

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**ORIGINAL APPLICATION 361 OF 2014**

**DISTRICTS : KOLHAPUR,  
PUNE, NASIK, SATARA,  
MUMBAI, NAGPUR & NANDED**

1. Shri Zumber Kisam Maske )  
Working as Statistical Officer in )  
Office of Principal, Health and )  
Family Training Centre, Shenda )  
Park, Kolhapur 416 012. )  
Residing at C/o: Shri B.P Shinde, )  
Plot no.10, Nehrunagar C.H.S, )  
Kolhapur 416 012. )
2. Shri Murlidhar Ramchandra Zope )  
Working as Statistical Officer in )  
Office of Deputy Director of Health )  
Services, Circle Office, Aurangabad. )  
R/at A-13, Sanskruti Prangan Hsg. )  
Society, Balewadi Road, Baner, )  
Pune 411 045. )
3. Smt Gauree Sanjay Tambe, )  
Working as Statistical Officer in )  
Office of Addl. Director of Health )  
Services [FP], Pune 411 011. )  
R/at 3, Suryodaya Building, )  
40, Mahesh Society, Bibwewadi, )

- Pune 411 037. )
4. Shri Suresh R. Nikumbh, )  
 Working as Statistical Officer in )  
 Office of Principal, Health and )  
 Family Training Centre, Civil )  
 Hospital Compound, Nasik. )  
 R/at: Plot No. 106, Adarsha Colony )  
 Pramos Nagar, Sector no.1, )  
 Nakane Road, Deopur, Dhule. )
5. Shri Shripad S. Inamdar, )  
 Working as Statistical Officer in )  
 Office of Directorate of Health )  
 Services, Arogya Bhavan, )  
 St. Georges Hospital Campus, )  
 Mumbai 400 001. )  
 R/at S-6, Vishwalaxmi Apt., )  
 Mangalwar Peth, Near Kashi- )  
 Vishweshar Mandir, Satara 412 002 )
6. Shri Mansing D. Suryawanshi, )  
 Working as Administrative Officer )  
 In the office of District Health )  
 Officer, Zilla Parishad, Pune. )  
 R/at: A-1, 202, Ganga Bhagyoday )  
 Manikbaug, Sinhagad Road, )  
 Pune. )
7. S hri Vivek V. Mate, )  
 Working as Statistical Officer in )  
 Office of Deputy Director of Health )  
 Services, Circle Office, Pune. )

- R/at : 65/611, Gokhalenagar, )  
Pune 411 016. )
8. Shri Rajendra Liladhar Suryawanshi )  
Working as Statistical Officer in )  
Office of District Health Officer, )  
Zilla Parishad, Jalgaon, )  
R/at 4, Surhud Apartment, )  
Ramdas Colony, Canada Corner, )  
Nasik - 05. )
9. Miss Anita Rajabhau Idhol, )  
Working as Statistical Officer in )  
Office of District Health Officer, )  
Zilla Parishad, Akola, )  
R/at Shri Hari Row House No. 3, )  
Giri Nagar, Akola. )
10. Shri Maroti G. Dubakwad, )  
Working as Statistical Officer in )  
Office of District Health Officer, )  
Zilla Parishad, Nanded, )  
R/at Datta Krupa Niwas, )  
Behind Padmavati Hotel, )  
Rajeshnagar, Tarodanaka, )  
Nanded 431 605. )...**Applicants**

**Versus**

1. The State of Maharashtra )  
Through the Principal Secretary, )  
Public Health Department, )  
10<sup>th</sup> floor, New Mantralaya Bldg, )  
G.T Hospital Campus, )

- Mumbai 400 001. )  
 2. The Director of Health Services, )  
 M.S., Arogya Bhavan, )  
 St. Georges Hospital Campus, )  
 Mumbai 400 001. )  
 3. The Deputy Director of Health )  
 Services, [State Health Intelligence )  
 and Vital Statistics], )  
 Naidu Hospital Campus, )  
 Pune 411 011. )  
 4. The Secretary, )  
 Finance Department, Mantralaya, )  
 Mumbai 400 032. )...**Respondents**

Ms Swati P. Manchekar learned advocate for the Applicants.

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

**CORAM : Shri Rajiv Agarwal (Vice-Chairman)**

**Shri R.B. Malik (Member) (J)**

**DATE : 05.07.2016**

**PER : Shri Rajiv Agarwal (Vice-Chairman)**

**ORDER**

1. Heard Ms Swati P. Manchekar learned advocate for the Applicants and Shri A.J Chougule, learned Presenting Officer for the Respondents.

2. This Original Application has been filed by the Applicants who are working as Statistical Officer/Statistician in the Directorate of Public Health, Maharashtra State. The Applicants are seeking the pay scale attached to the post of State Demographer on getting benefit of Assured Career Progression Scheme (ACP).

3. Learned Counsel for the Applicants argued that the Applicants are working as Statistical Officer/Statistician in the Public Health Department. They are eligible to get benefit of Assured Career Progression Scheme (ACP) on completion of 12 years of continuous service. The Applicants ~~are~~ <sup>were initially</sup> granted Pay Band of Rs. 9300-34800 plus grade pay of Rs. 4400 after implementation of 6<sup>th</sup> Pay Commission corresponding to pay scale of Rs. 6500-10500. They have <sup>subsequently</sup> been granted the pay in the Pay Band of Rs. 15600-39100 plus grade pay of Rs. 5400 on getting benefit of Assured Career Progression Scheme. This pay is for the post of Demographer, which was upgraded to the post of State Demographer and the post of State Demographer has the pay in the Pay Band of Rs. 15600-39100 plus grade pay of Rs. 6600/-. After upgradation of only post of Demographer in the State to that of State Demographer, the post of Demographer does not exist and the next post to which the Statistical Officers are eligible to be promoted is that of State Demographer. Learned Counsel for the Applicant argued that G.R dated 20.7.2001 has extended the benefits of Assured Career Progression Scheme to the State Government employees. As per this G.R., if in a post, there are no promotional avenues, on grant of A.C.P benefits, the pay scale

to be granted is given in Schedule-I of the G.R. The Applicants were in the pay scale of Rs. 6500-10500 (5<sup>th</sup> Pay Commission) and the scale of Rs. 7450-11500<sup>was</sup> extended to them on ACP benefit being extended taking that there was no promotional avenues. Learned Counsel for the Applicants argued that this assumption is wrong that there are no promotional posts for the post of Statistical Officer. In fact, the post of Demographer is to be filled by promotion from the post of Statistical Officer. This will be clear from the Recruitment Rules for the post of Demographer, which permit appointment to that post, either by promotion of Statistician, Class-II, or by transfer of by nomination. The post of Demographer was upgraded to that of State Demographer by G.R dated 13.1.2000. The pay scale of the post of Demographer was Rs. 8000-13500 in 5<sup>th</sup> Pay Commission, after the post was upgraded to that of State Demographer, the pay scale was Rs. 10650-15850. By G.R dated 13.1.2000, the post of Demographer was upgraded to the post of 'State Demographer'. As such, the persons working as Statistical Officer/Statistician, should be held eligible for promotion to the post of 'State Demographer' and on getting benefit of the A.C.P Scheme, the pay attached to the post of State Demographer should be granted to them.

4. Learned Presenting Officer (P.O) argued on behalf of the Respondents that the Applicants are trying to get a higher pay scale to which they are not entitled, on getting benefit of A.C.P Scheme. The post of Statistical Officer/Statistician is a Group 'B' post. There was only one post of 'Demographer' in Group 'A' in the State, which could

be filled by promotion (or transfer or nomination) of a Statistical Officer/Statistician. The pay scale of the post of Demographer was Rs. 8000-13500, in the 5<sup>th</sup> Pay Commission, which is revised to Pay Band of Rs. 15600-39100 plus grade pay of Rs. 5400. The Applicants have been granted pay accordingly on getting benefit of ACP Scheme. The post of Demographer was upgraded to that of 'State Demographer' by G.R dated 13.1.2000 and it was in the pay scale of Rs. 10650-15850. Smt Madhuri Talwalkar who was appointed as 'Demographer' from 4.5.1987 was redesignated as 'State Demographer' from 13.1.2000 and was given pay in the pay scale of Rs. 10650-15850. After her retirement, the post has not been filled by regular appointment and additional charge has sometimes been given to another officer. Learned Presenting Officer argued that the Recruitment Rules for the post of 'State Demographer' have not yet been framed. There is no legal basis to the claim of the Applicants that the Recruitment Rules for the post of 'Demographer' should be applied for appointment to the post of 'State Demographer'. The Applicants have been given pay applicable to the post of Demographer (which does not exist). If it is accepted that the post of Demographer does not exist, in absence of any recruitment rules for the post of 'State Demographer', the Applicants cannot claim that the post of 'State Demographer' is in the chain of promotion from the post of Statistical Officer/Statistician. The post of Statistical Officer / Statistician has no further post available for promotion and on that basis the Applicants are eligible to get the scale of Rs. 7450-11500 However, the Government has given them pay in the scale of Rs. 8000-13500 on getting


A.C.P benefit. In no case, they are eligible to get pay in the scale of Rs. 10650-15850, which was the pay scale of the post of State Demographer.

5. We find that the Applicants are claiming that the decision of the Respondent no. 2 in granting them pay scale of Rs. 7450-11500 on giving A.C.P benefit, on the basis that there are no promotional avenues for the post of Statistician was wrong. The post of 'Demographer' which was in the scale of pay of Rs. 8000-13500, should have been given. Also, as the post of 'Demographer' was upgraded to that of 'State Demographer' in the pay scale of Rs. 10650-15850, the same should have been given to the Applicants on getting A.C.P benefits. (For the sake of convenience, pay scale of 5<sup>th</sup> Pay Commission are used). It is seen that now all the Statisticians are getting pay scale of Rs. 8000-13500 on getting A.C.P benefits. In the Government letter dated 16.12.2008 (Page 47 of the Paper Book), it was clarified that the pay scale of Rs. 8000-13500 applicable to Demographer, Group 'A' should be granted to the Statistician, on granting A.C.P benefits. The controversy that for the post of Statistician, there is no promotional post, therefore, does not survive. Now the question is that the lone post of 'Demographer' in the State has been upgraded to that of 'State Demographer'. The claim of the Applicants is that the next promotional post from the post of Statistician is now 'State Demographer' in the pay scale of Rs. 10650-15850 and that scale should be granted to the Applicants on grant of A.C.P benefits. The Applicants have produced minutes of the Departmental Promotion Committee dated 24.9.2013 (page 93 of the Paper Book),



wherein it was noted that the post of 'Demographer' was upgraded to that of 'State Demographer'. The Committee recommended that Shri S.B Nandkar may be promoted as 'State Demographer'. The minutes of the D.P.C meeting have been provided to the Applicant no. 2 under the Right to Information Act by the Respondent no. 2. Shri Nandkar was, however, subsequently not given the post and scale of 'State Demographer'.

6. The Applicants have stated in paragraph 6.13 of the Original Application that the facts in the present case are not similar to that of District Extension and Media Officer who are seeking benefit of the pay scale of Deputy Director, Publicity, which is pending in Hon'ble Bombay High Court. In this connection, a copy of judgment of this Tribunal (Aurangabad Bench) dated 21.11.2007 in O.A no 54/2007 is enclosed. On reading of the judgment of this Tribunal in O.A no 54/2007, we agree with the contention of the Applicants that facts in that O.A are quite different. The Applicants are relying on the order dated 31.12.2014 (p. 98 of the Paper Book), which was issued by the Respondent no. 1 in case of one Smt Tamhankar, Statistical Officer. In her case, she was granted pay scale of Rs. 10000-15200, which was applicable to the post of 'State Demographer'. The Applicant claims that they are also entitled to be given the same pay scale of the post of 'State Demographer'. The case of the Respondents is that for the post of 'State Demographer' no recruitment rules have been framed and as such, it cannot be held that the Statistical Officers are eligible for promotion to that post. The Applicants have been given pay scale of the post of



'Demographer' (before upgradation), though, the post does not exist, on the basis of Recruitment Rules for that post. We find it difficult to accept the contention of the Applicants, that once a post is upgraded the recruitment rules availed to the post before upgradation will apply to the upgraded post. On the contrary, Recruitment Rules for the upgraded posts are required to be framed as the posts are upgraded when there is change in the nature of work and responsibility attached to a post. In the present case, the post of 'Demographer' was upgraded to that of 'State Demographer', by G.R dated 13.1.2000 (page 43 of the Paper Book). The G.R makes it clear that the scope of responsibilities attached to the post have widened.

“६६. कुटुंब कल्याण कार्यक्रमांतर्गत बाह्य राष्ट्रांच्या सहाने विविध प्रकल्प राबविण्यात येत असल्याने ह्या प्रकल्पामुळे झालेल्या आरोग्य सेवेतील सुधारणांचे योग्य मुल्यमापन करणे आवश्यक असल्यामुळे या मध्ये लोकसंख्या शास्त्रज्ञ या पदधारकाच्या भुमिकेला महत्व प्राप्त झाले आहे.”

As the responsibility attached to the posts have increased it was decided to upgrade the post. It is, therefore, logical, that the Recruitment Rules for the upgraded post may also provide, additional qualifications/experience etc. The claim of the Applicants that the promotional post for the post of Statistical Officer/Statistician become 'State Demographer' on upgradation of the post of 'Demographer' is unfounded.

7. The Applicants have claimed alternate remedy of grant of pay scale of Rs. 10000-15200 made applicable to the post of 'State Demographer' as mentioned in the Booklet

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published with the Maharashtra Civil Services (Revised Pay) Rules, 2009 to them on grant of ACP benefits. This was done in the case of Smt Tamhankar. This is to take be benefit of a clear mistake in the Booklet. As per G.R dated 13.1.2000, the pay scale of the post of State Demographer is Rs. 10650-15850 and not Rs. 10000-15200. As the Applicants are held ineligible to get the pay scale of 'State Demographer' on getting A.C.P benefits, the question of grant of scale of Rs. 1000-15200 does not arise. It seems that in the case of Smt Tamhankar, the pay scale of the post of State Demographer was granted to her on granting A.C.P benefits. However, if in one case, erroneous order is passed, that cannot become a ground to perpetuate that error. On merits, the Applicants have been held to be ineligible to get the benefit of the pay scale of the post of 'State Demographer' on being granted benefit of A.C.P scheme.

8. Having regard to the aforesaid facts and circumstances of the case, this Original Application is dismissed with no order as to costs.

Sd/-

(R.B. Malik)  
Member (J)

Sd/-

(Rajiv Agarwal)  
Vice-Chairman

**Place : Mumbai**  
**Date : 05.07.2016**  
**Dictation taken by : A.K. Nair.**