

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.541/2016.

- 1) Dr. Surendra Mahadeorao Pawade,
Aged about 61 years,
Occ-Retired,
R/o G-2, Ramashraya Apartment 39,
Adarsha Colony, Akola.
- 2) Dr. Arun Kanhaiyalal Warkari,
Aged about 62 years,
Occ-Retired,
R/o In front of Dr. Belsare House,
Opp. Irwin Hospital, Khaparde Garden,
Amravati.
- 3) Dr. Pandurang Sewakram Dalu,
Aged about 62 years,
Occ-Retired,
R/o Oasis Apartment, Flat No.5,
Near Commissioner, Kantanagar,
Camp Amravati.
- 4) Dr. Anil Uttamrao Patil,
Aged about 57 years,
R/o In front of Dr. Belsare House,
Opp. Irwin Hospital, Khaparde Garden,
Amravati.
- 5) Dr. Shyamsundar Trambakrao Sonone,
Aged about 59 years,
Occ-Retired,
R/o Hinglajnagar, Balode Layout,
Hingna Road, Akola.

- 6) Dr. Chandan Shriram Jaiswal,
Aged about 61 years,
Occ-Retired,
R/o Siddhivinayak Manor Flat No.11,
Ramnagar, Akola.
- 7) Dr. Kishor Bhalchandra Gadhave,
Aged about 61 years,
Occ-Retired,
R/o 4, Siddhant Apartment, Madhavnagar,
Gorakshan Road, Akola.
- 8) Dr. Ganesh Kondopant Rachkuntwar,
Aged about 61 years,
Occ-Retired,
R/o Amarnagar, Shrirampur Pusad,
Near Bldg. No.3 Anganwadi, Dist. Yavatmal.
- 9) Dr. Bhagwandas Shankarlal Zanwar ,
Aged about years,
R/o Zanwar Hospital, Ekta Nagar,
Mehkar, Distt. Buldana.
- 10) Dr. Vitthal Raghoji Zare,
Aged about 61 years,
Occ-Retired Assistant Director of Health (Malaria),
R/o Plot No.124, Jayanta Apartment, Pande Layout,
Khamla, Nagpur.
- 11) Dr. Abhay Shalikram Gajbhiye,
Aged about 61 years,
Occ-Retired Medical Superintendent,
R/o Plot No.171,
Nazul Layout, Bezonbag, Nagpur.

Applicants.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Public Health,
Mantralaya, Mumbai-32.

2. The Director of Public Health Services,
Arogya Bhavan, St. Georges Hospital Campus,
P. D. Mello Road, Mumbai.
3. The Joint Director of Health Services,
(Finance and Administration),
Arogya Bhavan, St. Georges Hospital Campus,
P. D. Mello Road, Mumbai.
4. The Deputy Director of Health Services,
Akola Division, Akola.

Respondents.

Shri S.P. Palshikar, the learned counsel for the applicants.
Shri A.M. Ghogre, the Ld. P.O. for the respondents.

Coram:- Shri J.D. Kulkarni,
Vice-Chairman (J).

Dated:- 3rd October 2017.

Order

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

2. The applicants are retired Medical Officers, having served in the State of Maharashtra at various places and their service details have been given in Annexure A-3 and the same are not disputed.

3. The applicant Nos. 1 to 4 are post graduates while applicant Nos. 5 to 9 are diploma holders and all of them are getting pay band of Rs. 15600-39100 with grade pay of Rs. 6600/- and all of them got retired on superannuation.

4. On 14.12.2011, the Government published a G.R. by which it has been clarified that those who were working as Maharashtra Medical and Health Services, Group-A officers and who were post graduates and diploma holders would get three and six increments respectively and that those would be applicable to the persons having pay band of Rs. 15600-39100 with grade pay of Rs. 5400/-. Admittedly, the applicants were in service when the Resolution dated 14.12.2011 was published.

5. The State of Maharashtra further published another G.R. on 19.11.2012 making clarification in the earlier G.R. dated 14.12.2011 and clarified that additional 3 /6 increments would be applicable to those Doctors who were getting the pay scale of Rs. 15600-39100 with grade pay of Rs. 5400/-. The State of Maharashtra again published another G.R. dated 20.8.2014 and clarified that 3 / 6 increments as per the G.R. dated 14.12.2011 would be applicable to whose Medical Officers, Group-A getting pay scale of 15600-39100 with grade pay of Rs. 6600/-. But the increments would be permissible from the date of publication of the G.R. i.e. 20.8.2014.

6. The applicants made a representation on 4.11.2015, requesting the Government that the G.R. dated 20.8.2014 shall be made applicable w.e.f. 14.12.2011. Vide impugned communications dated 13.1.2016 and 14.3.2016, benefit was refused to those who

were getting pay scale of Rs. 15600-39100 with grade pay of Rs. 6600/- prior to 14.12.2011. The applicants have claimed that the communication dated 13.1.2016 be declared illegal and the respondents be directed to grant the benefit of the G.R. dated 20.8.2014 w.e.f. 14.12.2011 and to grant them all necessary monetary benefits.

7. Respondent No.4 has filed affidavit in reply and justified the denial of claim to the applicant. The State was directed to file a separate affidavit in reply and admitted the fact that the applicants have retired as Medical Officers. Issuance of the G.Rs dated 14.12.2011 and 20.8.2014 etc. are also admitted. It is stated that the G.Rs are applicable only to the officers who are in service and the applicants are not entitled to increments as per the G.R. dated 20.8.2014.

8. During the course of argument, the learned counsel for the applicants has placed reliance on the judgment delivered by Aurangabad Bench of this Tribunal in **O.A. No. 635/2013 in case of Dr. Pruthviraj Kalyanrao Chavan and others V/s The State of Maharashtra and others on 13.12.2016.** The said judgment covers the issue raised by the applicants. The learned P.O. was requested to go through the order passed by this Tribunal on 13.12.2016 in O.A. No. 635/2013 and to state whether the present case is covered by the

said judgment. The learned P.O. admits that the case is covered by the said judgment. His only say is that only difference is that in the present case, the applicants are retired servants whereas in O.A. No. 635/2013, the applicants were in service. He submits that otherwise the case of the applicants seems to be covered by the judgment.

9. Admittedly in the present case, all the applicants were in service when the first G.R. dated 14.12.2011 was issued by the Govt. of Maharashtra and subsequent G.Rs i.e. dated 19.12.2012 and 28.8.2014 are in the form of clarification.

10. This Tribunal has observed in the said judgment as under:-

The plain reading of the aforesaid two G.Rs clearly shows that whatever benefit was to be given as per G.Rs dated 14.12.2011 and 19.11.2012 was to be given w.e.f. 14.12.2011. Thus, benefit of both the G.Rs have been made applicable to those eligible Medical Officers who were in service on 14.12.2011 or who joined service thereafter. This has caused injustice on the applicants. The applicants were already in service prior to issuance of the G.R. and, therefore, they did not get the benefit. Because of this anomaly, the Medical Officers who were appointed and were qualified for getting benefit of G.Rs dated 14.12.2011 and 19.11.2012 are getting

more salary than the applicants, though the applicants are senior in the cadre.

The very purpose of the said G.R. dated 20.8.2014 is to remove anomaly in respect of senior officers like the applicants. However, the said G.R. is not made applicable with retrospective effect i.e. from 14.12.2014 and, therefore, the applicants are not getting the benefit of G.R. dated 14.12.2011 and anomaly still remains that the Junior Medical Officers who are appointed on or after 14.12.2011 are getting more pay than the applicants and, therefore the very purpose of issuing G.R. dated 20.8.2014 has been frustrated and, therefore, we are of the opinion that it was necessary to make this G.R. dated 20.8.2014 applicable retrospectively i.e. w.e.f. 14.12.2011.+

11. From the aforesaid observation, it will be clear that the cases of the applicants are very much covered by the G.R. dated 20.8.2014 and the said G.R. is applicable w.e.f. 14.12.2011. Hence, I proceed to pass the following order:-

ORDER

- (i) The O.A. is allowed in terms of prayer clauses (i) and (ii).
- (ii) The respondents are directed to grant eligible monetary benefits to all the applicants within a

period of three months from the date of this order.

(iii) No order as to costs.

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

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