

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI
ORIGINAL APPLICATIONS NO.821 to 826 OF 2019**

ORIGINAL APPLICATION NO.821 OF 2019

DISTRICT : PUNE

Dr. Arjun Govind Dighe,)
Medical Officer (Group-A), Primary Health Centre,)
Aptale, Tq. Junnar, District Pune)..Applicant

Versus

1. The State of Maharashtra,)
Through Principal Secretary,)
Public Health Department, 10th floor,)
G.T. Hospital Building, New Mantralaya,)
Mumbai-1)
2. The Commissioner Health Services & Director,)
(NHM) 3rd floor, Arogya Bhavan,)
St. Georges Hospital Campus, Mumbai-1)
3. The Deputy Director of Health Services,)
Pune Circle, 3rd Floor, New Administrative Bldg.,)
Sasoon Road, Pune 411001)

4. The Chief Executive Officer,)
 Zilla Parishad, Dr. Babasaheb Ambedkar Road,)
 Camp, Pune 411001)..Respondents

WITH

ORIGINAL APPLICATION NO.822 OF 2019

DISTRICT : RATNAGIRI

- Dr. Gahnshyam Phoolchand Jangid,)
 Medical Officer (Group-A) (Pediatrician),)
 Primary Health Centre, Kolawli, Tal. Guhagar,)
 District Ratnagiri)..Applicant

Versus

1. The State of Maharashtra,)
 Through Principal Secretary,)
 Public Health Department, 10th floor,)
 G.T. Hospital Building, New Mantralaya,)
 Mumbai-1)
2. The Commissioner Health Services & Director,)
 (NHM) 3rd floor, Arogya Bhavan,)
 St. Georges Hospital Campus, Mumbai-1)
3. The Deputy Director of Health Services,)
 Kolhapur Circle, Central Building, Bawada,)
 Karveer, Kolhapur 416006)

4. The Chief Executive Officer,)
Zilla Parishad, Ratnagiri 415612)..Respondents

AND

ORIGINAL APPLICATION NO.823 OF 2019

DISTRICT : RATNAGIRI

- Dr. Satyaprakash Kashinath Balvant,)
Medical Officer (Group-A) (Pediatician),)
Rural Hospital Guhagar, Tal. Guhagar,)
District Ratnagiri)..Applicant

Versus

1. The State of Maharashtra,)
Through Principal Secretary,)
Public Health Department, 10th floor,)
G.T. Hospital Building, New Mantralaya,)
Mumbai-1)
2. The Commissioner Health Services & Director,)
(NHM) 3rd floor, Arogya Bhavan,)
St. Georges Hospital Campus, Mumbai-1)
3. The Deputy Director of Health Services,)
Kolhapur Circle, Central Building, Bawada,)
Karveer, Kolhapur 416006)
4. The Chief Executive Officer,)
Zilla Parishad, Ratnagiri 415612)..Respondents

AND**ORIGINAL APPLICATION NO.824 OF 2019****DISTRICT : PALGHAR**

Dr. Deepak Ashokrao Wani,)
 Medical Officer (Group-A), District Tuberculosis Center,))
 Palghar, District Palghar)..Applicant

Versus

1. The State of Maharashtra,)
 Through Principal Secretary,)
 Public Health Department, 10th floor,)
 G.T. Hospital Building, New Mantralaya,)
 Mumbai-1)
2. The Commissioner Health Services & Director,)
 (NHM) 3rd floor, Arogya Bhavan,)
 St. Georges Hospital Campus, Mumbai-1)
3. The Joint Director (YB), DMHS Campus,)
 Sultan Bazar, Gr. Floor, Aundh Camp, Pune)
4. The District Tuberculosis Officer,)
 District Tuberculosis Center, Palghar)..Respondents

AND

ORIGINAL APPLICATION NO.825 OF 2019**DISTRICT : RATNAGIRI**

Dr. Nagesh Bandayya Swami,)
 Medical Officer (Group-A) (Pediatician),)
 Primary Health Centre, Oni, Tal. Rajapuri,)
 District Ratnagiri)..Applicant

Versus

1. The State of Maharashtra,)
 Through Principal Secretary,)
 Public Health Department, 10th floor,)
 G.T. Hospital Building, New Mantralaya,)
 Mumbai-1)
2. The Commissioner Health Services & Director,)
 (NHM) 3rd floor, Arogya Bhavan,)
 St. Georges Hospital Campus, Mumbai-1)
3. The Deputy Director of Health Services,)
 Kolhapur Circle, Central Building, Bawada,)
 Karveer, Kolhapur 416006)
4. The Chief Executive Officer,)
 Zilla Parishad, Ratnagiri 415612)..Respondents

WITH

ORIGINAL APPLICATION NO.826 OF 2019**DISTRICT : KOLHAPUR**

Dr. Mahammaadtalha Maheboob Bagwan,)
 Medical Officer (Group-A),)
 Rural Hospital, Hatkanangale, Tal. Hatkanangale,)
 District Kolhapur)..Applicant

Versus

1. The State of Maharashtra,)
 Through Principal Secretary,)
 Public Health Department, 10th floor,)
 G.T. Hospital Building, New Mantralaya,)
 Mumbai-1)
2. The Commissioner Health Services & Director,)
 (NHM) 3rd floor, Arogya Bhavan,)
 St. Georges Hospital Campus, Mumbai-1)
3. The Director of Health Services,)
 Vth floor, Arogya Bhavan, St. Georges Hospital)
 Campus, Mumbai-1)
4. The Deputy Director of Health Services,)
 Kolhapur Circle, Central Building, Bawada,)
 Karveer, Kolhapur 416006)..Respondents

Shri J.S. Deshmukh – Advocate for the Applicants

Ms. S.P. Manchekar – Chief Presenting Officer for the Respondents

Shri Pankaj Deokar – Advocate for Respondent No.4 in OA.821/19

CORAM : Shri P.N. Dixit, Vice-Chairman (A)
DATE : 8th January, 2020

J U D G M E N T

1. Heard Shri J.S. Deshmukh, learned Advocate for the Applicants, Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents and Shri Pankaj Deokar, learned Advocate for Respondent No.4 in OA.821/19.

2. All these OAs pertain to same issue and therefore are taken up together. The applicants have prayed as under:

“(a) This OA may kindly be allowed.

(b) The respondents may kindly be directed to extend leave benefits as admissible under policy decision dated 1.3.1997 and annual increments for past ad hoc service rendered by applicant, in the light of law laid down by this Hon’ble Tribunal, Hon’ble High Court and Hon’ble Apex Court.

(c) To direct respondents to condone the technical breaks in ad hoc service given to applicant and service spent on ad hoc basis may counted for grant of annual increments as well as earned leaves in the light of law laid down by the Hon’ble Tribunal.

(d) To direct the respondents to grant applicant annual increments by condoning technical breaks in him past service and pay arrears thereof.

(e) Respondents may kindly be directed to carry out revise pay fixation by granting him benefits of annual increments.”

(Quoted from page 11 of OA.821/19)

3. According to the Ld. Advocate all the applicants were initially appointed as ad hoc Medical Officer under Public Health Department. Subsequently, some of them have been appointed by Maharashtra Knowledge Corporation Limited (MKCL) while some of them have been appointed by the Government. In support of the prayers the Ld. Advocate for the applicants refers to the pleadings in the OA which reads as under:

“18. Applicant says that, he is entitled for benefits of annual increments for the past service spent on ad hoc basis from initial date of joining till his regularization, by condoning technical breaks in service pursuant to law laid down by this Hon’ble Tribunal which is confirmed by Hon’ble High Court and Hon’ble Supreme Court of India. As the said benefits already extended to similarly situated employees pursuant to law laid down by this Hon’ble Tribunal, Hon’ble High Court and Hon’ble Supreme Court, the respondents are duty bound to extend same benefits to applicant as per directions issued by Govt. of Maharashtra, Law and Judiciary Department vide circular dated 28.2.2017 for adherence to General Judicial Principle in service matters.

19. Applicant says that, he had made representation dated 5.2.2019 and requested to give him annual increments of past service by condoning the breaks in service prior to his regular selection. When the said benefits extended to similarly situated employees, applicant is also entitled for same benefits as per their own circular dated 28.2.2017 issued by Law & Judiciary Department.

19-A. Applicant says that, he had made representation dated 24.10.2019 to respondent no.1 thereby mentioning service details of his past ad hoc service rendered by him prior to his regular appointment. Applicant requested for condonation of technical breaks in ad hoc service and grant him benefits of annual increments, earned leaves of ad hoc service.

Applicant had annexed the law laid down by the Hon'ble MAT Aurangabad and Hon'ble High Court Aurangabad for the perusal of respondents."

(Quoted from page 9-9A of OA.821/19)

4. According to the Ld. Advocate, the applicants should be given continuity, annual increments and leave benefits of past service. The applicants rely on the judgment and order dated 17.7.2015 passed by the Aurangabad Bench of this Tribunal in O.A. No.678 of 2014 & Ors. and as confirmed by the judgment and order dated 23.11.2017 passed by the Hon'ble Bombay High Court, Bench at Aurangabad in W.P. No.800 of 2016 & Ors. and policy decision by circular dated 28.2.2017 (Annexure A-7 pg.44) and the GR dated 11.1.2019 (Annexure A-8 pg.47). He therefore pleads that similar decision may be taken as a policy decision by the department of Public Health where at present the applicants are working.

5. Thus, being a policy decision the Government has to take considered view in the issue. While doing so the respondents are directed to look into to the judgments referred above of the Tribunal as well as Hon'ble High Court and by the Medical Education and Drugs Department.

6. The respondent no.1 is therefore directed to take suitable policy decision in respect of all the applicants as well as similarly situated persons. All the above Original Applications No.821 to 826 of 2019 are therefore disposed off with the above directions. No orders as to cost.

(P.N. Dixit)
Vice-Chairman (A)
8.1.2020

Dictation taken by: S.G. Jawalkar.