

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**  
**BENCH AT AURANGABAD**

COMMON ORDER IN O.A. NOS. 302, 317/2020 & O.A. NO. 5/2021

**(1) ORIGINAL APPLICATION NO. 302 OF 2020**

DIST. : AURANGABAD

Rajesh s/o Manikrao Choudhary,  
Age : 45 years, Occu.: Government Servant,  
R/o. C-9, Nest one Housing Society,  
Mayurban Colony, Shahanoorwadi,  
Aurangabad, Tq. & Dist. Aurangabad. ..

**APPLICANT**

V E R S U S

1. The State of Maharashtra  
Through its Secretary,  
School Education Department,  
Mantralaya, Mumbai - 32.
2. The State of Maharashtra,  
Through its Secretary,  
Finance Department, Mantralaya,  
Mumbai - 32.
2. The State of Maharashtra,  
Through its Secretary,  
General Administration Department,  
Mantralaya, Mumbai - 32.
4. The Commissioner of Education,  
Government of Maharashtra,  
Central Building, Dr. Annie Besant Road,  
Pune - 411 001.
5. The Director,  
State Council for Educational Research  
& Training, Maharashtra,  
Sadashiv Peth Kumthekar Road,  
Pune - 411 030.

**...RESPONDENTS**

WITH

**(2) ORIGINAL APPLICATION NO. 317 OF 2020**

DIST. : LATUR

Emam s/o Najir Mirza,  
Age : 42 years, Occu.: Government Servant,  
R/o. At Post Lamjana,  
Tq. Ausa, Dist. Latur 413 516. ..

**APPLICANT**

VERSUS

1. The State of Maharashtra  
Through its Secretary,  
School Education Department,  
Mantralaya, Mumbai - 32.
2. The State of Maharashtra,  
Through its Secretary,  
Finance Department, Mantralaya,  
Mumbai - 32.
2. The State of Maharashtra,  
Through its Secretary,  
General Administration Department,  
Mantralaya, Mumbai - 32.
4. The Commissioner of Education,  
Government of Maharashtra,  
Central Building, Dr. Annie Besant Road,  
Pune - 411 001.
5. The Director,  
State Council for Educational Research  
& Training, Maharashtra,  
Sadashiv Peth Kumthekar Road,  
Pune - 411 030.

**...RESPONDENTS**

WITH

**(3) ORIGINAL APPLICATION NO. 5 OF 2021**

DIST. : AURANGABAD

Dr. Kalimoddin s/o Ajij Shaikh,  
Age : 55 years, Occu.: Principal,  
District Institution of Education and  
Training, Aurangabad,  
R/o. H.No. 27/277, Samata Colony,  
Osmanabad, Tq. & Dist. Osmanabad. ..

**APPLICANT**

VERSUS

1. The State of Maharashtra  
Through its Secretary,  
School Education Department,  
Mantralaya, Mumbai - 32.
2. The State of Maharashtra,  
Through its Secretary,  
Finance Department, Mantralaya,  
Mumbai - 32.
2. The State of Maharashtra,  
Through its Secretary,  
General Administration Department,  
Mantralaya, Mumbai - 32.
4. The Commissioner of Education,  
Government of Maharashtra,  
Central Building, Dr. Annie Besant Road,  
Pune - 411 001.
5. The Director,  
State Council for Educational Research  
& Training, Maharashtra,  
Sadashiv Peth Kumthekar Marg,  
Pune - 411 030.

**...RESPONDENTS**

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APPEARANCE :- Shri I.D. Maniyar, learned Advocate for  
the applicants in all these matters.  
: Shri M.P. Gude, learned Presenting  
Officer for the respondents in all these  
matters.  
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**CORAM : Hon'ble Shri Justice P.R. Bora,**  
**Vice Chairman**

**DATE : 18<sup>th</sup> APRIL, 2023**  
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### **ORAL - ORDER**

1. Heard Shri I.D. Maniyar, learned counsel for the applicants in all these matters and Shri M.P. Gude, learned Presenting Officer for the respondent authorities in all these matters.
2. Since in these matters the grievance raised by the applicants therein is identical and the prayer made in all these applications is also the same, I have heard all these matters together and deem it appropriate to decide these matters by a common reasoning.
3. The applicants have approached this Tribunal seeking protection of their pay in the Government service. All these applicants were previously working in the respective Zilla Parishads. Subsequently all these 3 applicants have been selected through M.P.S.C. for the post of Lecturer in the Government Colleges. It is the grievance of the applicants that while pay fixation was done after their entering into the Government services the respondents have not

protected their pay, which they have lastly drawn while in the services of the respective Zilla Parishads. These applicants had made representations before filing of the present Original Applications. The learned counsel submits that the pay protection proposals were forwarded by respective Colleges to the Director, State Council for Educational Research & Training i.e. the respondent no. 5 in all these matters and the said respondent has rejected the said proposal by his orders dated 17.2.2020 and 10.3..2021. Aggrieved by the said orders the applicants have approached this Tribunal. According to the applicants, the request for protection of pay has been wrongly rejected by respondent no. 5.

4. The contentions raised in the Original Applications and the prayers made therein are resisted by the respondents. In the affidavit in reply filed on behalf of the respondents it has been specifically averred that the employees of the State Government and the employees of the Local Self Government form part of separate classes and differential treatment for different classes is permissible under article 14 of the Constitution of India. The respondents have further contended that in view of Government decision dated 17.9.2014 the applicants are not entitled for the pay protection as has been prayed by them.

5. Shri Maniyar, learned counsel appearing for the applicants in his argument emphasized on rule 11 of the M.C.S. (Pay) Rules, 1981. The learned counsel submitted that 5 years' experience was pre-

condition for appointment on the post of Lecturers as per the advertisement published in that regard. The learned counsel further submitted that on the basis of said experience of having worked in the Zilla Parishad Schools/Colleges the applicants have applied for advertised posts by taking permission from the Zilla Parishad authorities. The learned counsel further submitted that the 'Government servant' as defined in Pay Rules include the Officer working in Zilla Parishad or Local Self Government also. It was also contended by the learned counsel that rule 8 of the Maharashtra Zilla Parishad District Services Rules, 1968 specifically provides that subject to certain conditions the services of Zilla Parishad employee would be governed under Maharashtra Civil Services Rules. The learned counsel has also relied upon the previous orders passed by the Government, wherein pay protection has been granted to said employees based on their services with the respective Zilla Parishads, where they had worked. The learned counsel, in the circumstances, has prayed for allowing the present Original Applications. The learned counsel also relied upon the judgment of this Tribunal in **O.A. No. 219/2019 (Dr. Kuwarlal Hiralal Wasnik Vs. the State of Maharashtra & Ors.)** decided on 19.4.2022.

6. The learned Presenting Officer has opposed the contentions raised on behalf of the applicants by emphasizing on the G.R. dated 23.3.1994. The learned Presenting Officer further contended that since the employees of the Zilla Parishad and the employees of the

State Government form 2 separate classes of the employees, the present applicants cannot seek the parity on that ground. The learned Presenting Officer reiterated in his argument further contentions raised in the affidavit in reply and submitted for dismissal of the applications.

7. I have carefully considered the submissions advanced on behalf of the applicants, as well as, the State authorities. I have perused the documents filed on record and also gone through the judgments relied upon by the parties. Though it was strenuously urged by the learned counsel appearing for the applicants that under rule 11 of the M.C.S. (Pension) Rules, 1981 the applicants are entitled for pay protection and services rendered by them with respective Zilla Parishads are liable to be considered and further that their pay in the nominated post of Lecturer through M.P.S.C. is liable to be fixed having regard to the last pay drawn by these applicants while working under respective Zilla Parishads, in view of G.R. dated 23.3.1994 and the view taken by this Tribunal while deciding O.A. No. 327/2013 it is difficult to agree with the contentions raised on behalf of the applicants.

8. The learned counsel for the applicants has brought to my notice the following 3 orders, wherein the Government has granted pay protection:-

(i) order dated 27.10.2010 issued in the case of Shri Suresh Prabhakar Waghchoure (copy of this order is filed in O.A. No. 302/2020 at page 42);

(ii) order dated 15.6.2013 passed in the case of Shri Ramesh Bajrang Jondhale (copy of the order is filed in O.A. No. 302/2020 at page 44); and

(iii) order dated 21.8.2017 issued in the matter of Shri Ashok Raghunath Tonde (copy of the order is filed in O.A. No. 302/2020 at page 45).

9. The aforesaid orders would reveal that the above mentioned all 3 appointees were previously working under respective Zilla Parishads and were subsequently appointed in the Government. While determining their initial pay on the post in the Government, last drawn pay of the said employees while they were working in the respective Zilla Parishads on their respective posts has been taken into account and their pay has been accordingly fixed. The text of the orders shows that the Government has relied upon rule 11(1)(a) of the M.C.S. (Pay) Rules, 1981 while granting the pay protection to aforesaid 3 Government employees. The learned counsel for the applicants brought to my notice that in their affidavit in reply the respondents have not denied the fact of pay protection granted in the aforesaid 3 cases. The respondents have not explained

when the pay protection has been granted to the aforesaid Government servants, who were also previously working in the respective Zilla Parishads, why the pay protection has been refused to the present applicants by referring to G.R. dated 23.3.1994.

10. In the circumstances, it appears to me that the present 3 Original Applications can be disposed of with the following directions, which according to me would meet the ends of justice :-

**ORDER**

- (i) The applicants shall prefer fresh representation with the Government by giving reference of the decisions in the matters of S/shri Suresh Prabhakar Waghchoure, Shri Ramesh Bajrang Jondhale and Shri Ashok Raghunath Tonde, within 3 weeks from the date of this order.
- (ii) If such representation is made by the applicants the Government shall take a decision on it within next 6 weeks.
- (iii) All these Original Applications stand disposed of in the aforesaid terms without any order as to costs.

**VICE CHAIRMAN**

**Place : Aurangabad**

**Date : 18.4.2023**

ARJ O.A. NOS. 302-317-2020 AND O.A. NO. 5-2021 (PAY PROTECTION)