

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**ORIGINAL APPLICATION NO 416 OF 2018**

**DISTRICT : MUMBAI**

Dr Reshma R. Desai )  
Principal, Institute of Nursing Education, )  
Sir J.J Hospital Compound, Byculla, )  
Mumbai 400 008. )...**Applicant**

**Versus**

1. The State of Maharashtra )  
Through Addl. Chief Secretary, )  
Medical Education & Drugs Dept, )  
G.T Hospital Campus, 9<sup>th</sup> floor, )  
Mantralaya, Mumbai. )  
2. The Chief Secretary, )  
General Administration Department, )  
Mantralaya, Mumbai. )  
3. The Director, )  
Medical Education & Research, )  
St. Georges Hospital Compound, )  
Dental College, 4<sup>th</sup> floor, Mumbai. )  
4. The Additional Chief Secretary, )  
Finance Department, Mantralaya, )  
Mumbai. )...**Respondents**

Shri M.R Patil, learned advocate for the Applicant.

Shri A.J Chougule, learned Presenting Officer for the Respondents.

**CORAM** : **Shri Justice A.H Joshi (Chairman)**  
**Shri P.N Dixit (Member) (A)**

**RESERVED ON : 26.11.2018**

**PRONOUNCED ON : 28.11.2018**

**PER : Shri Justice A.H Joshi (Chairman)**

**ORDER**

1. Heard Shri M.R Patil, learned advocate for the Applicant and Shri A.J Chougule, learned Presenting Officer for the Respondents.

2. Applicant herein is serving as Principal, Institute of Nursing Education, J.J Hospital Compound, Mumbai. Applicant has reached age of superannuation as per the rules in vogue.

3. Applicant has prayed for a mandatory relief namely:-

“(a) To issue mandatory directions to the Respondents to revise the pay scales and other benefits of teachers engaged in Nursing Education in the Institute of Nursing Education, Mumbai on par with teachers in Government colleges including medical colleges who have been already granted the benefit of revised pay scales and other benefits as recommended by the University Grant Commission.

(b) To direct the Respondents to forthwith take up for consideration the issue of enhancing the age limit of retirement on superannuation in respect of the applicant to 64 years with consequential service benefits on par with teachers in Government Colleges including Medical Colleges.”

(Quoted from page 17 of O.A)

4. Applicant claims that the direction given by U.G.C should apply to the matters of service of the applicant and applicant should be entitled to continuance in the employment up to the completion of 64 years of age.

5. On the other hand, Government of Maharashtra does not accept the position that by virtue of pronouncement of recommendations by U.G.C, applicant would be ipso facto governed thereby as regards scales of pay and age of superannuation.

6. According to the Respondents:
  - a. U.G.C's recommendations if adopted by the Government after considering various matters and after taking a decision, the conditions of service of Teaching faculties in colleges of Nursing may change, while so far, any decision favouring the class of applicant is not taken by the Government.
  - b. The Decision already taken by the Government does not comprise of the cadre of teaching faculties in Nursing colleges of Government of Maharashtra, and the matter of applicability is still pending consideration and awaiting decision of the Government.
7. The case proceeds on admitted facts, namely:-
  - (a) University Grants Commission has recommended increase in age of superannuation of the Teaching faculties in Medical Colleges of Government of Maharashtra.
  - (b) The Government of Maharashtra has accepted U.G.C's recommendations for increasing the age of superannuation of the Teaching faculties in Medical Colleges of the Government of Maharashtra.
  - (c) So far the Government of Maharashtra has not the decision to extend the rule of age of superannuation applicable to the teaching faculties in Medical Colleges of Government of Maharashtra to the teaching faculties in Nursing Colleges run by Government of Maharashtra.
  - (d) Proposal for increase in age of superannuation etc. so far it relates to the teaching faculties in Nursing Colleges of Government of Maharashtra is under consideration of the Government; and this pendency is evidenced by Exh. A-13, pages 70 & 71.
8. In the background that applicant's claim is pending consideration of the Government, the right for relief claimed by the applicant is yet to get crystalized.
9. Learned Advocate has argued for treatment on parity with the teaching faculties in the department of Medical Education of the Government of Maharashtra, and for undoing the discrimination.

10. The plea of discrimination and treatment on parity requires adjudication, however in the background of the fact that admittedly the Government is engaged in the process of decision making, adjudication by this Tribunal may either way influence the prospects of claim of applicant and members of her class as regards their demand which is still pending favourable consideration at the level of the Government. Therefore this Tribunal elects to forbear from adjudication in peculiar situation, in the larger interest.

11. In the background that applicant's right / claim is in the process of formation, there are no grounds in existence, as on today, worth issue of a writ of mandamus.

12. Hence, Original Application has no merit and is disposed without orders in either way.

13. We clarify that this decision shall not in any way adversely affect consideration of applicant's claim on its own merit.

14. Parties are directed to bear their own cost.

**Sd/-**  
**(P.N Dixit)**  
**Member (A)**

**Sd/-**  
**(A.H. Joshi, J.)**  
**Chairman**

**Place : Mumbai**  
**Date : 28.11.2018**  
**Dictation taken by : A.K. Nair.**