

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 264/2020 (D.B.)**

Dr. Pramod S/o Wasudeo Rakshamwar,  
Age about 61 years, Occ. Retired,  
R/o 492, Nehru Nagar, Nandanwan  
Road, Nagpur.

**Applicant.**

**Versus**

- 1) The State of Maharashtra through,  
Chief Secretary, Government of Maharashtra,  
Mantralaya, Mumbai-32.
- 2) The State of Maharashtra through,  
Principal Secretary, Public Health Department,  
GT hospital building premises, 10<sup>th</sup> floor,  
Mantralaya, Mumbai-32.
- 3) The Commissioner,  
Health Services,  
Government of Maharashtra, Aarogya Bhavan,  
St. George Hospital Compound,  
Nest CST, Mumbai.
- 4) C.E.O., Zilla Parishad,  
Civil Line, Nagpur.

**Respondents.**

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**Shri P.K.Mishra, ld. counsel for the applicant.**  
**Shri A.M.Ghogre, ld. P.O. for respondent nos. 1 to 3.**  
**Shri M.Shaikh, ld. counsel for the R-4.**

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**Coram :- Shri Shree Bhagwan, Vice-Chairman and**  
**Shri Justice M.G.Giratkar, Member (J).**  
**Dated :- 20/01/2022.**

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**JUDGMENT**

**Per : Vice Chairman.**

Heard Shri P.K.Mishra, ld. Counsel for the applicant and Shri  
A.M.Ghogre, ld. P.O. for the Respondents.

2. The facts of the case is that applicant was appointed as Medical Officer, Class-II (Now Group-A) by passing the examination conducted by M.P.S.C. and accordingly he was posted at Primary Health Center, Nandgaon, Tahsil Igatpuri, District Nasik and after working at various places, applicant was on deputation to Women and Child Development, Nagpur under Zilla Parishad, Nagpur.

3. The Government of Maharashtra published G.R. dated 03.09.2015 and G.R. dated 29.08.2018 (pg. nos. 15 & 17) in which policy decision was taken to raise the age of retirement from 58 years to 60 years w.e.f. 31.05.2015 for a period of three years i.e. 31.05.2018 for such category of Doctors. The applicant being in Group-A was covered by this Government Resolution dated 03.09.2015 (A-2, Pg. No. 15) and on account of same applicant was entitled for continuation of service till 30.04.2019. However, applicant was asked to retire from service as per order dated 31.05.2018 (A-3, Pg. No. 20). Aggrieved with this order, applicant approached to this Tribunal by filing Original Application No. 408/2018. In O.A. No. 408/2018 the order was passed on 22.02.2019 (Pg. Nos. 26, 27 & 28). The said order is reproduced below:-

*“2. In pursuance of the G.R. No. सेवानि १८१५/प्र.क्र.२१६/सेवा २, dated 03/09/2015, as the applicant was Medical Officer, Group-A, two years extension was given to him. As a result, the date of retirement of the applicant was 30/04/2019. It seems*

*that due to misinterpretation of G.R. No. सेवानि १८१५/प्र.क्र.२१६/सेवा २, dated 03/09/2015, the department relieved the applicant from duty on 31/05/2018, on the ground that he attains the age of superannuation. The department did not consider the fact, that there was right vested in the applicant to continue in service till 30/04/2019.*

3. *When this mistake was realised by the department, the department passed the order dated 11/09/2018 and accepted that it was the mistake and decision was wrongly taken to retire the applicant on attaining the age of superannuation on 31/05/2018. Consequently, the applicant was again appointed in service and his service was continued. We have also perused the order dated 31/05/2018, by this order, the applicant was transferred to Primary Health Centre, Raipur, District Nagpur. This order was challenged by the applicant in this O.A. on the ground that it was in violation of Section 5(a) of the Maharashtra Government Servant, Regulation of Transfer Act, 2005. It clearly appears that, since his modified date of retirement i.e. 30/04/2019 was less than nine months and, therefore, it was in violation of the statutory provisions.*

4. *Now, position is that, the applicant has resumed the duty on 21/02/2019 and now question is to regularize the service period from 11/09/2018 till 21/02/2019. In this situation, in view of the peculiar facts and circumstances of the case the respondents are directed to regularize this period as continuity in service. In view of the special circumstances, we direct the respondents to comply the above order **within a period of one month.***

**5. Hence, with the above directions, O.A. is disposed of with no order as to costs."**

4. As per para no. 3 of the order, respondents realised the mistake and department passed the order dated 11.09.2018 (A-11, Pg. No. 43) and accepted that it was the mistake and decision was wrongly taken to retire the applicant attaining the age of superannuation on 31.05.2018. Consequently, the applicant was again appointed in service and his service was continued. At one hand applicant was asked to retire on 31.05.2018 afternoon on other hand applicant was also transferred vide Government order dated 31.05.2018 (A-4, Pg. Nos. 21 to 24). In this transfer order applicant's name appeared at Sr. No. 145 and he was transferred from "भिक्षेकरी स्वीकार केंद्र नागपूर जि. नागपूर" to "प्रा आ केंद्र रायपुर जि नागपूर".

5. In view of order dated 11.09.2018 (A-11, Pg. No. 43) applicant joined on duty on 21.02.2019. However, applicant's period of absence from duty from 11.09.2018 to 21.02.2019 remained undecided. Hence, applicant filed O.A. No. 408/2018 for regularization of this period in which order was passed on 22.02.2019 by Division Bench of this Tribunal and in para no. 4 following directions were given, which is below:-

*"4. Now, position is that, the applicant has resumed the duty on 21.02.2019 and now question is to regularize the service*

*period from 11.09.2018 till 21.02.2019. In this situation, in view of the peculiar facts and circumstances of the case the respondents are directed to regularize this period as continuity in service. In view of the special circumstances, we direct the respondents to comply the above order within a period of one month.”*

6. The main direction to respondents was to regularize the service period of applicant from 11.09.2018 to 21.02.2019 when he subsequently joined. In response to M.A.T. order as per recommendation submitted by C.E.O., Z.P., Nagpur to Principal Secretary, Public Health Department vide his letter dated 03.05.2019 (A-8, Pg. Nos. 37 & 38) and after the order of this Tribunal on pages 26 to 28, Government issued order dated 10.10.2019 (A-1, Pg. No. 11) and regularises the period of applicant from 11.09.2018 to 21.02.2019 (at pages 12). However in bracket it was written that “निवृत्ती विषयक लाभांश” which created confusion and again applicant approached to this Tribunal by filing original application no. 264/2020. Again order was passed by Division Bench of this Tribunal on 05.01.2021 to treat the absence of the applicant and take decision as per proposal submitted by C.E.O., Z.P., Nagpur. Applicant filed C.A. No. 43/2019 and corrigendum was issued by the Government in the order dated 10.10.2019 by order dated 17.02.2020 at page no. 13;

last three lines were removed and finally applicant period of 11.09.2018 to 21.02.2019 was sanctioned as special leave (without pay) and his period from 11.09.2018 to 21.02.2019 was fully regularized along with pensionary benefits. Now, the ld. counsel for the applicant has filed this O.A. and his prayer is at 9 (i) as below:-

*“9(i) Quash and set aside order/G.R. dated 10.10.2019 and 17.02.2020 in so far as it denies the salary for a period from 01.06.2018 to 11.09.2018 and 11.09.2018 to 21.02.2019, and thereby, direct the respondent department to release the salary for a period from 01.06.2018 to 11.09.2018 and so also for a period from 11.09.2018 to 21.02.2019 alongwith the interest @ 12% per annum and direct the respondents to treat the above period as a compulsory waiting period as similar situated Government Servant was treated of Dr. Ramesh Warjurkar.”*

7. Since applicant has not worked between 11.09.2018 to 21.02.2019 and the said period has been already sanctioned by the Government as a Special Leave (without pay) along with all pensionary benefits. We do not find any substance in this prayer clause. The Relief granted to applicant for the period from 11.09.2018 to 21.02.2019 is as per order of M.A.T. (at pages 26 to 28).

8. In view of above discussions, following order:-

**O R D E R**

The original application is dismissed with no order as to costs.

**(M.G.Giratkar)**  
**Member(J).**

**(Shree Bhagwan)**  
**Vice-Chairman.**

**Dated** :- 20/01/2022.

\*aps.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : A.P.Srivastava

Court Name : Court of Hon'ble V.C. and Member (J).

Judgment signed on : 20/01/2022.

Uploaded on : 21/01/2022.