

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 560 OF 2018**

DISTRICT: - LATUR.

Dr. Omprakash S/o Gurupad Kanade,  
Age-47 years, Occupation : Retired  
Government Servant, worked as  
Medical Officer Class II, Mobile Unit  
Sub-District Hospital Omerga,  
R/o. Behind ICICI Bank,  
Ausa Road, Latur, Dist. Latur.

.. APPLICANT.

**V E R S U S**

- 1] The State of Maharashtra  
Through the Principal Secretary  
Public Health Department,  
G.T. Hospital, 10<sup>th</sup> Floor,  
Mantralaya, Mumbai 400 001.
  - 2] The Director, Public Health Department,  
'Arogya Bhavan', Saint George Hospital  
Compound, Mumbai 400 001
  - 3] The Deputy Director of Health Services,  
Latur Region, Latur,  
'Arogya Sankul', Barshi Road, Latur,  
Tq. & District Latur 431512.
  - 4] The Civil Surgeon,  
Civil Hospital Osmanabad,  
District Osmanabad 413512.
  - 5] The Medical Superintendent,  
Sub-District Hospital Omerga.  
Dist. Osmanabad 413606
- .. RESPONDENTS.

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**APPEARANCE** : Shri Shamsunder B. Patil, learned  
Advocate for the applicant.

: Smt. Sanjivani Deshmukh-Ghate -  
learned Presenting Officer for the  
respondents.

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**CORAM** : **JUSTICE M.T. JOSHI, VICE CHAIRMAN**  
          : **AND**  
          : **ATUL RAJ CHADHA, MEMBER (A)**  
**DATE** : **5<sup>TH</sup> DECEMBER, 2018.**  
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**O R A L O R D E R**

**[Per : Justice M.T. Joshi, Vice Chairman]**

1. Heard Shri Shamsunder B. Patil, learned Advocate for the applicant and Smt. Sanjivani Deshmukh-Ghate, learned Presenting Officer for the respondents.

2. By the present Original Application the applicant is seeking following reliefs: -

“(B) The order dated 23 January 2018 passed by the respondent No. 1 thereby rejecting the application of the applicant for permission to retire voluntarily after completion of 20 years qualifying service may kindly be quashed and set aside.

(C) The communication dated 21.3.2018 of the Deputy Director of Health Services Latur and the communication dated 26.3.2018 of the Medical Superintendent Omerga, may kindly be quashed and set aside.

(D) The respondents be directed to declare that, the applicant stood voluntarily retired w.e.f. 28.02.2017 and direct the respondents to release the pension and retiral benefits to which the applicant is legally entitled to within stipulated period.

(E) By appropriate order or direction it be declared that the applicant stood retired voluntarily on 28.2.2018 under Rule 66 (1) of the Maharashtra Civil Services (Pension) Rules, 1982 on completion of qualifying service of 20 years and the Government may further be directed to issue necessary orders accordingly.”

3. The only ground for passing the impugned order of not acceptance of notice of voluntary retirement is that the present applicant has not completed qualifying service of 20 years. It is an admitted fact that the present applicant was earlier appointed on *ad hoc* basis. The said period is being discounted by the concerned respondents. This Tribunal in the case of **SMT. (DR.) SHOBHA PANDURANG CHANDAK VS. STATE OF MAHARASHTRA AND OTHERS [O.A. NO. 506/2018 decided on 27.11.2018]** has dealt with the same issue and found that not only in the said O.A. but in number of cases this Tribunal has taken a

view on the basis of Circulars of the respondents themselves that the said *ad hoc* service is required to be counted for granting the benefit. Learned Advocate for the applicant has filed a copy of decision rendered by this Tribunal in O.A. No. 506/2018 on 27.11.2018 and the same is taken on record and marked as document 'X' for the purpose of identification.

4. In the result, the order passed in O.A. No. 506/2018 is required to be passed in the present Original Application also, which runs as under: -

(i) Impugned communication dated 23.1.2018 (Annex. A. 6 collectively, page 34) is hereby quashed and set aside.

(ii) This Tribunal directs that applicant's request for voluntary retirement submitted by him through the notice dated 1.12.2016 be accepted and consequential orders be issued within 30 days from the date of this order.

(iii) In case Government fails to pass an eloquent and express order of acceptance of voluntary retirement, consequences as prescribed by Maharashtra Civil Services (Pension) Rules, 1982

such as of deeming effect shall follow and applicant shall be free to act on that basis.

(iv) In the circumstances, we leave the parties to bear own costs.

**MEMBER (A)**

**VICE CHAIRMAN**

**PLACE : AURANGABAD.**

**DATE : 5<sup>TH</sup> DECEMBER, 2018.**

O.A.NO.560-2018(DB-VRS)-HDD-2018