

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
NAGPUR BENCH AT NAGPUR.

A. ORIGINAL APPLICATION NO. 29 of 2016

Dr Anup Ashokrao Wakodkar,  
Aged about 37 years, Occ. Service,  
R/o Near Chitra Talkies,  
Minar Road, Mahal,  
Nagpur

APPLICANT

VERSUS

1. State of Maharashtra,  
through its Addl. Chief Secretary/  
Principal Secretary,  
Public Health Department,  
Mantralaya, Mumbai-32.
2. Director of Public Health Services, M.S.,  
St. George Hospital Compound,  
Mumbai.
3. Deputy Director of Health Services,  
Nagpur Circle,  
Matakacheri,  
Nagpur.
4. Medical Superintendent,  
Daga Memorial Hospital,  
Gandhibagh,  
Nagpur.

RESPONDENTS

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Shri D M Kakani, Counsel for Applicant  
Shri A P Tathod, CPO for Respondents no. 1 to 4

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CORAM: B. Majumdar : Vice Chairman

DATE : 10<sup>th</sup> February, 2016

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Heard Shri D M Kakani, ID Counsel for the applicant and Shri A P Tathod for the respondents. The matter is heard and decided at the admission stage with the consent of the parties.

2. The applicant is a Medical Officer-Gp A who was appointed in 2002 and are presently working at the Daga Memorial Govt Hospital, Nagpur, since Aug-Sep, 2014. The applicant had obtained his PG Degree in Surgery in 2014. The applicant, on being selected by MPSC, vide orders dated 24.11.2015, was appointed as Assistant Professor at the Govt Medical College, Nagpur. The Government in Public Health Dept (R/1) on 29.12.2015 issued an order relieving the applicant from his present post of MO at the Daga Memorial Hospital by directing the Director of Health Services (R/2) to ensure that he had fulfilled the conditions of the bond as per GR dated 3.5.11. R/2 however has not as yet relieved the applicant to join his posting at IGMC. Aggrieved thereby, the applicant has filed this OA.

3. The applicant submits that he had undertaken to serve the State Government for a period of 5 years after his post-graduation as per GR of 3.5.2011. On being appointed as an Assistant Professor in the Govt Medical College he will continue to serve the State Govt. Hence the question of his breaching the conditions of the bond does not arise. He refers to the case of a similarly placed Medical Officer, namely, Dr N R Bhutada working at the Women's Hospital at Gondia, who was relieved by the hospital's Medical Superintendent to join GMC on the basis of a similar order of the Government.

4. Respondent No. 2, Director of Health Services, has filed his reply. He submits that it is binding on the applicant to serve the Directorate for 5 years after completion of PG as per Government Resolution dated 03.05.2011. In case of breaching of the bond, a penalty of Rs 50,00,000 has to be paid to the Directorate of Health Services and hence the applicant,



who has completed his PG as an in-services candidate has to work in the Directorate of Health Services only.

5. Shri D M Kakani reiterated the submissions of the applicant. He relied on the order dated 8.2.2016 by the Mumbai Bench of the Tribunal in OA 83 of 2016 filed by Gracy Michael Marian. In her case also the condition was to serve the State Govt for 6 years. The Tribunal held that serving the State Government on bond did not necessarily mean serving the same department from which the bond was executed by the applicant.

6. Shri A P Tathod basically reiterated the submission of R/2.

7. I find that the applicant has relied on the order dated 29.12.15 of R/1 vide which he was directed to be relieved for joining his posting as an Asstt Professor in the GMC, nagpur. The order, after citing condition no. 1.17 of the GR dated 3.5.2011 regarding fulfilling of the bond and penalty on failure to do so, directed R/2 to ascertain that the applicant did not breach the conditions of the bond on his appointment as an Asstt. Professor.

8. The GR of 3.5.2011 is entitled 'In service Medical Officers- Conditions of admission to Post Graduate Degree and Diploma- for members of Maharashtra Medical Service Gp A.' It regulates the terms and conditions of permitting in-service Medical Officers to be admitted to post graduate courses. The condition no. 1.17 states thus:

१.१७ पदव्युत्तर अभ्यासक्रमासाठी निवड झालेल्या सेवांतर्गत उमेदवारांना पदव्युत्तर पदविका अभ्यासक्रम पूर्ण झाल्यावर, ते शासनाची किमान ३ वर्षे सेवा व पदव्युत्तर पदवी पूर्ण झाल्यावर शासनाची किमान ५ वर्षे सेवा करतील असे बंधपत्र (हमीपत्र) अभ्यासक्रमासाठी रुजू होण्यापूर्वी संचालक, आरोग्य सेवा, मुंबई यांचेकडे भरून देणे आवश्यक राहिल. बंधपत्रातील अटी न पाळल्यास पदव्युत्तर अभ्यासक्रमास नोंदणी केलेल्या सेवांतर्गत उमेदवारांना रु. ५०,००,०००/- (रुपये पन्नास लक्ष) एवढी किंवा शासन वेळोवेळी विहित करील एवढी बंधपत्राची रक्कम दंड म्हणून संचालक, आरोग्य सेवा, मुंबई यांचेकडे जमा करावी लागेल. पदव्युत्तर अभ्यासक्रम पूर्ण केल्यानंतर पदस्थापनेबाबतची कार्यवाही शासन स्तरावरून करण्यात येईल.

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As per this condition a medical Officer on acquiring the higher qualification is required to serve the State Government for a period of 5 years. In terms of the above condition, what is obligatory for him is to serve the State Government and not necessarily a specific Department or Directorate. The applicant, having been appointed as an Asstt Professor in the Govt Medical College will obviously continue to serve the State Government.

9. In view of what is discussed as above, I hold that the applicant cannot be deemed to breach the conditions of the bond as per GR of 3.5.2011 on his appointment as an Asstt. Professor in Govt Medical Colleges as he will continue to be in Govt service in this post. Respondent no. 2 is therefore directed to relieve the applicant immediately, preferably within three weeks of issue of this order, to enable them to join the Govt Medical Colleges. The OA stands disposed of in terms of these directions.

sd/-

(B Majumdar)  
Vice Chairman