

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 981/2017 (S.B.)**

Dr. Gangadhar S/o Bhimrao Patharkar,  
Aged about 63 years, Occ. Medical Officer,  
(retired on superannuation from PHC, Jamthi, Tq. Murtijapur,  
Dist. Akola) at present residing at Ayodhya Colony, Shegaon  
Road, Amravati.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through Secretary,  
Public Health Department,  
Mantralaya, Mumbai-32.
- 2) Director of Health Services,  
Arogya Bhavan, St. George Hospital Campus,  
Near CST, Mumbai.
- 3) Deputy Director of Health Services,  
Akola Circle, Akola.
- 4) The Chief Executive Officer,  
Zilla Parishad, Akola.
- 5) The District Health Officer,  
Zilla Parishad, Akola.
- 6) The Accountant General (A&E),  
Civil Lines, Nagpur.

**Respondents.**

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**Shri J.S. Deshmukh, Advocate for the applicant.**

**Shri V.A. Kulkarni, learned P.O. for R-1 to 3 & 6.**

**Shri Amol Deshpande, Advocate for respondent nos. 4&5.**

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**WITH**

**ORIGINAL APPLICATION NO. 771/2016 (S.B.)**

Dr. Megha D/o Panjabrao Gole,  
Aged about 52 years, Occ. Medical Officer (Group-B)  
At present working in the office of District Tuberculosis Officer,  
Akola, District Akola.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through Secretary,  
Public Health Department,  
Mantralaya, Mumbai-32.
- 2) Director of Health Services,  
Arogya Bhavan, St. George Hospital Campus,  
Near CST, Mumbai.
- 3) Deputy Director of Health Services,  
Akola Circle, Akola.
- 4) The Chief Executive Officer,  
Zilla Parishad, Akola.
- 5) The District Health Officer,  
Zilla Parishad, Akola.

**Respondents.**

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**Shri J.S. Deshmukh, Advocate for the applicant.**

**Shri A.M. Ghogre, learned P.O. for R-1 to 3.**

**Shri B.N. Jaipurkar, Advocate for respondent nos. 4&5.**

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**WITH**

**ORIGINAL APPLICATION NO. 772/2016 (S.B.)**

Dr. Nanasaheb S/o Shankarrao Sarnaik,  
Aged 63 years, Occ. Medical Officer (retired on  
Superannuation from PHC Kurankhed, Tq. & Dist. Akola),  
at present residing at B-18, Laxmi Gruhnirman  
Sanstha Gorakshan Road, Akola.

**Applicant.****Versus**

- 1) The State of Maharashtra,  
through Secretary,  
Public Health Department,  
Mantralaya, Mumbai-32.
- 2) Director of Health Services,  
Arogya Bhavan, St. George Hospital Campus,  
Near CST, Mumbai.
- 3) Deputy Director of Health Services,  
Akola Circle, Akola.
- 4) The Chief Executive Officer,  
Zilla Parishad, Akola.
- 5) The District Health Officer,  
Zilla Parishad, Akola.
- 6) The Accountant General (A&E),  
Civil Lines, Nagpur.

**Respondents.**

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**Shri J.S. Deshmukh, Advocate for the applicant.**

**Shri S.A. Sainis, learned P.O. for R-1 to 3 & 6.**

**Shri B.N. Jaipurkar, Advocate for respondent nos. 4&5.**

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**WITH**

**ORIGINAL APPLICATION NO. 773/2016 (S.B.)**

Dr. Arun S/o Dattatray Joshi,  
Aged 62 years, Occ. Medical Officer (retired on  
Superannuation from PHC Dhotra-shinde, Tq. Murtijapur & Dist.  
Akola) at present residing Patwari Colony, Bhakti Dham Mandir,  
Murtijapur, Dist. Akola.

**Applicant.****Versus**

- 1) The State of Maharashtra,  
through Secretary,  
Public Health Department,  
Mantralaya, Mumbai-32.
- 2) Director of Health Services,  
Arogya Bhavan, St. George Hospital Campus,  
Near CST, Mumbai.
- 3) Deputy Director of Health Services,  
Akola Circle, Akola.
- 4) The Chief Executive Officer,  
Zilla Parishad, Akola.
- 5) The District Health Officer,  
Zilla Parishad, Akola.
- 6) The Accountant General (A&E),  
Civil Lines, Nagpur.

**Respondents.**

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**Shri J.S. Deshmukh, Advocate for the applicant.**

**Shri H.K. Pande, learned P.O. for R-1 to 3 & 6.**

**Shri B.N. Jaipurkar, Advocate for respondent nos. 4&5.**

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**WITH**

**ORIGINAL APPLICATION NO. 23/2017 (S.B.)**

Dr. Kisan S/o Sadashivrao Mokalkar,  
Aged 59 years, Occ. Medical Officer (retired on  
Superannuation from PHC Dhaba, Tq. Barshi-Takli, Dist. Akola),  
at present residing at plot no.136, Unnati nagar,  
near Ganesh Temple, Akola.\

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through Secretary,  
Public Health Department,  
Mantralaya, Mumbai-32.
- 2) Director of Health Services,  
Arogya Bhavan, St. George Hospital Campus,  
Near CST, Mumbai.
- 3) Deputy Director of Health Services,  
Akola Circle, Akola.
- 4) The Chief Executive Officer,  
Zilla Parishad, Akola.
- 5) The District Health Officer,  
Zilla Parishad, Akola.
- 6) The Accountant General (A&E),  
Civil Lines, Nagpur.

**Respondents.**

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**Shri J.S. Deshmukh, Advocate for the applicant.**

**Shri A.M. Ghogre, learned P.O. for R-1 to 3 & 6.**

**Shri M.V. Bute, Advocate for respondent nos. 4&5.**

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**WITH**

**ORIGINAL APPLICATION NO. 24/2017 (S.B.)**

Dr. Jitendra S/o Bhaurao Keshaowar,  
Aged 59 years, Occ. Medical Officer (retired on  
Superannuation from PHC Adgaon, Tq. Telhar, Dist. Akola),  
at present residing at Vijay Colony, near Keshavnagar  
Auto Stop, Ring Road, Akola.

**Applicant.****Versus**

- 1) The State of Maharashtra,  
through Secretary,  
Public Health Department,  
Mantralaya, Mumbai-32.
- 2) Director of Health Services,  
Arogya Bhavan, St. George Hospital Campus,  
Near CST, Mumbai.
- 3) Deputy Director of Health Services,  
Akola Circle, Akola.
- 4) The Chief Executive Officer,  
Zilla Parishad, Akola.
- 5) The District Health Officer,  
Zilla Parishad, Akola.
- 6) The Accountant General (A&E),  
Civil Lines, Nagpur.

**Respondents.**

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**Shri J.S. Deshmukh, Advocate for the applicant.**

**Shri A. M. Khadatkar, learned P.O. for R-1 to 3 & 6.**

**S/Shri A.P. Tathod, A.D. Girdekar, Advocates for respondent  
nos. 4&5.**

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**WITH**

**ORIGINAL APPLICATION NO. 476/2017 (S.B.)**

Dr. Balkrishna S/o Laxmanrao Deshmukh,  
Aged 59 years, Occ. Medical Officer (retired on  
Superannuation from PHC Mahan, Tq. Barshi-Takli, Dist. Akola),  
at present residing at Hattekar Lay out, Plot no.36, Akola.

**Applicant.****Versus**

- 1) The State of Maharashtra,  
through Secretary,  
Public Health Department,  
Mantralaya, Mumbai-32.
- 2) Director of Health Services,  
Arogya Bhavan, St. George Hospital Campus,  
Near CST, Mumbai.
- 3) Deputy Director of Health Services,  
Akola Circle, Akola.
- 4) The Chief Executive Officer,  
Zilla Parishad, Akola.
- 5) The District Health Officer,  
Zilla Parishad, Akola.
- 6) The Accountant General (A&E),  
Civil Lines, Nagpur.

**Respondents.**

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**Shri J.S. Deshmukh, Advocate for the applicant.**

**Shri P.N. Warjurkar, learned P.O. for R-1 to 3 & 6.**

**S/Shri A.P. Tathod, A.D. Girdekar, Advocates for respondent  
nos. 4&5.**

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**WITH**

**ORIGINAL APPLICATION NO. 477/2017 (S.B.)**

Dr. Pralhad S/o Dnyanoba More,  
Aged 58 years, Occ. Medical Officer presently working  
at PHC, Malsoor, Tq. Patur, District Akola.

**Applicant.****Versus**

- 1) The State of Maharashtra,  
through Secretary,  
Public Health Department,  
Mantralaya, Mumbai-32.
- 2) Director of Health Services,  
Arogya Bhavan, St. George Hospital Campus,  
Near CST, Mumbai.
- 3) Deputy Director of Health Services,  
Akola Circle, Akola.
- 4) The Chief Executive Officer,  
Zilla Parishad, Akola.
- 5) The District Health Officer,  
Zilla Parishad, Akola.
- 6) The Accountant General (A&E),  
Civil Lines, Nagpur.

**Respondents.**

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**Shri J.S. Deshmukh, Advocate for the applicant.**

**Shri A.P.Potnis, learned P.O. for R-1 to 3 & 6.**

**Shri B.N. Jaipurkar, Advocate for respondent nos. 4&5.**

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**WITH**



**ORIGINAL APPLICATION NO. 479/2017 (S.B.)**

Dr. Mukund S/o Gangaram Tayde,  
Aged 58 years, Occ. Medical Officer, presently working  
at PHC Kanheri Sarap, District Akola.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through Secretary,  
Public Health Department,  
Mantralaya, Mumbai-32.
- 2) Director of Health Services,  
Arogya Bhavan, St. George Hospital Campus,  
Near CST, Mumbai.
- 3) Deputy Director of Health Services,  
Akola Circle, Akola.
- 4) The Chief Executive Officer,  
Zilla Parishad, Akola.
- 5) The District Health Officer,  
Zilla Parishad, Akola.
- 6) The Accountant General (A&E),  
Civil Lines, Nagpur.

**Respondents.**

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**Shri J.S. Deshmukh, Advocate for the applicant.**

**Shri H.K. Pande, learned P.O. for R-1 to 3 & 6.**

**Shri Amol Deshpande, Advocate for respondent nos. 4&5.**

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**WITH**

**ORIGINAL APPLICATION NO. 633/2017 (S.B.)**

Dr. Subhash S/o Vitthalrao Kale,  
Aged 63 years, Occ. Medical Officer (retired on  
Superannuation from PHC Palsobadhe Tq. & Dist. Akola) at present  
residing at Dwarka Building, Ranpisenagar, Akola.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through Secretary,  
Public Health Department,  
Mantralaya, Mumbai-32.
- 2) Director of Health Services,  
Arogya Bhavan, St. George Hospital Campus,  
Near CST, Mumbai.
- 3) Deputy Director of Health Services,  
Akola Circle, Akola.
- 4) The Chief Executive Officer,  
Zilla Parishad, Akola.
- 5) The District Health Officer,  
Zilla Parishad, Akola.
- 6) The Accountant General (A&E),  
Civil Lines, Nagpur.

**Respondents.**

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**Shri J.S. Deshmukh, Advocate for the applicant.**

**Shri V.A. Kulkarni, learned P.O. for R-1 to 3 & 6.**

**Shri K. Malokar, Advocate for respondent nos. 4&5.**

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**WITH**

**ORIGINAL APPLICATION NO. 763/2017 (S.B.)**

Dr. Vijay S/o Gulabrao Gawande,  
Aged 60 years, Occ. Medical Officer (retired on  
Superannuation as T.H.O., Maregaon, Dist. Yeotmal)  
at present residing at 19, New Dhan-Laxmi nagar, Wadgaon  
Road, Yeotmal.

**Applicant.****Versus**

- 1) The State of Maharashtra,  
through Secretary,  
Public Health Department,  
Mantralaya, Mumbai-32.
- 2) Director of Health Services,  
Arogya Bhavan, St. George Hospital Campus,  
Near CST, Mumbai.
- 3) Deputy Director of Health Services,  
Akola Circle, Akola.
- 4) The Chief Executive Officer,  
Zilla Parishad, Yeotmal.
- 5) The District Health Officer,  
Zilla Parishad, Yeotmal.
- 6) The Accountant General (A&E),  
Civil Lines, Nagpur.

**Respondents.**

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**Shri J.S. Deshmukh, Advocate for the applicant.**

**Shri M.I. Khan, learned P.O. for R-1 to 3 & 6.**

**None for respondent no.4.**

**Shri R.D. Tajne, Advocate for respondent no.5.**

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**WITH**

**ORIGINAL APPLICATION NO. 764/2017 (S.B.)**

Dr. Sanjay S/o Vitthalrao Jiddewar,  
Aged 59 years, Occ. Medical Officer (retired on  
Superannuation from Ayurvedic Dispensary Zadgaon,  
Dist. Yeotmal) at present residing Yeotmal, Dist. Yeotmal.

**Applicant.****Versus**

- 1) The State of Maharashtra,  
through Secretary,  
Public Health Department,  
Mantralaya, Mumbai-32.
- 2) Director of Health Services,  
Arogya Bhavan, St. George Hospital Campus,  
Near CST, Mumbai.
- 3) Deputy Director of Health Services,  
Akola Circle, Akola.
- 4) The Chief Executive Officer,  
Zilla Parishad, Yeotmal.
- 5) The District Health Officer,  
Zilla Parishad, Yeotmal.
- 6) The Accountant General (A&E),  
Civil Lines, Nagpur.

**Respondents.**


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**Shri J.S. Deshmukh, Advocate for the applicant.**

**Shri A.P.Potnis, learned P.O. for R-1 to 3 & 6.**

**None for respondent no.4.**

**Shri R.D. Tajne, Advocate for respondent no.5.**

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**WITH**

**ORIGINAL APPLICATION NO. 765/2017 (S.B.)**

Dr. Avinash S/o Laxmanrao Deshmukh,  
Aged 59 years, Occ. Medical Officer (retired on  
Superannuation from Ayurvedic Dispensary Kotha, Tq. Kalamb,  
Dist. Yeotmal) at present residing Anmol nagar, Behind  
R.B. Restorant, near Shivaji Park, Dist. Nagpur.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through Secretary,  
Public Health Department,  
Mantralaya, Mumbai-32.
- 2) Director of Health Services,  
Arogya Bhavan, St. George Hospital Campus,  
Near CST, Mumbai.
- 3) Deputy Director of Health Services,  
Akola Circle, Akola.
- 4) The Chief Executive Officer,  
Zilla Parishad, Yeotmal.
- 5) The District Health Officer,  
Zilla Parishad, Yeotmal.
- 6) The Accountant General (A&E),  
Civil Lines, Nagpur.

**Respondents.**

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**Shri J.S. Deshmukh, Advocate for the applicant.**

**Shri A.M. Ghogre, learned P.O. for R-1 to 3 & 6.**

**None for respondent no.4.**

**Shri R.D. Tajne, Advocate for respondent no.5.**

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**WITH**

**ORIGINAL APPLICATION NO. 862/2017 (S.B.)**

Dr. Suresh S/o Vishnu Nage,  
Aged 59 years, Occ. Medical Officer (retired on  
Superannuation from PHC Sawra, Tq. Akot, Dist. Akola)  
at present residing at Wankhede Nagar, Dabaki Road,  
Akola.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through Secretary,  
Public Health Department,  
Mantralaya, Mumbai-32.
- 2) Director of Health Services,  
Arogya Bhavan, St. George Hospital Campus,  
Near CST, Mumbai.
- 3) Deputy Director of Health Services,  
Akola Circle, Akola.
- 4) The Chief Executive Officer,  
Zilla Parishad, Akola.
- 5) The District Health Officer,  
Zilla Parishad, Akola.
- 6) The Accountant General (A&E),  
Civil Lines, Nagpur.

**Respondents.**

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**Shri J.S. Deshmukh, Advocate for the applicant.**

**Shri M.I. Khan, learned P.O. for R-1 to 3 & 6.**

**Shri M.V. Bute, Advocate for respondent nos.4&5.**

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**Coram :- Hon'ble Shri J.D. Kulkarni,  
Vice-Chairman (J)**

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**COMMON JUDGMENT**

**(Delivered on this 12<sup>th</sup> day of April,2018)**

Heard Shri J.S. Deshmukh, learned counsel for the applicants, Shri V.A. Kulkarni, learned P.O. for R-1 to 3 & 6 in O.A. No. 981/2017 and other learned P.Os. in other O.As. for respective respondents, Shri B.N. Jaipurkar, Id. counsel for R-4&5 (in O.A.Nos.771/16,772/16,773/16 & 477/17), Shri K Malokar, Id. counsel for R-4&5 (in O.A.633/17), Shri A.D. Girdekar, Id. counsel for R-4&5 (in O.A.Nos.24/17 & 476/17) and none for R-4&5 (in O.A.981/17,23/17,479/17,763/17,764/17,765/17 & 862/17).

2. All these applications are being disposed of by this common order with the consent of the parties as the said applications involved similar question of law and all the applicants are claiming almost similar relief.

3. In these various O.As., the respondents have received the order of recovery of the amount from their pensionary benefits on the ground that respective amount has been paid in excess to them and therefore the same is required to be adjusted against the amount of gratuity. According to the applicants, the said order of recovery is bad in law and is required to be set aside.

4. The amount which has been recovered / being recovered from the various applicants in the various O.As. as under :-

<b>Sr.No.</b>	<b>O.A.No.</b>	<b>Amount of recovery</b>	<b>Date of retirement</b>
1.	981/2017	Rs.3,06,252/-	30/09/2013
2.	771/2016	Rs.6,71,603/-	---
3.	772/2016	Rs.3,62,470/-	31/08/2012
4.	773/2016	Rs.5,09,552/-	31/07/2013
5.	23/2017	Rs.6,07,636/-	31/08/2012
6.	24/2017	Rs.4,25,117/-	31/08/2012
7.	476/2017	Rs.7,79,000/-	31/07/2016
8.	477/2017	Rs.9,56,432/-	31/12/2017
9.	479/2017	Rs.5,38,010/-	30/11/2017
10.	633/2017	Rs.1,84,406/-	29/02/2012
11.	763/2017	Rs.4,51,320/-	31/10/2015
12.	764/2017	Rs.4,02,685/-	30/04/2017
13.	765/2017	Rs.4,40,512/-	28/02/2017
14.	862/2017	Rs.4,84,506/-	30/11/2015

5. The respective applicants have retired on superannuation and their dates of retirement are already mentioned in the Chart. All the applicants were placed in the pay scale of Rs. 6500-10500 in the 6<sup>th</sup> Pay Commission and after completion of their 12 years' service; they were placed under higher pay scale of Rs.8000-13500 as per policy decision taken by the Government on 8/6/1995. Thus the pay



scale of Rs.8000-13500 has been made applicable to the applicants for Medical Officers w.e.f. 01/08/2001, in view of the Assured Career Progressive Scheme (ACPS).

6. The respondent no.5 revised the pay fixation of the applicants as Rs.6500-10500 instead of Rs. 8000-13500 w.e.f. 01/01/1996 though as per 5<sup>th</sup> Pay Commission, the pay scale of Rs.8000-13500 was granted. In view of the reduction of the pay scale, the respondent authorities have directed recovery of the amount from their pension.

7. The respondent no.3 has tried to justify the order saying that the pay fixation was wrongly done.

8. The learned counsel for the applicants has invited my attention to reply-affidavit filed on behalf of respondent nos. 4 and 5. A chart has been given as regards the pay scale of Medical Officers of Zilla Parishad. In para-10 of the said chart it has been stated as under :-

10.	G.R. of PHD dated 17/10/2014	The Medical Officer (Group-C) (869 in all) working in the Z.Ps. were absorbed in the Maharashtra Medical and Health Services of the PHD, in the Group-B cadre with effect from dated 28/05/2001. The current scale of this cadre in 6 <sup>th</sup> Pay Commission is Rs.(9300-34800) + 4600. In the 5 <sup>th</sup> Pay Commission it was Rs. (6500-10500).
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9. The learned counsel for the applicants further placed reliance on the observation and order passed by this Tribunal in O.A. Nos. 159/2010, 341/2010 with O.A. 424/2015 in case of **Dr. Prakash S/o Anandrao Sawant & Ors. Vs. State of Maharashtra & Ors.** In these group matters, the Hon'ble Tribunal of this Bench at Aurangabad vide order dated 18/10/2016 has observed in para-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.”*

10. The copy of the said order is placed on record at P.B. page nos. 87 to 98 (both inclusive).

11. The learned counsel for the applicants also invited my attention to one G.R. dated 15/11/2014 issued by the Government of Maharashtra (The copy of which is at P.B. page nos. 79 to 82 (both

inclusive). In Para-C of the said G.R., the issue of pay scale of Medical Officers like applicants has been taken into consideration and it has been expected that the cases like the applicants have been accepted. The observations are as under :-

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c	ftYgk rki=d I ok xV&d e/kq; egkj k"V <sup>a</sup> oSkdh; o vkj k; I or FkV I ekos ku >ky; k dskR; k oSkdh; vf/kdk&; kau orucMM #-15600&39100 xM oru #-5400 n; djkos dskR; k oSkdh; vf/kdk&; kau orucMM #-9300&34800 xM oru #-4600 eatj djkos	'kkl u fu.kz I koZfud vkj k; foHkx dz I 2kV&1093@iZdz96@l ok&6] fnukd 28@05@2001 vUo; sftYgk i fj"knscMhy ftYgk rki=d I ok xV&d e/khy vkj k; I oxk rhy %vl qkkfjr oruJskhrhy 2000&3500% %l qkkfjr oruJskh 6500&10500% ; k oruJskhrhy oru ?skk&; k oSkdh; vf/kdk&; kau jktif=r ntkZns; kckr 'kkl ukusekU; rkfnysy vkgs ; k 'kkl u fu.kz kuq kj I nj jktif=r inkps I qkkjhr I oki osk fu; e egkj k"V <sup>a</sup> ykdI ok vk; kskP; k ekU; rus varhe dj.; kr ; kor o I nj inkohy fu; QR; k egkj k"V <sup>a</sup> ykdI ok vk; kskP; kekQr dj.; kr ; kO; kr vkf.k I njph ins ykdI ok vk; kskP; k d{krhy vI Y; kus ; k in/kj dkps I ekos ku [kkyhy vVH; k v/khu jkgu vk; kskP; k I YY; kus dj.; kckr vkns'kr dj.; kr vkysgkrs v% I adkhr 0; Drh xV&c P; k I qkkjhr I ok i osk fu; ekud kj fu; QrhI kBi k= vI koh- c% xV&d %ox&3% inkohy fu; Qrh I oki osk fu; ekud kj fu; ehr Lo#i kr >kysy vI koh- d% I adkhr vf/kdk&; kph xV&d inkoh fdeku rhu o"zf; fer I ok >kysy vI koh-

		<p>M½ xV&amp;d i nkojhy xki uh; vfhkys[k  I ek/kkudkj d vl kor-</p> <p>; kud kj egjk"Vª oškdh; o vkjkš; I šrhy  xV&amp;c ; k i nkps I ški šsk fu; e 30@11@2012  vlo; sfoghr dj.; kr vkys I pkyd] vkjkš;  I šk ; kš; k v/; {krš[kkyh xBhr dj.; kr vkysš; k  I ferhus f'kQkj I dšyš; k vVh i qkZ dj.kk&amp;; k  874 oškdh; vf/kdk&amp;; kps I ekos ku egjk"Vª  ykdl šk vk; šskus fnššš; k I šrhud kj  I kožtfud vkjkš; foHkkxke/; s fnukad  7@10@2013 P; k 'kkI u fu.kž kvlo; s dj.; kr  vkys rFkki h egkys[kki kykuh ?kršš; k  vk{kš kuš kj I njpk 'kkI u fu.kž fnukad  24@06@2014 jksth jnn dj.; kr vkysyk gkrk-  i jrwforr foHkkxkP; k I gerhuarj ftYgk rkš=d  I šrhy f0n#DrheGs5 oškdh; vf/kdkjh oxGu  869 oškdh; vf/kdk&amp;; kps I ekos ku I kožtfud  vkjkš; foHkkxkr fnukad 17@10@2014 jksth P; k  'kkI u fu.kž kvlo; s dj.; kr vkysysvkgš</p> <p>ftYgk rkš=d I šrhy oškdh; vf/kdkjh  i phšps ox&amp;3 g; k i nkpk 5 0; k oru vk; šskr  'kkI u fu.kž forr foHkkx dž ošij&amp;1201@iždž  4@l šk&amp;9] fnukad 27@02@2006 vlo; sfnukad  1@1@1996 i kl ū ykxwdj.; kr vkys vkgs 6  0; k oru vk; šske/; s 15600&amp;39100 xM i s  5400 gh oruJskh 'kkI u fu.kž forr foHkkx dž  ošij&amp;1212@iždž 31 I šk&amp;9] fnukad 11  Ocšpkjh]2013 vlo; s ftYgk i fj"kn  vklFkki ušjhy ftYgk rkš=d I šrhy egjk"Vª  oškdh; o vkjkš; I šrhy oškdh; vf/kdk&amp;; kš  ykxw&gt;kysyh vkgsR; kešftYgk rkš=d I šrhy</p>
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		<p>o9kdh; vf/kdkjh xV&amp;c l oxkzr dk; j r vl ys  rjh R; kauk xV&amp;v ph oruJskh vuKs dj.; kr  vkysyh vkgs egkjk"V<sup>a</sup> ykcd l ok vk; kskcdMuu  ekU; rk u feGkyS; k 14 vf/kdk&amp;; kauk l /; k  9300&amp;34800 xMoru #-4600 oruJskh ykxw  vkgs ¼l ksr ; knh tkMyh vkgs½ l gl pkyd  ¼vkjkk; ½ dk; ky; kdMuu Hkj.; kr vkysys  o9kdh; vf/kdkjh xV&amp;c ¼eatj i ns 183½ l qnk  l /; k 9300&amp;34800 xMoru #-4600  oruJskhe/; soru ?kr vkgr-</p>
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12. In view of the aforesaid circumstances and the observations made by this Tribunal in various O.As., it will be clear that this Tribunal has already held that the Medical Officers who were recruited in the District Technical service, Class-III and whose names figures in the list of 869 Medical Officers absorbed in Group-B vide G.R. dated 17/10/2014, are eligible to get pay scale of Rs.8000-13500 in the 5<sup>th</sup> Pay Commission and they are entitled to get pay in the pay band of Rs.9300-34800+ grade pay of Rs. 5400/- as per 6<sup>th</sup> Pay Commission. The respondents therefore cannot come with a case that the pay scale was wrongly given to the applicants. Even otherwise, there is nothing on the record to show that the applicants were in any manner responsible for getting such wrong pay scale. All the applicants have already been retired on superannuation and therefore recovery of such huge amount from their pensionary

benefits will definitely cause great injustice to the applicants. The cases of the applicants therefore fall within the ambit of the Judgment delivered by the Hon'ble Apex Court in the case of **State of Punjab & Ors. Vs. Rafiq Masih & Ors., (reported in 2015) 4 SCC, 334** and also the judgment in W.P. No.11228/2015 delivered by the Hon'ble High Court, Bench at Nagpur in case of **Dr. Nivruti Baliram Kalyan Vs. State of Maharashtra & Ors.**, on 21/12/2015. In view of the aforesaid discussion, all the O.As. are allowed.

13. The learned P.O. submits that the Judgment granting pay scale to the applicants delivered by the Hon'ble Tribunal at Mumbai Bench in the similarly situated cases have been challenged before the Hon'ble High Court in W.P.No.4523/2017 in the case of **the State of Maharashtra Vs. Dr. Anilkumar Ramkrishna Tarale & Ors.**, and the same was pending on 26/04/2017. However it is not yet decided. He, therefore, submits that the matters therefore be adjourned. The learned P.O. admits that the Hon'ble High Court has not granted any stay to the Judgment delivered by this Tribunal in various similar cases and therefore if at all the Hon'ble High Court takes any difference view, the State will be at liberty to take appropriate action for recovery. However for that purpose and considering the fact that cogent view has been taken by this Tribunal from time to time in the

matter, there is no reason to stay the order or to adjourn the matters indefinitely.

14. In view of the discussion in forgoing paras, I therefore pass the following order :-

**ORDER**

All the O.As. stand allowed. The respondents are directed not to recover respective so called excess amount from the applicants on account of so called wrong pay fixation. If the amount is recovered, the same shall be refunded to the respective applicants. No order as to costs.

**Dated :- 12/04/2018.**

**(J.D. Kulkarni)  
Vice-Chairman (J).**

dnk.