

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 273 /2014 (S.B.)**

Pralhad S/o Haribhau Gabhne,  
Aged about 59 years,  
Occupation – Pensioner,  
R/o Plot No. 29, Saikrupa Society,  
Narendranagar, Nagpur.

**Applicant.**

**Versus**

- 1) State of Maharashtra, through its Secretary Public Health Department, Employee's State Insurance, Insurance Scheme, Near J.T.Hospital Compound, Near Police Commissioner Office, Mumbai.
- 2) Commissioner Employee's State Insurance, Insurance Scheme, Lower Parel Panchdeep Bhavan, N.M.Joshi Marg, Mumbai-13.
- 3) Administrative Medical Officer, Employee's State Insurance Scheme, Vidarbha Region, Imamwada Road, Nagpur.

**Respondents**

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**Shri S.B.Ninawe, Id. Advocate for the applicant.**

**Shri P.N.Warjurkar, Id. P.O. for the respondents.**

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**Coram :- Hon'ble Shri J.D. Kulkarni,  
Vice-Chairman (J).**

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**JUDGMENT**

**(Delivered on this 28<sup>th</sup> day of September, 2017)**

Shri S.B.Ninawe, learned counsel for the applicant. Shri P.N.Warjurkar, learned P.O. for the respondents.

2. The applicant was appointed as a Compounder w.e.f. 15/03/1978 and his services were extended from time to time. After number of representations, he was regularized on 06/10/1982.

3. According to the applicant, the respondent nos. 1 & 2 did not give him the benefit of regularization, though the competent authorities directed him for the same. The applicant had filed number of representations such as vide letter dated 23/04/1986, but the applicant was warned not to make any correspondence in that regard.

4. Vide letter dated 20/03/1987, the applicant brought to the notice of Director, Employees State Insurance Scheme, Mumbai that seven Compounders who were not registered Pharmacists and who were appointed in the same year in which the applicant was appointed and whose qualifications were also similar to that of applicant and who were recommended through Employment Exchange, Nagpur like the applicant, were regularized, but the applicant was not regularized. The applicant got retired on superannuation on 30/04/2010, but did not get

the relief of 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Pay Commission, since the period from 15/03/1978 to 06/10/1982 was not considered for regularization.

5. The applicant has prayed that the non applicant be directed to grant him difference of wages, increments, difference in pension and differences occurred while calculating service pay as per 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Pay Commission and other monetary benefits occurred because of non-regularization of services of the applicant from 15/03/1978 to 06/10/1982.

6. The respondent nos. 2 and 3 have filed reply affidavit. It is stated that the applicant does not possess certificate issued by District Civil Surgeon. He was appointed on 15/03/1978 as a Compounder on *ad-hoc* and on temporary basis under specific terms and conditions and, therefore, he cannot claim right of permanency. He was given clear understanding that he is appointed on *ad-hoc* and temporary and initially for 29 days. His services were terminated on 14/02/1980 because of availability of qualified and eligible candidate. He was given temporary appointment again on 01/02/1980 for 29 days and was posted at Pulgaon Hospital, District Wardha and thereafter for another one year vide order dated 05/10/1981, thereafter the services of the applicant were continued without any break in service and was regularized from 06/10/1982. He was superannuated on 30/04/2010 and all pensionary benefits are given to him.

7. The Id. counsel for the applicant submits that the respondents are admitting the fact that the applicant was appointed as Compounder initially from 15/03/1978 and has been admittedly regularized on 06/10/1982. The only question therefore, is about the regularization period from 15/03/1978 to 06/10/1982. From the reply affidavit as well as the various appointments orders placed on record by the applicant himself, it seems that prior to his regularization, his services were purely temporary and on *ad-hoc* basis such as for 29 days or so. It seems that on account of availability of regular candidate, the applicant was even terminated on 14/02/1980, but then was appointed for 29 days at Pulgaon hospital for a period of one year. Thus, one year period of continuous service has been considered while regularizing the applicant's services from 06/10/1982. From the date of regularization i.e. 06/10/1982, till the date of his superannuation on 30/04/2010, the applicant did not take any action for challenging the non-application of 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Pay Commission to him and for the first time in 2014 ,i.e., after four years after retirement on superannuation, the applicant has filed this O.A.

8. The applicant was directed to file the documents to show as to on which terms and conditions, he was regularized but did not file the order of regularization. The Id. P.O. has placed on record a copy of one order wherefrom it seems that the applicant's services were regularized

which is marked exh. "X" for the purpose of identification and it is dated 21/11/1983. The said letter simply says :-

“श्री पी.एच.गाभने, औषधी संयोजक हयांची सेवा 06.10.1982 म.पु. पासून धः **u** सेवापु**lr**क तैयार करावे. त्यांना वार्षिक वेतन वाढ देण्यास हरकत नाही. तसेच स**ol** नियमानुसार इतर का;**bf**) करण्यात यावी.”

From this letter, it can be said that the applicant's services were to be continued, presuming that he had started serving w.e.f. 06/10/1982 and accordingly he was entitled to the increment and accordingly the competent authority has to take action. Admittedly the applicant has been regularized w.e.f. 06/10/1982 and prior to that he was appointed for a period of one year vide order dated 05/10/1981 and by giving technical break, he was again appointed from 06/10/1982 for one year and since then his services are continued without break and, therefore, it seems that the services of the applicant were regularized from 06/10/1982. The applicant never challenged his regularization vide order dated 06/10/1982.

9. The respondents have stated that the applicant has retired on superannuation on 30/04/2010 and accordingly he was given all pensionary benefits. No rejoinder is filed by the applicant to show that he was not given proper pensionary benefits as claimed by him. The applicant also could not place on record any documentary evidence to

show that he was in continuous service without any break from 15/03/1978 to 06/10/1982 for which he is claiming to be regularized. In the absence of such documents on record the applicant's prayer for all benefits as per 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Pay Commission from the date of regularization till the date of filing of this application on 01/02/2013, cannot be accepted. The applicant never seems to have claimed either regularization or Pay Commissions benefits till superannuation in 2008 by filing any petition before this Tribunal.

10. In view of the discussion in foregoing paras, I don't find any merits in this O.A., hence the following order:-

**ORDER**

1. O.A. stands dismissed.
2. No order as to costs.

**(J.D. Kulkarni)**  
**Vice-Chairman (J).**

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