

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**ORIGINAL APPLICATION NOS 415, 416, 417, 418,  
419, 420, 421, 422, 423 & 424/2015**

**DISTRICT : NASIK**

**1) ORIGINAL APPLICATION NO 415 OF 2015**

Dr Mahendra S/o Babanrao Deolika )  
Occ : Medical Officer, Group-B, )  
Presently working as Taluka Health )  
Officer, Dindori, Tq-Dindori, Dist-Nasik. )...**Applicant**

**Versus**

1. The State of Maharashtra )  
Copy served C.P.O, M.A.T, )  
Bench Mumbai. )
2. Principal Secretary, )  
Public Health Department, )  
Mantralaya, Mumbai - 32. )

*rh*

3. Director of Health Service, )  
 Arogya Bhavan. St. Georges' )  
 Hospital Campus, Near C.S.T, )  
 Mumbai. )
4. Deputy Director of Health Services, )  
 Nasik Circle, Nasik. )
5. The Chief Executive Officer, )  
 Zilla Parishad, Nasik. )...**Respondents**

**2) ORIGINAL APPLICATION NO 416 OF 2015**

- Dr Ravindra Narayan Sapkale, )  
 Occ : Medical Officer, Group-B, )  
 Presently working as Taluka Health )  
 Officer, Kalwan, Tq-Kalwan, Dist-Nasik. )...**Applicant**

**Versus**

1. The State of Maharashtra )  
 Copy served C.P.O, M.A.T, )  
 Bench Mumbai. )
2. Principal Secretary, )  
 Public Health Department, )  
 Mantralaya, Mumbai - 32. )
3. Director of Health Service, )  
 Arogya Bhavan, St. Georges' )  
 Hospital Campus, Near C.S.T, )  
 Mumbai. )

24

4. Deputy Director of Health Services, )  
Nasik Circle, Nasik. )
5. The Chief Executive Officer, )  
Zilla Parishad, Nasik. )...**Respondents**

**3) ORIGINAL APPLICATION NO 417 OF 2015**

- Dr Ravindra Narayan Sapkale, )  
Occ : Medical Officer, Group-B, )  
Presently working as Taluka Health )  
Officer, Kalwan, Tq-Kalwan, Dist-Nasik. )...**Applicant**

**Versus**

1. The State of Maharashtra )  
Copy served C.P.O, M.A.T, )  
Bench Mumbai. )
2. Principal Secretary, )  
Public Health Department, )  
Mantralaya, Mumbai – 32. )
3. Director of Health Service, )  
Arogya Bhavan, St. Georges' )  
Hospital Campus, Near C.S.T, )  
Mumbai. )
4. Deputy Director of Health Services, )  
Nasik Circle, Nasik. )
5. The Chief Executive Officer, )  
Zilla Parishad, Nasik. )...**Respondents**

*RH*

**4) ORIGINAL APPLICATION NO 418 OF 2015**

Dr Sanjay Nemichand Khandagale )  
 Occ : Medical Officer, Group-B, )  
 Presently working as Taluka Health )  
 Officer, Akola, Tq-Akola, )  
 Dist-Ahmednagar. )...**Applicant**

**Versus**

1. The State of Maharashtra )  
 Copy served C.P.O, M.A.T, )  
 Bench Mumbai. )
2. Principal Secretary, )  
 Public Health Department, )  
 Mantralaya, Mumbai - 32. )
3. Director of Health Service, )  
 Arogya Bhavan, St. Georges' )  
 Hospital Campus, Near C.S.T, )  
 Mumbai. )
4. Deputy Director of Health Services, )  
 Nasik Circle, Nasik. )
5. The Chief Executive Officer, )  
 Zilla Parishad, Nasik. )...**Respondents**

**5) ORIGINAL APPLICATION NO 419 OF 2015**

Dr Mohan Popat Srinde )

Occ : Medical Officer, Group-B, )  
 Presently working as Taluka Health )  
 Officer, Sangamner, Tq-Sangamner, )  
 Dist-Ahmednagar. )...**Applicant**

**Versus**

1. The State of Maharashtra )  
 Copy served C.P.O, M.A.T, )  
 Bench Mumbai. )
2. Principal Secretary, )  
 Public Health Department, )  
 Mantralaya, Mumbai - 32. )
3. Director of Health Service, )  
 Arogya Bhavan, St. Georges' )  
 Hospital Campus, Near C.S.T, )  
 Mumbai. )
4. Deputy Director of Health Services, )  
 Nasik Circle, Nasik. )
5. The Chief Executive Officer, )  
 Zilla Parishad, Ahmednagar. )...**Respondents**

**6) ORIGINAL APPLICATION NO 420 OF 2015**

Dr Pandurang Ramrao Jadhav )  
 Occ : Medical Officer, Group-B, )  
 Presently working as Medical Officer, )  
 P.H.C, Ladgaon, Tal -Akola, )  
 Dist-Ahmednagar. )...**Applicant**

*RH*

**Versus**

1. The State of Maharashtra )  
Copy served C.P.O, M.A.T, )  
Bench Mumbai. )
2. Principal Secretary, )  
Public Health Department, )  
Mantralaya, Mumbai - 32. )
3. Director of Health Service, )  
Arogya Bhavan, St. Georges' )  
Hospital Campus, Near C.S.T, )  
Mumbai. )
4. Deputy Director of Health Services, )  
Nasik Circle, Nasik. )
5. The Chief Executive Officer, )  
Zilla Parishad, Ahmednagar. )...**Respondents**

**7) ORIGINAL APPLICATION NO 421 OF 2015**

- Dr Sanjay S/o Ganpatrao Gujjanwar )  
Occ : Medical Officer, Group-B, )  
Presently working as Taluka Health, )  
Officer, Arjuni/Mor, )  
Dist-Gondiya. )...**Applicant**

**Versus**

1. The State of Maharashtra )  
Copy served C.P.O, M.A.T, )

- Bench Mumbai. )
2. Principal Secretary, )  
Public Health Department, )  
Mantralaya, Mumbai -- 32. )
3. Director of Health Service, )  
Arogya Bhavan, St. Georges' )  
Hospital Campus, Near C.S.T, )  
Mumbai. )
4. Deputy Director of Health Services, )  
Nagpur Circle, Nagpur )
5. The Chief Executive Officer, )  
Zilla Parishad, Gondiya. )...**Respondents**

**8) ORIGINAL APPLICATION NO 422 OF 2015**

- Dr Dinesh Yadavrao Brahmankar, )  
Occ : Medical Officer, Group-B, )  
Presently working as Taluka Health, )  
Officer, Sadak/Arjuni )  
Dist-Gondiya. )...**Applicant**

**Versus**

1. The State of Maharashtra )  
Copy served C.P.O, M.A.T, )  
Bench Mumbai. )
2. Principal Secretary, )  
Public Health Department, )  
Mantralaya, Mumbai -- 32. )

*R*

3. Director of Health Service, )  
 Arogya Bhavan, St. Georges' )  
 Hospital Campus, Near C.S.T, )  
 Mumbai. )
4. Deputy Director of Health Services, )  
 Nagpur Circle, Nagpur )
5. The Chief Executive Officer, )  
 Zilla Parishad, Gondiya. )...**Respondents**

**9) ORIGINAL APPLICATION NO 423 OF 2015**

- Dr Vijay S/o Vishwanath Jadhav, )  
 Occ : Medical Officer, Group-B, )  
 Presently working as Medical Officer, )  
 P.H.C. Agar, Ta & Dist-Akola. )...**Applicant**

**Versus**

1. The State of Maharashtra )  
 Copy served C.P.O, M.A.T, )  
 Bench Mumbai. )
2. Principal Secretary, )  
 Public Health Department, )  
 Mantralaya, Mumbai - 32. )
3. Director of Health Service, )  
 Arogya Bhavan, St. Georges' )  
 Hospital Campus, Near C.S.T, )  
 Mumbai. )
4. Deputy Director of Health Services, )



- Akola Circle, Akola. )  
 5. The Chief Executive Officer, )  
 Zilla Parishad, Akola. )...**Respondents**

**10) ORIGINAL APPLICATION NO 424 OF 2015**

- Dr Pradeep S/o Narayan Naohate, )  
 Occ : Medical Officer, Group-B, )  
 Presently working as Taluka Health, )  
 Officer, Mangrool-Pir, )  
 Dist-Washim. )...**Applicant**

**Versus**

1. The State of Maharashtra )  
 Copy served C.P.O, M.A.T, )  
 Bench Mumbai. )  
 2. Principal Secretary, )  
 Public Health Department, )  
 Mantralaya, Mumbai - 32. )  
 3. Director of Health Service, )  
 Arogya Bhavan, St. Georges' )  
 Hospital Campus, Near C.S.T, )  
 Mumbai. )  
 4. Deputy Director of Health Services, )  
 Nagpur Circle, Nagpur. )  
 5. The Chief Executive Officer, )  
 Zilla Parishad, Washim. )...**Respondents**

h

Shri J. S Deshmukh, learned advocate for the Applicants.

Smt Kranti S. Gaikwad, lerned Presenting Officer for the Respondent nos 1 to 4.

Shri A. Desai, learned advocate for Res. No. 5 in O.A no 423/2015.

**CORAM : Shri Rajiv Agarwal (Vice-Chairman)**

**DATE : 29.02.2016**

**ORDER**

1. Heard Shri J. S Deshmukh, learned advocate for the Applicants, Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents no 1 to 4. Shri A. Desai, learned advocate for Res. No. 5 in O.A no 423/2015. None for the Respondent no. 5 in other O.As.

2. These O.As were heard together and are being disposed of by a common order as the issues to be decided are identical.

3. These O.As have been filed by the Applicants who were transferred by order dated 31.5.2015 to various places. The Applicants have challenged their transfer on the ground that they have been posted to posts carrying lower scale of pay. The other claim is that the

Respondent no. 3 is not the competent authority to transfer officers in the Maharashtra Medical Health Services, Group 'A' to which the Applicants belong. As such the orders of transfer are passed by an authority who is not competent to pass such orders.

4. Learned Counsel for the Applicants argued that the Applicants are Group 'A' officers in the Pay Band of Rs. 15600-39100 with Grade Pay of Rs. 5400/-. As per G.R dated 27.2.2002 issued by the General Administration Department persons in such Grade Pay are Group 'A' officers. The Applicants were initially appointed as Medical Officer, Group 'C', District Technical Service in the pay scale of Rs. 2000-3500. They were promoted to Group 'B' and as per the Pay Band and Grade Pay now being drawn by them, they are actually in Group 'A'. Under the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred to as the Transfer Act), the Competent Authority to order their transfer is Minister in consultation with the Secretary. The Respondent no. 3 was delegated powers to transfer Group 'B' officer by G.R dated 6.12.2014. However, the Respondent no. 3 is not competent to transfer Group 'A' officers. On this ground alone, the transfer orders of the Applicants are bad in law. Learned Counsel for the Applicants argued that by impugned order dated 31.5.2015, the Applicants have been transferred to posts

which carry lower pay scales. Learned Counsel for the Applicants relied on the judgment of Nagpur Bench of this Tribunal in O.A no 254/2015 dated 6.1.2016, wherein it has been held that Director of Health Services has no authority to transfer Group 'A' Medical Officers. Learned Counsel for the Applicants argued that the transfer order dated 31.5.2015 qua the Applicants may be quashed and set aside.

5. Learned Presenting Officer (P.O) argued on behalf of the Respondents that the issue regarding the status of persons like the present Applicants is already decided by the Division Bench of this Tribunal by judgment dated 25.6.2015 in O.A no 469/2012. The persons from District Technical Service, Group 'C' have been held to be entitled be given pay in the Pay Band of Rs. 9300-34800 with Grade Pay of Rs. 4600. The order of this Tribunal is not yet implemented as a Review Application is filed, and some other persons have filed Original Applications. However, the aforesaid judgment has not been stayed by any competent Court. This judgment was brought to the notice of the Nagpur Bench. However, the Nagpur Bench of this Tribunal has quashed the transfer order of the Applicants in O.A nos 254 & 350 of 2015 on the ground that the actual grade pay of the Applicants was Rs. 5400/- though it was reduced to Rs. 4400/- from June, 2011. Learned Presenting Officer argued that the Learned Member (J) of Nagpur Bench has

ignored the substantive part of the judgment of the Division Bench in O.A no 469/2012 and therefore, that judgment cannot be made applicable here. Learned P.O argued that the Applicants are Group 'B' officers, who are drawing salary at higher level wrongly as held by this Tribunal. As a result, it cannot be said that impugned order is passed by the Respondent no. 3 without competence.


6. It is a fact that this Tribunal by judgment dated 25.6.2015 in O.A no 469/2012 has held in para 6 that:-

“The State Government has subsequently issued another G.R on 11.2.2013 by which those working in District Technical Services (Health) have been given grade pay of Rs. 4600 in the Pay Band of Rs. 9300-3488.”

In para 7, it is held that:

“Considering the facts discussed above, we do not find merit in the claim of the Applicants that they are entitled to grade pay of Rs. 5400.”

It is further held that:



“It is clear that the Applicants as Group ‘B’ officers were not entitled to pay scale higher than what is provided to Group ‘B’ Maharashtra Medical and Health Service Officers.”

This judgment of this Tribunal delivered by Division Bench has not been stayed by any higher forum. This Tribunal has held that present Applicants are Group ‘B’ Officers. It is, therefore, clear that the Respondent no. 3 is the competent officer to transfer them. However, if the present Grade Pay of the Applicants is considered, it can be argued that they are eligible to be included in Grade ‘A’ and the competent authority to transfer them would be Minister. These issues will get resolved when the Applicants’ pay is fixed as per G.R dated 11.2.2013 or if there O.As seeking grade pay of Rs. 5400 p.m are decided in their favour by this Tribunal. As the situation obtaining today, it will not be possible to hold that the Respondent no. 3 was not competent to order transfer of the Applicants as they are promoted to Group ‘B. Their pay is fixed in a Pay Band (and Grade Pay) applicable to Group ‘A’. The interim order dated 5.6.2015 of this Tribunal in O.A nos 415 to 424 of 2015 ensures that their pay will not be reduced only because of transfer order dated 31.5.2015. The transfer orders have already been implemented. In view of the aforementioned facts, balance of convenience is not in favour of cancelling the

impugned transfer order dated 31.5.2015 qua the Applicants.

7. These Original Applications are accordingly dismissed. It is, however, made clear that this judgment has not given any finding on the Applicant's claim of grade pay of Rs. 5400/-, which was not the issue to be decided in these Original Applications. There will be no order as to costs.

Sd/-

**(Rajiv Agarwal)**  
**Vice-Chairman**

**Place : Mumbai**

**Date : 29.02.2016**

**Dictation taken by : A.K. Nair.**