

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

**ORIGINAL APPLICATION NOS.167, 168, 169, 170 & 171 OF 2020
With**

ORIGINAL APPLICATION NOS.782, 783, 784 & 785 of 2020

DISTRICT : PUNE

ORIGINAL APPLICATION NO.167 OF 2020

Dr. Nilima N. Inamdar,)
Age : 40 Yrs., Occ : Medical Officer G-A,)
Presently working At Primary Health)
Centre Perane, Tq. Haveli, Dist. Pune.)...**Applicant**

Versus

1. The State of Maharashtra, through)
Principal Secretary, Public Health Dept.)
10th floor, G. T. Hospital Building, New)
Mantralaya, Mumbai 1.)
2. The Commissionr Health Services &))
Director (N.H.M.) 3rd floor, Arogya Bhavan,)
St. Georges Hospital Campus, Mumbai 1.)
3. The Deputy Director of Health)
Services Pune Circle, 3rd floor, New Admn.)
Building, Sasoon Road, Pune 411001.)
4. The Chief Executive Officer, Zilla)
Parishad, Pune, Dr.Babasahed Ambedkar)
Road, Camp, Pune 411001.)...**Respondent**

With

ORIGINAL APPLICATION NO.168 OF 2020

Dr. Pradnya M. Ghorpade)
Age : 43 Yrs., Occ : Medical Officer G-A,)
Presently working At Primary Health)
Centre Talegaon – Dhamdhere, Tq.Shirur)
Dist. Pune.)...**Applicant**

Versus

The State of Maharashtra & 3 Ors.)...**Respondent**

With

ORIGINAL APPLICATION NO.169 OF 2020

Dr. Jyoti B. Ghorpade)
 Age : 40 Yrs., Occ : Medical Officer G-A,)
 Presently working At Rural Hospital, Rui)
 Tq. Baramati, Dist. PUne.)...**Applicant**

Versus

The State of Maharashtra & 3 Ors.)...**Respondent**

With

ORIGINAL APPLICATION NO.170 OF 2020

Dr. Vilas G. Memane)
 Age : 38 Yrs., Occ : Medical Officer G-A,)
 Presently working in service Post-)
 Graduation (MD Padiatrics) at Grant)
 Medical College, under establishment of)
 Director of Health Services, Mumbai.)...**Applicant**

Versus

1. The State of Maharashtra, through)
 Principal Secretary, Public Health Dept.)
 10th floor, G. T. Hospital Building, New)
 Mantralaya, Mumbai 1.)
2. The Commissionr Health Services &)
 Director (N.H.M.) 3rd floor, Arogya Bhavan,)
 St. Georges Hospital Campus, Mumbai 1.)
3. The Director of Health Services)
 5th floor, Arogya Bhavan, St. Georges)
 Hospital Campus, near CST, Mumbai 1.).....**Respondents.**

With

ORIGINAL APPLICATION NO.171 OF 2020

Dr. Girishkumar V. Chaugule)
 Age : 38 Yrs., Occ : Medical Officer G-A,)
 Presently working Sub District Hospital,)
 Sawantwadi, Dist. Sindhudurg.)...**Applicant**

Versus

1. The State of Maharashtra, through)
Principal Secretary, Public Health Dept.)
10th floor, G. T. Hospital Building, New)
Mantralaya, Mumbai 1.)
2. The Commissionr Health Services &)
Director (N.H.M.) 3rd floor, Arogya Bhavan,))
St. Georges Hospital Campus, Mumbai 1.)
3. The Deputy Director of Health)
Services, Kolhapur Circle, Kolhapur,)
Central Building, Bawada, Karveer,)
Kolhapur 416006.)
4. The District Civil Surgeon, District)
Civil Hospital, Sindhudurg, Barrister Nath)
Pai Road, Police Line, Oras, A/p Oras,)
Tq. Kudal, Dist. Sindhudurg 416812.).....Respondents.

With**ORIGINAL APPLICATION NO.782 OF 2020**

Dr. Pavankumar B. Shinde,)
Age : 40 Yrs., Occ : Medical Officer G-A,)
Presently working in service Post-)
Graduation (D.G.O.) at B. J. Medical)
College, Pune under establishment of)
Director of Health Services, Mumbai,)
Dist. Pune.)...**Applicant**

Versus

1. The State of Maharashtra, through)
Principal Secretary, Public Health Dept.)
10th floor, G. T. Hospital Building, New)
Mantralaya, Mumbai 1.)
2. The Commissionr Health Services &)
Director (N.H.M.) 3rd floor, Arogya Bhavan,))
St. Georges Hospital Campus, Mumbai 1.)
3. The Director of Health Services)
5th floor, Arogya Bhavan, St. Georges)
Hospital Campus, near CST, Mumbai 1.).....**Respondents.**

With

ORIGINAL APPLICATION NO.783 OF 2020

Dr. Nilesh S. Wagh,)
 Age : 40 Yrs., Occ : Medical Officer G-A,)
 Presently temporarily posted at Regional)
 Referral Centre, working Shalimar, Nasik)
 After completion of in-service Post -)
 Graduation (DTCD) from B.J.Medical)
 College, Pune (under establishment of)
 Director of Health Services, Mumbai,)
 Dist.Nashik.)...**Applicant**

Versus

1. The State of Maharashtra, through)
 Principal Secretary, Public Health Dept.)
 10th floor, G. T. Hospital Building, New)
 Mantralaya, Mumbai 1.)
2. The Commissionr Health Services &)
 Director (N.H.M.) 3rd floor, Arogya Bhavan,)
 St. Georges Hospital Campus, Mumbai 1.)
3. The Director of Health Services)
 5th floor, Arogya Bhavan, St. Georges)
 Hospital Campus, near CST, Mumbai 1.).....**Respondents.**

With

ORIGINAL APPLICATION NO.784 OF 2020

Dr. Swati B. Patil ,)
 Age : 40 Yrs., Occ : Medical Officer G-A,)
 Presently working at Rural Hospital, Uran)
 Dist. Raigad.)...**Applicant**

Versus

1. The State of Maharashtra, through)
 Principal Secretary, Public Health Dept.)
 10th floor, G. T. Hospital Building, New)
 Mantralaya, Mumbai 1.)

2. The Commissionr Health Services &)
Director (N.H.M.) 3rd floor, Arogya Bhavan,)
St. Georges Hospital Campus, Mumbai 1.)
3. The Dy. Director of Health Services)
Mumbai Circle, Thane, Mental Hospital)
Compound, Thane (W).).....**Respondents.**

With

ORIGINAL APPLICATION NO.785 OF 2020

Dr. Savita B. Kalel,)
Age : 42 Yrs., Occ : Medical Officer G-A,)
Presently working at Regional Mental)
Hospital, Thane, Dist. Thane.)...**Applicant**

Versus

1. The State of Maharashtra, through)
Principal Secretary, Public Health Dept.)
10th floor, G. T. Hospital Building, New)
Mantralaya, Mumbai 1.)
2. The Commissionr Health Services &)
Director (N.H.M.) 3rd floor, Arogya Bhavan,)
St. Georges Hospital Campus, Mumbai 1.)
3. The Dy. Director of Health Services)
Mumbai Circle, Thane, Mental Hospital)
Compound, Thane (W).).....**Respondents.**

Mr. J. S. Deshmukh, Advocate for Applicants.

Mr. A.J. Chougule & Smt. Kranti Gaikwad, Presenting Officers for Respondent.

CORAM : SHRI A.P. KURHEKAR, MEMBER-J

DATE : 07.10.2021

JUDGMENT

1. All these Original Applications are filed by the Medical Officers Group-A for counting their previous ad-hoc service for increments and other consequential service benefits with condonation of break in service. The Applicants were initially appointed as Medical Officers on ad-hoc basis by selection committee duly constituted in this behalf having fulfilled all eligibility criteria for the said post. However, their appointment was for the period of eleven months on ad-hoc basis subject to availability of candidates from MPSC. Later, the Applicants participated in the process conducted by MPSC/MKCL and were selected. After regular appointment, they made representations for counting their ad-hoc service on the basis of the decision rendered by the Tribunal Aurangabad Bench on 17.07.2015 in O.A.No.678/2014. The Aurangabad Bench by common judgment dated 17.07.2015 decided group of O.A.Nos.676, 677, 678 & 679/2014 along with O.A.No.69, 70, 71 & 72/2015 and allowed the Original Applications having found that the Applicants therein were similarly situated persons governed by the decision rendered by the Tribunal earlier in O.A.No.515/2013 decided on 10.12.2014.

2. Heard Shri J. S. Deshmukh, learned Counsel for the Applicants and Shri A. J. Chougule, learned Presenting Officer for the Respondents.

3. Learned Counsel for the Applicants has pointed that the decision rendered by M.A.T. Aurangabad Bench dated 17.07.2015 has been upheld by the Hon'ble High Court in W.P.No.772/2016 decided with W.P.No.798/2016 and 800/2016 on 23.11.2017. He has placed on record the copies of orders of Tribunal and of the Hon'ble High Court. He, therefore, submits that the Applicants being similarly situated persons are entitled to the same relief on the principle of parity

4. Shri A. J. Chougule, learned Presenting Officer made feeble attempt contending that since the Applicants were appointed on ad-hoc basis, their previous service rendered on ad-hoc basis cannot be clubbed with regular service after their regular appointment from MPSC/MKCL.

5. Admittedly, the decisions rendered by the Tribunal Aurangabad Bench was upheld by the Hon'ble High Court has attained finality and the same has been implemented by the Government. The Applicants are similarly situated persons claiming the same relief. The Hon'ble High Court while deciding W.P. No.772/2016 with 798, 80/2016, dated 23.11.2017 held that the said issue has been already adjudicated in W.P.No.11611/2015 dated 23.03.2016 and the Applicants being similarly situated persons are entitled to the benefit of the said judgment. Accordingly, the decision rendered by the Tribunal has been upheld.

6. Indeed, the Respondents ought to have applied the same yardstick to the present Applicants in view of various decisions rendered by the Tribunal and upheld by the Hon'ble High Court without driving the Applicants to approach the Tribunal for redressal of grievance.

7. As regard parity, the Hon'ble Supreme Court in **2015 (1) SCC 347 in State of Uttar Pradesh & Ors Vs. Arvind Kumar Srivastava** has laid down the said principle as under:-

“ Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore,, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.”

8. In fact the Government of Maharashtra had also issued Circular dated 28.02.2017 informing all the departments to apply the principle of

parity to the similarly situated persons in view of the decision of the Hon'ble Supreme Court in **Arvind Kumar Srivastava's** case.

9. Unfortunately, despite consistent decisions and issuance of Circular dated 28.02.2017, the Respondents neglected and ignored the claim of the Applicants to which they are entitled since the issue is now no more *res-integra* in the light of various decisions rendered to above.

10. In view of above, the Applicants claim to condone the technical break and to treat their previous services spent on ad-hoc basis is required to be considered for grant of increments and for earned leave and for no other purposes.

11. For the aforesaid reasons, all these Original Applications are disposed of with directions to the Respondents that ad-hoc services of the Applicants be counted and considered for grant of increments and leave with condonation of technical break in service and for no other purposes. Directions be complied with within three months from today.

12. No order as to costs.

Sd/-

(A.P. KURHEKAR)
Member-J

Place : Mumbai
Date : 07.10.2021
Dictation taken by : VSM