

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 722 of 2014 (SB)**

Dr. Dhammapradip s/o Tamradhwaj Bombarde,  
Aged about 55 years, Occ. Service,  
R/o 7, Shripakash Housing Society,  
Jaiprakash Nagar, Wardha Road,  
Nagpur-25.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
Medical Education and Drugs Department,  
Mantralaya, Mumbai-32  
through its Secretary.
- 2) State of Maharashtra,  
Medical Education and Drugs Department,  
Mantralaya, Mumbai-32.  
through its Deputy Secretary (Ayurved).
- 3) The Director of Ayurved,  
St. George Hospital Campus,  
Government Dental College,  
4<sup>th</sup> floor, Fort Mumbai-01.
- 4) The Dean,  
Government Ayurved College,  
Umred Road, Nagpur (M.S.).

**Respondents**

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**S/Shri P.C. Marpakwar, P.V. Joshi, Advocates for the applicant.**  
**Shri A.M. Ghogre, 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 30<sup>th</sup> day of July,2018)**

None for the applicant. Heard Shri A.M. Ghogre, learned P.O. for the respondents.

2. The applicant was appointed as Demonstrator in the Department of Kayachikitsa on 21/10/1987. Thereafter, he was selected through Maharashtra Public Service Commission (MPSC) and was appointed as a Lecturer on 27/10/1989. Vide order dated 15/05/2002 he was promoted as a Reader on ad-hoc basis and came to be confirmed on the same post on 17/05/2008.

3. On 27/11/1997, the respondents issued a promotion order promoting 6 Lecturers in 4 different subjects of Rasashastra, Shalakyatantra, Streerog Prasutitantra and Dravyaguna to the post of Reader. However, in the subject of Kayachikitsa the applicant was not promoted though he was eligible for being promoted. The said action on the part of respondents was arbitrary. The respondents resorted to pick and choose policy by selecting only 4 subjects for promotion out of 12 and not promoting the applicant though he was eligible. Being aggrieved by the said action, the applicant filed O.A.No. 121/2000 but during the pendency of the said O.A. the applicant came to be promoted to the post of Reader on

17/05/2008. The said O.A. came to be disposed of on 22/06/2009 with liberty to file separate O.A. for deemed date of promotion. Thereafter, the applicant has filed joint O.A.No.596/2010 along with one Dr. Bhaurao Eknath Borkar. But the said O.A. was disposed of by Judgment delivered in O.A.No.475/2003 by the M.A.T., Bench at Aurangabad on 16/03/2011 with liberty to file fresh O.A. and therefore the applicant has filed this O.A. The applicant has prayed following reliefs :-

*“7 (i) issue an appropriate order or direction requiring the respondents to grant deemed date promotion to the applicant w.e.f. 27/11/1997 as Reader in Kayachikitsa.*

*(ii) as a consequential relief require the respondents to refix the pay of the applicants in the cadre of Readers w.e.f. 27/11/1997 and grant him further consequential benefits.”*

4. The respondents resisted the claim and it is submitted that as per the roster of Reader Kayachikitsa, one post reserved for SC category, but on that post one Teacher from VJNT category was working from 1988 to 30/09/1999 and therefore there was no vacancy available for SC category. Thereafter, as per verified roster by the General Administration Department dated 16/01/2004, there were sanctioned posts of

Reader for Kayachikitsa six in numbers, out of which only three posts were available for promotional quota. As per G.R. dated 17/10/2007 one post of Reader has been increased in Kayachikitsa subject and therefore total seven posts were available, out of which four posts were available for promotion quota and therefore in the year, 2008, the applicant has been given promotion on the roster point of SC category, whereas, one Shri P.U. Jane and Shivaji Bhosale were given promotion from Open category.

5. According to the respondents, the applicant wrote a letter to the Secretary on 22/11/2010 whereby requesting that his department be changed from Kayachikitsa to Panchkarma and as per his wiliness and option given by him, his department was changed and the applicant joined on the post of Professor (Panchkarma) on 8/10/2012. The applicant therefore cannot claim the benefit of his earlier services in the subject of Kayachikitsa. The applicant is now estopped from claiming any benefits of Reader in Kayachikitsa.

6. Perusal of the documents on record shows that the applicant was not promoted as a Reader since no roster was available for SC category, when the department promoted 6 Lecturers in 4 different subjects on 22/11/1997. It is material to

note that the applicant has filed O.A.No.121/2000 being aggrieved by non promotion to the post of Reader in Kayachikitsa. Vide O.A.No.121/2000 and during pendency of the O.A. he came to be promoted to the post on 17/05/2008. The O.A.No. 121/2000 was therefore disposed of. The copy of the said order is placed on record at Annex-3 at P.B. page no.17. This application was disposed of, however, the applicant was given liberty to file separate O.A. for deemed date of promotion. It seems that thereafter the applicant has filed another O.A. bearing No.596/2010 for the same relief. But said O.A. was withdrawn by the applicant by placing copy of the Judgment on record delivered in O.A.475/2003 by the MAT, Bench at Aurangabad on 16/3/2011 with liberty to file fresh O.A. Thus O.A.No.596/2010 was withdrawn on 26/09/2011 and thereafter this O.A. has been filed in the year,2014 claiming same relief. The respondents have clarified that there was no post available in Kayachikitsa for SC candidate, to which the category the applicant belongs, in 1997 and the post was made available in the year,2008 and therefore the applicant has been promoted for the post in 2008. There is no reason to disbelieve as to why the applicant was not considered in 1997. In the rejoinder-affidavit, the applicant has stated that in the year, 1997, seven posts were available in

Kayachikitsa department, but only three were filled by the respondents and four posts were kept vacant till the year 2002. In my opinion, the respondents have explained in their reply-affidavit as to how many posts were available and how many posts were reserved for promotion and direct quota and also clarified as to why the applicant was not considered. When the post became vacant, the applicant has been rightly promoted in the year, 2008. The allegations made in the rejoinder-affidavit dated 19/01/2018 have been duly replied by filing return by the respondents on 20/4/2018.

7. From the further development, it seems that the applicant had requested for change of his department from Kayachikitsa to Panchkarma and application to that effect is at Annex-R-1 at P.B. page no.114, dated 22/11/2010. His request has been duly considered by the Government vide Notification dated 05/10/2012 (Annex-R-2,P-116). After changing the department from Kayachikitsa to Panchkarma, the applicant was posted as Professor at Government Ayurvedic Mahavidyalay, Nagpur. The notification dated 5/10/2012 in this regard clearly shows that the applicant has relinquished his benefits granted to him under Kayachikitsa department. The clause-v to b of the said Notification reads as under :-

^v½ i pdeZ fo"K; kr LFkykrj dY; kP; k fnukadkuarj R; kauk i qgk dk; fpdfRI k fo"K; kr LFkykrj vuKs jkg.kkj ukgh-

c½ i pdeZ fo"K; kr LFkykrj dj.; kr fodYi fnyY; k v/; ki dkyk R; kP; k ; ki qP; k I aI/kr I oxkryhy fu; fer fu; qrhP; k fnukadkuarj kyp uohu I oxkryhy I oktSBrk ykxwjlgghy-

d½ i pdeZ vif.k dk; fpdfRI k ; k nklgh fo"K; krhy v/; ki dkr; k I ok tSBrk fo"K; koj Loræ jkgrhy-

M½ i pdeZ fo"K; kr LFkykrj dY; kurj dk; fpdfRI k fo"K; krhy inkøj i nklurhpk ykHk I aI/kr v/; ki dkauk vuKs jkg.kkj ukgh-

b½ fo"K; kP; k cnyh urj I aI/kr v/; ki dkr; k I oI k/kkj.k I ok 'krhZ mnk-inklurh] cnyh- oru- oruok<h bR; knh ckch LFkykrjhr dY; k fo"K; ki fu; fer gkrhy- \*\*

8. Thus the applicant has agreed that he will not claim any seniority or benefits to which he might have gained while working in Kayachikitsa department.

9. Considering all these aspects, I am satisfied that the applicant is not entitled to any reliefs. Hence, the following order :-

### ORDER

The O.A. stands dismissed with no order as to costs.

**Dated :- 30/07/2018.**

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

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