

O.A. 629/2020 (S.B.)

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

Dated : 28/01/2021.

Shri B.J. Lonare, Id .counsel for the applicant and Shri S.A. Sainis, Id. P.O. for R-1. Await service of R-2 to 4.

At the request of learned counsel for the applicant, **S.O. three weeks** for filing service affidavit.

Vice-Chairman

dnk.

O.A. 629/2020 with C.A. 321/2020 (S.B.)

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

Dated : 28/01/2021.

Heard Shri R.V. Shiralkar, Id. counsel holding for Shri M.M. Sudame, Id. counsel for the applicant, Shri A.M. Ghogre, Id. P.O. for R-1&2 and Shri S.P. Palshikar, Id. counsel for R-3.

2. The Id. P.O. files reply on behalf of R-1&2. It is taken on record. Copies are supplied to the other sides.

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

4. The Id. P.O. waives notice on behalf of R-1&2.

S.O. after four weeks.

Vice-Chairman

dnk.

O.A. 256/2018 (S.B.)

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

Dated : 28/01/2021.

Shri S.R. Deshpande, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for R-1 to 4 and none for R-5.

At the request of Id. counsel for the applicant, **S.O. 5/2/2021.**

Vice-Chairman

dnk.

O.A. 113/2019 (S.B.)

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

Dated : 28/01/2021.

Smt. K.N. Saboo, Id. counsel for the applicant and Shri S.A. Sainis, Id. P.O. for the respondents.

At the request of Id. counsel for the applicant, **S.O. 4/2/2021.**

Vice-Chairman

dnk.

O.A. 326/2019 (S.B.)

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

Dated : 28/01/2021.

Shri G.G. Bade, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for the respondents.

At the request of Id. counsel for the applicant, **S.O. 11/2/2021.**

Vice-Chairman

dnk.

O.A. 82/2020 (S.B.)

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

Dated : 28/01/2021.

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

At the request of Id. counsel for R-2,
S.O. 5/2/2021.

Vice-Chairman

dnk.

(S.B.)

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

Dated : 28/01/2021.

**O.A.Nos. 809,810,811,812,813,814,815,816,
817,818,819,820,821 & 822 of 2017 -**

Smt. Meenaxi Iyer, Id. counsel for the applicants and Shri S.A. Sainis, Id. P.O. for the respondents.

At the request of Id. counsel for the applicants, **S.O. 1/2/2021.**

Vice-Chairman

dnk.

O.A. 709/2019 (S.B.)

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

Dated : 28/01/2021.

Heard Shri D.S. Sawarkar, Id. counsel for the applicant and Shri A.M. Khadatkar, Id. P.O. for the respondents.

2. The Id. P.O. files reply on behalf of R-2. It is taken on record. Copy is served on the applicant. The Id. P.O. submitted that it is sufficient to decide the O.A.

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

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

S.O. after four weeks.

Vice-Chairman

dnk.

O.A. 817/2019 (S.B.)

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

Dated : 28/01/2021.

C.A. 87/2020 -

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

For the reasons stated in the application, the C.A.No. 87/2020 for filing documents on record is allowed.

The applicant to produce relevant documents on record and copies be supplied to the other side.

O.A. 817/2019 –

S.O. three weeks.

Vice-Chairman

dnk.

O.A. 293/2020 (S.B.)

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

Dated : 28/01/2021.

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

2. The Id. P.O. files reply on behalf of R-2 to 4. It is taken on record. Copy is served on the applicant. The Id. P.O. submitted that it is sufficient to decide the O.A.

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

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

S.O. 5/2/2021.

Vice-Chairman

dnk.

O.A. 699/2020 (S.B.)

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

Dated : 28/01/2021.

None for the applicant. Shri A.M.
Ghogre, Id. P.O. for R-1. Await service of R-2&3.

S.O. four weeks.

Vice-Chairman

dnk.

O.A. 723/2020 (S.B.)

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

Dated : 28/01/2021.

Heard Shri S.N. Gaikwad, Id. counsel for the applicant and Shri V.A. Kulkarni, Id. P.O. for the respondents.

2. The Id. P.O. files reply on behalf of R-3. It is taken on record. Copy is served on the applicant. The Id. P.O. submitted that it is sufficient to decide the O.A.

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

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

S.O. after four weeks.

Vice-Chairman

dnk.

O.A. 505/2020 (S.B.)

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

Dated : 28/01/2021.

C.A. No. 26/2021 -

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

2. The learned counsel for the applicant has filed C.A.No. 26/2021 for withdrawal of the O.A. in which it is stated that the impugned transfer order has been cancelled by the respondent no.2 and therefore nothing survives in the application. The applicant is permitted to withdraw the O.A. as stated above.

4. In view thereof, the C.A. stands allowed.

O.A. 505/2020 –

As the C.A. for permission to withdraw the O.A. is allowed, the O.A. stands disposed of as withdrawn. No order as to costs.

Vice-Chairman

dnk.

O.A. 743/2020 (S.B.)

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

Dated : 28/01/2021.

Shri A.Khadatkar, Id. counsel for the applicant and Shri A.P. Potnis, Id. P.O. for the respondents.

The Id. P.O. files reply on behalf of R-1 to 4. It is taken on record. Copy is served on the applicant.

S.O. after four weeks.

Vice-Chairman

dnk.

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

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

Dated : 28/01/2021.

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

2. The learned counsel for the applicant submits that the applicant was placed under suspension vide order dated 19/10/2020 (A-2, P-12). He further submits that till now no charge sheet has been served on the applicant. He has relied on G.R. dated 9/7/2019 and the decision in the said G.R. at Para-1 (ii) clearly covers the grievance of the applicant. However, the Id. P.O. desires to file reply.

3. In the meantime, issue notice to the respondents, returnable on **18/2/2021**. 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. 18/2/2021.

Vice-Chairman

dnk.

O.A. 924/2018 (S.B.)

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

Dated : 28/01/2021.

Shri R.V. Shiralkar, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for the respondents.

At the request of Id. counsel for the applicant, **S.O. 12/2/2021.**

Vice-Chairman

dnk.

O.A. 85/2018 (S.B.)

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

Dated : 28/01/2021.

Heard Shri G.N. Khanzode, Id. counsel
for the applicant and Shri V.A. Kulkarni, Id. P.O.
for the respondents.

Closed for orders.

Vice-Chairman

dnk.

O.A. 214/2020 (S.B.)

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

Dated : 28/01/2021.

Heard the applicant in person and Shri H.K. Pande, Id. P.O. for the respondents.

2. The matter was heard on 21/1/2021 and in para-2 following observations were made –

“ The respondents are directed to clarify under which provision of law, they are not allowing the applicant to resume duty. On failure of the respondents to clarify within one week, the matter would be finally heard”.

3. However today no relevant document has been produced by the respondents. In this situation, the respondents are directed to allow joining of the applicant as and when he approaches to the respective office. The applicant appeared in person and he is directed to approach the concerned office to join before 1/2/2021 subject to mandatory fitness certificate and along with relevant documents and order of this Tribunal.

4. The applicant is directed to appear before this Tribunal personally on the next date along with joining letter.

S.O. 2/2/2021.

Steno copy is granted.

Vice-Chairman

dnk.

***O.A. 471/2020 (S.B.)**

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

Dated : 28/01/2021.

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

2. The learned P.O. has filed letter dated 22/10/2020 written by DIG, Gadchiroli Range, Additional Charge of Spl. I.G., Anti Naxal Cell, M.S., Nagpur. By this correspondence the applicant's suspension order has been revoked and he has been posted to Deori Camp, District Gondia as per para-2 of the correspondence.

3. Hence, grievance of the applicant has been redressed and nothing survives in the O.A.

4. The order dated 8/10/2020 is complied.

Vice-Chairman

dnk.

***O.A. 589/2020 (S.B.)**

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

Dated : 28/01/2021.

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

2. As pointed out by the learned counsel for the applicant, the District Civil Surgeon, General Hospital, Bhandara vide his letter dated 28/5/2020 has sent letter to the Deputy Director of Health Services, Nagpur for prior sanction of payment to the tune of Rs.14,40,539/- which was pending against the applicant. Even after 8 months, the respondent no.3 has not taken any action on this letter.

3. The respondent no.3 is directed to communicate his decision to the District Civil Surgeon, General Hospital, Bhandara before next date of hearing and file relevant documents on record, failing which the respondent no.3 is directed to remain present before the Tribunal and explain the reason for not taking decision on letter dated 28/5/2020 of District Civil Surgeon, General Hospital, Bhandara.

S.O. 5/2/2021.

Steno copy is granted..

Vice-Chairman

dnk.

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

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

Dated : 28/01/2021.

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

2. The applicant was recruited as Police Constable on 13/7/1981 in the SRPF, Group-IV, Nagpur. As per the reply on page no.45 and in para-7 the applicant completed 12 years of service in July,1993, however, the Government policy of graining time bound promotion came in the year 1995 and effect was given from 1994. In this situation, as cadre of the applicant is Police Constable, then Police Naik and then Police Head Constable and then ASI so after Assured Career Progressive Scheme (ACP) G.R. of 1995 this was made applicable in 1994, the applicant should have been given 1st time bound promotion from 1994 and that has been pleaded by the applicant in relief clause para-iii.

3. The order sheet dated 10/07/2019 in para nos.2&3 following order is passed –

“(2) Admittedly by reply, the applicant was appointed in 13/7/1981 as Police Constable in SRPF, Group-IV, Nagur as per the reply at P.B., Pg. no.45 at para no.3, applicant completed 12 years of service in the July,1993. However,

Government policy of granting time bound promotion came in 1995 and effect was given from 1994. In this situation, the applicant should have been considered proceeding to 1994 for five years confidential records i.e. 1994-1993, 1993-1992, 1992-1991, 1991-1990 & 1989-1990. Whether these C.Rs. are considered and meeting took place and applicant was considered or not fit for promotion that record should be placed by Id. P.O.

(3) The Id. P.O. must produce these documents i.e. C.Rs. of 1989-1990, 1990-1991, 1991-1992, 1992-1993 and 1993-1994 along with the minutes of meeting of the same.”

4. However, till now the Id. P.O. has not complied with the order and neither filed CRs. of the subsequent years and nor filed minutes of the DPC meeting in which rejected the benefit of time bound in the year 1993 to the applicant when he was due for the same, but as per G.R. of 1995 he was given benefit from the year 1994.

5. The learned P.O. is given 15 days time to comply the order dated 10/07/2019 and file the relevant C.Rs. and minutes of the DPC meeting otherwise the matter will be decided on merits on the next date of hearing.

S.O. 18/2/2021.

Steno copy is granted.

Vice-Chairman

dnk.

***O.A. 681/2018 (S.B.)**

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

Dated : 28/01/2021.

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

2. The grievance of the applicant is that he should have been given 2nd time bound promotion from 1/8/2013. The applicant retired on 31/10/2013 and by record A-2, Page no.11, it appears that the applicant was granted 2nd time bound promotion from 1/8/2013 by correspondence dated 11/5/2018 by Resident Dy. Collector, Nagpur. However, as per the record at A-11, P-30 the applicant's representation wherein in para-3 following request has been made by the applicant –

^ ftYgkf/kdkjh] ukxi j ; kpk i = dz vkLFk@ dk; k23@v 10@
e-v- i nklurh@10@72] fnukd 26@4@2010 vll@s ek>h
i nklurh eMG] vf/kdkjh ; k i noj ed okMh l dzy] rk-jkeVd
; fksdj.; kr vkyh-

Ek>h i zdrh fBd ul Y; kusl nj i nklurhP; k fBdk.kh eh # tw
gkdw 'kdr ukgh vl s fuosu vki ys dk; ky; kr fnukd
7@5@2010 jksthfnysysvkg

Ek eMG vf/kdkjh l oxkr i nklurh ukdkjY; kuseyk ns; kr
; r vl yykofj "B oru Jskpk ykHk dk<u ?ks; kr vkyk-"

3. It appears that the applicant was promoted as Circle Officer by the Collector, Nagpur vide order dated 26/4/2010. This was

not accepted by the applicant on the ground of health. As per the Govt. policy regarding granting ACP scheme is that if the higher cadre promotion cannot be granted to the employee, then ACP scheme is granted to the employee to restrain subsequent loss of financial benefits.

4. Here, in the present case the applicant was due for 2nd time bound promotion from 1/8/2013, but he was already promoted vide order dated 26/4/2010 as admitted by applicant (P-30) which admittedly the applicant did not accept it. The respondents were not at fault in denying 2nd time bound promotion from 1/8/2013 since before that they had promoted the applicant to the higher cadre. In this background, the O.A. stands dismissed. No order as to costs.

Vice-Chairman

dnk.

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O.A.No.213/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 28/01/ 2021.

Heard Smt. P.Rane, the Id. Counsel for the applicant and Shri A.M.Ghogre, the Id. P.O. for the respondents.

2. At the request of Id. P.O., **S.O. three weeks to file reply.**

3. *I.R. is continued.*

Vice Chairman

Date:-28/01/2021.
aps.

O.A.No.365/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 28/01/ 2021.

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

2. The Id. P.O. has filed reply on behalf of the respondent nos. 1 and 2. It is taken on record. Copy is served to the other side. It is sufficient to decide the O.A.

3. Hence, the O.A. is **admitted** and kept for final hearing.

4. The Id. P.O. waives notices for the respondents.

5. **S.O. in due course.**

Vice Chairman

Date:-28/01/2021.

aps.

O.A.No.656/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 28/01/ 2021.

Heard Shri M.V.Bute, the Id. Counsel for the applicant and Shri A.M.Ghogre, the Id. P.O. for the respondents.

2. At the request of Id. P.O., **S.O. four weeks to file reply.**

Vice Chairman

Date:-28/01/2021.
aps.

O.A.No.706/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 28/01/ 2021.

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

2. As per the order dated 02.11.2020 in para no. 2; the Id. P.O. submits that second set of O.A. has been filed. At the request of Id. P.O., **S.O. three weeks to file reply.**

Vice Chairman

Date:-28/01/2021.
aps.

O.A.No.713/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 28/01/ 2021.

Heard Shri P.V.Thakre, the Id. Counsel for the applicant and Shri A.M.Khadatkar, the Id. P.O. for the State. Await service of respondent nos. 2 & 3.

2. The Id. counsel for the applicant requested time to file service affidavit. The Id. P.O. requested time to file reply, at his request **S.O. six weeks.**

Vice Chairman

Date:-28/01/2021.
aps.

O.A.No.732/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 28/01/ 2021.

None for the applicant. Shri S.A.Deo, the Id.
C.P.O. for the State. Await service of respondent nos.
2 & 3.

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

Vice Chairman

Date:-28/01/2021.
aps.

O.A.No.746/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 28/01/ 2021.

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

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

Vice Chairman

Date:-28/01/2021.
aps.

O.A.Nos.756&757/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 28/01/2021.

None for the applicant. Shri S.A.Deo, the Id.
C.P.O. for the respondents.

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

Vice Chairman

Date:-28/01/2021.
aps.

O.A.No.931/2020 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 28/01/ 2021.

Heard Shri H.D.Marathe holding for Shri K.P.Mahalle, the Id. Counsel for the applicant and Shri A.M.Khadatkar, the Id. P.O. for the Respondents.

2. The Id. counsel for the applicant submits that he wants to withdraw the O.A.. Hence, he is directed to file the pursis in this regard.

3. **S.O. one week for filing pursis.**

Vice Chairman

Date:-28/01/2021.

aps.

O.A.No.63/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 28/01/ 2021.

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

2. The Id. counsel for the applicant submits that applicant has withdrawn application for V.R.S.. Subsequently, the Id. counsel for the applicant has submitted letter dated 22.01.2021 and the same letter has been accepted by Deputy Commissioner, Headquarter, Amravati C.P. by 27.01.2021.

3. Hence, it seems that the grievance of the applicant is redressed and nothing remains in the original application. Hence, **O.A. is disposed of as withdrawn.**

Vice Chairman

Date:-28/01/2021.

aps.

O.A.No.64/2021 (D.B.)

Coram : Shri Shree Bhagwan, Vice Chairman
Dated : 28/01/ 2021.

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

2. The applicant was appointed as Junior Clerk vide letter dated 14.06.2006 (Annexure-A-2, P.B., Pg. No. 9) and as per P.B., Pg. No. 14; the applicant name is at Sr. No. 22. It appears that applicant was appointed under VJ-A, Banjara Community. The Id. counsel for the applicant has also pointed out the caste mentioned in Annexure-A-1, P.B., Pg. No. 8 (letter of Caste Scrutiny Committee); where it is written V.J. only. The Id. counsel for the applicant is directed to get the clarification from the corresponding office that it is VJ-A.

3. As per letter dated 21.11.2012 (Annexure-A-3, P.B., Pg. No. 16) is about the passing of the examination which is conducted between 18 to 20.02.2011 and applicant name appears on P.B., Pg. No. 20 at Sr. No. 160 and applicant declared passed. Again applicant was promoted on 14.08.2019 as Senior Clerk as per Annexure-A-5, P.B., Pg. No. 35 and as per letter; applicant was promoted as Senior Clerk from Open Category. In the promotion order; it is mentioned that the S.L.P. No. 28306/2017 is pending before Hon'ble Apex Court and this promotion order has been issued as per G.A.D. letter

dated 29.12.2017. The applicant joined on promotional post on 14.08.2019 in the afternoon as Senior Clerk.

4. However, seniority list of Senior Clerk was published on Annexure-A-6, P.B., Pg. No. 38 in which applicant is at Sr. No. 66 on P.B., Pg. No. 41 and column of deemed date of seniority and seniority date are kept blank. Subsequently, applicant has been reverted vide order dated 17.01.2021 (Annexure-A-7, P.B., Pg. No. 42) by respondent no. 2. Aggrieved with this order, applicant has approached to this Tribunal and in the impugned order in the para no. 1; it is mentioned that one Mr. Adhe becomes access in VJ-A category. However, as per promotion order dated 14.08.2019 (Annexure-A-5, P.B., Pg. No. 35) it is clearly mentioned that his promotion was nothing to do with the category of the candidate. It was purely on the basis of the seniority and applicant was promoted in Open Category as per G.A.D. letter dated 29.12.2017. In this situation, question of category does not arise in the promotion.

5. The Id. counsel for the applicant has also filed documents on Annexure-A-8; where at Sr. No. 20; it is mentioned that sanctioned post of Senior Clerk is 34 (total) out of which 17 are filled and 17 are vacant and since applicant was promoted as per direction of G.A.D. letter there was no reason. It does not appear *PrimaFacie* that applicant should be reverted because of anything in the quota of VJ-A.

6. The Id. C.P.O. submits that order dated 17.01.2021 has already taken effect. However, the Id. counsel for the applicant submits that applicant is yet to receive the order dated 17.01.2021. Both the counsels are having contradictory says. But it appears from Annexure-A-8, P.B., Pg. No. 44; that there are still 17 posts vacant in the cadre of Senior Clerk and in view of this, in the interest of justice, the order dated 17.01.2021 requires to be stayed till filing of the reply.

7. Hence, impugned order dated 17.01.2021 is stayed till filing of the reply.

8. Issue notice to Respondents, returnable on four weeks. Learned C.P.O. waives notice for R-1. 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. **S.O. four weeks.**

Vice Chairman

Date:-28/01/2021.

aps.

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

(S.R. Pande Vs. State of Maharashtra & Ors.)

**Coram :- Hon'ble Shri Shree Bhagwan,
Vice-Chairman.**

Dated :- 28/01/2021.

ORDER

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

2. On C.A. No. 41/2017 in para-5 the Id. Counsel for the applicant pointed out that there is no delay. As submitted by the learned counsel for the applicant, the applicant entered in the Police Department as Police Constable on 11/9/1989. After five years, he was to be promoted as Naik Police Shipai (NPC) on 1/5/2002 when his batch mates were promoted, however, he was not given promotion and as submitted by the learned counsel since record of applicant was not available to the department, he was not given this promotion. Subsequently, the applicant was under suspension between 23/10/2004 to 6/8/2008 and after revocation of suspension, he joined duty on 7/8/2008. He was promoted in 2012 after taking into consideration of C.Rs. and record. The learned counsel for the applicant also pointed out Annex-A-1, Page no.18 of the O.A., in which the applicant obtained the information under RTI Act and for not promoting the applicant as Naik Police Shipai, it is mentioned in the said letter that for year 2000 and 2001 only for these two years

remarks were available of applicant and these two remarks were not sufficient to make eligible for promotion to the applicant as Naik Police Shipai. Now it seems that the five years remarks i.e. 1997,1998 & 1999 were not available to the department and for that the applicant was not responsible at all.

3. The learned counsel for the applicant has also pointed out the facts regarding applicant on page no.5 Para-iv in the O.A. which is reproduced below -

“ (iv) It is further submitted that the applicant was put under suspension from 23/10/2004 to 6/8/2008 because there was an offence registered against him at Ranapratapnagar Police Station vide Crime No.305/2004, for offence punishable under Section 384 of IPC. It is further submitted that the order of suspension dated 23/10/2004, was revoked and the applicant was reinstated w.e.f. 7/8/2008. Thereafter, it appears that for the year 2009 to 2011 he was not fit for promotion as per the C.R. and thereafter in the year 2012 he was promoted as a Naib Police Shipai (NPC)”.

4. The learned counsel for the applicant also pointed out Annex-A-2, Page no.29 from which Judgment of the Special Court at Nagpur was passed on 24/3/2009 and operative part on Page no.64 which is as under –

“ Accused Sanjay S/o Rajendraprasad Pande is hereby acquitted U/Sec. 235 (i) of the Cr. P.C. of the offence punishable U/Sec. 384 of I.P.C. and U/Sec. 13 (1) (b) & (d) and Sec. 8 of the Prevention of Corruption Act, 1988”.

5. The applicant has been acquitted from various sections, but from 2009 to 2011 due to C.Rs. he was not made eligible for promotion and in 2012 he was promoted. Again learned counsel pointed out that the document at page no.66 which was issued by the Deputy Commissioner, Head Quarters, Commissionerate of Police Nagpur letter dated 23/4/2014 by which DE was started against the applicant for which he was acquitted in the Session Court. In the charge sheet (P-68) 7 charges are mentioned.

6. The inquiry report on page nos.75 to 95 (both inclusive). The Inquiry Officer's findings recorded on page no.95 in the last para which is reproduced as below –

^ ; ko#u l nj i d j . kh vi pl kj h u ki kf ' k @ 1048 l at ; i k M s u e . k p d i k s y h l e d [; k y ;] u k x i j j ; k p s o j h y d R ; ko#u o v k t i k o r k s R ; k p s o # / n d s y ; k f o H k k x h ; p k d l ' k h o # u u e m vi pl kj h ; k a u h i k s y h l f o H k k x k l u ' k k k k u k j s v R ; r c f ' k L r o c s t c k c n k j i . k s t u e k . k l k r i k s y h l k p h i f r e k e y h u v l s d R ; d s y s y s v k g s v l s f n l q u ; r s **

7. Final order was passed after completing the inquiry on page no. 96 vide letter dated 8/12/2015 by DCP, head quarters, Nagpur City and order was recorded on page no.97 which is as below-

^ u ki kf ' k @ 1048 l at ; i k M s u e . k p d i k s y h l e d [; k y ;] u k x i j j ' k g j ; k a u k R ; k R ; k ; k o j h y i d l j P ; k d l j h c n n y R ; k p h i q h y ; s k j h o k f ' k d o r u o k < 2 o " k k d f j r k L F k f x r d j . ; k p h f ' k { k k n s ; k r ; r v k g s l n j f ' k { k p k i q h y o r u o k < h o j i f j . k k e g k s k j u k g h -

Lknjpsvkn's kfo#/n tj R; kauk vfi y djko; kph bPNk vl sy rj gk vkn's k feGkY; ki kl u rs60 fnoI kpsvkar i ksyhl egkl pkyd] egkjk"V"jkt;]e;pbz; kpdMsvfi y l knj d# 'kdrkr-**

8. The applicant preferred appeal vide his letter dated 28/1/2016 (A-9, Page no.106 to 109) to DGP, M.S., Mumbai through DCP, headquarters, Nagpur. He has also given reminder on 25/2/2016. The document at page no.111 the DCP, headquarters, Nagpur has written to DGP, M.S., Mumbai to decide the appeal and appeal was enclosed. The show cause notice was issued from page nos. 112 to 117 (both inclusive) by the ADG, Administration, Maharashtra Police, Mumbai. The applicant submitted reply to the show cause notice vide A-12, P-118 to 148 (both inclusive). The ADG, Administration vide letter dated 16/17/10/2017 A-13, P-149 to 157 passed the order and order was on page no.157 which is as below –

^ eh] MKW iKk l jonj vij i ksyhl egkl pkyd ¼i z kkl u½] e-jk-]e;pbz; kOnkjs uki k'k@1048 l at; i kM's; kps i z dj.kh nks'kkjki B.D.; kP; k VII; ki kl u u0; kusfoHkkxh; pld' kh ¼DENOVO½ dj.; kpsvkn's k nr vkg's**

9. Now the fact as pleaded by the learned counsel is that for all the charges in which DE was started, the applicant was already acquitted by the Special Court, Nagpur and whatever order was passed in the DE that order was challenged in the appeal and in appeal it was directed to initiate *denovo* inquiry. The order on appeal was passed on 2/11/2017 and outward number was given 16/17/10/2017. However, on page no.157 internal page of order page no.9 the signature of ADG is put on 2/11/2017 which is also very much doubtful. During the course of hearing,

the learned P.O. was directed to produce the documents from the respondents regarding denovo inquiry. The letter was produced by the P.O. on 9/10/2019 which is at page no.160. The letter dated 25/9/2019 written by the Jt. Police Commissioner, Nagpur City which says that denovo inquiry has not been done. It is also stated that the DE pertains to the year 2004 and this issue has no relevance to that DE.

10. The applicant has filed Affidavit dated 13/7/2020 and in para nos.3&4 he has clarified his tenure and also questioned the respondents conclusion about his service.

11. The respondents have filed letter dated 30/6/2017 and at page no. 99 in para-5 they have mentioned about seniority list, but they have not filed seniority list. This is duty of the establishment of Controlling Officer to maintain the seniority list of every 1st January of the year and publish it on the Notice Board. It is expected that the respondents shall maintain seniority list of the applicant's cadre, however, they have not filed seniority list along with the reply. The respondents are directed to file seniority list and clarify on what grounds the deemed date promotion of the applicant has been denied. **S.O. 25/2/2021 (PH).**

Steno copy is granted.

Vice-Chairman.

dnk.