MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT NAGPUR

ORIGINAL APPLICATION NO. 132 OF 2016

DISTRICT: NAGPUR

1. Smt. Surekha Rajeev Darwhekar,
Aged 60 years, Occ. Retired,
R/o 'Mangala' Plot No. 25,
Deendayal Nagar, Nagur-22.

2. Smt. Sumitra Bhimrao Ganar,
Aged 61 years, occ. Retired,
R/o MIG 42, Ridge Road Housing Board Colony,
Vishwakarma Nagar, Nagur.

3. Smt. Pushpa Murlidhar Wankhede,
Aged about 60 years, Occ. Retired,
R/o 19, Gurukrupa Layout Bhagwan Nagar,
Nagpur.

4. Smt. Malati Mahadeo Tayade,
Aged about 59 years, Occ. Retired,
R/o Nalanda Sahaniwas, Banerjee Layout,
Bhagwan Nagar Road, Nagpur-27.

5. Smt. Meena John Nehmaye,
Aged about 57 years, Occ. Service,
R/o Shriram Wadi, Plot No. 51-52,
Ayodhya Nagar, Nagpur-24.

6. Smt. Manda Yadao Zodape,
Aged about 59 years, Occ. Retired,
R/o 58, MIG Hsg. Board Qtr. No. 3/5,
Vaishali Nagar, Nagpur-17.

7. Smt. Kumud Chandrashekhar Bhave,
Aged about 56 years, Occ. Service,
R/o 202 Ganga Residency, Besa Road,
Manewada, Nagpur-34.

8. Smt. Vidya Vijay Panchabhai,
Aged about 59 years, Occ. Retired,
R/o Shrinath Sainagar, Manewada,
Nagpur.

9. Smt. Panchasheela Vitthal Khobragade,
Aged about 59 years, Occ. Retired,
R/o Plot No. 82, Banerjee Layout, Bhagwan Nagar,
Nagpur-27.

10. Smt. Meri Peeter Leo,
Aged about 61 years, Occ. Retired,
R/o 203, Mularidhar Apartment, Wanjari
Nagar, Nagpur-09.

11. Smt. Shakuntala P. Athawale,
Aged about 62 years, Occ. Retired,
R/o Q. No. 102, Fancard Estate, RMS Colony,
Anant Nagar, Nagpur.

12. Smt. Sulekha Mukund Joshi,
Aged about 59 years, Occ. Retired,
R/o CNE 002, Shat Tarka Apartment,
Surendra Nagpur, Nagpur-15.

13. Smt. Pramila Laxman Shahane,
Aged about 59 years, Occ. Retired,
R/o A 301, Yoglaxmi Complex, Modi No. 1,
Sitabuldi, Nagpur-12.

14. Smt. Sulochana Narayan Wadatkar,
Aged about 62 years, Occ. Retired,
R/o Chandika Nagar 2, Plot No. 110,
Manewada, Besa Road, Nagpur-27.

15. Smt. Tara Rambhau Bhawalkar,
Aged about 58 years, Occ. Retired,
R/o 99, Shirdi Nagar, Manewada Road,
Nagpur.

16. Smt. Meena Ambadas Nemade,
Aged about 57 years, Occ. Service,
R/o MIG 11/2, Winkar Colon,
Manewada, Nagpur.

17. Smt. Alka Pramod Wankhede,
Aged about 57 years, Occ. Service ,
R/o Ratan Nagar Plot No. 60, Gadge Baba Layout,
Hanuman Nagar, Nagpur-09.

18. Smt. Usha Vidyasagar Tagde,
Aged about 59 years, Occ. Retired,
R/o Shivraj Nagar No. 1, Road No. 5 Plot No. 5,
Vishwakarma Nagar, Nagpur-27.

19. Smt. Sudha Ram Khandade,
Aged about 59 years, Occ. Retired,
R/o New Nandanwan, Plot No. 675,
Nagpur.

20. Smt. Vijaya Sudhir Killedar,
Aged about 59 years, Occ. Retired,
R/o Plot No. 78, Wathoda Layout,
Adiwasi Society, Nagpur-09.

21. Smt. Kala Kishor Thaware,
Aged about 60 years, Occ. Retired,
R/o Plot No. 196, Gali No. 3,
Jawahar Nagar, Manewada Road, Nagpur.

22. Smt. Shobha PUndalik Mendhekar,
Aged about 60 years, Occ. Retired,
R/o 41, Ramjivan Choudhar Apartment,
Kirda Chowk, Hanumannagar, Nagpur-24.

23. Smt. Yashodhara Dinkarrao Moon,
Aged about 60 years, Occ. Retired,
R/o Plot No. 8, Galli No. 28,
Chandramani Nagar, Nagpur-27.

24. Smt. Suman Jivan Indurkar,
Aged about 58 years, Occ. Retired,
R/o Plot No. 50, Awale Nagar, Nari Road,
Teka Naka, Nagpur-27.

..

APPLICANTS

VERSUS

1) The State of Maharashtra,
Through the Secretary,
Department of Medical Education and Research,
Mantralaya, Mumbai 400 032.

2. The Director,
Director of Medical Education & Research,

Arogya Bhavan, St. George's Hospital Compound,
Near CST Station, Mumbai.

3. The Dean,
Government Medical College & Hospital,
Nagpur. .. **RESPONDENTS**

APPEARANCE : Shri P.D. Meghe, learned counsel for the Applicants.

: Shri M.I. Khan, learned Presenting Officer for the Respondents.

CORAM : HON'BLE SHRI J.D. KULKARNI, MEMBER (J)

J U D G E M E N T
[Delivered on 7TH NOVEMBER, 2016]

The applicants are claiming directions to the respondents to grant benefit of promotional pay scale with grade pay of Rs. 4400/- as granted to other similarly situated employees vide order dated 22.12.2011, to the applicants from the date, the applicants have completed 24 year of service and further direct the respondents to pay all the monetary benefits of arrears of salary, difference of gratuity, pension and other retiral benefit on the basis of such promotional pay scale. There are in all 24 applicants in this Original Application.

2. According to the applicants, they have been granted first time bound promotional scale as per Government Resolution dated 8.6.1995 in the year 1996, they are

entitled to claim second time bound promotional scale on completion of 24 years of service, as per Government Resolution dated 1.4.2012. The applicants have filed number of representations, copies of which have been placed on record at p.b. page-25 to 33 (both inclusive), even applicants' juniors were granted time bound scale vide order dated 22.12.2002.

3. According to the applicants, the issue regarding grant of second time bound promotion in the similar situation came before the Principal Seat of this Tribunal in O.A. No. 569/2014 and vide judgment dated 18.2.2015 in the said O.A., the Tribunal was pleased to grant such benefits to the similarly situated employees, and hence, this Original Application.

4. Along with the application the applicants have given statement containing service details of the applicants at p.b. page Nos. 21 & 22. It is also stated as to on what dates the respective applicants have completed their 24 years of service. Admittedly, all the applicants are retired. The said details are as under: -

DETAILS OF APPLICANATS INTERESTED IN FILING CASE BEFORE MAT FOR NON-RECEIPT OF BENEFIT OF TIME BOUND PROMOTION/UPGRADATION (AFTER 24 YEARS) IN THE SAME GRADE/POST.

Sl. No.	Name Mrs./Sau.	Date of Joining Service, as Staff Nurse(अधि-परिचारिका)	Joining date as Sister in Charge(परिसेविका) as per promotion order	Dt.of completion Of 24 yrs. In service	Dt. Of retirement from service	Seniority No.
01	Surekha Darwhekar	09/06/77	01/07/2008	June, 2001	31/05/2013	541
02	Sumitra Ganar	05/11/76	02/06/2008	November,2000	31/12/2012	463
03	Pushpa Wankhade	03/05/76	07/07/2009	May, 2000	31/08/2013	594
04	Malati Tayde	04/07/79	17/11/2007	July, 2003	31/07/2014	
05	Meena Nehmaye	20/11/80	10/04/2013	November, 2004	**31/03/2016**	1364
06	Manda Zodape	21/07/79	11/09/2012	July, 2003	31/03/2014	1403
07	Kumud Bhave	19/11/80	09/11/2012	November, 2004	**31/10/2017**	1366/ 82
08	Vidya Panchbhai	31/10/80	09/11/2012	October, 2004	28/02/2014	1347
09	Panchsheela Khobragade	13/09/80	11/11/2012	September, 2004	31/05/2014	1274
10	Mary Peter Leo	19/11/80	08/11/2012	November, 2004	30/11/2012	1375
11	Shakuntala Athavale	04/11/78	01/06/2010	November, 2002	31/07/2011	811

Sl. No.	Name Mrs./Sau.	Date of Joining Service, as Staff Nurse(अधि-परिचारिका)	Offer for Joining date of joining as Nurse in Charge(परिसेविका) as per promotion order	Dt.of completion Of 24 yrs. In service	Dt. Of retirement from service	Seniority No.
12	Sulekha Joshi	02/07/79	31/08/2012	July, 2003	31/12/2014	
13	Pramila Shahane	28/05/77	01/08/2008	May, 2001	30/06/2014	530
14	Sulochana Wadatkar	16/06/77	12/02/2009	June, 2001	31/03/2011	546
15	Tara Bhavalkar	28/05/78	01/06/2010	May, 2002	31/07/2015	799
16	Meena Nemade	01/10/80	31/08/2012	October, 2004	**29/02/2016**	1282/16-B
17	Alka Wankhede	24/11/80	10/04/2013	November, 2004	**31/08/2016**	1380/82-D
18	Usha Tagade	30/10/80	08/11/2012	October, 2004	28/02/2014	1345/75A
19	Sudha Kandhade	21/11/80	10/04/2013	November, 2004	30/06/2014	1379/ 82C
20	Vijaya Killedar	19/06/80	11/09/2012	June, 2004	31/10/2014	1238/ 31
21	Kala Thaware	05/05/78	04/06/2010	May, 2002	31/03/2013	821
22	Shobha Mendhekar	20/06/77	12/06/2009	June, 2001	30/11/2013	550
23	Yashodhara Moon	06/12/80	09/11/2012	December, 2004	31/10/2013	1391/82-A
24	Suman Indurkaar	15/09/80	08/11/2012	September 2004	31/05/2015	1279/55-A

5. The respondents have filed affidavit in reply. It is admitted that all the applicants were granted first time bound promotion. It is stated that after grant of first time bound promotion the applicants refused the time bound promotion initially, but thereafter accepted the promotion. The respondents have not completed 12 years' service from the date of acceptance of promotion prior to their retirement, and therefore, they were not considered for second time bound promotion. The respondents have placed on record the service details of the applicants, which are at Annexure 'R-I' 58 & 59 as under: -

Details as to para 4.4 to 4.6

Sr. No.	Name of Applicant	Date of Joining As Staff Nurse	Date of granting of Ist Time Bound Promotion	Promotion, if any granted After Ist Time Bound Promotion	Date of completion of 12 After Ist Time Bound Promotion (i.e. 24 years Due for IInd Time Bound promotion)	After Completion Of 24 years of service IInd Time Bound Promotion Granted or not	Date of Retirement
1	Smt. S.S. Darwhekar	09.06.1977	01.02.1995	Refused Promotion On 13.07.2007 Accepted promotion on 01.07.2008	01.02.2007	As per record, not completed 12 years from 01.07.2008	31.05.2013
2.	Smt. Sumitra B. Ganar	11.11.1977	05.11.1994	Refused Promotion On 03.07.2006 Accepted promotion on 02.06.2008	05.11.2006	As per record, not completed 12 years from 02.06.2008	31.12.2012
3.	Smt. Pushpa M. Wankhede	03.05.1976	01.10.1994	07.07.2009	01.10.2006	As per record, not completed 12 years from 07.07.2009	31.08.2013
4.	Smt. Malti M. Tayade	04.07.1979	01.01.1995	Refused Promotion On 09.04.2002 Accepted promotion on 17.11.2007	01.01.2007	As per record, not completed 12 years from 17.11.2007	31.07.2014
5	Smt. Meena J. Nehmaye	20.11.1980	01.01.1995	Refused Promotion On 19.12.2011 Accepted promotion on 10.04.2013	01.01.2007	As per record, not completed 12 years from 10.04.2013	31.03.2016
6	Smt. Manda Y. Zodape	21.07.1979	01.01.1995	Refused promotion on 15.12.2011.	01.01.2007	Refused promotion	31.3.2014
7	**Smt.Kumud C. Bhave**	**19.11.1988**	**01.01.1995**	**Refused promotion on 29.12.2011 Accepted promotion on 09.11.2012**	**01.01.2007**	**As per record, not completed 12 years from 09.11.2012**	**31.10.2017**
8	Smt. Vidya V.Panchbhai	31.10.1980	01.01.1995	Refused promotion on 29.12.2011 Accepted promotion on 09.11.2012	01.01.2007	As per record, not completed 12 years from 09.11.2012	28.02.2014
9	Smt. Panchshela V Khobragade	13.09.1979	01.01.1995	Refused promotion on 15.10.2011 Accepted promotion on 11.09.2012	01.01.2007	As per record, not completed 12 years from 11.09.2012	31.05.2014

10	Smt.Mary Peter Leo	09.05.1979	01.01.1995	Refused promotion on 17.12.2011	01.01.2007	Refused promotion	30.11.2012
11	Smt. Shankuntala Athavale	15.11.1978	01.01.1995	04.06.2010	01.01.2007	As per record, not completed 12 years from 4.06.2010	31.07.2011
12	Smt.Sulekha M.Joshi	02.07.1979	01.01.1995	Refused promotion on 17.10.2011	01.01.2007	Refused promotion	31.12.2014
13	Smt.Pramila L.Shahane	28.5.1977	01.05.1995	Promotion refused on 7.8.2007. Promotion accepted on 1.7.2008	01.05.2007	As per record, not completed 12 years from 1.07.2008	30.06.2014
14	Smt.Sulochana Wadatkar	16.6.1977	01.02.1995	Refused promotion on 13.07.2007	01.02.2007	Refused promotion	31.03.2011
15	Smt.Tara Bhavalkar	28.09.1978	01.10.1994	Promotion refused on 3.01.2009. Promotion accepted on 6.6.2010	01.10.2006	As per record, not completed 12 years from 06.06.2010	31.07.2015
16	Smt. Meena A Nemade	01.10.1980	01.01.1995	Refused promotion on 29.10.2011	01.01.2007	Refused promotion	29.02.2016
17	**Smt.Alka P.Wankhede**	**21.11.1980**	**01.01.1995**	**Refused promotion on 15.12.2011 Accepted promotion on 10.05.2013**	**01.01.2007**	**As per record, not completed 12 years from 10.05.2013**	**31.08.2016**
18	Smt.Usha V.Tagade	30.10.1980	01.01.1995	Refused promotion on 15.10.2011 Accepted promotion on 09.11.2012	01.01.2007	As per record, not completed 12 years from 09.11.2012	28.02.2014
19	Smt.Sudha R.Khandade	21.11.1980	01.01.1995	Refused promotion on 29.12.2011	01.01.2007	Refused promotion	30.06.2014
20	Smt.Vijaya S Killedar	09.06.1980	01.01.1995	Refused promotion on 29.10.2011	01.01.2007	Refused promotion	31.10.2014
21	Smt.Kala K Thaware	05.05.1978	01.10.1994	Refused promotion on 15.07.2009	01.10.2006	Refused promotion	31.03.2013
22	Smt.Shobha P.Mendhekar	20.06.1977	01.02.1995	12.02.2009	01.02.2007	As per record, not completed 12 years from 12.02.2009	30.11.2013
23	Smt.Yashodhara D.Moon	06.12.1980	01.01.1995	Refused promotion on 03.10.2011 Accepted promotion on 09.11.2012	01.01.2007	As per record, not completed 12 years from 09.11.2012	31.10.2013
24	Smt.Suman J.Indurkar	01.10.1980	01.01.1995	Refused promotion on 29.10.2011 Accepted promotion on 09.11.2012	01.01.2007	As per record, not completed 12 years from 09.11.2012	31.05.2015

6. Heard Shri P.D. Meghe, learned counsel for the Applicants and Shri M.I. Khan, learned Presenting Officer for the Respondents. I have perused the application, affidavit, affidavit in reply, rejoinder affidavit, as well as, various documents placed on record by the respective parties.

7. The material point to be considered is whether the applicants are entitled to second time bound promotional in view of G.R. dated 1.4.2010?

8. There is no dispute of the fact that the Government has issued G.R. dated 1.4.2010, whereby the employees are to be benefited with second time bound promotion in case they compete 24 years' service on the same post. Learned Advocate for the applicant invited my attention to para No. 5 of the G.R. dated 1.4.2010, which reads as under: -

> "५. पहिला लाभ मंजुर केल्यानंतर संबंधित कर्मचारी प्रत्यक्ष पदोन्नतीस अपात्र ठरला अथवा त्याने पदोन्नती नाकारली तर अशा प्रकरणी पहिला लाभ काढून घेतला जात असल्याने अशा कर्मचा-यांचा थेट दुस-या लाभासाठी विचार करता येणार नाही. मात्र त्याने त्यानंतर पदोन्नती स्वीकारल्याच्या दिनांका पासून बारा वर्षाचा नियमित सेवेनंतर त्याला अन्य अटी व शर्तींच्या अधिन राहुन दुसरा लाभ मंजुर करता येईल."

9. According to the learned Advocate for the applicant all the applicants have been granted first time bound promotion after 12 years' of service and they have completed 12 years after getting first time bound promotion. Though statement containing service details of the applicant at Annexure 'A-2 ' shows the dates on which each applicant has completed 24 years of service in the same cadre, the same fact however, does not seem to be true.

10. The respondents have given details as per Annexure 'R-1', as already stated, from which it seems that each of the applicant has refused the time bound promotion when it was granted to them initially. The said chart gives details as to date on which the promotion was refused and the date on which it was accepted by each of the applicant. Last but one paragraph of Annexure 'R-1' further shows that as per the record none of the applicant has completed 12 years' of service from the date of acceptance of the promotion by the respective applicants.

11. Perusal of the paragraph 5 of the G.R. dated 1.4.2010 clearly shows that initially the employees, who refuses to accept the promotion will not be entitled to claim second time bound promotion. However, if the employee subsequently accepts the promotion then his 12 years' service would be considered from the date of acceptance of the promotion and, therefore, on

completion of such 12 years' continuous service from the date of acceptance of the promotion, the applicants will be considered for second time bound promotion.

12. In the present case, it seems that each and every applicant has initially refused first time bound promotion when it was granted to them, but subsequently they have accepted the promotion. If the date of acceptance of promotion is considered in respect of each applicant, from Annexure R-2, it will be clear that none of the applicants has completed 12 years' continuous service from the date of acceptance of first time bound promotion granted to him prior to retirement, and therefore, the applicants were held not eligible for second time bound promotion.

13. Learned Advocate for the applicants has placed reliance on the judgment delivered by the Principal Seat of this Tribunal in O.A. No. 569/2014 in the case of Mrs. Ruchita Gurunath Naik & Others Vs. Director, Medical Education and Research, Aarogya Bhavan, St. George's Hospital Compound, Near CST Station, Mumbai and Others on 18th February, 2015. I have carefully gone through the said judgment. It is material to note that in that judgment the employees did not refuse the promotion, but they have filed representation for their transfer on promotion and since the representations were pending they did

not join on the promotional post. Thereafter, their request for change of posting was accepted and, therefore, they joined the new post. This Tribunal came to the conclusion that the employees merely filed representation for change of posting and accepted the post after their request was accepted, and therefore, it does not amount to refusal of promotion. It will be seen that so is not the case of the present applicants.

14. Learned Presenting Officer has placed on record copies of some representations filed by the applicants. The copies of said documents are placed on record at page 2 to 24 along with O.A. No. 484/2016. I have perused all these applications, which were given by the respective applicants to the proper authority when first time bound promotion was given to them. It is pertinent to note that almost all the applicants have refused to accept the time bound promotion, because they were transferred to some other places. Many of them have stated that they were not accepting or will not to accept the post and their refusal has been recorded in the service book. Even for argument sake, it is accepted that subsequently their transfer request was accepted and they were posted at their choice post subsequently they have accepted the promotion on joining such post of their choice. As per clause 5 of the Government Resolution dated 1.4.2010, if

the employee initially refuses to accept the promotion and subsequently accepted the same his 12 years' service will have to be counted from the date of acceptance of such promotion. The chart Exhibit 'R-1' filed by the respondent authorities clearly shows the date of promotion if any granted after first time bound promotion to the applicants and also the completion of 24 years' service by each employees. From the both charges, it will be clear that none of the applicants have completed 12 years' of service from the date of acceptance of the promotion and that seems to be the reason as to why second time bound promotion was not given to the applicants. It is also material to note that none of the applicants have approached to the Tribunal prior to their retirement. The cases which they have referred might be on different footings, and therefore, if some employees have been granted second time bound promotion after the retirement of the applicants and such employees are junior to the applicant that itself cannot be a ground to consider the applicants' claim for second time bound promotion as claimed by the applicants.

15. In view of the discussion in foregoing paragraphs, it will be thus clear that the cases of the applicants in O.A. No. 569/2014 are not analogous to those of present applicants, and therefore,

the judgment in O.A No. 569/2014 is not applicable to the present set of facts. Hence, the following order: -

ORDER

The present Original Application stands dismissed with no order as to costs.

sd/-

MEMBER (J)

O.A.NO. 132-2016(hdd)-2016