

MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO.642/2010.

- 1) Dr. Anand Govindrao Patil,
Aged about 37 yrs.,
Occ- Medical Officer,
R/o Taluka Health Office, Dharni, Dist. Amravati.
- 2) Dr. Baburao Shaligram Telang,
Aged about 39 yrs.,
Occ- Medical Officer,
R/o Taluka Health Office, Chikhaldara, Dist. Amravati.
- 3) Dr. Mukesh Ramkrushna Parade,
Aged about 40 yrs.,
Occ- Medical Officer,
R/o P.H.C., Sadarawadi, Dist. Amravati.
- 4) Dr. Ravindra Yadavrao Sahare,
Aged about 33 yrs.,
Occ- Medical Officer,
R/o Ayurvedic Dispensary, Mogarda, Dist. Amravati.
- 5) Dr. Shubhangi Punjabrao Dighade,
Aged about 28 yrs.,
Occ- Medical Officer,
R/o Ayurvedic Dispensary, Chatvabod, Dist. Amravati.
- 6) Dr. Ashwini Arunrao Pawar,
Aged about 32 yrs.,
Occ- Medical Officer,
R/o Ayurvedic Dispensary, Wadalgavhan, Dist. Amravati.
- 7) Dr. Anup Mahadeorao Patil,
Aged about 38 yrs.,
Occ- Medical Officer,
R/o P.H.C., Katkumbh, Dist. Amravati.

- 8) Dr. Asif Faujdar Khan,
Aged about 40 yrs.,
Occ- Medical Officer,
R/o P.H.C., Hatru, Dist. Amravati.
- 9) Dr. Sanjay Deoraoji Wagh,
Aged about 40 yrs.,
Occ- Medical Officer,
R/o Ayurvedic Dispensary, Javla/Dhotra, Dist. Amravati.
- 10) Dr. Prafulchandra Samadhan Sirsat,
Aged about 36 yrs.,
Occ- Medical Officer,
R/o Allopathic Dispensary, Adulabazar, Dist. Amravati.
- 11) Dr. Mahendra Nathaji Meshram,
Aged about 42 yrs.,
Occ- Medical Officer,
R/o Rural Hospital, Anjangaon Surji, Dist. Amravati.
- 12) Dr. Nilkantha Shamrao Nagolkar,
Aged about 40 yrs.,
Occ- Medical Officer,
R/o Mobile Unit, Gullarghat PHC, Temnisonda,
Dist. Amravati.
- 13) Dr. Pradip Gulabrao Lad,
Aged about 27 yrs.,
Occ- Medical Officer,
R/o PHC, Sategaon, Tq. Anjangaon Surji, Dist. Amravati.
- 14) Dr. Krishna Shriram Maraskolhe,
Aged about 32 yrs.,
Occ- Medical Officer,
R/o Allopathic Dispensary, Jarud, Dist. Amravati.
- 15) Dr. Ajay Deoram Tumsare,
Aged about 28 yrs.,
Occ- Medical Officer,
R/o PHC, Sondadh, Dist. Gondia.
- 16) Dr. Merajbegum Sayyad Khairat Ali,
Aged about 39 yrs.,

Occ- Medical Officer,
R/o Sub District Hospital, Achalpur,
Dist. Amravati.

Applicants

-Versus-

- 1) The State of Maharashtra,
Through its Secretary,
Department of Public Health,
Mantralaya, Mumbai-440 032.
- 2) The Director of Health Services,
Arogya Bhavan, Near St. Georges Hospital,
Fort, Mumbai.
- 3) The Deputy Director of Health Services,
Akola Circle, Akola.

Respondents

Shri R.V. Shiralkar, Ld. Counsel for the applicants.
Shri A.M. Ghogre, learned P.O. for the respondents.

ORIGINAL APPLICATION NO.509/2010.

Dr. Gurudeo Patiram Mhaske,
Aged about 35 yrs.,
Occ- Medical Officer,
R/o Gewardha, Tehsil-Kurkheda, Dist. Gadchiroli.
Presently posted as Medical Officer at PHC,
Karwafa, Tq. Dhanora, Distt. Gadchiroli.

Applicant

-Versus-

- 1) The State of Maharashtra,
Through its Secretary,
Department of Public Health,
Mantralaya, Mumbai-440 032.
- 2) The Director of Health Services,
Arogya Bhavan, Near St. Georges Hospital Premises,
Mumbai.

3) The Deputy Director of Health Services,
Nagpur Circle, Nagpur.

Respondents

Shri Renu, Adv. holding for Shri R. Joshi, the Ld. counsel for the applicant.

Shri A.M. Ghogre, learned P.O. for the respondents.

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

JUDGMENT

(Delivered on this 28th day of July 2017.)

Heard Shri R.V. Shiralkar, the learned counsel for the applicants in O.A. No.642/2010 and Shri Renu, Adv. holding for Shri R. Joshi, the Ld. counsel for the applicant in O.A.No.509/2010 and Shri A.M. Ghogre, the learned P.O. for the respondents in both the O.As.

2. There are 16 applicants in O.A. No.642/2010. The applicants in this O.A. have claimed direction to the respondents to take a decision regarding their absorption on the post of Medical Officers in accordance with the rules framed on 2.2.2009. The applicant in O.A.No.509/2010 is also claiming similar relief.

3. All the applicants are working as Ayurvedic Doctors on ad hoc basis at difference Primary Health Centres for more than three years. They have passed their BAMS examination and are belonging to different categories. Details of the date of their initial

appointment and the date of last appointment in respect of various applicants in O.A. No. 642/2010 has been mentioned in para 4.1 of the said O.A. whereas the applicant in O.A.No. 509/2010 was initially appointed as Medical Officer, Group-B for the period from 25.8.2003 to 24.8.2004 and thereafter he was re-appointed from time to time.

4. Number of vacancies were available of Medical Officers, Group-A and Group-B. But the Government was not making substantive appointment against those vacancies. On 2.2.2009, the Government issued one notification framing rules i.e. One Time Absorption (Special) Rules, 2009.+ As per these rules, those Medical Officers who had completed three years service as Medical Officers on temporary basis, were to be absorbed. These Medical Officers include the Medical Officers holding MBBS and BAMS degrees and they were to be absorbed as per the ratio given in the rules. Such absorption was made during the period from 9.2.2009 to 13.2.2009 and then on 22.2.2010. In the first spell, 1256 Medical Officers were absorbed and on the second occasion, 147 Medical Officers were absorbed. In spite of such absorption as on February 2010, vacancies of 1396 Medical Officers in Group-A and 850 Medical Officers in Group-B were available. The applicants are entitled to be absorbed as per the Rules of 2002, but they have not been absorbed and, therefore, these O.As.

5. In both the O.As, affidavits in reply have been filed by the respondents. According to the respondents, the Medical Officers of Group-B who possess BAMS degree were appointed on *ad hoc* basis at different places in the pay scale of 6500-10500. It is stated that the Maharashtra Medical and Health Service, Group-A Medical Officers are known as those who are appointed in the pay scale of 8000-13500 (as per 5th Pay Commission). Since the applicants were appointed as BAMS, Group-B Medical Officers, they were appointed in the pay scale of 6500-10500 and, therefore, they are not Group-A Medical Officers and as such they cannot be absorbed.

6. From the affidavit in reply filed on behalf of the respondents, it seems that the respondents are not ready to absorb the applicants, since the applicants are drawing the pay scale of 6500-10500 and not 8000-13500, though otherwise they are eligible for being absorbed.

7. The learned counsel for the applicant submits that the issue of absorption of such Medical Officers has been dealt with by this Tribunal in its judgment delivered in **O.A. No.683/2010 in case of Dr. Harsha Pundlik Gohatre V/s State of Maharashtra and others and in O.A.No. 719/2010 in case of Dr. Rustam Suryabhan Damle and others V/s State of Maharashtra and others.** The said

judgment has been delivered by this Tribunal at Nagpur on 7.11.2014.

This Tribunal has observed in the said judgment as under:-

In view of the fact that, the applicants were qualified to be appointed as Medical Officer, Group-A in terms of the Recruitment Rules, 2000 *ipso facto*, they become eligible for absorption in terms of the Special Rules, 2009. Denying them the benefit of absorption only on the ground that they were in the scale of 6500-10500 is unjust and illegal, provided they fulfil other conditions.+

8. In view of the aforesaid judgment delivered by this Tribunal, it will be clear that the present applicants cannot be denied absorption as per Rules of 2002, merely on the ground that they were in the pay scale of 6500-10500. I am satisfied that the cases of the applicants in both these O.As are squarely covered by the judgment delivered by this Tribunal in O.A. Nos. 683 & 719 of 2010. Hence, I proceed to pass the following order:-

ORDER

- (i) The O.As are partly allowed.
- (ii) The respondents are directed to consider the case of the applicants and on satisfaction that they fulfill all other conditions laid down in the Medical Officers, Maharashtra Medical and Health Services, Group-A (one time absorption of Medical Officers on ad hoc basis in the Govt.

of Maharashtra (Special), Rules 2009 and shall issue necessary orders, according to law.

(iii) No order as to costs.

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

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