

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**COMMON ORDER IN ORIGINAL APPLICATION
NOS. 159/2010, 341/2010 AND 424/2015**

1. ORIGINAL APPLICATION NO. 159 OF 2010

**DISTRICTS:DHULE, AHMEDNAGAR,
NANDED & NANDURBAR**

- 1] Dr. Prakash s/o Anandrao Sawant,
Age: 45 years, Occu.: Service (as
Medical Officer), R/o: 15, Rupai,
Anuja society, Near Shree Nath Nagar,
Nakane Road, Devpur, Dhule.
- 2] Dr. Rajendra s/o Vitthal Shinde,
Age: 45 years, Occu.: Service (as
Medical Officer), R/o: At Rajur,
Taluka: Akole, District: Ahmednagar.
- 3] Dr. Prakash s/o Genu Kamble,
Age: 42 years, Occu.: Service (as
Medical Officer), R/o: At Khirwire,
Taluka: Akole, District: Ahmednagar.
- 4] Dr. Ravindra s/o Sharad Baviskar,
Age: 46 years, Occu.: Service (as
Medical Officer), R/o: Hulesing Nagar,
Plot No. 22, Near Karawand Naka,
Shirpur, District: Dhule.
- 5] Dr. Pandurang s/o Ramrao Jadhav,
Age: 42 years, Occu.: Service (as
Medical Officer), R/o: At Post Khirdi,
Taluka: Shrirampur, District: Ahmednagar.
- 6] Dr. Kishan s/o Piraji Gaikwad,
Age: 41 years, Occu.: Service (as
Medical Officer), R/o: Belanagar,
Adarsh Society, Taroda Khurd, Nanded.

- 7] Dr. Manohar s/o Tukaram Jadhav,
Age: 40 years, Occu.: Service (as
Medical Officer), C/o: Allopathic
Dispensary, Khadk, Tal.: Navapur,
District: Nandurbar.

.. **APPLICANTS**

V E R S U S

- 1] The State of Maharashtra,
through its Secretary,
Public Health Department,
M.S., Mantralaya, Mumbai - 32.
- 2] The Secretary,
Finance Department,
M.S., Mantralaya, Mumbai - 32.
- 3] The Secretary,
Rural Development and Water
Conservation Department,
M.S., Mantralaya, Mumbai-32.

... **RESPONDENTS**

W I T H

2. ORIGINAL APPLICATIN NO. 341 OF 2010

DISTRICT : AURANGABAD

1. Dr. Sarda Rajendra Mithulalji,
Age.48 yrs, Occu. Medical officer,
R/o Primary Health Centre, Tarsona,
Dist. Beed.
2. Dr. Suhas J. Parsewar,
Age 52 yrs, Occu. Medical officer
R/o "Dhanwantari CAL-3, 24/6,
12th Scheme, Garkheda Parisar,
Shivajinagar, Aurangabad.
3. Dr. Yerawar Krishna Vitthalrao
Age.50 Yrs, Occu. Medical officer
R/o Primary Health Centre,
Aamthana, Dist. Aurangabad.

4. Dr. Mundhe Jammu Khushalrao
Age 47 Yrs, Occu. Medical officer
R/o Primary Health Centre,
Warud Kazi, Dist. Aurangabad.
5. Dr. Todewale Surendra Ganeshrao
Age.50 Yrs, Occu. Medical officer,
R/o Primary Health Centre,
Golatgaon, Dist. Aurangabad.
6. Dr. Hemke Ramnath Bhojram
Age.48 Yrs, Occu. Medical officer,
R/o Primary Health Centre,
Wakoni, Dist. Jalna.
7. Dr. Murmure Ramchandra Barkoji
Age.47 Yrs, Occu. Medical officer,
R/o Primary Health Centre,
Banoti, Dist. Aurangabad.
8. Dr. Rathod Satish Fulchand
Age.49 Yrs, Occu. Medical officer,
R/o Primary Health Centre,
Siddhanath Vadgaon, Dist. Aurangabad.
9. Dr. Deshmukh Prakash Vitthalrao,
Age. 48 yrs, Occu. Medical officer,
R/o Primary Health Centre,
Jangamasala, Dist. Beed.
10. Dr. Shivaji Govindrao Jadhav
Age.51 Yrs, Occu. Medical officer,
R/o Medical College,
Ambejogai, Dist. Beed.
11. Dr. Balasaheb D. Deshmukh
Age.50 Yrs, Occu. Medical officer,
R/o Primary Health Centre,
Nila, Dist. Nanded

.. **APPLICANTS**

V E R S U S

1. **The State of Maharashtra,**)
Public Health Department,)

Through : The Additional Chief Secretary,
Mantralaya, Mumbai.)

2. **The Principal Secretary,**)
General Administration Department,)
Mantralaya, Mumbai.)

3. **The Director of Health Services,**)
Mumbai.)

.. **RESPONDENTS**

W I T H

3. ORIGINAL APPLICATION NO. 424 OF 2015

**DISTRICTS: JALNA/ LATUR/ BEED/
HINGOLI/ AURANGABAD/ PARBHANI
/ AHMEDNAGAR/ OSMANABAD**

1. Dr. Suhas S/O Jagannathrao Parnewar,
Age-56 years, occ- Taluka Health Officer,
Panchayat Samittee, Paithan,
District Aurangabad.
2. Dr. Shivaji s/o Govindrao Jadhav,
Age-57 years, occ- Medical officer (Retired),
S.R.T.R. Medical College, Ambajogai,
District Beed.
3. Dr. Satish S/O Radhakishan Runwal,
Age-49 years, occ- Taluka Health Officer,
Panchayat Samittee, Hingoli,
District Hingoli.
4. Dr. Ramdan S/O Laxmanrao Gutte,
Age-55 years, Medical Officer,
Primary Health Centre, Banzarwada,
Tq. Jalkot, District Latur.
5. Dr. Maroti S/O Gomaji Potre,
Age-48 years, Medical Officer,
Primary Health Centre,
Walwad, Tq. Bhoom, District Osmanabad.

6. Dr. Rajan S/O Digamber Parlikar,
Age-48 years, Medical Officer, (retired),
Health Department, Z. P. Osmanabd.
7. Dr. Pradeep S/O Nagnath Pensalwar,
Age-58 years, Medical Officer,
Primary Health Centre, Bitargaon, District Latur.
8. Dr. Samb S/O Sangramappa Shivpute,
Age-58 years, Medical Officer,
Primary Health Centre, Chikurd, Tq. & District Latur.
9. Dr. Rajendra S/O Mithulalji Sarda,
Age-57 years, Medical Officer,
Health Department, Z.P. Beed, District Beed.
10. Dr. Ramnath S/O Bhojram Hamke,
Age-50 years, Medical Officer, (retired),
Health Department, Z.P. Jalna, District Jalna.
11. Dr. Shrikant S/O Bhagwanrao Kulkarni,
Age-51 years, Medical Officer,
Primary Health Centre, Ujni,
Tq. Ausa. District Latur.
12. Dr. Namdeo S/O Vitthalrao Korde,
Age-47 years, Taluka Health officer,
Panchayat Samittee, Sengaon, District Hingoli.
13. Dr. Prashant S/O Hanmantrao Pande,
Age-56 years, Medical officer, Primary Health
Centre, Kawatha, District Hingoli.
14. Dr. Vidyasagar S/O Ramrao Patil,
Age-42 years, Medical Officer,
Primary Health Centre, Kodri,
Tq. Gangakhed, District Parbhani.
15. Dr. Dwarkadas S/O Madhavrao Nakhate,
Age-55 years, Medical Officer, Primary Health
Centre, Rameshwar Tanda, District Hingoli.
16. Dr. Yashwant S/o Shridharrao Dahiphale,
Age-48 years, Medical Officer,

Primary Health Centre, Bhatangali,
District Latur.

17. Dr. Deelip S/O Nivruttirao Makne,
Age-51 years, Medical Officer,
Primary Health Centre,
Sakol, Tq. Shirur AAnantpal, District Latur.
18. Dr. Sanjeev S/O Vishwanthrao Shetkar,
Age-53 years, Medical Officer,
Primary Health Centre, Kharola,
Tq. Renapur, District Latur.
19. Dr. Ramchandra S/O Barkoji Murmure,
Age-49 years, Medical Officer,
Primary Health Centre, Jarandi,
Tq. Soygaon, District Aurangabad.
20. Dr. Sadashiv S/O Marotirao Kendre,
Age-58 years, Medical Officer, (retired),
Primary Health Centre, Mangrool,
Tq. Kalamb, District Osmanabad.
21. Dr. Pratap S/O Pundlik Ige,
Age-44 years, Medical Officer,
Primary Health Centre, Gangapur,
District Latur.
22. Dr. Sanjay S/O Pandurangrao Telang,
Age-52 years, Medical Officer,
Primary Health Centre, Her,
Tq. Udgir, District Latur.
23. Dr. Dattatray S/O Mariba Kamble,
Age-55 years, Medical Officer,
Primary Health Centre, Jawalban,
Tq. Kaij, District Beed.
24. Dr. Sunil S/O Kamlakar Sadgune,
Age-58 years, Medical Officer,
Primary Health Centre, Kulephal,
Tq. Ashti, District Beed.

25. Dr. Prabhakar S/O Ganpatrao Raut,
Age-59 years, Medical Officer, (retired),
Health Department, Z.P. Beed, District Beed.
26. Dr. Prakash S/O Vitthalrao Deshmukh,
Age-57 years, Medical Officer, (retired),
Health Department, Z.P. Beed, District Beed.
27. Dr. Sudan S/O Desai,
Age-52 years, Medical Officer,
Primary Health Center, Bansarola,
Tq. Ambajogai, District Beed.
28. Dr. Ratnakr S/O Laxmanrao Kalegaonkar,
Age-56 years, Medical Officer,
Primary Health Unit, Yelda,
Tq. Ambajogai, District Beed.
29. Dr. Ulhas S/O Kishanrao Meshram,
Age-45 years, Medical Officer,
Primary Health Centre, Mohkhed,
Tq. Dharur, District Beed.
30. Dr. Sarjerao S/O Rajesaheb Shinde,
Age-51 years, Medical Officer,
Primary Health Centre, Adas,
Tq. Kaij, District Beed.
31. Dr. Nathrao S/O Nivrutti Phad,
Age-44 years, Medical Officer,
Primary Health Unit, Nathra,
Tq. Parli, District Beed.
32. Dr. Babu S/O Dattatray Phad,
Age-45 years, Medical Officer,
Primary Health Centre, Bhavsana,
Tq. Ambajogai, District Beed.
33. Dr. Subhash S/O Pundlikrao Madrewar,
Age-57 years, Medical Officer, (epidemic),
Health Department, Z.P. Latur,
District Latur.

34. Dr. Prakash S/O Genu Kamble,
Age-46 years, Medical Officer,
Primary Health Centre, Maveshi,
Tq. Akole, District Ahmadnagar.
35. Dr. Rajendra S/O Vitthal Shinde,
Age-50 years, Medical Officer,
Primary Health Centre, Kaveshi,
Tq. Akole, District Ahmadnagar.
36. Dr. Rakha Vitthal Shinde,
Age-46 years, Medical Officer,
Primary Health Centre, Borad,
Tq. Taloda, District Nandurbar.
37. Dr. Baliram S/O Ramchandra Pandve,
Age-56 years, Medical Officer,
Primary Health Centre, Gadana,
Tq. Khultabad, District Aurangabad.
38. Dr. Kalba S/O Jalba Pikle,
Age-57 years, Medical Officer,
Primary Health Centre, Nalgir,
Tq. Udgir, District Latur.
39. Dr. Satish S/O Phoolchand Rathod,
Age-54 years, Medical Officer,
Primary Health Centre, Siddhanath-vadgaon,
Tq. Gangapur, District Aurangabad.
40. Dr. Subhash S/O Baliram Jadhav,
Age-59 years, Medical officer, (retired),
Primary Health Centre, Rajur,
Tq. Bhokardan, District Jalna.
41. Dr. Sanjay S/O Anantrao Joshi,
Age-59 years, Medical Officer,
Primary Health Centre, Dabhadi,
Tq. Badnapur, District Jalna.
42. Dr. Surendra S/O Ganeshrao Todewale,
Age-58 years, Medical Officer, (retired),
Health Department, Z.P. Aurangabad,
District Aurangabad.

43. Dr. Pushplata Pundlikrao Sawant,
Age-52 years, Medical Officer, (retired),
Primary Health Centre, Aurala,
District Aurangabad.
44. Dr. Sumant S/O Prabhakarrao Shastri,
Age-56 years, Medical Officer,
Primary Health Centre, Somthana,
District Jalna.
45. Dr. Santosh S/O Sudhakarrrao Patil,
Age-42 years, Medical Officer,
Primary Health Centre, Matola,
Tq. Ausa, District Latur.
46. Dr. Sudhir S/O Nagnathrao Banshelkikar,
Age-41 years, Medical Officer,
Primary Health Centre, Tandulja, District Latur.
47. Dr. Jaysingh S/O Shivajirao Veer,
Age-57 years, Medical Officer,
Primary Health Centre, Pohner,
Tq. & District Osmanabad.
48. Dr. Kulbhushan S/O Motilal Kandarkar,
Age-56 years, Medical Officer,
Primary Health Centre, Nitur,
Tq. Nilanga, District Latur.
49. Dr. Seena Anirudha Kulkarni,
Age-45 years, Medical Officer,
Primary Health Centre, Padoli,
Tq. & District Osmanabad.
50. Dr. Dinkar S/O Narayanrao Joshi,
Age-54 years, Medical Officer,
Primary Health Centre, Yenegur,
Tq. Omerga, District Osmanabad.
51. Dr. Pandurang S/O Shrirang Pawar,
Age-55 years, Medical Officer,
Primary Health Centre, Sawargaon,
Tq. Yuljapur, District Osmanabad.

52. Dr. Krishna Vitthalrao Yerawar,
Age-56 years, Medical Officer,
Primary Health Centre, Anthana,
Tq. Sillod, District Aurangabad.
53. Dr. Sudhakar S/O Gangadhar Latpate,
Age-44 years, Medical Officer,
Primary Health Centre, Kedarkheda,
Tq. Bhokardan, District Jalna.
54. Dr. Shivaji Munjaji Digrase,
Age-50 years, Medical Officer,
Primary Health Centre, Tembhurni,
Tq. Basmath, District Hingoli.
55. Dr. Ravindra Shamrao Danrute,
Age-58 years, Taluka Health Officer Gangapur,
Tq. Gangapur, District Aurangabad.
56. Dr. Sushma Govindrao Kulkarni,
Age-53 years, Medical Officer,
Primary Health Unit, Pusegaon,
Tq. Sengaon, District Hingoli.

.. **APPLICANTS**

V E R S U S

1. The State of Maharashtra,
Through Secretary,
Public Health Department,
Mantralaya, Mumbai-32.
2. The Principal Secretary,
Finance Department,
Mantralaya, Mumbai.
3. Director of Health Service,
Arogya Bhavan, St. Georges Hospital
Campus, Near C.S.T. Mumbai.
4. Deputy Director of Health Services,
Latur Circle, Latur.
5. Deputy Director of Health Services,
Aurangabad Circle, Aurangabad.

6. Deputy Director of Health Services,
Nasik Circle, Nasik.
7. The Chief Executive officer,
Zilla Parishad, Latur.
8. The Chief Executive officer,
Zilla Parishad, Beed.
9. The Chief Executive officer,
Zilla Parishad, Parbhani.
10. The Chief Executive officer,
Zilla Parishad, Jalna.
11. The Chief Executive officer,
Zilla Parishad, Hingoli.
12. The Chief Executive officer,
Zilla Parishad, Aurangabad.
13. The Chief Executive officer,
Zilla Parishad, Ahmednagar.
14. The Chief Executive officer,
Zilla Parishad, Osmanabad.

.. **RESPONDENTS**

APPEARANCE : Shri K.J. Suryawanshi, Advocate for
Applicants in all these O.As.

: Shri I.S. Thorat, P.O. for the Respondent
authorities in all these O.As.

: Shri S.S. Dambe, Advocate for respondent No.
8 in O.A. No. 424/2015.

: Shri K.G. Salunke, Advocate for respondent
No. 10 in O.A. No. 424/2015.

: Shri U.B. Bondar, Advocate for respondent
No. 7 in O.A. No. 424/2015 (**Absent**).

: Shri Sachin Joshi, Advocate for respondent
No. 9 in O.A. No. 424/2015 (**Absent**).

: Shri Vivek Bhavthankar, Advocate for
respondent No. 11 in O.A. 424/2015(**Absent**).

: Shri S.T. Shelke, Advocate for respondent
No. 13 in O.A. No. 424/2015(**Absent**).

: Shri S.B. Gastgar, Advocate for respondent
No. 14 in O.A. No. 424/2015 (**Absent**).

CORAM : **Shri V.D. Dongre, Member (J)**
and
Shri Bijay Kumar, Member (A)

Reserved on : **16.02.2023**

Pronounced on : **07.06.2023**

O R D E R

(Per : Shri V.D. Dongre, Member (J))

1. By invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985, the present Original Applications are filed seeking declaration that the applicants (B.A.M.S. Medical Officers) belong to Group-A category of Government Employees as per G.R. dated 02.07.2002 for the purpose of inter-se seniority list in between Medical Officers by quashing and setting aside the G.R. dated 17.10.2014 issued by the respondent No. 1 to the extent of giving status of Group-B, instated of Group-A and to maintain scale of Pay Band-3 of 6th Pay Commission of Rs. 15,600-39,100 Grade Pay of Rs. 5,400/-,

which is already made applicable to the applicants w.e.f. 01.01.2006.

2. The facts in all these Original Applications viz. O.A. Nos. 159/2010, 341/2010 and 424/2015 are similar in nature and identical reliefs have been sought and the causes of action are also similar in nature. In view of the same, all these Original Applications can be conveniently disposed of by a common order. For the sake of convenience, facts of O.A. No. 341/2010 are taken into consideration as a lead case.

3. The facts in brief giving rise to this application (O.A. No. 341/2010) can be stated as follows :-

(a) All the applicants are Graduates of Ayurvedic Science and are B.A.M.S. Medical Officers. They are appointed as Medical Officers at different Zilla Parishad Hospitals and dispensaries. Recruitment to the posts of Medical Officer in Maharashtra is governed by the Medical Officer in Maharashtra Medical and Health Services Group-A (Recruitment) Rules, 2000 published vide Notification dated 30.10.2000 (Exhibit-A). These rules do not prohibit the selection of B.A.M.S. graduates for appointment to the post of Medical Officer. M.B.B.S. degree of statutory university

is treated at par with the degree of Shuddha Ayurved as specified in part (A1) of the Schedule of Maharashtra Medical Practitioner Act, 1961.

(b) The initial appointments of the applicants were in the Group-C category of posts as per the rules, which were prevailing at the relevant time. Subsequently, they were included in the Group-B posts. Their initial pay scale was of Rs. 2,000-3,500. Few State Government servants receiving the same pay scale were granted the status of Gazetted Officers. Similar demand was raised by the applicants and their Association. The respondent No. 1 was pleased to issue G.R. dated 28.05.2001 (Exhibit-B) conferring the status of Gazetted Officers upon the applicants. Since then the applicants were no more Zilla Parishad servants / employees. Consequently, the applicants are governed by the provisions of Maharashtra Civil Services (Discipline and Appeal) Rules, 1979.

(c) The General Administration Department, Maharashtra Government issued G.R. dated 02.07.2002 (Exhibit-C) thereby allotting status of Group-A, B, C & D on the basis of pay scale. Group-A posts were held to be those

whose pay or maximum limit of pay scale is not less than Rs. 11,500/-.

(d) The Finance Department, Government of Maharashtra took review and fixed the pay scale payable to the posts of Medical Officers throughout the Maharashtra by issuing G.R. dated 27.02.2006 (Exhibit-D) as per Sr. No. 24 of the Schedule-A to the said G.R.

(e) In view of above-referred G.R. dated 02.07.2002 (Exhibit-C) read with G.R. dated 27.02.2006 (Exhibit-D), the applicants are required to be designated as Group-A Government Medical Officers.

(f) The respondent No. 1 issued G.R. dated 18.07.2007 (Exhibit-E) recommending the transfer of B.A.M.S. Medical Officers from the Ayurvedic Clinics of Zilla Parishads to the Primary Health Centre, where the posts of Medical Officers were lying vacant. This depicts that the State Government also has treated the services, skill, knowledge and expertise of the applicants at par with M.B.B.S. degree holder Medical Officers, who were posted at Primary Health Centers. Transfer orders of some of the applicants are referred to in order dated 31.03.2008 (Exhibit-F).

(g) Moreover, Group Insurance Scheme (GIS) is applicable to the applicants also, which is effective since 1982 as per G.R. dated 26.04.1982 (part of Exhibit-G collectively). As per this scheme, a quantum of subscription is deducted every month from the salary of all the Government employees. The subscription of the said scheme is revised by the State Government, Finance Department by issuing G.R. dated 26.07.2002 (part of Exhibit-G collectively) for Government servants in Group-A, B, C & D respectively. This also shows that the applicants, who are B.A.M.S. Medical Officers are treated at par with M.B.B.S. Medical Officers.

(h) In the circumstances as above, it is amply clear that the applicants are in all terms equal with the Medical Officers, who are MBBS graduates. The hierarchy of promotion from the post of Medical Officer is to the post of District Health Officer (DHO) and then to the post of Deputy Director of Health Services. For claiming the said hierarchy, the applicants want to rise in the said ladder of promotion they need to be lined up with their counter parts viz. M.B.B.S. Graduate Medical.

(i) In the circumstances as above, as the applicants were in fact in Group-A of Maharashtra Medical Health, they were anticipating a clear recognition as Group-A employee from the Government vide seniority list as per Rules. The applicants have their State Level Association of BAMS Medical Officers known as Maharashtra Gazetted Medical Officers (MAGMO-Aurvedic). The said Association made representation dated 26.02.2009 (Exhibit-H) to the Hon'ble Public Health Minister, Maharashtra State seeking inclusion of their members in the Group-A Medical Officers. Pursuant to that, meeting was also held in the Chamber of the Hon'ble Public Health Minister on 07.01.2009 to discuss the issue. The minutes of meeting under forwarding letter dated 13.02.2009 (Exhibit-I) were also drawn and were initially forwarded to the Director of Health Services, Mumbai i.e. the respondent No. 3.

(j) However, preliminary / provisional seniority list only of Group-B Medical Officers working under Zilla Parishad as on 01.01.2009 (Exhibit-J) came to be published on 11.09.2009, but it was contrary to the demand made by the applicants' Association.

(k) Being shocked and surprised of the same, the applicants' Association made representations dated 01.10.2009 and 07.01.2010 (Exhibit-K collectively) to the respondent No. 3 and the Hon'ble Minister of Public Health Department respectively ventilating their grievances and seeking to declare the applicants Group-A status and to issue seniority list accordingly, but in vain. Hence, the present Original Applications.

4. During pendency of the present Original Application, the applicants amended the O.A. as per the order dated 21.09.2018 passed by this Tribunal in M.A. No. 341/2018 in O.A. No. 341/2010 by adding additional grounds and bringing on record the subsequent facts, which can be summarized as follows :-

(a) It is reiterated that the Recruitment Rules 2000 (Exhibit-A in O.A. and Exhibit-B in M.A. 341/2018) makes it clear that the candidates possessing B.A.M.S. degree are also held eligible for appointment to the post of Group-A Medical Officer. Rule 7 of the said Rules 2000 provides that the Medical Officers Group-A can be appointed by promotion, nomination and transfer as reflected in G.Rs. dated 18.07.2007, 13.11.2007 and 11.09.2009 (Exhibit-E in M.A. 341/2018).

(b) The State Government subsequently amended the Recruitment Rules (Exhibit-E in O.A.) vide Notification dated 18.07.2013 (Exhibit-C in M.A. 341/2018), thereby making provision for absorption of Group-C Medical Officers into Medical Officers Group-A.

(c) Medical Officers in Group-A category were receiving pay scale of Rs. 8000-15300 in 5th Pay Commission. The said pay scale is made applicable to the applicants also. In view of that, as per G.R. dated 02.07.2002 (Exhibit-C in O.A.) the employees having maximum pay of Rs. 11500/- are treated as Group-A employees.

(d) The State Government issued G.R. dated 11.02.2013 (Exhibit-F in M.A. No. 341/2018). As per Clause 43(B) of the said G.R., the Medical Officers in District Technical Services, Group-C were absorbed in Maharashtra Medical and Health Services Group-A category based upon the pay scale of Rs. 8000-13500 as per the G.R. dated 27.02.2007 (Exhibit-D in O.A). As per the said G.R. dated 11.02.2023 and more particularly Clause 43(b), the pay scale of Rs. 15600-39100 Grade Pay of Rs. 5400 is granted to the Medical Officers, Group-A. The applicants were also

granted the said pay scale in 6th Pay Commission w.e.f. 01.01.2006 and the entries in service book were recorded in that regard (Exhibit-G in M.A. No. 341/2018). In view of that the applicants are treated at par with Group-A Medical Officers by pay scale. Hence, what remains to be granted as Group-A category. Hence, the present Original Applications.

5. Additional Affidavit on behalf of the applicants (page Nos. 173 to 290 of the paper book) is filed by Dr. Sarda Rajednra Mithulalji (applicant No. 1). By the said additional affidavit, it is brought on record that though the applicants were granted pay scale of Rs. 15600-39100 Grade Pay of Rs. 5400/- meant for Group-A Medical Officers, while issuing G.R. dated 17.10.2014 (page Nos. 233 to 262 of the paper book), the applicants are given Group-B category, which is illegal. Similarly situated Medical Officers as that of the applicants had filed O.A. Nos. 469/2012, 682/2013 and 879/2015 before the Principal Seat of this Tribunal at Mumbai seeking benefits of Medical Officers Group-A category. The said O.A. is partly allowed by judgment and order dated 01.01.2022 (page No. 263 to 290 of the paper book) declaring that the applicants, who are District Technical Service Medical Officers, placed in Group-B by virtue of G.R. dated

17.10.2014 with retrospective effect from 28.05.2001 are eligible and entitled to recruitment to Group-A from the date of G.R. dated 18.07.2013, when the Rules were amended and are entitled to pay scale in the pay band of Rs. 15600-39100 with Grade Pay of Rs. 5400 w.e.f. 18.07.2013 and if any, earlier from 2006 in the pay band of Rs. 15600-39100 with Grade Pay of Rs. 5400 should not be recovered from the applicants therein.

6. The affidavit in reply on behalf of respondent Nos. 1 and 3 (page Nos. 84 to 90 of the paper book) is filed and thereby claim of the applicants seeking Group-A category is denied. It is specifically submitted that the Government awarded gazetted status to the applicants. The proposal of Recruitment Rules of Medical Officers, Group-B gazetted post is under active consideration of the Government. After absorption they will be considered for promotional post in hierarchy as per Rules. It is admitted that pay scale of Medical Officers, who are originally from District Medical Services were revised from 6500-10500 to 8000-13500 vide Finance Department G.R. dated 27.02.2006 and that the said pay scale of Rs. 8000-13500 falls in Group-A Medical Officers. The applicants were posted in Primary Health Centers only as time-gap arrangement vide G.R. dated 18.07.2007 and that is enough for the applicants to claim Group-

A category as matter of right. The Original Application is devoid of merits and same is liable to be dismissed.

7. We have heard the arguments advanced by Shri K.J. Suryawanshi, Advocate for Applicants in all these O.As. on one hand, Shri I.S. Thorat, P.O. for the Respondent authorities in all these O.As., Shri S.S. Dambe, Advocate for respondent No. 8 in O.A. No. 424/2015, Shri K.G. Salunke, Advocate for respondent No. 10 in O.A. No. 424/2015 on the other hand.

Shri U.B. Bondar, Advocate for respondent No. 7 in O.A. No. 424/2015, Shri Sachin Joshi, Advocate for respondent No. 9 in O.A. No. 424/2015, Shri Vivek Bhavthankar, Advocate for respondent No. 11 in O.A. 424/2015, Shri S.T. Shelke, Advocate for respondent No. 13 in O.A. No. 424/2015 and Shri S.B. Gastgar, Advocate for respondent No. 14 in O.A. No. 424/2015 are **Absent**.

8. After having considered the rival pleadings, documents and submissions on record, it is evident that during pendency of the present O.As., the applicants have been granted pay scale of Rs. 15600-39100 Grade pay of Rs. 4400/- in 6th Pay Commission. The applicants were also granted pay scale as per 5th Pay Commission of pay scale of Rs. 8000-13500 as per G.R. dated

02.07.2002 (Exhibit-C in O.A.). Those pay scales are of the Government servants falling under Group-A category. However, the applicants were not granted Group-A category status.

9. This similar dispute and issue were involved in O.A. Nos. 469/2012, 682/2013 and 879/2015 filed by the similarly situated BAMS Medical Officers. The said O.As. were disposed of by common judgment and order dated 04.01.2022 (page Nos. 263 to 290 of the paper book). After having adverted to rival facts in para Nos. 22 to 26, it is observed as follows :-

“22. After going through the record and after hearing submissions of the Counsel of both the sides which are truly very good assistance to us, we found that a very short issue is left to be decided and which is to be decided on the basis of observations made and directions given by the Hon’ble High Court at Aurangabad Bench in Writ Petition No.2562, 2563 & 2564/2017, dated 16.04.2018. It invites analysis of Recruitment Rules of 2000 and the amended Rules of 2013 and also consideration of relevant G.Rs. In the beginning we summarize the admitted facts :-

(a) The Applicants were appointed in the regular posts having degree of BAMS in DTS as Medical Health Officer at different dates. They all were given the status of Gazetted Officer by G.R. dated 28.05.2001.

(b) They were required to be absorbed in Maharashtra Medical and Health Services as per G.R. dated 28.05.2001 and their appointments thereafter to be made through M.P.S.C. and therefore the erstwhile Medical Officers from DTS were to be absorbed if they could fulfill the four conditions.

(i) Medical Officer should be eligible for recruitment in Group-C.

(ii) He should have been appointed in regularized manner in Group-C.

(iii) *The concerned Medical Officer, should have completed three years' service in Group-C.*

(iv) *Confidential Report in Group-C should be satisfactory.*

23. *Thus, there is no issue about criteria regarding (b), (c) and (d), but about the criterion (a),*

(i) *The criterion (a) refers that the person should fulfill the criteria of the Medical Officer of Group-B as per the revised Rules.*

(ii) *As per G.R. dated 29.07.1993 first time the State of Maharashtra introduced the categorization in Group-A, Group-B, Group-C and Group-D by following the rules of Central Government. Thereafter, the Rules of categorization of the post were revised by issuing the G.R. dated 02.07.2002. Thus in order to understand the eligibility under Clause 4 (a) of G.R. of 28.05.2001, one needs to refer to G.R. dated 02.07.2002. The posts in the State services were categorized as follows :-*

Sr. No.	Description of the posts	Grouping
1	Pay scale not less than Rs.11500/-	Group-A
2	Pay scale Rs.9000-11500/-	Group-B
3	Pay scale Rs.4400-9000/-	Group-C
4	Pay scale upto Rs.4400/-	Group-D

Thus, the Medical officers who were drawing the Salary in the pay scale between Rs.9000-11500 are put in Group-B. In the said G.R. there is also clause 3(a) in G.R. dated 28.05.2001 stating that on the basis of pay scale or particular category no Government servant is entitled to get the status of Gazetted Officer unless there is an official pronouncement of bestowing the status of Gazetted Officers to that particular Group or a person though falling in that pay scale. Thus, a person may be drawing the salary in pay scale of more than Rs.11500/- which shows Group-A, however, he is not entitled to get the status of Gazetted Officer unless it is specifically given by order by the State.

(iii) *The case of the Applicants that they all were given the status of Gazetted Officer by G.R. dated 28.05.2001 is the admitted fact.*

(iv) As per 5th pay commission as on 01.01.1996 the applicants were given the pay scale of Rs.6500-10500. However, as per the G.R. dated 27.02.2006 the revised pay scale of Group-C officers was given between Rs.8000-13500. The 6th pay commission was introduced and pay band of applicants was fixed as Rs.15600-39100 with Grade pay of Rs.5400/- from 2009, it continued till May 2011.

(v) On 27.02.2009 Hakim Committee report and Anomaly Committee submitted the report. The Hakim Committee O.A 469/2012, 682/2013 and 879/2015 24 pointed out that the applicants were not absorbed in GroupB and therefore their pay scale which is equivalent to GroupA as Rs.15400-39100 is to be reduced and they are to be put in Group-B first.

24. When we are referring to the Condition (a) mentioned in the G.R. dated 28.05.2001 which speaks of eligibility for recruitment in Group-A of Medical Officer of DTS of giving them the status of Gazetted Officer we have to refer to the Entry No.43(B) of G.R. dated 11.02.2013 which is reproduced as below :-

अ. क्र.	संवर्गाचे नाव	विद्यमान वेतनश्रेणी (रुपये)	सुधारित वेतनसंरचना (रुपये)	सुधारित वेतनसंरचना (रुपये)	सुधारित वेतनसंरचना (रुपये)
(१)	(२)	(३)	(४)	(५)	(६)
			वेतनबँड	ग्रेड वेतन	वेतनबँड
७. सार्वजनिक आरोग्य विभाग					
आरोग्य सेवा संचालनालय					
४३	(अ) महाराष्ट्र वैद्यकीय व आरोग्य सेवा गट- अ (वैद्यकीय अधिकारी)	८००० - १३५० ०	९३००- ३४८००	५४००	या संवर्गाबाबत शासन अधिसूचना, वि-ता विभाग क्र.१५३/१२०९/प्र. ५/सेवा - ९ अन्वये निर्णय घेण्यात आला आहे.
	(ब) महाराष्ट्र वैद्यकीय व आरोग्य सेवा, गट- अ (वैद्यकीय)/ अधिकारी / शासन निर्णय, वि-ता विभाग क्र.वेपूर-१२०९/प्र. क्र.४/सेवा - ९, दि. २७ फेब्रुवारी, २००६ अन्वये रु. ८०००-१३५०० ही वेतनश्रेणी मंजूर केल्यामुळे जिल्हा परिषद आस्थापनेवरील जिल्हा तांत्रिक सेवा, गट-क				१५६००-३९१०० (महाराष्ट्र वैद्यकीय व आरोग्य सेवा, गट-अ मध्ये थेट समावेश विधीग्रहण ठरत असेल व मूळ संवर्गात / विभागात प्रत्यापण होणार नसेल तर ५४००

(आरोग्य) मधून महाराष्ट्र वैद्यकीय व आरोग्य सेवा, गट-अ मध्ये थेट समावेशन झालेले वैद्यकीय अधिकारी)					
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(emphasis placed)

25. This Entry states about the recruitment of Medical Officers in DTS of Group-A, wherein the word used “थेट” is translated ad verbatim as “direct”. Thus, the word “direct” cannot be ignored while interpreting this particular G.R. The word “direct” has connection with the Recruitment Rules of 2000. In the Recruitment Rules of 2000, Group-C as per clause 3(b)(ii) the Medical Officers of DTS after completing three years they can be selected directly to Group-A. In the original Rules of 2000 there is no such Clause for Group-B though the Government of Maharashtra has introduced the scheme of grouping of the Government servants by giving the break-up on the basis of their pay scales. Thus, Group-B was in existence and introduced as per G.R. of 1999 when the Recruitment Rules of 2000 were framed for recruitment of Group-A Medical Officers and same was further reiterated in G.R. of 02.07.2002. Thus the legislature at the time of framing Rules of 2000 took conscience decision not to put Group-C in Group-B as a feeder cadre for Group-A. The Medical Officers who were drawing the pay scale of Rs.9000-11500 were put in Group-B. The Applicants by G.R. dated 28.05.2001 were given the status of Gazetted Officer. They were given higher pay scale of Rs.8000-13500. Thus, their status was like Group-B Gazetted Officer. However, the Government did not take action to issue the necessary G.R. consistent with the Recruitment Rules of 2000. It appears that there was not only confusion, but bias amongst the Authority and the Department that the BAMS Doctors cannot be treated equivalent to the Doctors holding the MBBS degree. Therefore, the Government did not act upon the erstwhile Recruitment Rules. It is to be noted that in view of the transfer of services of these Medical Officers of DTS from Rural Development Department to Public Health Department in 2001, writing of Confidential Reports was done by the Officers in PHD from 2006 onwards. However, the Government was adamant of not issuing the G.R. of putting them in Group-A. This inaction of the Government was completely chaotic and bias. This confusion and bias in the thinking process and further decision is rightly stated in the affidavit-in-reply, dated 08.12.2021 of Dr. Ms. Neelima Kerkatta, Principal Secretary, PHD, Mantralaya. Paragraphs 3(u), 3(v), 4(c) and 4(d),

3(u) It is submitted that very delayed implementation of policy decision of 28.05.2001, non-implementation of provisions of Recruitment Rules of 30.10.2000 and

Notification of 18.07.2013, non-consideration of services transferred from Rural Development Department to Public Health Department, lack of coordination among various Government departments, giving retrospective effects to delay policy decisions were the main reasons to the current scenario.

3(v) Considering all the facts, the Public Health Department is of the view that it will be appropriate to give effect to notification dated 18.07.2013 with regard to still working DTS medical officers and not disturbed the pay scales already given vide Finance Department GR dated 27.02.2006 and 11.2.2013 (Sr. No. 43 B). However, there is opinion difference in General Administrative Department (GAD), therefore the matter was sent to Hon'ble CM for final decision. However CM instructed the Chief Secretary to hold joint meeting of GAD and Public Health department and to come to a conclusion. This meeting was held on 6.10.2021, however unanimous decision could not be reached.

4(c) It is submitted that while issuing GR dated 17.10.2014, department did not take into consideration the pay scale of DTS medical officers which was mentioned in the letter dated O.A 469/2012, 682/2013 and 879/2015 27 21.04.2008 of Rural Development Department or the notification dated 18.7.2013

4(d) On the recommendation of Hakim Committee, 2008, Finance Department issued G.R. dated 27.02.2009 thereby downgrading pay scale of DTS medical officers from Rs.8000-13500 to Rs.6500- 10500 in 5th pay commission and fixed their scale to Rs.9300- 34800 plus grade pay of Rs.4400 in 6th pay commission. Consequently Rural Development Department also issued GR dated 20.05.2009. As service matters of DTS medical officers were decided to be handled by Public Health Department vide letter dated 21.04.2008, Public Health Department should have taken decision regarding pay scale of DTS medical officers in view of GR dated 27.02.2009. However, Public Health Department did not take any decision and DTS medical Officers continued to get Group-A pay scales. Therefore Hakim Committee GR dated 27.02.2009 was not applied to DTS Medical Officers whose services are handled by Public Health Department from 2008 and whose names appear in the list attached to GR dated 17.10.2014.

26. Thus, the entire record of the matter discloses that the entry of D.T.S Medical Officers by way of proviso to original Rule 3(b)(c)(ii)(b) of 2000 by amended Rules of 2013 in Group-B was introduced as feeder cadre to recruitment to Group-A. However, in

the original Recruitment Rules, the feeder cadre of Group-A has remained as by selection from Group-C D.T.S Medical Officers after completing 3 years in Group-C. Thus, there is a confusion as to which is the feeder cadre for recruitment to Group-A, D.T.S Medical Officers. In the amendment dated 18.7.2013 there a reference to G.R dated 18.5.2001 which is necessarily to be read with Notification dated 30.11.2012, which introduced the provision of entry in Group-B of D.T.S Medical Officers as a condition precedent to feeder cadre for recruitment to Group-A. We have no doubt to hold that this is going to create anomaly, confusion and will generate litigation in future and therefore, the Respondent, Public Health Department and General Administration Department need to look into the matter to simplify the rules and to maintain consistency.”

The said O.As. were disposed of by order incorporated in para No. 27 as follows :-

“27. *In view of the above, following order is passed:-*

- (a) The Original Applications are partly allowed.*
- (b) All the Applicants who are District Technical Service Medical Officers, placed in Group-B by virtue of G.R dated 17.10.2014 with retrospective effect from 28.5.2001 are eligible and entitled to recruitment to Group-A from the date of the G.R dated 18.7.2013 when the Rules were amended. Thus, they are recruited in Group-A from 18.7.2013 with all consequential benefits.*
- (c) The applicants are entitled to pay scale in the pay band of Rs.15600-39100 with Grade pay of Rs.5400, with effect from 18.7.2013.*
- (d) The payments made, if any, earlier from 2006 in the pay band of Rs.15600-39100 with grade pay of Rs.5400, should not be recovered from the applicants.”*

10. The applicants are similarly situated B.A.M.S. Medical Officers. We have no reason to take a different view than the view taken in the above-said decision dated 04.01.2022 in O.A. Nos. 469/2012, 682/2013 and 879/2015. No different situation or

facts have been brought on record by the respondents in their pleadings and documents to take a different view. In these circumstances, the observations and findings given in the said O.As. were applicable in the present cases. Hence, the applicants shall be entitled for the similar reliefs. Hence, the following order:-

ORDER

Original Application Nos. 159/2010, 341/2010 & 424/2015 are allowed in following terms :-

- (A) All the applicants, who are District Technical Service Medical Officers, placed in Group-B by virtue of G.R. dated 17.10.2014 with retrospective effect from 28.05.2001 are eligible and entitled to recruitment to Group-A from the date of G.R. dated 18.07.2013 (Exhibit-C in M.A. No. 341/2018), when the Rules were amended and are entitled to pay scale in the pay band of Rs. 15600-39100 with Grade Pay of Rs. 5400 w.e.f. 18.07.2013 with all consequential benefits.
- (B) The applicants are entitled to pay scale in the pay band of Rs. 15600-39100 with Grade Pay of Rs. 5400 w.e.f 18.07.2013.

- (C) The payments made, if any, earlier from 2006 in the pay band of Rs. 15600-39100 with Grade pay of Rs. 5400/-, should not be recovered from the applicants.
- (D) There shall be no order as to costs.

MEMBER (A)

MEMBER (J)

Kpb/D.B. O.A. No. 341/2010 & Ors. VDD & BK 2023 Pay scale (challenging G.R.)