

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 22 of 2016 (S.B.)

Amit S/o Vishwas Nakanekar,
Aged about 33 years, Occ. Service,
R/o 205, Ganpati Apartments, Reshimbag,
Nagpur.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary
Medical Education and Drugs Department having its office at
Mantralaya, Mumba-400 032.
2. Director of AYUSH,
Maharashtra State Mumbai,
Government Dental College and Hospital
4th floor St. George's Hospital
PD Mello Road, Fort, Mumbai.

Respondents.

Shri S.P. Palshikar, Advocate for the applicant.
Shri A.M. Khadatkar, learned P.O. for respondents.

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Date of Reserving for Judgment : 20th July,2022.

Date of Pronouncement of Judgment : 3rd August,2022

JUDGMENT

(Delivered on this 3rd day of August,2022)

Heard Shri S.P. Palshikar, learned counsel for the
applicants and Shri A.M. Khadatkar, learned P.O. for the respondents.

2. The case of the applicant in short is as under –

The applicant had passed B.A.M.S. / M.D. (*Kaya Chikitsa*), which is a requisite qualification for appointment to the post of Assistant Professor (*Kaya Chikitsa*). The respondent no.2 has published an advertisement inviting applications for the various posts. The applicant applied post of Assistant Professor (*Kaya Chikitsa*). The applicant was selected and was given appointment for a period of 120 days as per the order dated 12/11/2013. Thereafter, on 05/05/2014 another order of 120 days was issued. The applicant was posted at Government Ayurvedic College, Nagpur. The applicant has continued more than 364 days in service. Another appointment order was issued on 07/09/2015 for a period of 360 days. The applicant fulfils the criteria and having the experience for grant of permanency and continuity of service, but the respondents are not regularising the service of the applicant, therefore, filed the present O.A. for the following reliefs –

“(i) Grant permanency and continuity of services to the applicant to the post of Assistant Professor (Kaya Chikitsa) as he has fulfilled the criteria and terms and conditions for the same.

(i-a) Further be pleased to direct the respondents to grant consequential and monetary benefits arising therefrom in favour of the applicant, since he has acquired higher qualification i.e. Doctor of Philosophy (Ph.D.) in July,2016.

(ii) Direct the respondent that after granting permanence and continuity of services he should be paid the regular salary for the said post in accordance with law and also grant him consequential and monetary benefits arising therefrom as per law.

(iii) Grant any other relief including costs which is deemed fit in the facts and circumstances of the case.”

3. During the pendency of O.A., the respondent no.1 issued the Govt. / order dated 22/02/2019 thereby regularising the service of applicant w.e.f. 24/10/2016. Now the applicant is getting regular grade pay, therefore, the reliefs claimed in the prayers are now satisfied.

4. During the pendency of the O.A., the applicant has amended the O.A. and prayed that he has acquired P.hd. degree during the pendency of O.A., as per the G.R. dated 10/11/2009 he is entitled for AGP of Rs.7000/-.

5. Heard Shri S.P. Palshikar, learned counsel for the applicant. He has pointed out the Govt. G.R. dated 10/11/2009 and documents filed on record. As per his submission, the applicant has passed the Ph.d. degree and therefore he is entitled for AGP of Rs.7000/- as per Clause 3 (a) (i) to (iii) of the G.R. dated 10/11/2009.

6. Heard Shri A.M. Khadatkhar, learned P.O. There is no dispute that during the pendency of the O.A., the applicant's service is

regularised w.e.f. 24/10/2016 as per the Govt. G.R./ order dated 22/02/2019. Therefore, the original reliefs claimed in the O.A. are satisfied. The amended relief prayed by the applicant is that he has acquired Ph.d. degree during the pendency of the O.A. and therefore he is entitled for AGP of Rs.7000/- as per the Govt. G.R. 10/11/2009. There is no dispute about the G.R. dated 10/11/2009. The Clause 3 (a) (i) to (iii) (P-94) are reproduced as below –

“(3) Revised Pay Scales, Service conditions and Career advancement Scheme for teachers and equivalent positions :

The pay structure for different categories of teachers and equivalent positions shall be as indicated below –

(a) Assistant Professor / Associate Professors/ Professors in Colleges

(i) Persons entering the teaching profession in Colleges shall be designated as Assistant Professors and shall be placed in the Pay Band of Rs.15600-39100 with AGP of Rs.6000. Lecturers already in service in the pre-revised scale of Rs.8000-13500, shall be re-designated as Assistant Professors with the said AGP of Rs.6000.

(ii) An Assistant Professor with completed service of 4 years, possessing MD/MS/DNB/DM/MCh/Ph.D. Degree in the relevant discipline shall be eligible, for moving upto AGP of Rs.7000.

(iii) Assistant Professors who do not have Ph.D. degree in the relevant discipline course shall be eligible for the AGP of Rs.7,000 only after completion of 6 years' service as Assistant Professor.”

7. As per the pursis filed by the applicant on 19/7/2022, he has filed the documents on record. The document no.4 is the copy of degree of Ph.d. issued by the Maharashtra University health Science, Nashik. The applicant has passed Ph.d. degree in the subject of '*Kaya Chikitsa*'. As per the G.R. dated 10/11/2009, the applicant is entitled for AGP of Rs. 7000/-. Hence, the following order –

ORDER

- (i) The O.A. is allowed.
- (ii) The respondents are directed to consider the claim of applicant about AGP of Rs.7000/- as per the G.R. dated 10/11/2009.
- (iii) No order as to costs.

Dated :- 03/08/2022.

dnk.

(Justice M.G. Giratkar)
Vice Chairman.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 03/08/2022.

Uploaded on : 03/08/2022.