

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 215 OF 2015

DISTRICT : MUMBAI

1. Dr Mohand Chandra Singh)
Casualty Medical Officer,)
[CMO], Residing at Sneha,)
A/12, Dr Anee Besant Road,)
Worli, Mumbai 400 018.)

2. Dr Sushrut G. Mukkawar)
Vikruti Vidnyan Shashtradnya)
Ni Prayog Nirdeshak)
[Pathologist])
R/o: Gagan Mahal A-17,)
Sir Pochkhanwala Road,)
Worli, Mumbai 400 018.)

3. Dr Niketan Atmaram Zodpe)
Panchakarma Vaidya,)
[Medical Officer],)
R/o: B-337/1, Govt. Colony,)
Bandra [E], Mumbai 400 051)

4. Dr Neela V. Balurgi,)
Casualty Medical Officer,)
(CMO), R/o Yamuna-53,)
Government Quarters,)
Worli, Mumbai 400 018.)
5. Dr Dilip S. Bhoje,)
Casualty Medical Officer,)
[CMO], R/o: Sangamner)
At Post Mavdi, Tal-Dindori,)
Dist-Nasik.)
6. Dr Sunita Fakirrao Shelke)
Panchkarma Vaidya,)
[Medical Officer],)
R/o: Sneha, A/9, Govt.)
Quarters, Dr. Annie Besant Rd)
Worli, Mumbai 400 018.)
7. Dr Suhash Suresh Kolekar)
Panchkarma VAidya, [MO],)
R/o: At Kalbhairav Hos.Soc.)
Sector-26, Nigadi, Pradhikaran)
Pune 411 044.)...**Applicant**

Versus

1. The State of Maharashtra)
Through the Secretary,)
Medical Education & Drugs)
Department, Mantralaya,)
Mumbai.)

2. The Director of Ayurveda,)
[Maharashtra State],)
Director of Ayurveda Office,)
Government Dental College,)
Hospital Campus, 4th floor,)
St. George Hospital Compound)
P. Demelo Road, Fort,)
Mumbai 400 018)

3. The Principal Secretary,)
Finance Department,)
Government of Maharashtra,)
Mantralaya, Mumbai 400 032.)

4. The Principal Secretary,)
Public Health Department,)
Government of Maharashtra,)
Mantralaya, Mumbai 400 032.)...**Respondents**

Shri V.S Thakur with Shri J.N Kamble, learned advocate for the Applicant.

Shri K.B Bhise, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

Shri R.B. Malik (Member) (J)

DATE : 16.01.2017

PER : Shri Rajiv Agarwal (Vice-Chairman)

ORDER

1. Heard Shri V.S Thakur with Shri J.N Kamble, learned advocate for the Applicant and Shri K.B Bhise, learned Presenting Officer for the Respondents.

2. This Original Application has been filed by the Applicants who are working as Medical Officers in the Poddar Ayurvedic Hospital, Mumbai, seeking payment of Non-Practising Allowance (N.P.A) at the same rate as applicable to Medical Teachers working in Medical and Ayurvedic Colleges under the Medical Education and Drugs Department.

3. Learned Counsel for the Applicants argued that the Applicants are working as Ayurvedic Medical Officers in Poddar Hospital, Mumbai, which is attached to Poddar Ayurvedic College. They are Group 'B' Officers under the Medical Education and Drugs Department. Learned Counsel for the Applicants argued that Group 'B' Medical Officers in Ayurveda under the Public Health Department are getting N.P.A at 35% of the basic pay. Medical Teachers in Medical and Ayurvedic Colleges are also getting N.P.A at the same rate, which was recommended by the Sixth Pay Commission. Government of Maharashtra has issued a G.R dated 7.8.2012, sanctioning 35% of basic pay as N.P.A to Group 'A' Medical Officers in Public Health Department. By G.R dated 24.7.2012, Director, Joint Directors, Deans, Professors, Associate Professors and Assistant Professors under the Directorate of Medical Education & Research and Directorate of Ayurved are eligible to get N.P.A at 35% of basic pay. Learned Counsel for the Applicants argued that G.R dated 6.4.2004 issued by the Medical Education and Research Department, the Teachers in Ayurvedic Colleges and Medical Officers under Directorate of Ayurved were getting N.P.A at the same rate of 25% of Basic Pay. While the N.P.A of Teachers has been revised to 35% by G.R dated 24.7.2012, Medical Officers under Directorate of Ayurved have been left out. Learned Counsel for the Applicants argued that no conscious decision was taken to continue

to pay N.P.A @ 25% to Ayurved Medical Officers and they have been left out without considering their case. There is no rational reason to pay N.P.A to Ayurvedic Medical Officers at a lower rate when they are treated at par with other Medical Officers in all respects.

4. Learned Presenting Officer (P.O) argued on behalf of the Respondents that the Applicants are not covered by G.R dated 7.8.2012 issued by the Public Health Department as they are working under the Directorate of Ayurved. They are also not covered by G.R dated 24.7.2012, which applies to inter-alia, Teachers working under the Directorate of Ayurved. They are being paid N.P.A as per G.R dated 6.4.2004. Learned Presenting Officer contended that a proposal to give N.P.A @ 35% of Basic Pay to the Ayurvedic Medical Officers is under consideration of the Government.

5. We find that by G.R dated 6.4.2004, Ayurvedic Medical Officers and Teachers in Ayurvedic Colleges were getting N.P.A @ 25% of Basic Pay. However, after the 6th Pay Commission recommendations were implemented, the Teachers in Ayurvedic Colleges are getting N.P.A @ 35% by virtue of G.R dated 24.7.2012. Apparently, no decision was taken by the Respondents as regards N.P.A to be paid to Ayurvedic Medical Officers. They continue to get N.P.A @ 25% which was sanctioned by G.R dated 6.4.2004. Similarly placed Ayurvedic Medical Officers

under Public Health Department are getting N.P.A @ 35% and no justification is forthcoming from the Respondents for denying the same benefit to the Applicants.

6. The Respondents have stated in their affidavit in reply dated 15.10.2015 that the matter is under consideration of the Government. In our view, this Original Application can be disposed of by giving direction to the Respondents to take a decision in this regard in the light of observation made in the body of this order within a period of three months from the date of this order. There will be no order as to costs.

(R.B. Malik)
Member (J)

(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai
Date : 16.01.2017
Dictation taken by : A.K. Nair.