

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 1213 of 2023 (S.B.)

Dr. Rajesh Gosavi,
Aged 64 years, Occupation : Government Service,
r/o N-8, Scientific Co-Operative Board, Society,
Laxminagar, Nagpur-440 022.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary, Department of
Medical Education, Mantralaya, Mumbai-32.
- 2) The Director of Medical Education and Research,
Saint George Hospital, Mumbai.
- 3) The Dean,
Government Medical College, Nagpur.

Respondents.

S/Shri A.A. Naik, R.R.Deo, Madhur Deo, Advs. for the applicant.
Shri M.I. Khan, learned P.O. for respondents.

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated :- 02/01/2024.

JUDGMENT

Heard Shri Madhur Deo, learned counsel for the applicant
and Shri M.I. Khan, learned P.O. for the respondents.

2. This O.A. is covered by the Judgment of this Tribunal in
O.A.Nos. 1023/2022, 1024/2022, 1049/2022, 125/2023, 837/2023,
836/2022 and 1025/2022, decided on 12/12/2023.

3. The matter is admitted, heard and decided finally with the
consent of learned counsel for both the parties.

4. The case of the applicant in short is as under –

The applicant is working on the post of Professor at Government Medical College (G.M.C.), Nagpur. The applicant was initially appointed in service in the pay scale prescribed under 4th Pay Commission. Lecturers holding the Post Graduate qualification were entitled to higher start of Rs.2500/-.

5. The Government has issued G.R. dated 10/11/2009. As per Clause 8 (xix) the respondents now wanted to recover the advance increments paid to the applicant. As per the G.R. dated 10/11/2009, those who were having Post Graduate qualification of MD/MS/DNB were granted 3/5 advance increments. The respondents are taking disadvantage of Clause 8 (xix) which reads as under –

“(8) (xix) Notwithstanding anything in the foregoing clauses, those who have already availed the benefits of advance increments for possessing Ph.D. / M.Phil at the entry level under the earlier scheme shall not be entitled to the benefit of advance increments under this Scheme.”

6. The Clause 8 (i) and (iii) of the G.R. dated 10/11/2009 are reproduced below –

“(8) Incentives for MD/MS/DNB/DM/MCh/Ph.D And Other Higher Qualifications:

(i) Three non-compounded advance increments shall be admissible at the entry level of recruitment as Assistant Professor to persons possessing the degree of MD/MS/DNB/Ph.D. awarded in the relevant discipline by the University following the process of admission, registration, course work and external evaluation as prescribed by the UGC in its Regulation.

(ii) -----

(iii) Teachers who are in service possessing MD/MS/DNB/Ph.D degree recognized by the Medical Council of India/Dental Council of

India / Central Council of India Medicine System shall be entitled to 3 non compounded increments. Teachers who are in service possessing DM/MCh degree recognized by the Medical Council of India/Dental Council of India / Central Council of India Medicine System shall be entitled to 5 non compounded increments. Provided such degree is in the relevant discipline and has been awarded by a University complying with the process prescribed by the UGC for enrolment, course work and evaluation, etc in its Regulation.”

7. As per the Clause 8 (i) and (iii) of the G.R. dated 10/11/2009, the applicant was granted 3/5 advance increments having Post Graduate degree. The applicant is teaching to the Medical Students in the Government Medical Colleges. As per Clause 8 (xix) of the said G.R., those who were possessing Ph.D. and M.Phil at the entry level, they are not entitled to get advance increments. It is pertinent to note that to attract the well qualified Doctors, 3/5 advance increments were granted by the Government for teaching to the Medical Students in the Government Medical Colleges. The applicant was appointed as a Professor at Government Medical Colleges to teach the Medical Students. The Clause 8 (xix) of the said G.R. is not applicable to the applicant. It is in respect of the Lecturers who were having Ph.D. and M.Phil. This clause is applicable to the Lecturers/ Professors who were / are teaching in the Arts, Science and Commerce Colleges. The applicant is not teaching in the Arts, Science and Commerce Colleges. He is teaching in the Government Medical Colleges. The applicant is having post graduate degree of M.D. (Medicine). As per the Clause 8 (i) and (iii) of the G.R. dated

10/11/2009, the applicant was granted the advance increments. As per Clause 8 (xix) of the said G.R., it cannot be recovered from the applicant. While granting interim stay, the following order was passed by this Tribunal on 29/11/2023 –

“(i) The respondents are directed to process the pension case of applicant namely Dr. Rajesh Gosavi.

“(ii) The respondents may withhold the amount of Rs.19,15,302/- while granting the pension to the applicant subject to the decision of this Tribunal.

“(iii) The recovery is stayed subject to the decision of this O.A.

“(iv) The respondents are directed not to recover the amount of Rs.19,15,302/- from the applicant, until further orders.”

8. Hence, the following order –

ORDER

(i) The O.A. is allowed.

(ii) The impugned letter dated 19/01/2022 and order dated 30/08/2023 issued by the respondents are hereby quashed and set aside.

(iii) The respondents are directed to pay the withhold amount of Rs.19,15,302/- to the applicant within a period of three months from the date of receipt of this order.

(iv) No order as to costs.

Dated :- 02/01/2024.

**(Justice M.G. Giratkar)
Vice Chairman.**

dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 02/01/2024.