicants, then only matter will be heard.

3. The respondents are directed to take into account Judgments delivered by this Tribunal in O.A. No. 388/2020, delivered on 20/10/2020, O.A.No.271/2020, delivered on 17/5/2021 and O.A. 761/2020 & 762/2020 delivered on 7/4/2022.

4. The learned counsel for the applicants is at liberty to file representation within one week and after filing representation the respondents are directed to decide the same within 15 days from the date of receipt of representation and then proceed with further action.

5. In view of above directions, the O.A. is disposed off. No order as to costs.

6. Steno copy is granted...

Vice-Chairman

O.A. No.581/2022

(A.N. Shelke & Ors. Vs. State of Mah. & Ors.)

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

Dated : 27/05/2022.

ORDER

C.A.No. 207/2022 -

Heard Shri G.G. Bade, learned counsel for the applicants and Shri S.A. Deo, learned CPO and P.O. Shri M.I. Khan for the State.

2. The learned counsel for the applicants has filed C.A.No. 207/2022 for filing joint O.A. The C.A. is allowed and disposed off.

O.A. No. 581/2022 -

Heard Shri G.G. Bade, learned counsel for the applicants and Shri S.A. Deo, learned CPO and P.O. Shri M.I. Khan for the State.

2. The issue pertains to Buldhana district and interchangeable cadre between Awal Karkoon and Circle Officer. This Tribunal has frowned upon this practice of interchanging these two cadres and in following various Judgments has given its opinion very clearly.

(i) The Judgment in O.A. 388/2020 along with other connected O.As. delivered on 20/10/2020 (A-6, P-44). In the said Judgment in para-11 it has been clearly explained that cadre of Circle Officer and Awwal Karkoon are different and it has been held that transfer orders issued by respondent no.2 to implement the policy of the Divisional Commissioner to interchange 11 posts of Circle Officer / Awwal Karkoon in Gadchiroli District are contrary of law and cannot be sustained. In the internal order which is at page no.56 the final order is reproduced below –

“ All the impugned transfer orders are hereby quashed and set aside. The respondent no.2 is directed to post the applicants on the same post which were held by them before issuance of the impugned orders. No order as to costs.”

(ii) The order is passed by this Tribunal in O.A. No. 271/2020 on 17/05/2021 (A-9,P-62) and in para-4 of the said order the respondents were directed to decide first representations pending of the applicants. Till that time the respondents were directed not to issue any transfer order taking shelter of G.R. dated 21/11/1995.

However, the respondents were at liberty to transfer the Mandal Officer to Mandal Officer and similarly Awwal Karkun to Awwal karkun as per the administrative requirement.

(iii) The Judgment in O.A. 761/2020 along with connected O.A. (A-10,P-64) which is pronounced on 7/4/2022 and para-14 is reproduced as below –

“ The Circle Officer is the Superior Officer of the Talathi. He has to supervise 4-5 Talathis in a Circle. Therefore, the duties of Awal Karkoon and Circle Officer are different. Awal karkoons are the superior post of the clerks, they used to seat in the in the office and do the clerical work, whereas, the Talathis and Circle Officers have to perform their field duties and their works are related with the agricultural land etc. more particularly to collect the land revenue, prepare 7/12 extract. The work of mutation is to be done by Talathi and Circle Officer is to verify the mutation entries. Therefore, it cannot be said that the works of Circle Officer and Awal karkoon are same.” Therefore, It is clearly held that Circle Officer and Awwal Karkoon cadre are not interchangeable.

3. All these three Judgments are very clear that cadre of Awwal Karkoon and Circle Officer / Mandal Adhikari are different being with jobs and responsibilities.

4. Both the cadres have filed representation dated 4/5/2022 (A-1,P-44) to the Divisional Commissioner, Amravati / Divisional Commissioner, Nagpur.

5. However, the case pertains to Buldhana and as per the learned counsel pleading impugned dated 17/5/2022 (A-1,P-18) is related to Collector, Buldhana. Hence, learned counsel is directed to ensure that applicants filed representation to the Collector, Buldhana within a week time.

6. The respondent no.3 i.e. Collector, Buldhana is directed to decide representation within 15 days after its receipt and then take further action in this issue in the light of Judgments pronounced by this Tribunal.

7. With this direction, the O.A. is disposed off. No order as to costs.

Steno copy is granted...

Vice-Chairman

dnk.

O.A. No. 582/2022

(H.V. Ubale Vs. State of Mah. & Ors.)

Coram: Shri Shree Bhagwan, Vice-Chairman.

Dated : 27/05/2022.

ORDER

Heard Shri Barhate, learned counsel for the applicant and Shri M.I. Khan, learned counsel for the State.

2. As per Annex-A-2,P-16 point no.4, it appears that the applicant was previously posted on 1/7/2018 at Mahagaon, Pusad Forest Division, Pusad and completed three years and 11 months. Now admittedly applicant is due for transfer and applicant has submitted his choice in the same letter dated 6/5/2022 (A-2,P-16).

3. The respondents are directed to decide the representation of applicant dated 6/5/2022 (A-2,P-16) as per law within 15 days.

4. Issue notice to the respondents returnable **after four weeks**. Learned P.O. waives notice for State. 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.

S.O. after four weeks

Steno copy is granted...

Vice-Chairman

dnk.

O.A. No. 583/2022

(L.A. Bhosale Vs. State of Mah. & Ors.)

Coram: Shri Shree Bhagwan, Vice-Chairman.

Dated : 27/05/2022.

ORDER

Heard Shri R.V. Shiralkar, learned counsel for the applicant and Shri M.I. Khan, learned P.O. for the State.

2. The applicant is Senior Clerk and as per O.A. synopsis the applicant was as Joint Sub Registrar, Havelin no.14, Pune district. Subsequently the applicant was suspended vide order dated 28/7/2021 (A-1,P-9) and charge sheet was served on 20/10/2021 (A-2,P-13). The main charge is violation of Maharashtra Registration Rules, 1961 Rule 44 (i).

3. As pointed out by the learned counsel, the Judgment of Hon'ble High Court, Bench at Aurangabad in Writ Petition No.2111/2022 dated 5/5/2022 and following order was passed in para-(II).

“ Rule 44 (1) (i) of the Maharashtra Registration Rules, 1961 is read down and is declared that the same would not be applicable. The registering authority is not required to insist compliance of the conditions imposed under rule 44 (1) (i) while registering the document under section 34 r/w , section 35 of the Registration Act,1908. The registering authority shall not reject any document on the ground of non compliance of the conditions set out in the impugned circular dated 12/7/2021 or for no compliance of Rule 44 (1) (i). ”

4. The learned counsel for the applicant has relied on this Judgment However, learned CPO pointed out that charge sheet was served on 20/10/2021 and Judgment of Hon'ble Bombay High Court, Bench at Aurangabad was passed on 5/5/2022. The Id CPO further pointed out that due to conduct of application there was loss to Government Rs. 19,84,260/- (in words nineteen lakhs eighty four thousand and two hundred sixty only) as per page no.16 of charge sheet.

5. The learned counsel is directed that applicant should place the Hon'ble High Court Judgment before Enquiry Officer and Enquiry Officer should take into consideration before arriving at any decision.
6. Issue notice to the respondents returnable **after six weeks**. Learned P.O. waives notice for State. Hamdast allowed.
7. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
8. 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.
9. 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.
10. 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.
11. 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 six weeks

Steno copy is granted...

Vice-Chairman

dnk.

O.A. No. 584/2022

(S.T. Shelke Vs. State of Mah. & Ors.)

Coram: Shri Shree Bhagwan, Vice-Chairman.

Dated : 27/05/2022.

ORDER

State. Heard Shri R.V. Shiralkar, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for the

2. The applicant is working as Accountant in Municipal Council, Armori, He was suspended by order dated 9/2/2022 (A-2,P-20).

6. Issue notice to the respondents returnable **after four weeks**. Learned P.O. waives notice for State. Hamdast allowed.

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

8. 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.

9. 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.

10. 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.

11. 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.

C.P. 34/ 2022 in O.A. No. 222/2022

Coram: Shri Shree Bhagwan, Vice-Chairman.

Dated : 27/05/2022.

ORDER

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

2. Issue Notice to the respondents returnable after **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. The learned P.O. waives notice for State. Hamdast granted.
4. S.O. **six weeks**.

Vice-Chairman

dnk.

O.A. No. 585/2022

(R.K. Dhoke Vs. State of Mah. & Ors.)

Coram: Shri Shree Bhagwan, Vice-Chairman.

Dated : 27/05/2022.

ORDER

Heard shri S.S. Dhengale, Id. counsel for the applicant and Shri S.A. Deo, Id. C. P.O. for the State.

2. The applicant has not filed posting order of previous place i.e. Khadsing from where he has been transferred. He is directed to file that order on record, then matter will taken. As pointed out by Id. CPO, The impugned order dated 6/5/2022 (A-1,P-19) is not a transfer order, it is a deputation order.

3. Issue notice to the respondents returnable **after six weeks**. Learned C. 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. after six weeks,

Vice-Chairman

O.A. No. 587/2022

Coram: Shri Shree Bhagwan, Vice-Chairman.

Dated : 27/05/2022.

ORDER

1. Heard Shri G. G. Bade, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for the State.
2. Issue notice to the respondents returnable **after six weeks**. Learned C. 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. after six weeks,

Vice-Chairman

dnk.

O.A. No. 511/2022

Coram: Shri Shree Bhagwan, Vice-Chairman.

Dated : 27/05/2022.

ORDER

C.A. 203/2022 in O.A.511/2022

Heard Shri G.G. Bade, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO and Shri M.I. Khan, Id. P.O. for the respondents.

The applicant has filed C.A. for withdraw the O.A. As explained in the C.A, the O.A. is disposed of as withdrawn. No order as to costs.

Vice-Chairman

dnk.

MCA 15/2022 in O.A. No. 415/2020

Coram: Shri Shree Bhagwan, Vice-Chairman.

Dated : 27/05/2022.

ORDER

- Heard Shri G.G. Bade, Id. counsel holding for shri R.V. Shiralkar, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO and Shri M.I. Khan, Id. P.O. for the respondents.

2. The Id. CPO and P.O. have filed MCA No. 15/2022 for extension of three months time to implement the order of this Tribunal dated 24/3/2022. Since the order requires to be moved to various departments and at the same time the respondents are trying to challenge the MAT order before the Hon'ble High Court.

3. In view thereof, the MCA is allowed and disposed off and time sought for three months is granted.

Vice-Chairman

dnk.

O.A. No. 586/2021

(S.M. Jadhao Vs. State of Mah. & Ors.)

Coram: Shri Shree Bhagwan, Vice-Chairman.

Dated : 27/05/2022.

ORDER

Heard Shri P.V. Thakre, Id. counsel for the applicant and Shri Shri S.A. Deo, Id. CPO and Shri M.I. Khan, Id. P.O. for the State.

2. The applicant was appointed as Forest Guard on 25/8/1993. Then the applicant was promoted as Forester. Subsequently on 6/3/2014 he was promoted as RFO and posted at Dongargaon Timber Depot which is a naxalite and tribal area. Again the applicant was transfer to Goregaon forest Range Office which is also a naxalite and tribal area. Then on 29/5/2019 the applicant was transferred to Deoli in Wardha Social Forestry Division. The applicant submitted his choice at page no.13. However, vide impugned order dated 25/5/2022 (A-3,P-22) the applicant was transferred to Dongargaon Timber Depot again.

3. The respondent no.4 G.F. Luche who is at Sr.No.16 has been posted in place of applicant. As submitted by Id. counsel the applicant as well as respondent no.4 are still working and yet to be relieved from their respective posts. The Id. counsel has relied on G.R. dated 9/4/2018 and pointed out that on page no.10 /22 point no. क (9) following direction has been given –

क (9) मूळ जागेवर पुन्हा बदलीस प्रतिबंध -

प्रशासकीय किंवा विनंती बदल्या करतांना कर्मचा-याने अगोदर ज्या जागी सेवा केली असेल त्या मूळ जागेवर शक्यतो बदली देण्यात येवू नये. मात्र ही अट एकाकी पदास लागू राहणार नाही.

4. The applicant has already worked on this post from 6/3/2014 to 6/5/2016. Now as per the impugned order applicant is fully covered by the provision of G.R. dated 9/4/2018 and he cannot be posted to the same post. As submitted by the learned counsel the applicant as well as respondent no.4 are still working and yet to be relieved from their respective posts. The G.R. dated 9/4/2018 has been violated in the impugned order to the extent of following provision –

क (१) मूळ जागेवर पुन्हा बदलीस प्रतिबंध -

प्रशासकीय किंवा विनंती बदल्या करतांना कर्मचा-याने अगोदर ज्या जागी सेवा केली असेल त्या मूळ जागेवर शक्यतो बदली देण्यात येवू नये. मात्र ही अट एकाकी पदास लागू राहणार नाही.

5. Considering the violation of provision of G.R. dated 9/4/2018, transfer order dated 25/5/2022 (A-3,P-22) is stayed to the extent of applicant and respondent no.4. The respondents are directed to take decision as per rules and considering the representation of the applicant and decide it as per G.R. dated 9/4/2018 within 15 days from the date of receipt of this order.

6. With this direction, the O.A. is disposed off. No order as to costs.

Steno copy is granted...

Vice-Chairman

O.A. No. 575/2022

(V.K. Galgat Vs. State of Mah. & Ors.)

Coram: Shri Shree Bhagwan, Vice-Chairman.

Dated : 27/05/2022.

ORDER

Heard Shri A.C. Dharmadhikari, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO and Shri M.I. Khan, Id. P.O. for the State and Shri Barhate, Id. counsel holding for Shri N.R. Saboo, Id. counsel Caveator.

2. The applicant is RFO in Chandrapur District working as RFO, Rajura (Territorial), Central Chanda Division, Chandrapur. Vide order dated 21/5/2022 (A-1,P-17) the applicant has been posted to STPF, Chimur in Tadoba Tiger Reserve and he is at Sr.No.1. The applicant has given his choice at Page no.83 Annex-A-10. After transfer order, the applicant submitted application dated 20/5/2022 and pointed out that he completed 30 years of service and he is due to retire within three years. The learned counsel for the applicant has relied on NTCA guidelines, Ministry of Environment and Forest, National Tiger Conservation Authority guidelines for constitution of STPF. The guidelines run from page nos.46 to 52. In the guidelines at page no. 49 point no. E (iii) stipulates as follows –

“E (iii) The Assistant Conservator of Forests and the Range Officers would be selected on deputation from the State Cadre to the STPF through a Selection Committee comprising of State Government officials and representatives from the Police and Paramilitary Forces to ensure required physical standards, aptitude and age below 40 years.”

3. Now in this case the applicant is rather more than 50 years and almost he will be doing his last posting. In the application dated 20/5/2022 (A-11,P-86) the applicant has clearly written in the six lines from the top that he has less than three years of service. In this circumstances, the guidelines issued by NTCA and Government of India for STPF will be totally defeated.

4. By this kind of placement a staff in the field of Tiger Conservation that too in the area like Tiger Andhari, Tiger Reservation, the edifice of whole Tiger conservation programme will be defeated. The NTCA and STPF was mainly conceptualise to upgrade the Tiger conservation in the country and at the international level. We will be totally digressing from the objective of MoEF and NTCA. As on today, Chimur and Bramhapuri Division is the best Tiger landscape in the country. Such posting orders will not only defeat the purpose but also bring criticism from Tiger conservationist. It will also demoralised motivated a staff for working for Tiger conservation. The order appears to be totally without application of Tiger conservation / Wildlife conservation rather it shows that sabotage will be done to such excellent field programme. The Bench feels that dedicated Tiger conservationist will be highly surprised by such kind of order which will bring criticism not only to personalities involved in this decision making, but also bring bad name to the Department.

5. Considering whole issue and giving priority to Tiger / Wildlife conservation, the respondents are directed not to force applicant to join at his transferred place as per the order dated 21/5/2022 (A-1,P-17) until further orders.

6. The learned counsel for the applicant is directed to make MoEF, NTCA, Nagpur and Delhi office both as a party within one week to listen their side in the Court Room on the policy of NTCA regarding posting of field staff in STPF. The applicant is also directed to add Caveator as a party.

7. If the applicant is relieved from the present post, he will be treated on compulsory waiting till he is given new suitable posting.

8. After newly added parties, Issue notice to the respondents returnable **after two weeks**. Learned C. P.O. waives notice for State. 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. The order of this copy be provided to Principal Secretary of Forest, Maharashtra Government to examine how guidelines issued by MoEF and NTCA as mentioned below –

“E (iii) The Assistant Conservator of Forests and the Range Officers would be selected on deputation from the State Cadre to the STPF through a Selection Committee comprising of State Government officials and representatives from the Police and Paramilitary Forces to ensure required physical standards, aptitude and age below 40 years.” Is being violated for such important Tiger conservation area.

S.O. after two weeks,

Steno copy is granted....

Vice-Chairman

dnk.

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