

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 528 OF 2019
(Subject:-Revised Pay Fixation/Annual Increments)**

DISTRICT: - NANDED

Dr. Kishor Haribhau Kadam)
Age: 46 Years, Occu: Govt. Service)
R/o Rural Hospital Barad,)
Tq. Mudkhed, Dist. Nanded.) **...APPLICANT**

V E R S U S

1. The Principal Secretary,)
Public Health Department,)
Mantralaya, Mumbai -32.) **..RESPONDENT**

APPEARANCE : Shri Shamsunder B. Patil, learned
Advocate for the applicant.
: Shri S.K. Shirse, learned Presenting
Officer for the respondent.

CORAM : **SHRI V.D. DONGRE, MEMBER (J)**

DATE : **03.01.2023.**

O R D E R

1. By invoking jurisdiction of this Tribunal under Section
19 of the Administrative Tribunals Act, 1985, this Original

Application is filed seeking following reliefs in terms of paragraph No. 18 (B) and (C) as under:-

- (B) To direct the respondents to extend the benefits in favour of the applicant w.e.f. 10.5.1997 initial date of appointment i.e. after completing one year service to grant all the service benefits i.e. annual increments, various kinds of leaves etc. by issuing necessary directions/orders.
- (C) To direct the respondents to correct the pay fixation of the applicant by granting annual increments as per condonation of technical breaks since 10.5.1997 by an order dt 18.11.2010 as per the M.C.S. (Pay) Rules also to protect pay and other consequential benefits forthwith.

2. The facts in brief giving rise to this Original Application can be summarized as follows:-

- (i) The applicant possessed the degree of M.B.B.S in the year 1997. He also completed post graduation in M.D. Pediatrics as in –service candidate. The applicant came to be appointed on the post of Medical Officer (Group-A) on ad-hoc basis initially on 06.05.1997 for the period of one year. Thereafter, by giving technical break of one day, his services

were continued from time to time till he was selected by M.P.S.C. on 03.04.2002 by issuing appointment orders (Annex. 'A-1' collectively).

(ii) It is contended that during his appointment on ad-hoc basis by giving technical break, the applicant was not getting annual increment and other service benefits as per Rule 36 of Maharashtra Civil Services (Pay) Rules, 1981. During the said period, the applicant was working on vacant posts till he was selected by M.P.S.C. He was given regular posting by order dated 01.07.2002.

(iii) The Medical Officer placed in similar situation as that of the applicant and who was deprived of annual increment and other service benefits filed Original Application No. 824/2016 which was disposed of by this Tribunal on merit by order dated 25.09.2018 (Annex. 'A-2'). Thereby the applicant therein was held eligible to get annual increment of her earlier service on ad-hoc basis and respondents thereby were directed to grant benefits of annual increments to the applicant from the date of her initial appointment i.e. from 06.10.2001.

(iv) It is further submitted that Rule 36 of M.C.S. (Pay) Rules, 1981 clearly provides that, an increment ordinarily be

drawn as a matter of course unless it is withheld as a penalty under the relevant statute. The respondents failed to adhere to the said provisions in case of the applicant.

(v) It is further submitted that the respondent issued G.R. dated 18.11.2010 (Annex. 'A-3') and condoned the technical breaks which were given in ad-hoc service tenure since 10.05.1997 to 01.07.2002. Thereby the Government also considered the length of service only for pension purpose but not for seniority. It is submitted that Rule 48 (1) of M.C.S. (Pension) Rules, 1981 specifically provides that the competent authority can condone the break and can regularize the ad-hoc services. Moreover, Rule 30 of M.S.C. (Pension) Rules, 1981 provides that the qualifying service of the Government Servant shall commence from the date he takes the charge of the post to which he is first appointed either substantively or in officiating or temporary capacity. In view of that, the respondent authorities have been bound to condone the breaks. Many of the Medical Officer who are selected by M.P.S.C., their breaks in services are condoned and also their services are treated as continuous services. Hence, this application.

3. The application is resisted by filing affidavit in reply by Dr. Eknath Dhondiba Male working as the Deputy Director of Health Services, Latur Circle, Latur, thereby he denied the adverse contentions raised in the Original Application.

(i) It is, however admitted that the applicant was initially appointed on ad-hoc in the year 1997 and the applicant was appointed through M.P.S.C. on permanent post on 03.04.2002. The applicant, however has filed this Original Application in the year 2019 and as such it is barred by limitation and is liable to be dismissed.

(ii) It is specifically contended that the applicant has worked on ad-hoc basis with technical break and therefore he never worked continuously for 12 months which is required for grant of annual increment as per Rule 36 of M.C.S. (Pay) Rules. In view of the same, the applicant is not entitled for the relief of annual increment and consequently other service benefits.

(iii) The applicant is not entitled for continuity in service in view of the decision of the Hon'ble Apex Court in the matter of **A. Umarani Vs. Registrar, Co. Op. Societies, Tamil Nadu & Ors.** In view of the same, by the impugned order dated

18.11.2010 (Annex. 'A-3'), the applicant has been rightly considered for condoning the technical break only for the purpose of pension and not for seniority. Consequently, the applicant is also not entitled for annual increment and other service benefits. There is no merit in the Original Application and it is liable to be dismissed.

4. I have heard at length the arguments advanced by Shri Shamsunder B. Patil, learned Advocate for the applicants on one hand and Shri S.K. Shirse, learned Presenting Officer representing the respondents on other hand.

5. In support of the points raised in the Original Application, the learned Advocate for the applicant placed reliance on the decision of this Tribunal dated 25.09.2018 in O.A.No. 824/2016/. The facts of the said case are narrated in paragraph No.2 as under:-

“2. It is contention of the applicant that she was appointed as Medical Officer on ad-hoc basis by order dated 06.10.2001 by the respondents. Thereafter, she has been continued in service from time to time. It is her contention that she has been regularized in service on 11.02.2009 as per notification issued by the respondents on 02.02.2009 by way of one time absorption. Since the date of her absorption in service

i.e. from 11.02.2009 she has been given benefits of annual increments but the respondents had not given her benefits of annual increments from the date of her initial appointment on ad-hoc basis. It is her contention that the Tribunal has extended the said benefits to the similarly situated persons appointed on ad-hoc basis in various cases.”

In the said decision, in paragraph Nos. 8, 13 and 14 it is observed as follows:-

“8. Learned Advocate for the applicant has submitted that this Tribunal has earlier decided the issue involved in the matter and granted annual increments to the Medical Officers appointed initially on an ad-hoc basis and absorbed in service in view of Special Rules of 2009. He has submitted that this Tribunal has granted benefits with annual increments to those medical officers for the tenure of their ad-hoc service. He has submitted that decision of the Tribunal rendered in various cases has been challenged by the Government before the Hon’ble High Court of Judicature of Bombay Bench at Aurangabad by filing Writ Petitions but the Writ Petitions came to be dismissed on 27.11.2008. Said decision was challenged by the Government before the Hon’ble

Supreme Court by filing Special Leave to Appeal (Civil) No. C.C. 18902-18915/2010 but Hon'ble the Apex Court dismissed the said civil applications on 02.02.2011. He has submitted that since the issue has been settled up to the level of Hon'ble the Supreme Court, there is no need to enter into merits of the case and on the basis of decisions of the Tribunal, Hon'ble High Court and Hon'ble the Supreme Court, benefits have to be extended to the applicant.

13. After considering submissions of both sides and various rules, Division Bench of this Tribunal had held that there is no illegality in extending the benefits and granting increments to those applicants. The said view and decision of the Division Bench of this Tribunal is binding on this Bench. Therefore, I do not find substance in the submissions made by the learned P.O. in that regard. The applicant is entitled to get benefits as granted to the similarly situated Medical Offices as per the decision of the Division Bench of the Tribunal which has been confirmed by the Hon'ble High court and also by the Hon'ble Supreme Court. The case of the applicant is squarely

covered by the earlier decisions of this Tribunal, Hon'ble High Court and Hon'ble Supreme Court, the applicant is also entitled to get the same relief. Therefore, the present O.A. deserves to be allowed.

14. In view of the above discussion, O.A. stands allowed. Applicant is held eligible to get annual increments of her earlier services on ad-hoc basis. Respondents are directed to grant benefits of annual increments to the applicant from the date of her initial appointment i.e. from 06.10.2001. No order as to costs."

6. Learned Presenting Officer for the respondents opposed the submissions raised on behalf of the applicant.

7. After having considered the rival submissions and more particularly decision of this Tribunal in O.A.No. 824/2016 dated 25.09.2018 (Annex. 'A-2') and the decisions referred to therein, it is crystal clear that the Medical Offices placed in similar situation as that of the applicant were granted the benefit of annual increments from the initial date of appointment. The applicant has been granted the benefits of condoning the break by issuing G.R. dated 18.11.2010

(Annex. 'A-3') but thereby annual increments are not granted. Continuity of service is considered only for pension purpose. The view taken by this Tribunal in the matter of Dr. Asha Apparao Kadam is to be followed. I have no reason to take another view. In view of the same, the applicant shall be entitled for annual increments from the date of initial appointment w.e.f. 10.05.1997 and revision of pay fixation. Hence I proceed to pass the following order:-

ORDER

The Original Application is partly allowed in following terms:-

- (A) The respondents are directed to extend the benefit of annual increments in favour of the applicant since after completing one year service w.e.f. 10.05.1997 which is initial date of appointment.
- (B) The respondents are further directed to re-fix the pay of the applicant by granting such annual increments.
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19 of the Administrative Tribunals Act, 1985, this Original

Application is filed seeking following reliefs in terms of paragraph No. 18 (B) and (C) as under:-

- (B) To direct the respondents to extend the benefits in favour of the applicant w.e.f. 10.5.1997 initial date of appointment i.e. after completing one year service to grant all the service benefits i.e. annual increments, various kinds of leaves etc. by issuing necessary directions/orders.
- (C) To direct the respondents to correct the pay fixation of the applicant by granting annual increments as per condonation of technical breaks since 10.5.1997 by an order dt 18.11.2010 as per the M.C.S. (Pay) Rules also to protect pay and other consequential benefits forthwith.

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were continued from time to time till he was selected by M.P.S.C. on 03.04.2002 by issuing appointment orders (Annex. 'A-1' collectively).

(ii) It is contended that during his appointment on ad-hoc basis by giving technical break, the applicant was not getting annual increment and other service benefits as per Rule 36 of Maharashtra Civil Services (Pay) Rules, 1981. During the said period, the applicant was working on vacant posts till he was selected by M.P.S.C. He was given regular posting by order dated 01.07.2002.

(iii) The Medical Officer placed in similar situation as that of the applicant and who was deprived of annual increment and other service benefits filed Original Application No. 824/2016 which was disposed of by this Tribunal on merit by order dated 25.09.2018 (Annex. 'A-2'). Thereby the applicant therein was held eligible to get annual increment of her earlier service on ad-hoc basis and respondents thereby were directed to grant benefits of annual increments to the applicant from the date of her initial appointment i.e. from 06.10.2001.

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(v) It is further submitted that the respondent issued G.R. dated 18.11.2010 (Annex. 'A-3') and condoned the technical breaks which were given in ad-hoc service tenure since 10.05.1997 to 01.07.2002. Thereby the Government also considered the length of service only for pension purpose but not for seniority. It is submitted that Rule 48 (1) of M.C.S. (Pension) Rules, 1981 specifically provides that the competent authority can condone the break and can regularize the ad-hoc services. Moreover, Rule 30 of M.S.C. (Pension) Rules, 1981 provides that the qualifying service of the Government Servant shall commence from the date he takes the charge of the post to which he is first appointed either substantively or in officiating or temporary capacity. In view of that, the respondent authorities have been bound to condone the breaks. Many of the Medical Officer who are selected by M.P.S.C., their breaks in services are condoned and also their services are treated as continuous services. Hence, this application.

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“2. It is contention of the applicant that she was appointed as Medical Officer on ad-hoc basis by order dated 06.10.2001 by the respondents. Thereafter, she has been continued in service from time to time. It is her contention that she has been regularized in service on 11.02.2009 as per notification issued by the respondents on 02.02.2009 by way of one time absorption. Since the date of her absorption in service

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In the said decision, in paragraph Nos. 8, 13 and 14 it is observed as follows:-

“8. Learned Advocate for the applicant has submitted that this Tribunal has earlier decided the issue involved in the matter and granted annual increments to the Medical Officers appointed initially on an ad-hoc basis and absorbed in service in view of Special Rules of 2009. He has submitted that this Tribunal has granted benefits with annual increments to those medical officers for the tenure of their ad-hoc service. He has submitted that decision of the Tribunal rendered in various cases has been challenged by the Government before the Hon’ble High Court of Judicature of Bombay Bench at Aurangabad by filing Writ Petitions but the Writ Petitions came to be dismissed on 27.11.2008. Said decision was challenged by the Government before the Hon’ble

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13. After considering submissions of both sides and various rules, Division Bench of this Tribunal had held that there is no illegality in extending the benefits and granting increments to those applicants. The said view and decision of the Division Bench of this Tribunal is binding on this Bench. Therefore, I do not find substance in the submissions made by the learned P.O. in that regard. The applicant is entitled to get benefits as granted to the similarly situated Medical Offices as per the decision of the Division Bench of the Tribunal which has been confirmed by the Hon'ble High court and also by the Hon'ble Supreme Court. The case of the applicant is squarely

covered by the earlier decisions of this Tribunal, Hon'ble High Court and Hon'ble Supreme Court, the applicant is also entitled to get the same relief. Therefore, the present O.A. deserves to be allowed.

14. In view of the above discussion, O.A. stands allowed. Applicant is held eligible to get annual increments of her earlier services on ad-hoc basis. Respondents are directed to grant benefits of annual increments to the applicant from the date of her initial appointment i.e. from 06.10.2001. No order as to costs."

6. Learned Presenting Officer for the respondents opposed the submissions raised on behalf of the applicant.

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(Annex. 'A-3') but thereby annual increments are not granted. Continuity of service is considered only for pension purpose. The view taken by this Tribunal in the matter of Dr. Asha Apparao Kadam is to be followed. I have no reason to take another view. In view of the same, the applicant shall be entitled for annual increments from the date of initial appointment w.e.f. 10.05.1997 and revision of pay fixation. Hence I proceed to pass the following order:-

ORDER

The Original Application is partly allowed in following terms:-

- (A) The respondents are directed to extend the benefit of annual increments in favour of the applicant since after completing one year service w.e.f. 10.05.1997 which is initial date of appointment.
- (B) The respondents are further directed to re-fix the pay of the applicant by granting such annual increments.
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(V.D. DONGRE)
MEMBER (J)

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BENCH AT AURANGABAD**

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(Subject:-Revised Pay Fixation/Annual Increments)**

DISTRICT: - NANDED

Dr. Kishor Haribhau Kadam)
Age: 46 Years, Occu: Govt. Service)
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CORAM : **SHRI V.D. DONGRE, MEMBER (J)**

DATE : **03.01.2023.**

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were continued from time to time till he was selected by M.P.S.C. on 03.04.2002 by issuing appointment orders (Annex. 'A-1' collectively).

(ii) It is contended that during his appointment on ad-hoc basis by giving technical break, the applicant was not getting annual increment and other service benefits as per Rule 36 of Maharashtra Civil Services (Pay) Rules, 1981. During the said period, the applicant was working on vacant posts till he was selected by M.P.S.C. He was given regular posting by order dated 01.07.2002.

(iii) The Medical Officer placed in similar situation as that of the applicant and who was deprived of annual increment and other service benefits filed Original Application No. 824/2016 which was disposed of by this Tribunal on merit by order dated 25.09.2018 (Annex. 'A-2'). Thereby the applicant therein was held eligible to get annual increment of her earlier service on ad-hoc basis and respondents thereby were directed to grant benefits of annual increments to the applicant from the date of her initial appointment i.e. from 06.10.2001.

(iv) It is further submitted that Rule 36 of M.C.S. (Pay) Rules, 1981 clearly provides that, an increment ordinarily be

drawn as a matter of course unless it is withheld as a penalty under the relevant statute. The respondents failed to adhere to the said provisions in case of the applicant.

(v) It is further submitted that the respondent issued G.R. dated 18.11.2010 (Annex. 'A-3') and condoned the technical breaks which were given in ad-hoc service tenure since 10.05.1997 to 01.07.2002. Thereby the Government also considered the length of service only for pension purpose but not for seniority. It is submitted that Rule 48 (1) of M.C.S. (Pension) Rules, 1981 specifically provides that the competent authority can condone the break and can regularize the ad-hoc services. Moreover, Rule 30 of M.S.C. (Pension) Rules, 1981 provides that the qualifying service of the Government Servant shall commence from the date he takes the charge of the post to which he is first appointed either substantively or in officiating or temporary capacity. In view of that, the respondent authorities have been bound to condone the breaks. Many of the Medical Officer who are selected by M.P.S.C., their breaks in services are condoned and also their services are treated as continuous services. Hence, this application.

3. The application is resisted by filing affidavit in reply by Dr. Eknath Dhondiba Male working as the Deputy Director of Health Services, Latur Circle, Latur, thereby he denied the adverse contentions raised in the Original Application.

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(ii) It is specifically contended that the applicant has worked on ad-hoc basis with technical break and therefore he never worked continuously for 12 months which is required for grant of annual increment as per Rule 36 of M.C.S. (Pay) Rules. In view of the same, the applicant is not entitled for the relief of annual increment and consequently other service benefits.

(iii) The applicant is not entitled for continuity in service in view of the decision of the Hon'ble Apex Court in the matter of **A. Umarani Vs. Registrar, Co. Op. Societies, Tamil Nadu & Ors.** In view of the same, by the impugned order dated

18.11.2010 (Annex. 'A-3'), the applicant has been rightly considered for condoning the technical break only for the purpose of pension and not for seniority. Consequently, the applicant is also not entitled for annual increment and other service benefits. There is no merit in the Original Application and it is liable to be dismissed.

4. I have heard at length the arguments advanced by Shri Shamsunder B. Patil, learned Advocate for the applicants on one hand and Shri S.K. Shirse, learned Presenting Officer representing the respondents on other hand.

5. In support of the points raised in the Original Application, the learned Advocate for the applicant placed reliance on the decision of this Tribunal dated 25.09.2018 in O.A.No. 824/2016/. The facts of the said case are narrated in paragraph No.2 as under:-

“2. It is contention of the applicant that she was appointed as Medical Officer on ad-hoc basis by order dated 06.10.2001 by the respondents. Thereafter, she has been continued in service from time to time. It is her contention that she has been regularized in service on 11.02.2009 as per notification issued by the respondents on 02.02.2009 by way of one time absorption. Since the date of her absorption in service

i.e. from 11.02.2009 she has been given benefits of annual increments but the respondents had not given her benefits of annual increments from the date of her initial appointment on ad-hoc basis. It is her contention that the Tribunal has extended the said benefits to the similarly situated persons appointed on ad-hoc basis in various cases.”

In the said decision, in paragraph Nos. 8, 13 and 14 it is observed as follows:-

“8. Learned Advocate for the applicant has submitted that this Tribunal has earlier decided the issue involved in the matter and granted annual increments to the Medical Officers appointed initially on an ad-hoc basis and absorbed in service in view of Special Rules of 2009. He has submitted that this Tribunal has granted benefits with annual increments to those medical officers for the tenure of their ad-hoc service. He has submitted that decision of the Tribunal rendered in various cases has been challenged by the Government before the Hon’ble High Court of Judicature of Bombay Bench at Aurangabad by filing Writ Petitions but the Writ Petitions came to be dismissed on 27.11.2008. Said decision was challenged by the Government before the Hon’ble

Supreme Court by filing Special Leave to Appeal (Civil) No. C.C. 18902-18915/2010 but Hon'ble the Apex Court dismissed the said civil applications on 02.02.2011. He has submitted that since the issue has been settled up to the level of Hon'ble the Supreme Court, there is no need to enter into merits of the case and on the basis of decisions of the Tribunal, Hon'ble High Court and Hon'ble the Supreme Court, benefits have to be extended to the applicant.

13. After considering submissions of both sides and various rules, Division Bench of this Tribunal had held that there is no illegality in extending the benefits and granting increments to those applicants. The said view and decision of the Division Bench of this Tribunal is binding on this Bench. Therefore, I do not find substance in the submissions made by the learned P.O. in that regard. The applicant is entitled to get benefits as granted to the similarly situated Medical Offices as per the decision of the Division Bench of the Tribunal which has been confirmed by the Hon'ble High court and also by the Hon'ble Supreme Court. The case of the applicant is squarely

covered by the earlier decisions of this Tribunal, Hon'ble High Court and Hon'ble Supreme Court, the applicant is also entitled to get the same relief. Therefore, the present O.A. deserves to be allowed.

14. In view of the above discussion, O.A. stands allowed. Applicant is held eligible to get annual increments of her earlier services on ad-hoc basis. Respondents are directed to grant benefits of annual increments to the applicant from the date of her initial appointment i.e. from 06.10.2001. No order as to costs."

6. Learned Presenting Officer for the respondents opposed the submissions raised on behalf of the applicant.

7. After having considered the rival submissions and more particularly decision of this Tribunal in O.A.No. 824/2016 dated 25.09.2018 (Annex. 'A-2') and the decisions referred to therein, it is crystal clear that the Medical Offices placed in similar situation as that of the applicant were granted the benefit of annual increments from the initial date of appointment. The applicant has been granted the benefits of condoning the break by issuing G.R. dated 18.11.2010

(Annex. 'A-3') but thereby annual increments are not granted. Continuity of service is considered only for pension purpose. The view taken by this Tribunal in the matter of Dr. Asha Apparao Kadam is to be followed. I have no reason to take another view. In view of the same, the applicant shall be entitled for annual increments from the date of initial appointment w.e.f. 10.05.1997 and revision of pay fixation. Hence I proceed to pass the following order:-

ORDER

The Original Application is partly allowed in following terms:-

- (A) The respondents are directed to extend the benefit of annual increments in favour of the applicant since after completing one year service w.e.f. 10.05.1997 which is initial date of appointment.
- (B) The respondents are further directed to re-fix the pay of the applicant by granting such annual increments.
- (C) No order as to costs.

(V.D. DONGRE)
MEMBER (J)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 528 OF 2019
(Subject:-Revised Pay Fixation/Annual Increments)**

DISTRICT: - NANDED

Dr. Kishor Haribhau Kadam)
Age: 46 Years, Occu: Govt. Service)
R/o Rural Hospital Barad,)
Tq. Mudkhed, Dist. Nanded.) **...APPLICANT**

V E R S U S

1. The Principal Secretary,)
Public Health Department,)
Mantralaya, Mumbai -32.) **..RESPONDENT**

APPEARANCE : Shri Shamsunder B. Patil, learned
Advocate for the applicant.
: Shri S.K. Shirse, learned Presenting
Officer for the respondent.

CORAM : **SHRI V.D. DONGRE, MEMBER (J)**

DATE : **03.01.2023.**

O R D E R

1. By invoking jurisdiction of this Tribunal under Section
19 of the Administrative Tribunals Act, 1985, this Original

Application is filed seeking following reliefs in terms of paragraph No. 18 (B) and (C) as under:-

- (B) To direct the respondents to extend the benefits in favour of the applicant w.e.f. 10.5.1997 initial date of appointment i.e. after completing one year service to grant all the service benefits i.e. annual increments, various kinds of leaves etc. by issuing necessary directions/orders.
- (C) To direct the respondents to correct the pay fixation of the applicant by granting annual increments as per condonation of technical breaks since 10.5.1997 by an order dt 18.11.2010 as per the M.C.S. (Pay) Rules also to protect pay and other consequential benefits forthwith.

2. The facts in brief giving rise to this Original Application can be summarized as follows:-

- (i) The applicant possessed the degree of M.B.B.S in the year 1997. He also completed post graduation in M.D. Pediatrics as in –service candidate. The applicant came to be appointed on the post of Medical Officer (Group-A) on ad-hoc basis initially on 06.05.1997 for the period of one year. Thereafter, by giving technical break of one day, his services

were continued from time to time till he was selected by M.P.S.C. on 03.04.2002 by issuing appointment orders (Annex. 'A-1' collectively).

(ii) It is contended that during his appointment on ad-hoc basis by giving technical break, the applicant was not getting annual increment and other service benefits as per Rule 36 of Maharashtra Civil Services (Pay) Rules, 1981. During the said period, the applicant was working on vacant posts till he was selected by M.P.S.C. He was given regular posting by order dated 01.07.2002.

(iii) The Medical Officer placed in similar situation as that of the applicant and who was deprived of annual increment and other service benefits filed Original Application No. 824/2016 which was disposed of by this Tribunal on merit by order dated 25.09.2018 (Annex. 'A-2'). Thereby the applicant therein was held eligible to get annual increment of her earlier service on ad-hoc basis and respondents thereby were directed to grant benefits of annual increments to the applicant from the date of her initial appointment i.e. from 06.10.2001.

(iv) It is further submitted that Rule 36 of M.C.S. (Pay) Rules, 1981 clearly provides that, an increment ordinarily be

drawn as a matter of course unless it is withheld as a penalty under the relevant statute. The respondents failed to adhere to the said provisions in case of the applicant.

(v) It is further submitted that the respondent issued G.R. dated 18.11.2010 (Annex. 'A-3') and condoned the technical breaks which were given in ad-hoc service tenure since 10.05.1997 to 01.07.2002. Thereby the Government also considered the length of service only for pension purpose but not for seniority. It is submitted that Rule 48 (1) of M.C.S. (Pension) Rules, 1981 specifically provides that the competent authority can condone the break and can regularize the ad-hoc services. Moreover, Rule 30 of M.S.C. (Pension) Rules, 1981 provides that the qualifying service of the Government Servant shall commence from the date he takes the charge of the post to which he is first appointed either substantively or in officiating or temporary capacity. In view of that, the respondent authorities have been bound to condone the breaks. Many of the Medical Officer who are selected by M.P.S.C., their breaks in services are condoned and also their services are treated as continuous services. Hence, this application.

3. The application is resisted by filing affidavit in reply by Dr. Eknath Dhondiba Male working as the Deputy Director of Health Services, Latur Circle, Latur, thereby he denied the adverse contentions raised in the Original Application.

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5. In support of the points raised in the Original Application, the learned Advocate for the applicant placed reliance on the decision of this Tribunal dated 25.09.2018 in O.A.No. 824/2016/. The facts of the said case are narrated in paragraph No.2 as under:-

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MEMBER (J)

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BENCH AT AURANGABAD**

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Age: 46 Years, Occu: Govt. Service)
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(V.D. DONGRE)
MEMBER (J)