

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 295 OF 2012

DIST. : BEED

- (1) Dr. Arvind Namdeorao Bagate,
Age. 43 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Sahyadri, MDP, 1-5-2,
Medical College Campus, Ambajogai,
Dist. Beed.
- (2) Dr. Vaishali Bhagwantrao Bhagwat,
Age. 37 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o 'Sahyadri', Class - Quarters,
SRTGR Medical College Campus,
Ambajogai, Dist. Beed.
- (3) Dr. Satish Babruvhan Mane,
Age. 47 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Housing Society, Ambajogai,
Dist. Beed.
- (4) Dr. Sunita Subhash Dhule,
Age. 37 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Chausalkar Colony, Ambajogai,
Dist. Beed.
- (5) Dr. Rajesh Sahebrao Ovhal,
Age. 37 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Pratapgad, E-II/6, Medical Quarters,
S.R.T.R. Medical College Campus, Ambajogai,
Dist. Beed.

- (6) Dr. Deepali Madhukar Kulkarni,
Age. 36 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Gurukrupa, Hanuman Mala,
Near Anand Gas, Ambajogai,
Dist. Beed.
- (7) Dr. Sheela Lakshmanrao Gaikwad,
Age. 42 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o C/o Pramod Adnak, Neha Servie
Centre, Parali Road, Ambajogai,
Dist. Beed.
- (8) Dr. Sheshrao Sakharam Chavan,
Age. 46 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Sahyadri -4, Medical Campus,
SRTRMC, Ambajogai, Dist. Beed.
- (9) Dr. Manoj Bhagoji Dongre,
Age. 41 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Vindyachal, P 2/4, SRTR Medical
College Campus, Ambajogai,
Dist. Beed.
- (10) Dr. Deepali Sharadkumar Deo,
Age. 36 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o P-3, Sahyadri, SRTR Medical College
Camps, Ambajogai, Dist. Beed.
- (11) Dr. Vinod Shivajirao Deshmukh,
Age. 42 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Omkar Residency, B wing,
Ganeshnagar, Ambajogai Road,
Latur 413531.

- (12) Dr. Ganesh Ramkishan Tondge,
Age. 34 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o at post Narwadi, Tq. Sonpeth,
Dist. Parbhani.
- (13) Dr. Sudhir Vinayakrao Bhise,
Age. 38 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Rajmata Jijau Nagar, Ambajogai,
Dist. Beed.
- (14) Dr. Pramod Govindrao Salve,
Age. 37 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Rukmini Niwas, Saptagiri Colony,
Taroda (BK), Nanded.
- (15) Dr. Ganesh Kishanrao Nikam,
Age. 37 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Raigad -6, SRTR Medical College
Campus, Ambajogai, Dist. Beed.
- (16) Dr. Sachin Nandkishor Solanke,
Age. 32 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Ratnadurga, B6, Medical Campus
SRTRMC, Ambajogai, Dist. Beed.
- (17) Dr. Sunil Yogiraj Swami,
Age. 40 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Shivkala Niwas, Bhagawanbaba Chowk,
Gitta Road, Ambajogai, Dist. Beed 431 517.

- (18) Dr. Rakesh Ramaratan Jadhav,
Age. 34 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Sindhudurg Building, B-5,
SRTR Medical College Campus,
Ambajogai, Dist. Beed.
- (19) Dr. Bhaurao Bhimrao Yadav,
Age. 36 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o at post Takwiki,
Tq. & Dist.Osmanabad 413506.
- (20) Dr. Dnyaneshwar Shivajirao Jadhav,
Age. 39 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Changdev Nalpe, Ambica society,
Prashant Nagar, Ambajogai,
Dist. Beed.
- (21) Dr. Vinod Limbnath Vedpathak,
Age. 36 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Sindudurg, Qu. No. 3,
SRTR Medical College Campus,
Ambajogai, Dist. Beed 431517 36.
- (22) Dr. Satishkumar Sukhanand Porwal,
Age. 31 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Sinhagad 1, Doctors Quarters,
SRTR Medical Campus, Ambajogai,
Dist. Beed.
- (23) Dr. Anant Karbhari Shingare,
Age. 34 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Gowardhan – I, SRTR Medical
College campus, Ambajogai,
Dist. Beed.

- (24) Dr. Dinkar Ravan Kekan,
Age. 35 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Block no. 1, Sindhudurg,
SRTR Medical College Campus,
Ambajogai, Dist. Beed.
- (25) Dr. Savita Satyanarayan Somani,
Age. 31 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Kavita Steel Centre, Mangalwar Peth,
Ambajogai, Dist. Beed.
- (26) Dr. Mahendrakumar Gajanan Dhabe,
Age. 38 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Sreedhar Sant Dnyaneshwar Nagar,
Behind Government ITI, Gar Road, Beed.
- (27) Dr. Charushella Sheshrao Halgarkar,
Age. 33 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Ratnadurga B-II/V, Medical Quarters,
SRTR Medical College, Ambajogai,
Dist. Beed.
- (28) Dr. Vishwajeet Govindrao Pawar,
Age. 30 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Anurang Colony, Parli Road,
Ambajogai, Dist. Beed.
- (29) Dr. Sanjay Bhagwanrao Bansode,
Age. 35 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Near Airport, Shivneeri Nagar,
Sangvi, Nanded 431 605.

- (30) Dr. Nandkishor Vitthalrao More,
Age. 31 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o c/o A.E.PAVAL, Samrath Niwas,
Behind Police Petrol Pump, Sambhaji nagar,
Balepir, Nagar Road, Beed 431 122.
- (31) Dr. Annasaheb Gulabrao Birajdar,
Age. 28 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Kadambari Niwas, Old Adarsha colony,
Latur.
- (32) Dr. Deepak Ramrao Lamture,
Age. 39 years, Occ. Assistant Professor
(Orthopedics),
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Pratapgad E-II/7, SRTRMCH,
Ambajogai, Dist. Beed.
- (33) Dr. Nitin Narayanrao Chate,
Age. 32 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Saubhagya, Vakilwadi, Kaij,
Dist. Beed.
- (34) Dr. Satish Gangaramji Gireboinwad,
Age. 35 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o 28, Chandranagar Society,
N-9 CIDCO, Aurangabad 431 003.
- (35) Dr. Avadhut Narayanrao Dange,
Age. 29 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o 42, Model Colony, June Solapur,
Dist. Solapur 431 004.

- (36) Dr. Prashant Laxmanrao Dahire,
Age. 33 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Near Dr. Ambedkar Colony,
Beed road, Moreadi, Ambajogai,
Dist. Beed 431 517.
- (37) Dr. Manish Mahadeo Tiwari,
Age. --- years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Sinbdhudurg – 6, Medical Campus,
Ambajogai, Dist. Beed 413 517.
- (38) Dr. Amol Ramrao Suryawanshi,
Age. 29 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o c/o R.B. Suryawanshi,
Dharur Road, Ani Nagar, Kaij 431 123.
- (39) Dr. Avinash Laxmanrao Kashid,
Age. 31 years, Occ. Assistant Professor,
R/o Mahatma Phule Nagar,
Y.B. Chavan Chowk, Ambajogai,
Dist. Beed.
- (40) Dr. Shailendra Dattusingh Chauhan,
Age. 38 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o c/o Professor D.C. Chauhan,
Dattakrupa Batteries, Udaynagar,
Nanded Road, Udgir, Dist. Latur.
- (41) Dr. Ramakant Govindrao Alapure,
Age. 37 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o at Belgaon, Post Satala,
Tq. Chakur, Dist. Latur.

- (42) Dr. Aparna Gundeshwar Kulkarni,
Age. 32 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Godavari, Flat no. 6,
Near Kapil Ganesh Mandir,
Aadarsh colony, Ambajogai,
Dist. Beed.
- (43) Dr. Prashant Jangonda Pachore,
Age. 33 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Panhalgad – 7, SRTR Medical
College campus, Ambajogai, Dist. Beed.
- (44) Dr. Sonal Anil Chaudhari,
Age. 29 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
Panhalgad – 7, SRTR Medical College
Campus, Ambajogai, Dist. Beed.
- (45) Dr. Ajay Baliram Warade,
Age. 33 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Plot no. 3, Shree Ganesh Nagar,
CIDCO N-8, Aurangabad.
- (46) Dr. Vijaykumar Virshetty Chincholkar,
Age. 34 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Hatte Nagar, Road no. 2,
Behind Kamgar Bhavan, Latur.
- (47) Dr. Kachru Tukaram Dalvi,
Age. 41 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o Pratapgad, Qr. No. E/22/5/4,
SRTR Medical College Campus, Ambajogai,
Dist. Beed.

- (48) Dr. Jayashree Eknathrao Baingar,
Age. 34 years, Occ. Assistant Professor,
Swami Ramanand Teerth Government
Medical College & Hospital, Ambajogai,
R/o c/o Dr. Arun Ghuge, Balaghat Teachers
Colony, Dhanora Road, Beed.

.. **APPLICANTS**

V E R S U S

1. The State of Maharashtra,
Through the Secretary,
Department of Medical Education
& Drugs, Mantralaya, Mumbai.
2. The Director of Medical Education,
Government Dental College and
Hospital Building, St. George's
Hospital Compound, Mumbai 400 001.
Through the Director.
3. Swami Ramanand Teerth Government
Medical College & Hospital,
Ambajogai, through the Dean.

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RESPONDENTS

APPEARANCE : Shri Milind Patil, learned Advocate for the
applicants.

: Shri B.S. Deokar, learned Presenting Officer
for respondents.

**CORAM : JUSTICE M.T. JOSHI, VICE CHAIRMAN
AND
ATUL RAJ CHADHA, MEMBER (A)**

DATE : 13TH DECEMBER, 2018

O R D E R

(Per : Justice M.T. Joshi, Vice Chairman)

Heard Shri Milind Patil, learned Advocate for the applicants
and Shri B.S. Deokar, learned Presenting Officer for respondent.

2. Computation of incentives in the nature of advance increments to the Assistant Professors holding higher qualification as per clause 8 of the G.R. dtd. 10.11.2009 (page 29 and relevant page 36) is in issue in the present matter.

3. All the present applicants are serving as Assistant Professors – earlier designated as Teachers - on the establishment of res. no. 3 – the Dean, Swami Ramanand Teerth Government Medical College & Hospital, Ambajogai. At the time of notification of the G.R. on 10.11.2009 they were already serving as Teachers. While implementing the recommendations of the 6th Pay Commission under the said G.R., these Teachers are now designated as Assistant Professors and revised pay scales are made applicable to them. All of them hold higher qualifications and, therefore, clause 8 and more particularly sub clause (iii) of the said G.R. would be applicable to them.

4. It appears from the pleadings that 3 + 5 advance increments are granted to them on the ground that they were possessing higher qualification as mentioned in clause 8 sub clause (iii) of the said G.R. Since the applicants additionally rely on sub clauses (iv) & (v) of the clause 8 for interpretation of sub clause (iii), it would be in the fitness of the things to reproduce the clause 8 sub clause (i) to (v) hereunder :-

“(8) Incentives for MD/MS/DNB/DM/MCh/Ph.D and Other Higher Qualifications :

(i) Three non-compounded advance increments shall be admissible at the entry level of recruitment as Assistant Professor to persons possessing the degree of MD/MS/DNB/Ph.D. awarded in the relevant discipline by the University following the process of admission, registration, course work and external evaluation as prescribed by the UGC in its Regulation.

(ii) Those possessing DM/MCh degree recognized by the Medical Council of India / Dental Council of India / Central Council of India Medicine System shall be entitled to 5 non-compounded advance increments at the entry level.

(iii) Teachers who are in service possessing MD/MS/DNB/Ph.D. degree recognized by the Medical Council of India / Dental Council of India / Central Council of India Medicine System shall be entitled to 3 non-compounded increments. Teachers who are in service possessing DM/MCh degree recognized by the Medical Council of India / Dental Council of India / Central Council of India Medicine System shall be entitled to 5 non-compounded increments. Provided such degree is in the relevant discipline and has been awarded by a University complying with the process prescribed by the UGC for enrolment, course work and evaluation, etc. in its Regulation.

(iv) However, teachers in service who have been awarded Ph.D. at the time of coming into force of this Scheme or having been enrolled for Ph.D. have already undergone course-work, if any, as well as evaluation, and only notification in regard to award of Ph.D. is awaited, shall also be entitled to the award of three non-compounded increments even if the university awarding such Ph.D. has not yet been notified by the UGC as having complied with the process prescribed by the Commission.

(v) In respect of every other case, a teacher who is already enrolled for Ph.D. shall avail the benefit of three

non-compounded increments only if the university awarding the Ph.D. has been notified by the UGC to have complied with the process prescribed by the Commission for the award of Ph.D. in respect of either course-work or evaluation or both, as the case may be.”

5. If one reads sub clause (iii) of clause 8 then it could be gathered that the Teachers already in service and possessing MD/MS/DNB/Ph.D. degree recognized by the Medical Council of India / Dental Council of India / Central Council of India Medicine System shall be entitled to 3 non-compounded increments as incentives.

Further the Teachers, who are already in service and possessing DM/MCh degree recognized by the Medical Council of India / Dental Council of India / Central Council of India Medicine System, would be entitled for 5 non-compounded increments.

6. The case of the applicants is that since they possess all these qualifications, they are entitled for 3+5=8 non-compounded increments and the same are already granted by the res. no. 3. However, on 17.1.2012 (Exh. D page 49) the Joint Secretary, Department of Medical Education & Drugs of the res. no. 1 had issued one clarification regarding pay scale, increments etc. Vide clause 4 of this clarification, the Joint Secretary had interpreted

that the Assistant Professor would be entitled either for 3 or 5 non-compounded increments and not both. The said clarification is impugned by the applicants in the present original application.

7. Pleadings and oral submissions as well as written notes of arguments from the side of applicants are as under :-

- (a) that 3 advance increments are granted at the entry level itself and if Assistant Professor obtains higher qualification as mentioned in clause 8 of the G.R. dtd. 10.11.2009, then he is again granted 5 increments.
- (b) that the degrees of some of Medical Colleges are not recognized by the M.C.I. for a long period and after inordinate delay increments are granted with retrospective effect.
- (c) Sub clause (iii) of clause 8 of the G.R. confers benefit of 3 non-compounded increments to the Teachers in service, who possess MD/MS/DNB/Ph.D. degree recognized by the Medical Council of India / Dental Council of India / Central Council of India Medicine System. The Teachers, who are in service and possessing DM/MCh degree recognized by the Medical Council of India or the Central Council of India, are entitled for 5 non-compounded advance increments.

8. On the other hand, according to the respondents by interpreting the provisions of the G.R. dtd. 10.11.2009 as mentioned above, the applicants want that word 'additionally' should be put in between first and second sentence of sub clause (iii) of clause 8 of the said G.R. Thus, making 3 + additionally 5 increments admissible to the Assistant Professors, who are holding both the group of degrees as mentioned in sub clause (iii) of clause 8 of the G.R. However, bare reading of sub clause (iii) of clause 8 would show that DM/MCh degree being higher than MD/MS/DNB/Ph.D., the Assistant Professor holding the same shall be confer 5 non-compounded increments, while Assistant Teachers holding MD/MS/DNB/Ph.D. degree would be entitled for 3 non-compounded increments.

9. Upon hearing, in our view, the interpretation put by the applicants of sub clause (iii) of clause 8 of the G.R. dtd. 10.11.2009 cannot be accepted. Two type of increments are provided by the said G.R. First type of increment would be applicable to the Assistant Professors, who are holding MD/MS etc. degree, while 5 non-compounded increments would be payable to the Teachers, who have acquired more qualification like DM/MCh, but it would not mean that the Teachers holding degree of DM/MCh would be entitled for 8 non-compounded increments.

10. Learned Advocate for the applicants further relies on sub clauses (iv), (v) & (vi) of the said G.R. to buttress his arguments. However, it shows that those would be applicable to the Teachers, who are in service and are yet to be awarded Ph.D. degree at the time of coming into force of this scheme or having been enrolled for Ph.D., have already undergone course-work, if any, as well as evaluation, and only notification in regard to the award of Ph.D. is awaited, shall also be entitled to award 3 non-compounded increments even if the University awarding such Ph.D. has not yet been notified by the UGC as having complied with the process prescribed by the Commission.

However, these sub clauses have no relevance so far as sub clause (iii) of clause 8 of the G.R. is concerned.

Applicants want that word 'additionally' should be put in between first and second sentence of sub clause (iii) of clause 8 of the said G.R. The same cannot be accepted. Therefore, the impugned communication of the Joint Secretary of res. no. 1 department is not liable to be quashed. In the circumstances, we pass following order :-

ORDER

- (i) The present Original Application is dismissed without any order as to costs.

- (ii) However, the interim relief granted by this Tribunal vide order dtd. 27.4.2012 only to the extent of recovery of excess payment shall be continued for further period of 8 weeks from today.

(ATUL RAJ CHADHA)
MEMBER (A)

(M.T. JOSHI)
VICE CHAIRMAN

Place : Aurangabad

Date : 13TH DECEMBER, 2018

ARJ O.A. NO. 295 OF 2012 (D.B.) (HIGHER PAY SCALE)