

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

**ORIGINAL APPLICATION NO.666 OF 2017 WITH
ORIGINAL APPLICATION NO.1118 OF 2018**

1. O.A.No.666/2017

Gajanan Pandurangrao Wadekar)
Age : 58 years, Occ. Medical Officer,)
Working at Primary Health Center,)
Peth, Tal. Ambegaon, Dist. Pune)...**APPLICANT**

VERSUS

1. The State of Maharashtra,)
Through its Secretary,)
Department of Public Health,)
Mantralaya, Mumbai 400 032)

2. The Director of Health Services)
Arogya Bhavan, St. George Hospital)
Campus, Near C.S.T. Mumbai)

3. Deputy Director of Health Service,)
Pune)

4. District Health Officer, Zilla Parishad)
Pune.)

5. The Chief Executive Office, Zilla)
Parishad,)
Pune.)...**RESPONDENTS**

WITH**2. O.A.No.1118/2018**

Supriya Gajanan Wadekar)
 Age : 58 years, Occ. Retired,)
 Medical Officer at Primary Health)
 Centre, Kadus, Tal. Khed.)
 District Pune.)...**APPLICANT**

VERSUS

1. The State of Maharashtra,)
 Through its Secretary,)
 Department of Public Health,)
 Mantralaya, Mumbai 400 032)
2. The Director of Health Services)
 Arogya Bhavan, St. George Hospital)
 Campus, Near C.S.T. Mumbai)
3. Deputy Director of Health Service,)
 Pune)
4. District Health Officer, Zilla Parishad)
 Pune.)
5. The Chief Executive Office, Zilla)
 Parishad,)
 Pune.)...**RESPONDENTS**

Shri N.Y Chavan, learned advocate for the Applicants.

Smt K.S Gaikwad, learned Presenting Officer for the Respondents
 No. 1, 2, 3 & 5.

Shri Vijay Maid, learned counsel for Respondent no. 4, absent.

CORAM : **Justice Mridula Bhatkar (Chairperson)**
Mrs Medha Gadgil (Member) (A)

DATE : **16.01.2024**

J U D G M E N T

1. Both the Applicants working as Medical Officer in the Primary Health Centre at Ambegaon, District Pune filed the present Original Applications. Applicant in O.A.No.666/2017 prays that Respondents be directed to consider the applicant entitled to continue his service till the completion of his age of 60 years pursuant to G.Rs dated 30.06.2015 and 03.09.2015. It is also prayed that the Applicant in O.A.No.666/2017 be granted all the consequential benefits and direct the Respondent to consider the Applicant entitled for extension of age from 58 years to 60 years pursuant to all Government Resolutions. By way of interim relief the applicant has prayed that Respondents be directed not to take any coercive action against the applicant in O.A.No.666/2017 and his age of retirement be extended from 58 years to 60 years. At the time of filing of O.A.No.666/2017 i.e. 20.07.2017, Applicant Mr. G.P. Wadekar was 58 years.

2. We made query to Applicant Mr. G.P. Wadekar about the date of retirement. He replied that his date of retirement is 31.07.2017 i.e., at the age of 58 years. Hence, the applicant has completed his 60 years in the year 2019. It is to be noted that no interim relief was granted by the Tribunal in this matter when the Applicant retired at the age of 58 years on 31.07.2017. Thus, the matter in fact has become infructuous.

3. Applicant in O.A.No.1118/2018 Ms. S.G. Wadekar happens to the wife of Applicant in O.A.No.666/2017. Her date of retirement is 31.03.2018 and O.A. is filed on 06.12.2018. Applicant in O.A.No.1118/2018 Mrs. Wadekar was working as Medical Officer, Primary Health Centre. Applicant in O.A 1118/2018 Mrs. Wadekar has made same prayer about the extension of age of retirement from 58 years to 60 years in view of G.Rs dated 30.06.2015 and 03.09.2015. By way of interim relief, she prayed that the impugned order dated 16.3.2018 be stayed. Her date of retirement is 31.03.2018. In view of the time sequence the applicant Mrs. Wadekar has already retired when she filed this O.A. on 06.12.2018. Applicant Mrs. Wadekar has completed her age of 60 years in March, 2020. Thus it appears that the O.A No. 1118 has also become infructuous.

4. Learned counsel for the applicants placed on record, order of this Tribunal dated 28.3.2019 in O.A Nos 392 & 1208/2016, wherein the Tribunal has granted service benefits to the applicants in terms of G.R dated 3.9.2015 for the purpose of pensionary benefits. Learned counsel for the applicants have submitted that when the applicants filed the present Original Application, they belonged to Group-A. Learned counsel for the applicants pray that though the age of retirement cannot be extended nor they are claiming back wages, but they may be granted pesionary benefits as per G.R dated 3.9.2015.

5. Learned P.O per contra relied on the affidavit in reply dated 3.5.2018 filed by Shri Pradeep Vyas, Principal Secretary, Public Health Department, wherein in para 3 it is stated that the applicant belongs to Group-B post and not Group-A. Learned P.O pointed out to G.R dated 3.9.2015 which is pertaining to Group-A post.

6. We really do not want to go into the controversy of whether applicant belongs to Group- A or Group-B post and we are of the view that once they have retired and as no protection was granted by this Tribunal by way of any interim relief, the matter has become infructuous. The judgment of this Tribunal dated 28.3.2019 in O.A 392/2016 with O.A 1208/2016, passed by Member (Judicial) sitting Singly deciding Division Bench matters/ is not binding on the Bench, when the matter is heard and decided by Division Bench finally. Moreover, by judgment dated 4.1.2022 in OA 469/2012 and O./A 879/2015, the applicant in both the O.As were given the benefit of pay scale of Group-A w.e.f 18.7.2013.

7. We are of the view that as the applicants have already retired, both the Original Applications have become infructuous and are accordingly disposed of.

(Medha Gadgil)
Member (A)

(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 16.01.2024
Dictation taken by : A.K. Nair.