

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI****BENCH AT AURANGABAD.****ORIGINAL APPLICATION NO. 496 OF 2013****DIST.: BEED****Shri (Dr.) Nagorao S/o Shivajirao Chavan,**

Age: 45 Years, Occu: Medical Officer Group-A,

Presently working at Rural Hospital, Ashti,

Dist. Beed.

--

**APPLICANT****V E R S U S**

1. **The State of Maharashtra,**  
Through Secretary,  
Public Health Department,  
Mantralaya, Mumbai -32.  
(Copy served on C.P.O. M.A.T. Bench Mumbai.)
2. **The Director General of Health Service,**  
Arogya Bhavan, St. Georges Hospital Campus,  
Near C.S.T. Mumbai.
3. **The Deputy Director of Health Services,**  
Latur Circle, Latur.
4. **The District Civil Surgeon,**  
District Hospital, Beed. -- **RESPONDENTS**

-----  
**APPEARANCE** : Shri J.S. Deshmukh, learned Advocate for  
the Applicant.

: Shri D.R. Patil, Learned Presenting  
Officer for the Respondents.

-----  
**CORAM: HON'BLE SHRI RAJIV AGARWAL, VICE CHAIRMAN (A)**  
**AND**  
**HON'BLE SHRI B.P. PATIL, MEMBER (J)**

**DATE : 04.08.2017.**  
-----

**ORDER**

[Per- Hon'ble Shri Rajiv Agarwal, Vice-Chairman (A)]

1. Heard Shri J.S. Deshmukh, learned Advocate for the Applicant and Shri D.R. Patil, learned Presenting Officer (P.O.) for the Respondents.

2. This Original Application has been filed by the Applicant seeking condonation of technical breaks in service and for grant of annual increments for the ad-hoc service before selection by M.P.S.C.

3. Learned Counsel for the Applicant argued that the Applicant was appointed as Medical Officer, Group-'A' on ad-hoc basis and joined on 22.2.1993. The Applicant was subsequently appointed as Medical Officer through M.P.S.C. vide order dated 10.02.2000. The Applicant was given ad-hoc appointment from 22.2.1993 for short periods and was continued in service by giving technical breaks between two spells of tenures till his selection by M.P.S.C in 2000. The Applicant is entitled to get technical breaks condoned and also to be get annual increments. Learned counsel for the Applicant relied on the judgment of this Tribunal dated

10.12.2014 in O.A. No. 517/2013, which was upheld by Hon'ble High Court in W.P. No. 11611/2015 dated 23.03.2016.

4. In O.A. No. 517/2013, etc., this Tribunal has held that:-

***“However, this Tribunal has held in O.A. No. 513/2013 and others and in various other judgments that if a person is selected on a regular basis in accordance with the Recruitment Rules, his earlier ad-hoc service in the same post can be counted for limited purpose of annual increments and earned leave. The technical breaks can be condoned in such cases.”***

5. It has been clarified by Mumbai Bench of this Tribunal in a group of O.A. Nos. 568 and 569/2013 by judgment dated 29.09.2015 that ad-hoc service before regular appointment, if the selection was not in accordance with the statutory rules, cannot be counted as qualifying service under Rules 30 and 33 of the Maharashtra Civil Services (Pension) Rules, 1982. Rule 48 of the Maharashtra Civil Services (Pension) Rules, 1982 is also applicable for

temporary service, only if it was on the basis of selection/appointment on the basis of statutory rules. In the present case, the Applicant's ad-hoc appointment was not done after following due procedure. He is therefore, not entitled to count his ad-hoc service as qualifying service under any of the above mentioned rules. He is only entitled to annual increments and earned leave in terms of G.Rs. applicable to ad-hoc employees. To enable him to get the benefit of annual increments, condonation of technical breaks has to be allowed on the ground of equity. It is, however, clarified that on regular appointment through M.P.S.C. his pay has to be re-fixed as per rules and past service cannot be taken into consideration.

6. This Original Application is allowed in the terms mentioned in the preceding paragraph with no order as to costs.

**MEMBER (J)**

**VICE CHAIRMAN (A)**