

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION Nos. 42/2016**

Dr. Narayan S/o Shravanji Farkade,  
Aged about 58 years, Occ. Service,  
R/o Benoda (Shahid), Tahsil Warud,  
Distt. Amravati.

**Applicant**

**Versus**

- 1) The State of Maharashtra  
through its Secretary, Department of Public Health,  
Mantralaya, Mumbai.
- 2) The Director of Health Services,  
Aarogya Bhavan, St. George Hospital,  
Campus, Near C.S.T., Mumbai.
- 3) Deputy Director of Health Services,  
Akola.
- 4) District Health Officer, Zilla Parishad,  
Amravati.

**Respondents**

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Mr. N.R.Saboo and Mrs. K.N.Saboo, Advocates for the applicant.

Mrs. M.A.Barabde, P.O. for the Respondent nos. 1 to 3

Mr.S.M.Bhangde,S.S.Shinde, R.U.Dharpure, C.V.Khadse, Advs. for  
respondent no.4.

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**WITH****ORIGINAL APPLICATION Nos. 75/2016**

Dr. Subhash S/o Balkrushna Deshpande,  
Aged about 58 years, Occ. Service,  
R/o Malu Nagar, Satuna Road,  
Amravati.

**Applicant****Versus**

- 1) The State of Maharashtra  
through its Secretary, Department of Public Health,  
Mantralaya, Mumbai.
- 2) The Director of Health Services,  
Aarogya Bhavan, St. George Hospital,  
Campus, Near C.S.T., Mumbai.
- 3) Deputy Director of Health Services,  
Akola.
- 4) District Health Officer, Zilla Parishad,  
Amravati.

**Respondents**

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Mr. N.R.Saboo and Mrs. K.N.Saboo, Advocates for the applicant.

Mrs. M.A. Barabde, P.O. for the Respondent nos. 1 to 3

Mr.Vivek Sawarkar, Shrikant Saoji, Advs. for respondent no.4.

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

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**COMMON JUDGMENT**

(Delivered on this 27<sup>th</sup> of October,2016)

Both these Applications are being disposed of by this common Judgment.

2. The applicant in O.A.No.42/2016 (Dr. Narayan S/o Shraavanji Farkade) is Medical Officer holding BAMS qualification, whereas, the applicant in O.A.No.75/2016 (Dr.Subhash S/o Balkrushna Deshpande) is working as Medical Officer. They are claiming benefits of the G.R. issued by the Government of Maharashtra dated 30-05-2016 whereby the age limit of retirement for the Medical Officers (Class-I) has been extended from 58 to 60 years. Both the applicants are Medical Officers of Grade-I.

3. Vide G.R. dated 30-06-2015, the age has been extended from 58 to 60 years for the Medical Officers who were in Pay Scale of Rs.15600-39100 with Grade Pay 5400 and above. This decision is applicable only to Grade-I Officers who are holding such Pay Scale. The G.R. in this regard has been issued on 03-09-2015 and as already stated the age limit has been extended from 58 to 60 years vide G.R. dated 30-05-2015. According to applicants, they are entitled to continue in the services on completion of age of 60 years. The applicants, therefore, filed representations to the

respondent authorities, but their representations were not considered.

4. The applicant in O.A.No.42/2016 was informed vide impugned letter dated 26-10-2015 which is at paper book no.30 in the said O.A. (Exh.A-9), by the Deputy Director of Health Services, Akola Circle, Akola that since the applicant does not fall in Pay Scale of Rs.15600-39100 with Grade Pay 5400, he cannot be given the benefit of the G.R. This impugned communication has been challenged in the O.A.Nos.42/2016. In 75/2016, however, no communication was issued rejecting the applicants' claim and hence these O.As.

5. In the affidavit-in-reply the respondent no.2 denied the applicants' claim. According to the respondents, as per the G.R. dated 03-09-2015 the increase in age of superannuation is for Medical Officer in Group-A (Pay Scale of Rs.15600-39100 with Grade Pay 5400), the Civil Surgeon, District Health Hospital and specialty cadre etc. and therefore the G.R. is not applicable to the applicants.

6. Heard the learned counsel for the applicant and learned P.O. for respondents, I have perused the applications, affidavit-in-reply in both the O.As. as well as documents placed on

record. The material point is to be considered whether the G.Rs. dated 30-06-2015 and 03-09-2015 are applicable to the applicants?

7. The applicant in O.A.No.42/2016 has placed on record various orders to show that his services are within Pay Scale of Rs.15600-39100 with Grade Pay 5400. Such orders are an Exh.A-4 and so on. It seems that the applicant has filed representation on 29-09-2015 that both the G.Rs. are applicable to him and his case was recommended to the Government by Taluka Medical Officer, Warud, District Amravati vide Exh.A-2 on 03-09-2015. The letter dated 14-01-2015 (Exh.A-8) issued by District Health Officer, Z.P., Amravati to the Deputy Director of Health Services, Akola Circle, Akola also confirms the fact that the applicant belongs to such cadre. The recommendation has been sent to the Government to continue the applicant. It is however pertinent to note that it is the Deputy Director of Health Services, Akola Circle Akola was pleased to issue impugned communication Exh.A-9 and therein it has been stated that the applicant does not come within the Pay Scale of Rs.15600-39100 with Grade Pay 5400 as per G.Rs. dated 30-06-2015 and 03-09-2015. In fact it is the authority of the Government to deal with the representation of the applicant.

8. In O.A.No.75/2016 the respondents did not give any answer to the representation filed by the applicant. It is simply stated that the applicant belongs to Group-B in the affidavit-in-reply. However the documents on record shows that the applicants are in the Pay Scale of Rs.15600-39100 with Grade Pay 5400. It seems that even the case was recommended. It also seems that the applicant has filed representation on 29-09-2016 (Exh.A-4) in O.A.No.75/2016 at Page-20 but the same was not considered at all.

9. The learned counsel for the applicant has placed reliance on Judgment delivered in O.A.Nos. 254/2015 (Satish Gonvidrao Pradhan Vs. State of Maharashtra & 2 ors. ) and 350/2015 (Rajendra Ramkrishan Rahate Vs. State of Maharashtra & 2 ors.) passed by this Tribunal on 06-01-2016. In the said O.As. the Tribunal had an occasion to interpret the pay scales and group of Medical Officers. This Tribunal in para-8 to 12 had observed as under :-

*“8. The applicants relied upon Annexure A-4 which is the report of the Pay Anomaly Committee. In that, Maharashtra Medical and Health Service, Group-A officers whose earlier scale was Rs. 8000-13500 have been placed in the pay band of Rs. 15600-39100 plus grade pay of Rs. 5400. Further, in O.A. No.350/2015, the order dated 1.1.2013 issued by the respondent No.1 is placed on record at Annexure A-10. Order reads thus:*

“egkj”V<sup>a</sup> oSkdh; o vkjkk; I dk] xV&v %oruJskh #- 15600&39100 xM is#- 5400½ ; k I dxkth [kkyhy rkyplk oSkdh; vf/kdk&; kauk R; kb; k ukokl ekj n’kfoY; kiæk.kk R; kauk I nj i nkp vkfrjDr dk; Hkkj I ki fo.; kr ; s vkgs

oSkdh; vf/kdk&; kpsukø	rkyplk; kpsukø	vkfrjDr dk; Hkkj i nLFkki uk
MkM jktanzjgkVs	rkyplk vkjkk; vf/kdkjh] n; k]j] ft-vejkorh	lkk-vk-d- pmi j] ] rk- n; k]j] ft-vejkorh“

9. So far as Dr. S.G. Pradhan is concerned, similar order was passed and placed at Annexure-I. It reads thus:

“egkj”V<sup>a</sup> oSkdh; o vkjkk; I dk] xV&v %oruJskh #- 15600&39100 xM is#- 5400½ ; k I dxkth [kkyhy rkyplk oSkdh; vf/kdk&; kauk R; kb; k ukokl ekj n’kfoY; kiæk.kk R; kauk I nj i nkp vkfrjDr dk; Hkkj I ki fo.; kr ; s vkgs

oSkdh; vf/kdk&; kpsukø	rkyplk; kpsukø	vkfrjDr dk; Hkkj i nLFkki uk
MkM I rh’k i zkku	rkyplk vkjkk; vf/kdkjh] fp[kynjk] ft-vejkorh	lkk-vk-d- ; s wkkz ] rk- fp[kynjk] ft-vejkorh“

These orders neither annulled nor explained by the respondents.

10. The learned P.O. has relied upon the judgment of Principal Bench of this Tribunal in O.A. No. 469/2012. In para 3 of the judgment, it is stated that “from June 2011, applicants’ grade pay was reduced to Rs. 4400/- in the pay band of Rs. 9300-34800. Association of the applicants has submitted representation on 24.2.2012 that the applicants should be paid grade pay of Rs. 5400/-” .

In the present case, salary slips for the month of November 2015 have been placed on record by the respondents wherein it is shown that the applicants are getting grade pay of Rs. 5400/-.

11. Letter dated 16.5.2014 from the Director of Health Services, Mumbai addressed to the Principal Secretary, Department of Public Health, Mantralaya, Mumbai is placed on record. In that, it is clearly stated that the pay band of Rs. 15600-39100 plus grade pay of Rs. 5400 has been made applicable to the Medical Officers and as per the categories defined by General Administration Department, officers in this pay band are placed in Group-A. It may not be wrong to state that the proper authority to categorize groups scale-wise is the General Administration Department. Whatever categories formed are binding on all the departments. In the afore stated letter, the Director of Health Services has categorically stated that, the officers in the pay scale of Rs. 15600-39100 plus grade pay of Rs. 5400/- are placed in Group-A.

12. Having considered the material placed on record, I am of the view that the order dated 31.5.2015 passed by the Director of Health Services, Mumbai, transferring the applicants, assuming that they are Group-B Medical Officers being beyond his jurisdiction, is liable to be quashed and set aside”.

10. In view of the aforesaid Judgment there remain no doubt that the applicants fall within Group-A of Medical Officers. As per G.R. dated 30-05-2015 it was decided by the Government to extend the age limit of the Medical Officers falling in Pay Scale of Rs.15600-39100 with Grade Pay 5400, the same decision was as under :-

^^ jkT; kP; k I koZt fud vkjkk; foHkkxkrhy vkjkk; I ok I pkyuky; krhy I pkyd] vkjkk; I ok] vfrjhDr I pkyd] vkjkk; I ok] I gl pkyd] vkjkk; I ok] mi I pkyd] vkjkk; I ok] I gk; d I pkyd] vkjkk; I ok rI p egjk"V<sup>o</sup> o9kdh; vkjkk; I ok] xV&v e/lhy ftYgk 'kY; fpdHrI d] ftYgk vkjkk; vf/kdkjh] fo'kSkK o o9kdh; vf/kdkjh ¼xM oru #-5400 o R; kojhy½ i nkojhy ts



vf/kdkjh fu; r o; kekukui kj fnuad 31-05-2015 jksth I dlfuoRr gkr vkgv v'kk I ksrP; k ; knh dz1 o 2 e/khy 13 ofj"B o 28 o9kdh; vf/kdk&; kph fnuad 31-05-2015 jksth t jh o; kph 58 o"kk iukz gkr vl yh rjh R; kauk fnuad 31-05-2015 jksth I dlfuoRr u djrk R; k&; k ckrhr ea=heMGkl ekj o; ok<fo.; kckcrpk i Lrko I knj dj.; kP; k vVhP; k v/khu jkgu I dlfuoRrhps o; 58 o#u 60 o"kk dj.; kpk 'kkI ukufu.kz ?kr-yk vkgv

jkT; krhy vkjk&; I dk I pkyuky; krhy o9kdh; vf/kdk&; k&; k derjrb; k i k' oHkwoj fu; r o; keku I dlfuoRrhps o; ok<fo.; kpk fu.kz ?ks; kr vkyk vkgv R; keGs oruJskh #-15600&39100] xM oru 5400 o R; kgu vf/kd xM oru ?ks; k&; k vkjk&; I dk I pkyuky; krhy fnuad 31-05-2015 jksth I dlfuoRr gskk&; k o9kdh; vf/kdkjh o ojh"B i nokjhy vf/kdkjh oxGrk vU; vf/kdk&; kauk gk 'kkI u fu.kz ykxwgskkj ukgh\*\*

11. As per G.R. dated 03-09-2015 the Government has taken following decision.

^^ I kozfud vkjk&; foHkxkP; k vf/ki R; k[kkyhy vkjk&; I dk I pkyuky; krhy egjk"V"o9kdh; o vkjk&; I dk] xV&v o jkT; dkexkj foek ; ksturhy egjk"V"o9kdh; foek I dk] xV&v e/khy o9kdh; vf/kdkjh %orucM #-15600&39100] xM is#- 5400½ o ftYgk 'kY; fpdfRI dj ftYgk vkjk&; vf/kdkjh o fo'kskK I dxZ %orucM #-15600&39100] xM is#- 6600 ½ e/khy i nso ofj"B i nokj %orucM #-15600&39100] xM is #- 6600 ojhY½ dk; jr vf/kdk&; kps I dlfuoRrhps o; 58 , oth 60 o"kk dj.; kpk 'kkI ukufu.kz ?kr-yk vkgv I nj fu.kz gk fnuad 31-05-2015 ikl u i wZy{kh i Hkkokus rhu o"kk kBh ykxw dj.; kr ; s vl u rks i wkhkgj.k Eg.ku I et.; kr ; skkj ukgh-

jkT; krhy vkjk&; I dk I pkyuky; o jkT; dkexkj foek ; kstus[kkyhy #X.kky; krhy o9kdh; vf/kdk&; k&; k derjrb; k i k' oHkwoj fu; r o; keku I dlfuoRrhps o; ok<fo.; kpk fu.kz ?ks; kr vkyk vkgv R; keGs oruJskh #-15600&39100] xM oru 5400 o R; kgu vf/kd xM oru ?ks; k&; k vkjk&; I dk I pkyuky; o jkT; dkexkj foek ; ksturhy o9kdh; vf/kdkjh %xV&v½ o ofj"B i nokjhy vf/kdkjh oxGrk vU; vf/kdk&; kauk gk 'kkI u fu.kz ykxwgskkj ukgh\*-

12. The applicants in these cases are getting Pay Scale of Rs.15600-39100 with Grade Pay 5400. Therefore fall within Group-A of Medical Officers and therefore both the G.Rs. are applicable to the applicants. Hence, following order :-

**ORDER**

The O.A.Nos. 42/2016 and 75/2016 stand allowed. The letter dated 26-10-2015 issued by Deputy Director of Health Services, Akola Circle, Akola in O.A. No.42/2016 is quashed and set aside. The applicants in both the O.As. are entitled to the benefits as per the G.Rs. dated 03-09-2015 and 30-05-2015. It is hereby declared that both the applicants belong to Group-A Medical Officers as required in G.Rs. dated 30-05-2015 and 03-09-2015 issued by the respondent no.1 and are entitled to continue in services till completion of the age of 60 years. The respondents are directed to take steps and to grant all consequential benefits including monetary claims as per said G.Rs. to said applicants. No order as to costs.

**(J.D.Kulkarni),  
Member (J).**