

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 626/2016 (S.B.)**

Dr. Sandeep S/o Ramdasji Pipare,  
aged about 40 years, Occ. Govt. Service,  
R/o Watchal Bhavan, Vivek Nagar,  
Mul Road, Chandrapur-442 402.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary, Public Health Department,  
Mantralaya, Mumbai-32.
  
- 2) The Director of Public Health Service,  
Director of Health Science,  
8<sup>th</sup> floor, 'Arogya Bhavan',  
Saint George Hospital Complex,  
Mumbai-01.

**Respondents.**

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**S/Shri Rohit Joshi, S. R. Mendiretta, Advocates for the applicant.**

**Shri H.K. Pande, P.O. for the respondents.**

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**Coram :- Hon'ble Shri Shree Bhagwan,  
Vice-Chairman.**

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**Date of Reserving for Judgment : 26<sup>th</sup> November, 2019.**

**Date of Pronouncement of Judgment : 2<sup>nd</sup> January, 2020.**

**JUDGMENT**

**(Delivered on this 2<sup>nd</sup> day of January, 2020)**

Heard Shri Rohit Joshi, Id. Counsel for the applicant and  
Shri H.K. Pande, learned P.O. for the respondents.

2. It is contention of the applicant is that applicant was called  
for the interview for the post of Dental Surgeon vide order dated

10/8/2004 by the respondent no.2 (A-1,P-21) and subsequent to that he was initially appointed vide order dated 2/11/2004 (A-2,P-22) and applicant further continued as Dental Surgeon with technical breaks as per the Table below on page no.4 of the O.A. -

Date of appointment order	Period
18/03/2005	11/03/2005 to 10/02/2006
17/03/2006	14/02/2006 to 13/01/2007
16/01/2007	16/01/2007 to 15/12/2007
18/12/2007	18/12/2007 to 17/11/2008
23/01/2009	19/11/2008 to 18/10/2009
04/02/2010	21/10/2009 to 20/09/2010
15/09/2010	22/09/2010 to 21/08/2011
08/11/2011	23/08/2011 to 22/07/2012

3. The learned counsel for the applicant submitted that the applicant is still in service. As per letter dated 22/2/2018 (A-17,P-104) issued by the MPSC the applicant is still in service as per attached document Annex-A,P-106 the applicant is at sr.no.7. The contention of the applicant is that similarly placed Doctors were regularised in service vide G.R. dated 22/1/2009 (A-7,P-41) and those were absorbed were given benefit of annual increments since the date of absorption. The learned counsel for the applicant has relied upon the

Judgment in O.A.824/2016 of M.A.T., Aurangabad Bench delivered on 25<sup>th</sup> September,2018.

4. In the reply the respondents have mentioned in para-5 as below –

*“(5) It is submitted that the person whose name referred by the applicant in the present original application is the employee of DMER. That the applicant is presently working as an ad-hoc employee and as already mentioned above that the Government i.e. respondent no.1 has already issued G.R. dated 16/10/2014 for regularization 21 ad-hoc Dental Surgeons and the said post of Dental Surgeons are required to be filled up through MPSC. Therefore, it is submitted that the regularization of 21 ad-hoc employees is under process and the proposal pending before MPSC for approval”.*

5. Again in para-9 of the reply, it is submitted that “ *the procedure of regularisation of service of applicant is under process and same shall be completed by following due procedure established for the same and also the decision upon the same shall be taken after obtaining all the required approval and permission of Competent / Superior Authorities. Therefore, the applicant is not entitled for any relief sought in the present O.A.”*

6. It is contention of the applicant is that the decision given by the M.A.T. extending benefits of annual increments to other similarly situated employees was challenged by the Government

before the Hon'ble High Court of Judicature of Bombay Bench at Aurangabad by filing Writ Petition No.720/2006 & other Writ Petitions but the Hon'ble High Court has dismissed the said Writ Petition on 27-11-2008 and confirmed the view taken by the Tribunal. It is her contention that the Government challenged the order of Hon'ble High Court before the Hon'ble the Apex Court by filing Special Leave to Appeal (Civil) No. C.C. 18902-18915/2010 but the Hon'ble Apex Court has dismissed the same on 02-02-2011. It is his contention that as per the Maharashtra Civil Services (Pay) Rules, he is entitled to get yearly increments from the date of her initial appointment but the respondents had not granted the same to her, and therefore, he has approached this Tribunal.

7. It is submitted that the Judgment of the Hon'ble High Court of Judicature of Bombay Bench at Aurangabad in Writ Petition No.772/2016 & Other W.Ps. in the case of **State of Maharashtra and Others V/s. Siddheshwar Ramrao Mundhe** decided on 23-11-2017. He has submitted that since the similar relief was granted to the similarly situated Medical Officers, the applicant is entitled to get said benefits, and therefore, he prayed to allow the O.A.

8. After considering submissions of both sides and various rules, Division Bench of the M.A.T. had held that there is no illegality in extending the benefits and granting increments to those applicants.

The said view and decision of the Division Bench of the M.A.T. is binding on this Bench. Therefore, I do not find substance in the submissions made by the learned P.O. in that regard. The applicant is entitled to get benefits as granted to the similarly situated Medical Officers as per the decision of the Division Bench of the Tribunal which has been confirmed by the Hon'ble High Court and also by the Hon'ble Supreme Court. The case of the applicant is squarely covered by the earlier decisions of this Tribunal, Hon'ble High Court and Hon'ble Supreme Court, the applicant is also entitled to get the same relief. Therefore, the present O.A. deserves to be allowed.

9. In view of the above discussion, the following order –

**ORDER**

- (i) The O.A. is partly allowed.
- (ii) The relief clause nos.8.1 and 8.2 (P-15) are allowed.
- (iii) The applicant is held eligible to get annual increments of his earlier services on ad-hoc basis.
- (iv) No order as to costs.

**Dated** :- 02/01/2020.

**(Shree Bhagwan)  
Vice-Chairman.**

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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 : 02/01/2020.  
and pronounced on

Uploaded on : 02/01/2020.