

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**01. ORIGINAL APPLICATION NO. 155 OF 2016**

**DISTRICT: - OSMANABAD**

Dr. Jaysinh S/O Shivajirao Veer,  
Age-58 years, Occ- Medical Officer,  
Primary Health Centre,  
Pohner District Sangli.

.. APPLICANT.

**V E R S U S**

1. The State of Maharashtra,  
Through Secretary,  
Public Health Department,  
Mantralaya, Mumbai-32.

2. The Principal Secretary,  
Finance Department,  
Mantralaya, Mumbai.

3. Director Of Health Service,  
Arogya Bhavan, St. Georges Hospital Campus,  
Near C.S.T. Mumbai.

4. Deputy Director Of Health Services,  
Latur Circle, Latur.

5. The Chief Executive Officer,  
Zilla Parishad, Osmanabad.

6. The District Health Officer,  
Zilla Parishad, Osmanabad.

.. RESPONDENTS

**W I T H**

**02. ORIGINAL APPLICATION NO. 544 OF 2016**

**DISTRICT: - OSMANABAD.**

1. Dr. Seema W/o Anirudhha Kulkarni,  
Age-50 years, Occ- Medical Officer,  
Primary Health Centre, Padoli,  
Tq. & Dist. Osmanabad.
2. Dr. Dinkar S/o. Narayanrao Joshi,  
Age-56 years, Occu- Medical Officer,  
Primary Health Centre, Yenegur,  
Tq. Omerga, Dist. Osmanabad.
3. Dr. Maroti S/o. Gomaji Potre,  
Age-53 years, Occ- Medical Officer,  
Primary Health Centre, Walwad,  
Tq. Bhoom, Dist. Osmanabad.
4. Dr. Pandurang S/o. Shrirang Pawar,  
Age-57 years, Occ- Medical Officer,  
Primary Health Centre, Sawargaon,  
Tq. Tuljapur, Dist. Osmanabad. .. APPLICANTS.

**V E R S U S**

1. The State of Maharashtra  
Through Secretary,  
Public Health Department,  
Mantralaya, Mumbai-32.
2. The Principal Secretary,  
Finance 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,  
Latur Circle, Latur.
5. The Chief Executive Officer,  
Zilla Parishad, Osmanabad.

6. The District Health Officer,  
Zilla Parishad, Osmanabad. .. RESPONDENTS

**W I T H**

**03. ORIGINAL APPLICATION NO. 545 OF 2016**

**DISTRICT: - HINGOLI**

1. Dr. Satish S/O Radhakishan Runwal,  
Age-49 years, Occ- Medical Officer,  
Presently working as Taluka Health Officer,  
Hingoli, Tq. and District Hingoli.
2. Dr. Namdeo S/O Vitthal Korde,  
Age- 50 years, Occ- Medical Officer,  
Presently working as Taluka Health  
Officer, Sengaon, Tq. Sengaon, District  
Hingoli.
3. Dr. Sushma D/o Govindrao Kulkarni,  
Age-54 years, Occ- Medical Officer,  
Primary Health Centre, Pusegaon,  
Tq. Sengaon, District Hingoli.
4. Dr. Prashant S/O Hanumantrao Pande,  
Age-57 years, Occ- Medical Officer,  
Primary Health Centre, Kawtha,  
Tq. Sengaon, District Hingoli.
5. Dr. Dwarkadas S/O Madhavrao Nakhate,  
Age-56 years, Occ- Medical Officer,  
Primary Health Centre, Rameshwar Tanda,  
Tq. Kalamnuri, District Hingoli.
6. Dr. Shivaji S/o Munjaji Digrase,  
Age-57 years, Occ- Medical Officer,  
Primary Health Centre, Tembhurni,  
Tq. Vasmat, District Hingoli.

7. Dr. Avinash S/o Govindrao Pannamwar,  
Age-50 years, Occ- Medical Officer,  
Primary Health Centre, Dongarkada,  
Tq. Kalamnuri, District Hingoli.

.. APPLICANTS.

**V E R S U S**

1. The State of Maharashtra,  
Through Secretary,  
Public Health Department,  
Mantralaya, Mumbai-32.

2. The Principal Secretary,  
Finance Department,  
Mantralaya, Mumbai.

3. Director of Health Service,  
Argoya Bhavan; St. Georges Hospital Campus,  
Near C.S.T. Mumbai.

4. Deputy Director of Health Services,  
Aurangabad Circle, Aurangabad.

5. The Chief Executive Officer,  
Zilla Parishad, Hingoli.

6. The District Health Officer,  
Zilla Parishad, Hingoli.

.. RESPONDENTS

**W I T H**

**04. ORIGINAL APPLICATION NO. 817 OF 2016**

**DISTRICT: - JALNA**

Dr. Sanjay S/o Anantrao Joshi,  
Age-60 years, Occ- Medical Officer,  
(retired on Superannuation)  
P.H.C. Dabhadi, Tq. Badnapur,  
District Jalna,

now at present residing at Shivajinagar,  
Aurangabad.

.. APPLICANT.

**V E R S U S**

1. The State of Maharashtra,  
Through Secretary,  
Public Health Department,  
Mantralaya, Mumbai-32.

2. Director of Health Service,  
Arogya Bhavan, St. Georges Hospital  
Campus, Near C.S.T. Mumbai.

3. Deputy Director of Health Services,  
Aurangabad Circle, Aurangabad.

4. The Chief Executive Officer,  
Zilla Parishad, Jalna.

5. The District Health Officer,  
Zilla Parishad, Jalna.

6. The Accountant General (A & E),  
Civil Lines, Nagpur.

.. RESPONDENTS

**W I T H**

**05. ORIGINAL APPLICATION NO. 820 OF 2016**

**DISTRICT: - AURANGABAD.**

Dr. Surendra S/o Ganeshrao Todewale,  
Age-59 years, Occ- Medical Officer,  
(retired on Superannuation)  
P.H.C. Dhakephal, Tq. Paithan,  
District Aurangabad,  
now at present residing at Yugdharma Apt,  
Block no. E-3, Tiurpati-Vihar, Garkheda  
Parishar, Aurangabad.

.. APPLICANT.

**V E R S U S**

1. The State of Maharashtra,  
Through Secretary,  
Public Health Department,  
Mantralaya, Mumbai-32.

2. Director of Health Service  
Arogya Bhavan, St. Georges Hospital  
Campus, Near C.S.T. Mumbai.

3. Deputy Director of Health Services,  
Aurangabad Circle, Aurangabad.

4. The Chief Executive Officer,  
Zilla Parishad, Aurangabad.

5. The District Health Officer,  
Zilla Parishad, Aurangabad.

6. The Accountant General (A & E),  
Civil Lines, Nagpur.

.. RESPONDENTS

**W I T H**

**06. ORIGINAL APPLICATION NO. 821 OF 2016**

**DISTRICT: - JALNA.**

Smt. Basanti W/o Prakash Mundhe  
(Late Prakash Mundhe was serving as  
Taluka Health Officer, Ambad  
Dist Jalna & died on 09.09.2014),  
Age-50 years, Occ- House wife,  
R/o H. No. 4A/1, Sr.no. 17/A,  
Girija Housing Society,  
Garkheda Parishar, Aurangabad.

.. APPLICANT.

**V E R S U S**

1. The State of Maharashtra,  
Through Secretary,  
Public Health Department,  
Mantralaya, Mumbai-32.

2. Director of Health Service  
Arogya Bhavan, St. Georges Hospital  
Campus, Near C.S.T. Mumbai.

3. Deputy Director of Health Services,  
Aurangabad Circle, Aurangabad.

4. The Chief Executive Officer,  
Zilla Parishad, Jalna.

5. The District Health Officer,  
Zilla Parishad, Jalna.

6. The Accountant General (A & E),  
Civil Lines, Nagpur.

.. RESPONDENTS

## **W I T H**

**07. ORIGINAL APPLICATION NO. 822 OF 2016**

**DISTRICT: - JALNA.**

Dr. Subhash S/o Baliram Jadhav,  
Age-60 years, Occ- Medical Officer,  
(retired on Superannuation)  
P.H.C. Rajur, Tq. Bhokardan,  
District Jalna,  
now at present residing at Shivajinagar,  
Aurangabad.

.. APPLICANT.

## **V E R S U S**

1. The State of Maharashtra,  
Through Secretary,

Public Health Department,  
Mantralaya, Mumbai-32.

2. Director of Health Service  
Arogya Bhavan, St. Georges Hospital  
Campus, Near C.S.T. Mumbai.

3. Deputy Director of Health Services,  
Aurangabad Circle, Aurangabad.

4. The Chief Executive Officer,  
Zilla Parishad, Jalna.

5. The District Health Officer,  
Zilla Parishad, Jalna.

6. The Accountant General (A & E),  
Civil Lines, Nagpur.

.. RESPONDENTS

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- APPEARANCE :** Shri J.S. Deshmukh, learned Advocate  
for the applicants in all the cases.
- : S/Shri V.R. Bhumkar, S.K. Shirse, N.U.  
Yadav, M.P. Gude and Smt. Resha  
Deshmukh, Smt. Sanjivani Ghate and  
Smt. Deepali S. Deshpande learned  
Presenting Officers for the respondent  
nos. 1 to 3.
- : Shri A.D. Aghav learned Advocate for  
respondent nos. 4 & 5 in O.A. Nos.  
817/16, 821/16 & 822/16.
- : Shri S.R. Dheple learned Advocate for  
respondent no.4 and 5 in O.A.  
No.820/16.
- : Shri S.N. Rodge, learned Advocate for  
respondent nos. 5 and 6 in O.A.  
No.155/2016.



: Shri Vivek Bhavthankar learned  
Advocate for respondent no. 5 O.A. No.  
545/16.

: Shri K.U. More learned Advocate for  
respondent nos. 5 and 6 in O.A. No.  
544/16 (**absent**).

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**CORAM : J.D. KULKARNI, VICE CHAIRMAN (J)**

**DATE : 23<sup>rd</sup> February, 2018**

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**ORDER**

Heard Shri J.S. Deshmukh, learned Advocate for the applicants in all the cases, S/Shri V.R. Bhumkar, S.K. Shirse, N.U. Yadav, M.P. Gude and Smt. Resha Deshmukh, Smt. Sanjivani Ghate and Smt. Deepali S. Deshpande learned Presenting Officers for the respondent nos. 1 to 3 and Shri A.D. Aghav learned Advocate for respondent nos. 4 & 5 in O.A.Nos.817/16, 821/16 & 822/16, Shri S.R. Dheple learned Advocate for respondent no.4 and 5 in O.A.No.820/16 and Shri S.N. Rodge, learned Advocate for respondent nos. 5 and 6 in O.A.No.155/2016 and Shri Vivek Bhavthankar learned Advocate for respondent no. 5 in O.A. No. 545/16. Shri K.U.

More learned Advocate for respondent nos. 5 and 6 in O.A. No. 544/16, is **absent**.

2. The applicants are initially appointed as Medical Officer District Technical Cadre (Group-C) under the establishment of Zilla Parishad under Rural Development Department. Vide Government Resolution dated 28.05.2001 status of Gazetted Officer has been conferred upon as many as 869 medical officers absorbed under Public Health Department vide Government Resolution dated 17.10.2014 w.e.f. 28.05.2001. The applicants were included in the list of such Medical Officers. Vide impugned orders/communications the pay of the applicants have been revised in the pay scale of Rs. 6500-10500 in 5<sup>th</sup> Pay Commission and Rs. 9300-34800 with Grade Pay of Rs. 4600/- under 6<sup>th</sup> Pay Commission. In view of this fixation, recovery has been initiated against the applicant.

3. According to the applicants, they were getting pay scale of Rs. 8000-13500 w.e.f. 1.1.1996 i.e. under 5<sup>th</sup> Pay Commission and Rs. 9300-34800 with Grade Pay of Rs. 4400 instead of Rs. 15600-39100 with Grade Pay of Rs. 5400 in 6<sup>th</sup> Pay Commission. However, the said pay scale has been reduced by revising the pay scale and now they are getting

lower pay scale of Rs. 6500-10500 instead of Rs. 8000-13500 w.e.f. 1.1.1996 in the 5<sup>th</sup> Pay Commission and Rs. 9300-34800 with Grade Pay of Rs. 4400 instead of Rs. 15600-39100 with Grade Pay of Rs. 5400 under 6<sup>th</sup> Pay Commission. Such reduction of pay scale has been challenged in these Original Applications.

4. Consequent upon the reduction in the pay scale, the respondents are also claiming recovery of the excess amount alleged to be paid to the respective applicants and those respective orders in respect of recovery have been challenged in these Original Applications.

5. Learned Advocate for the applicant submits that the issue in respect of pay scale of all the applicants and the similarly situated Medical Officers have been decided by the Hon'ble Tribunal in O.A. No. 424/2015 vide order dated 18.10.2016 and all the Medical Officers including the applicants were held eligible for the pay scale of Rs. 8000-13500 in 5<sup>th</sup> Pay Commission and 9300-34800 with Grade Pay of Rs. 5400 in 6<sup>th</sup> Pay Commission. The Tribunal has also quashed the order of reduction of pay scale and also restrained the respondents from making recovery of alleged excess

amount. Learned Advocate for the applicant further invited my attention to the judgment passed by this Tribunal Bench at Aurangabad in O.A. No. 633/2014 on 27.01.2017. So also various judgments passed in O.A. No. 159/2010, 341/2010 & 424/2015 and so on and it is stated that the applicants are entitled to the similar relief.

6. I have carefully gone through the various judgments on which learned Advocate for the applicants has placed reliance. In O.A. No. 633/2014 [Dr. Balasaheb Desairao Deshmukh & Ors. Vs. the State of Maharashtra & Ors.] delivered on 27.1.2017 by this Tribunal at Aurangabad. The Tribunal has observed in paragraph No. 8 as under: -

***“8. Admittedly, names of the present applicants figured in the list of 869 Medical Officers absorbed as Group B Medical Officers, in terms of G.R. dated 17.10.2014 and therefore, these Medical Officers were entitled to get pay scale of Rs. 8000-13500 in 5<sup>th</sup> Pay Commission and Rs. 9300-34800 plus Grade Pay of Rs. 5400/- in the 6<sup>th</sup> Pay Commission, and therefore, the applicants cases is/are very much covered by the judgment delivered in O.A. Nos. 159, 341 of 2010 and 425 of 2015. Similar view has been taken by this Tribunal in O.A. No. 160/2016 in the case of Dr. Ashok Nanasaheb and Others Vs. State of***

***Maharashtra and others vide judgment dated 8.8.2016 by M.A.T. Mumbai Bench and also Review Application No. 25 of 2015 in O.A. No. 469/12 with O.A. No. 879/15 & 662/13 by Mumbai Bench of this Tribunal. I am therefore, satisfied that the applicants are entitled to claim pay scale as per judgment delivered by this Tribunal as already stated.”***

Similar view has been taken by this Tribunal in a Group of O.A. Nos. 159/2010 decided on 18.10.2016 and it has been observed in paragraph No. 6 as under: -

***“6. Having regard to the aforesaid facts and circumstances of the case, Medical Officers who were recruited in the District Technical Service, Class-III, and whose names figures in the list of 869 Medical Officers absorbed as Group ‘B’ Medical Officers in terms of G.R. dated 17.10.2014, are eligible to get pay in the scale of Rs. 8000-13500 in the Fifth Pay Commission. They are also entitled to get pay in the Pay Band of Rs. 9300-34800 + grade pay of Rs. 5400/- in the 6<sup>th</sup> Pay Commission. The present Applicants, are also entitled to the above pay scale / pay band if their names figures in the list of Medical Officers, Group ‘C’ working in Zilla Parishads, who were absorbed in Group ‘B’ posts by G.R. dated 17.10.2014. These Original Applications***

***are accordingly disposed of with no order as to costs.”***

7. It is, therefore, clear that the cases of the applicants have been covered by the judgment relied on by the learned Advocate for the applicants. The State of Maharashtra has also taken a decision to grant pay scale as claimed by the applicants to the similarly situated Medical Officers like applicants as per Government Resolution dated 15.11.2014.

8. So-called recovery under the garb that excess amount was paid to the applicant cannot be allowed in view of the observations made by the Hon'ble Apex Court in the case of **State of Punjab and others etc. V/s. Rafiq Masih (White Washer) etc.** reported in [AIR 2015 SC 696/(2015) 4 SCC 334].

9. In view of the discussion in the foregoing paragraphs, I therefore, pass the following order: -

### **ORDER**

(i) The present Original Applications are partly allowed.

(ii) The respective impugned communications issued by the Under Secretary, Finance Department, whereby the pay scale of the applicants have been reduced, stand quashed and set aside. The respective impugned orders directing the recovery of the so-called excess amount from the respective applicants also stand quashed and set aside.

(iii) The respondents are directed not to recover the so-called excess amount, which has been paid to the respective applicants.

(iv) The applicants in O.A. Nos. 155, 817, 820 & 822 all of 2016 have been retired from the service on attaining the age of superannuation and their amount of DCRG has been withheld on account of allegedly recovery of excess amount. So far as O.A. No. 821/2016 (Smt. Basanti W/o. Prakash Munde) is concerned, this case has been filed by the widow of deceased employee viz. Dr. Prakash Munde, who was died on 9.9.2014 and was due for retirement on 31.12.2014 and his amount of DCRG has also been withheld on account of allegedly recovery of excess amount. The respondents are directed to

release the amount of DCRG of the abovementioned applicants. If the alleged excess amount paid to the applicants has been recovered, the same be refunded to them.

(v) There shall be no order as to costs.

**VICE CHAIRMAN (J)**

**PLACE : AURANGABAD.**

**Date : 23<sup>rd</sup> February, 2018**

O.A.NO. 155-2016 & Gr.(SB)-HDD-2018-recovery