

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

**REVIEW APPLICATION NO 25/2015 IN O.A 469/2012
WITH ORIGINAL APPLICATIONS 682/2013 & 879/2015**

DISTRICT : SOLAPUR

**1) REVIEW APPLICATION NO 25 OF 2015
IN
ORIGINAL APPLICATION NO 469 OF 2012**

1. Dr. Anilkumar Ramkrishna Tarale,)
Presently posted on deputation at)
Potdar Ayurved College,)
Mumbai - 400 025.)
2. Dr. Shrikrushna Mahadeo Mohrut,)
3. Dr. Nandkishor Sukhdeo Manatkar,)
4. Dr. Ashok Manohar Wagh,)
5. Dr. Chandrakant Ambadas Dabhere,)
6. Dr. Prafulla Vinayakrao Bahekar,)
7. Dr. Sheshrao Nagorao Kalwaghe)
8. Dr. Kavita Kesharao Nagalkar)
9. Dr. Gangadhar Namdeo Kshirsagar,)
10. Dr. Sanjay Dayaram Chavhan,)
11. Dr. Jaipalsing Chouhan,)



12. Dr. Md. Mushir Patel,)
13. Dr. Anil Nilkanthrao Bodkhe,)
14. Dr. Rajesh Sadanad Amolik,)
15. Dr. Sunil Seetaram Parve,)
16. Dr. Satish Padmakar Parve,)
17. Dr. Shankar Yadaorao Dhale,)
18. Dr. Gulabrao Baburao Lahane,)
19. Dr. Arun Namdeorao Jawanjil,)
20. Dr. Vandana Tejrao Jumbad,)
21. Dr. Mrs. Aruna G Deshmukh,)
22. Dr. Vasanttrao Raysing Sirsat,)
23. Dr. Pankaj Ramchandra Patil,)
24. Dr. Bharat Sheshrao Sapkar,)
25. Dr. Babarao Ramji Rathod,)
26. Dr. Dinesh Krushnarao Wankhede,)
27. Dr. Sunil Damodharrao Ratnaparkhi,)
28. Dr. Ravindra Saoji Aarya,)
29. Dr. Prafulla Shridharrao Pachghare,)
30. Dr. Sanjivaneer G Deshmukh,)
31. Dr. Prakash M Chincholkar,)
32. Dr. Ganesh Uttamrao Sanap,)
33. Dr. Nilkanth Baburao Chavan,)

34. Dr. Suryakant Shriram Dalvi,)
 35. Dr. Sadguru Govindrao Deshmukh,)
 36. Dr. Arun Shriram Panzade,)
 37. Dr. Mangla Govindrao Deshmukh)
 38. Dr. Avinash Vinaykroa Band,)
 39. Dr. Arun Janardan Thakare,)
 40. Dr. Rajabhau Welchand Sangale,)
 41. Dr. Dnyaneshwar Ramkrishna Parate,)

All are working as Medical Officers,)
 Group-A, Class-II at different)
 Primary Health Centres.)
Address For Service Of Notice:)
 Shri Bhushan Arvind Bandiwadekar,)
 Advocate, having office at 9, "Ramkripa",)
 Dilip Gupte Marg, Mahim (West),)
 Mumbai - 400 016.)

).Applicants

VERSUS

1. The State of Maharashtra,)
 Through the Additional Chief Secretary,)
 Public Health Department, Having)
 office at Mantralaya, Mumbai - 400 032.)
2. The State of Maharashtra,)
 Through Principal Secretary,)
 Finance Department,)
 Having office at Mantralaya,)
 Mumai - 400 032.)

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3. The Director of Health Services,)
 having office at Arogya Bhavan)
 in Saint George Hospital Compound,)
 Near V.T. Rly. Station, Fort,)
 Mumbai -1.)
4. The District Health Officer,)
 District Buldhana.) **.Respondents**

W I T H

ORIGINAL APPLICATION NO 879 OF 2015

1. Dr Gajanan P. Wadekar)
 Medical Officer, Primary Health Centre)
 Peth, Tal-Ambegaon, Dist-Pune.)
2. Dr Supriya G. Wadekar)
 Medical Officer, Primary Health Centre)
 Kadu, Tal-Khed, Dist-Pune.)
3. Dr Vikram B. Kale)
 Medical Officer, Primary Health Centre)
 Dhamani, Tal-Ambegaon, Dist-Pune.)
4. Dr Varsha A. Gaekwad)
 Medical Officer, Primary Health Centre)
 Wagholi, Tal-Haveli, Dist-Pune.)
5. Dr Sunil B. Chidrawar)
 Medical Officer, Supervisory Urban)
 Leprosy Unit, Pimpri, Dist-Pune-18.)
6. Dr Dnyandeo S.Sabale)
 Medical Officer, District Neucleas team,))
 ADHS Leprosy, Pune-1.)
7. Dr Shahadeo I. Kamble)
 Medical Officer, Primary Health Centre)
 Pait, Tal-Khed, Dist-Pune.)

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8. Dr Vaman P. Genaje)
Medical Officer, Primary Health Centre)
Yelase, Tal-Maud, Dist-Pune.)
9. Dr Anilkumar B. Patil)
Epidemic Medical Officer,)
Zilla Parishad, Pune.)
10. Dr Kashinath T. Dengle)
Medical Officer, Primary Health Centre)
Tadawale (Ya), Tal-Barshi, Dist-Solapur)
11. Dr Rajiv A. Kulkarni)
Medical Officer, Primary Health Centre)
Bholudni, Tal-Pandharpur, Dist-Solapur)
12. Dr Balaji K. Lakade)
Medical Officer, Primary Health Centre)
Mann, Tal-Mulshi, Dist-Pune.)
13. Dr Shailaja M. Kulkarni)
Medical Officer, Primary Health Centre)
Khadkala, Tal-Maud, Dist-Pune.)
14. Dr. Meena S. Sarada)
Medical Officer, Ayurved Dispensary)
Daund, Dist-Pune.)
15. Dr. Umesh V. Tagade)
Medical Officer, Primary Health Centre)
Mandavgan, Tal-Srigonda,)
Dist-Ahmednagar.)
16. Dr. Milind B. Yadav)
Medical Officer, Primary Health Centre)
Nimgaon Savd, Tal-Junnar, Dist-Pune)
17. Dr. Dadasaheb V. Salunke)
Occ : Epidemic Officer, Z.P.,)
Ahmednagar, Dist-Ahmednagar.)

18. Dr. Sanjay A. Kakde)
 All the Applicants are working as)
 Medical Officer, Primary Health Centre)
 Chimbipada, Tal-Bhiwandi, Dist-Thane)... **Applicants**

Versus

1. The State of Maharashtra,)
 Through the Secretary,)
 Public Health Department, Mantralaya,)
 Mumbai - 32.)
2. The Principal Secretary,)
 Finance Department, Mantralaya,)
 Mumbai.)
3. Director of Health Services,)
 Arogya Bhavan, St. Georges Hospital)
 Campus, Near C.S.T, Mumbai.)
4. Deputy Director of Health Services,)
 Pune Circle, Pune.)
5. Deputy Director of Health Services,)
 Mumbai Circle, Thane.)
6. Deputy Director of Health Services,)
 Nasik Circle, Nasik.)
7. The Chief Executive Officer,)
 Zilla Parishad, Pune.)
8. The Chief Executive Officer,)
 Zilla Parishad, Solapur.)
9. The Chief Executive Officer,)
 Zilla Parishad, Ahmednagar.)
10. The Chief Executive Officer,)
 Zilla Parishad, Thane.)... **Respondents**

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ORIGINAL APPLICATION NO 682 OF 2013

1. Dr Mahendra B. Deolikar,)
Medical Officer, Group-A,)
Presently working as Taluka Health)
Officer, Dindori, Tal-Dindori,)
Dist-Nasik.)
2. Dr. Rajendra R. Trymbake)
Presently working as Taluka Health)
Officer, Sinnar, Tal-Dindori,)
Dist-Nasik.)
3. Dr Ravindra N. Sapkale,)
Presently working as Taluka Health)
Officer, Kalwan, Tal-Kalwan,)
Dist-Nasik.)... Applicants

Versus

1. The State of Maharashtra,)
Copy served on C.P.O., M.A.T,)
Mumbai - 32.)
2. The Secretary,)
Public Health Department, Mantralaya,)
Mumbai-400 032.)
3. Director of Health Services,)
Arogya Bhavan, St. Georges Hospital)
Campus, Near C.S.T, Mumbai.)
4. Deputy Director of Health Services,)
Nasik Circle, Nasik.)
5. The Chief Executive Officer,)
Zilla Parishad, Nasik.)
6. The District Health Officer,)
Zilla Parishad, Nasik.)... **Respondents**

Shri A.V Bandiwadekar, learned advocate for the Applicants
in R.A 25/2015 in O.A 469/2012.

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Shri J.S Deshmukh, learned advocate for the Applicants in O.A nos 682/2013 & 879/2015.

Shri K.B. Bhise, learned Presenting Officer for the Respondents in R.A no 25/2015, for Respondents no 1 to 4 & 6 in O.A 682/2013 and Respondents no 1 to 6 in O.A 879/2015.

None for Respondents no 5 in O.A 682/2013 and Respondents no 7, 8, 9 & 10 in O.A no 879/2015

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

Shri R.B. Malik (Member) (J)

DATE : 11.07.2016

PER : Shri Rajiv Agarwal (Vice-Chairman)

ORDER

1. Heard Shri A.V Bandiwadekar, learned advocate for the Applicants in R.A 25/2015 in O.A 469/2012 Shri J.S Deshmukh, learned advocate for the Applicants in O.A nos 682/2013 & 879/2015, Shri K.B. Bhise, learned Presenting Officer for the Respondents in R.A no 25/2015, for Respondents no 1 to 4 & 6 in O.A 682/2013 and Respondents no 1 to 6 in O.A 879/2015 and None for Respondents no 5 in O.A 682/2013 and Respondents no 7, 8, 9 & 10 in O.A no 879/2015

2. This Review Application no 25/2015 has been filed seeking recall of our order dated 25.6.2015 in O. A no 469/2012 and seeks that O.A no 469/2012 may be allowed.

3. In O.A nos 682/2013 and 879/2015 the reliefs sought are more or less identical to the reliefs sought in O.A no 469/2012. All these case were, therefore, heard together and are being disposed of by this common order.

4. Learned Advocate Shri J.S Deshmukh represented Applicants in O.A nos 682/2013 and 879/2015. He is referred to hereinafter as learned Counsel for the Applicants. Learned Counsel for the Applicants argued that the Applicants are challenging communication dated 20.5.2015 from the Respondent no. 2, (in O.A no 879/2015) holding that the pay scale of Rs. 15600-39000 plus grade pay of Rs. 5400 is not applicable to them. In O.A no 682/2013, the Applicants have challenged the order dated 3.7.2013 issued by the Respondent no. 2 in that Original Application (Department of Public Health) informing that the Applicants are in Group 'C' posts and cannot be given posts which are to be manned by Group 'A' Medical Officers. The claim of all the Applicants is that they are promoted to Group 'A' posts and are entitled to get pay in the Pay Band of Rs. 15600-39000 plus grade pay of Rs. 5400/- after implementation of 6th Pay Commission, which is corresponding to pay scale of Rs. 8000-13500, in the 5th Pay Commission.

5. Learned Counsel for the Applicants argued that the Applicants were recruited by various Zilla Parishads in

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the State in District Technical Service (Class-III) as Medical Officers on different dates in the pay scale of Rs. 2000-3500. They hold degree of B.A.M.S. The State Government in Public Health Department took a policy decision on 28th May, 2001 and issued a G.R and the Medical Officers, holding degree of B.A.M.S, working in Group 'C' posts in Zilla Parishads were given status of Group 'B' posts in the pay scale of Rs. 6500-10500 (5th Pay Commission). By order dated 21.4.2008, services of all Medical Officers, who were working in Zilla Parishads in Group 'C' and who were given status of Group 'B' by G.R dated 28.5.2001 were transferred to Public Health Department of the State Government. The Government took another policy decision on 27.2.2006 and granted pay scale of Rs. 8000-13500/- to the Medical Officers in the District Technical Service, Group 'C' on the basis of Pay Revision Committee recommendations. Learned Counsel for the Applicants argued that pay scale of Rs. 8000-13500 is in Group 'A' and as the Applicants have been granted that pay scale by G.R dated 27.2.2006, they are deemed to be in Group 'A' service. Learned Counsel for the Applicants stated that the Recruitment Rules for the post of Medical Officers have been suitably amended and by G.R dated 17.10.2014, 869 Medical Officers in District Technical Services, Group 'C' have been absorbed in Public Health Department.

6. Learned Advocate Shri Bandiwadekar argued more or less on similar lines. He argued that while deciding O.A no 469/2012, this Tribunal has accepted the contention of the Government that the Applicants were not promoted to Group 'A' and therefore they are not entitled to the pre-revised pay

scale of Rs. 8000-13500. However, from the document which have subsequently come to the notice of the Applicants, it is clear that G.R dated 27.2.2006 was applicable only to the Applicants as there is no other group of Medical Officers working in Zilla Parishad, who were promoted to Group 'A' posts. In fact all B.A.M.S. Medical Officers in District Technical Service were promoted to Group 'B' by G.R dated 28.5.2001 and by G.R dated 27.2.2006, they were given pay scale of Group 'A' posts.

7. Learned Presenting Officer (P.O) argued on behalf of the Government (Zilla Parishads have also been made Respondents, but they did not attend the proceedings) that the Applicants were upgraded to Group 'B' posts from Group 'C' in District Technical Service under Zilla Parishad by G.R dated 28.5.2001. For their appointment as Medical Officer, Group 'B' under the State Government to be valid, the same were required to be regularized by duly appointed Departmental Promotion Committee. Recommendation and consent of the Maharashtra Public Service Commission (M.P.S.C) was also necessary. That decision was taken only recently and G.R dated 17.10.2014 has been issued regularizing appointment of 869 Medical Officers in District Technical Service, Group 'C' as Medical Officers, Group 'B' in the Public Health Department from 28.5.2001. The Applicants should not have been given the Pay Scale of Rs. 8000-13500 by G.R dated 27.2.2006, which was not applicable to them at all as they were Medical Officers, Group 'B'.

8. The Applicants main reliance is on G.R dated 28.5.2001. Para 2 of this G.R reads:-

“ २. महाराष्ट्र जिल्हा परिषदा आणि पंचायत समित्या अधिनियम, १९६१ (१९६२ चा महाराष्ट्र अधिनियम क्र.५) मधील कलम २४८ च्या परंतुकान्वये प्रदान केलेले अधिकार व त्या संबंधातील इतर सर्व अधिकार यांचा वापर करून जिल्हा परिषदेकडील जिल्हा तांत्रिक सेवा (गट-क) आरोग्य संवर्गातील (असुधारित वेतनश्रेणी रु.२०००-३५००, सुधारित वेतनश्रेणी रु. ६५००-१०,५००) या वेतनश्रेणीत वेतन घेत असलेल्या वैद्यकीय अधिका-यांना राजपत्रित दर्जा देण्यास शासन मान्यता देत आहे.”

This G.R provided that Medical Officers, who were appointed in Group 'C' in District Technical Service in the pay scale of Rs. 2000-3500, were to be given gazette status. From the G.R, it can be inferred that Medical Officers in Zilla Parishad were appointed in Group 'C' in two scales viz. Rs 1640-2900 and Rs. 2000-3500. The scale of Rs. 2000-3500 in the Government was in Group 'B' and many departments had granted gazette status to such posts in pre-revised scale of Rs. 2000-3500. The scale was revised to Rs. 6500-10500 in the 5th Pay Commission. This G.R granted status of Group 'B' Gazetted Officers to Medical Officers, both in Zilla Parishads and the State Governments who were in the pay scale of Rs. 2000-3500. Absorption of these Medical Officers working in Zilla Parishad was subject to revision of Recruitment Rules for Group 'B' Medical Officers in the Government and was to be done in consultation with M.P.S.C. It may be noted that after consultation with M.P.S.C the regularization was ordered by G.R dated 17.10.2014. The claim of the Applicants that they were appointed to Group 'B' posts by this G.R dated 28.5.2001 does not appear to be well founded. This G.R was only a policy decision, but the Recruitment Rules were to be

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amended and duly constituted Committee was required to consider the cases of the Applicants for absorption in Group 'B' gazetted posts in consultation with M.P.S.C

9. Coming to the Recruitment Rules, the Applicants have placed Recruitment Rules for the post of Medical Officer in Maharashtra Medical and Health Services, Group 'A' notified on 30.10.2000 on record. However, it is seen that G.R dated 25.5.2001 does not envisage grant of Group 'A' status to the Applicants. These rules do not apply to the Applicants though it appears that Group 'C' Medical Officers in District Technical service can be considered for appointment in Group 'A' posts as per revised Recruitment Rules. However, by their own admission, the Applicants have been absorbed in Group 'B' service of Government of Maharashtra by G.R dated 17.10.2014. This G.R is at P. 150 of the Paper Book in O.A no 879 of 2015. This G.R mentions that Recruitment Rules for the Medical Officers Group-B in Maharashtra Medical and Health Services have been notified on 30.11.2012 and in consultation with M.P.S.C on the report of Selection Committee, 869 Group 'C' Medical Officers have been absorbed in Group 'B' posts. The Applicants' reliance on Recruitment Rules for Group 'A' posts is misplaced when there is no material on record to show that the Applicants were ever considered for appointment / absorption in Group 'A' posts by any duly constituted Committees and with the approval of M.P.S.C. The Applicants' case is mainly based on G.R dated 28.5 .2001 and we cannot read more into that G.R than what is actually provided in it.

10. The Applicants have placed reliance on G.R dated 27.2.2006 issued by the Finance Department of the State Government (Annexure A-5 in O.A no 879/2015, page 48 of the Paper Book). This G.R was issued on the basis of recommendations of State Pay Revision Committee, 1997. In the Schedule-A (प्रपत्र-अ) attached to this G.R., there is entry at Sr. No. 24, which is reproduced below:-

“ वैद्यकीय अधिकारी (साथरोग) वैद्यकीय अधिकारी (फिरता दवाखाना) वरिष्ठ वैद्यकीय अधिकारी/विस्तार अधिकारी (आरोग्य) कनिष्ठ वैद्यकीय अधिकारी श्रेणी-३/आयुर्वेदिक वैद्य/वरिष्ठ आयुर्वेदिक वैद्य/ वरिष्ठ आयुर्वेदिक वैद्य/ युनानी हकीम

It appears that the State Government (Finance Department) had decided to grant pay scale of R s. 8000-13500 to Junior Medical Officer, Grade-III, Aurvedic Vaidyas and Unani Hakims who were in the pay scale of Rs. 6500-10500 (pre-revised Rs. 2000-3500) from 1.4.2006 as per clause 2 of that G.R. It was also mentioned that if this pay scale was applicable before 1.4.2006, no arrears till 1.4.2006 were to be paid. The term used in this G.R is श्रेणी-३ (Grade-III), which may not be same as वर्ग-३ (Class-III, now Group-C). However, it appears that Grade-III was read as Class-III. It is not clear whether Junior Medical Officer, Grade-III is same as Medical Officer, Group 'C' in District Technical Service. However, G.R dated 9.8.2006, issued by the Rural Development and Water Conservation Department (p. 55 of the Paper Book), makes it clear that both Senior Medical Officer and Junior Medical Offices, Grade-III in Zilla Parishads were given pay scale of Rs. 8000-13500 in terms of G.R dated 27.2.2006. There appears to be a situation, where the pay scale of Rs. 8000-

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13500 was given to the Medical Officers, working in pay scale of Rs. 6500-10500 to in Zilla Parishads. However, as far as Group 'B' gazette status was concerned, the same was not conferred on them as can be seen from letter dated 12.2.2007, from Rural Development and Water Conservation Department to Chief Executive Officer, Zilla Parishad, Beed (Page 63 of the Paper Book). This letter reads:-

“ वरील विषयाबाबत संदर्भाधीन पत्रानुसार कळविण्यात येते की, आयुर्वेद वैद्यकीय अधिकारी, वर्ग-३ या संवर्गाला सार्वजनिक आरोग्य विभागाकडून दिनांक २८/०५/२००९ च्या शासन निर्णयानुसार राजपत्रित दर्जा देण्यात आलेला आहे. तथापि सदर शासन निर्णयातील तरतूदीनुसार सदर पदाचे सेवाप्रवेश नियम अद्याप निश्चित झालेले नाही. त्यामुळे वर्ग-२ (गट-ब) हा संवर्ग अद्याप अस्तित्वात आलेला नाही. त्यामुळे या संवर्गाच्या सेवाविषयक बाबी सध्या जिल्हा परिषद स्तरावरून हाताळण्या याव्यात.

हे पत्र सार्वजनिक आरोग्य विभागाने दिलेल्या अभिप्रायानुसार निर्गमित करण्यात येत आहे.”

From this letter, it is clear that the Applicants were not given Group 'B' status, even after the pay scale of Rs. 8000-13500 was given to them, what to talk of Group 'A'.

11. We may consider another G.R dated 18.7.2007 issued by the Public Health Department. This G.R permits transfer of Medical Officers with B.A.M.S qualifications working in Ayurvedic Dispensaries as Medical Officers in Primary Health Centres. This was to be decided by a Committee headed by the Divisional Commissioner, till regularly appointed Medical Officers selected through M.P.S.C were posted to P.H.Cs. In that contingency, Medical Officers with B.A.M.S qualification were to be posted back to Ayurvedic dispensaries. We are unable to see how this G.R

further the cause of the Applicants. It seems that even after the Medical Officers, Group 'C', were given pay scale of Rs. 8000-13500, they continued to be posted in Ayurvedic Dispensaries. This G.R dated 18.7.2007, permitted them to be temporarily posted in P.H.C till Medical Officers selected by M.P.S.C (presumably holding M.B.B.S degree) were posted there. Another G.R dated 13.11.2007, further provides posting of Medical Officers with B.A.M.S qualifications working in places other than Ayurvedic dispensaries in P.H.C on the lines of G.R dated 18.7.2007. However, both these G.Rs were subsequently cancelled on 11.9.2009.

12. It appears that by virtue of G.R dated 27.2.2006, the Applicants were granted pay in the scale of Rs. 8000-13500 after the recommendations of the 6th Pay Commission were applied retrospectively w.e.f 1.1.2006 by G.R dated 27.2.2009. G.R dated 27.2.2009 (Annexure A-11 on page 86 of the Paper Book in O.A no 879/2015) at Sr. No. 15 of the Schedule (प्रपत्र) has the following entry, viz:

१५	३.११.१	जिल्हा परिषदांतील जिल्हा तांत्रिक सेवा (वैद्यकीय) वर्ग-३ या संवर्गातील विविध पदनामाने कार्यरत व रूपये ८०००-१३५०० या विद्यमान वेतनश्रेणीतील वैद्यकीय अधिकारी वर्ग-३ यांची सुधारित वेतन संरचनेत वेतननिश्चिती करण्यापूर्वी प्रथम रु.६५००-१०५०० या विद्यमान वेतनश्रेणीत वेतननिश्चिती करण्यात यावी. त्यानंतर सुधारित वेतन संरचनेत त्यांना पीबी-२ वेतन बँड व रु.४४०० ग्रेड वेतन मंजूर करण्यात यावे. वैद्यकीय अधिकारी गट-अ (पूर्वीचे वर्ग-२)यांना पीबी-२ वेतन बँड व रूपये ५४०० ग्रेड वेतन तसेच गट-ब (पूर्वीचे वर्ग-३) मधील वैद्यकीय अधिका-यांना पीबी-२ वेतन बँड व ४४०० ग्रेड वेतन मंजूर करण्यात यावे.	स्विकृत मात्र, जिल्हा परिषदांतील जिल्हा तांत्रिक सेवा (वैद्यकीय) वर्ग-३ या संवर्गातील पद धारकांची विद्यमान रूपये ६५००-१०५०० या वेतनश्रेणीत वेतननिश्चिती करण्याच्या समितीच्या शिफारशीच्या स्विकृतीमुळे झालेल्या अतिप्रदानाची वसुली करण्यात येऊ नये.
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This issue was again examined by the Pay Anomaly Committee, whose report is at (Annexure A-14, P. 119 of the Paper Book in O.A no 879/2015). A G.R dated 11.2.2013 (P.125 of the Paper Book) came to be issued by Finance Department. At Sr. No. 43 to the Schedule of this G.R, the pay of Group 'A' Medical Officers who were in pre-revised scale of Rs. 8000-13500 were fixed in the Pay Band of Rs. 9300-34000 + Grade Pay of Rs. 5400. It is stated if the absorption in Group 'A' of Maharashtra Medical & Health Services is found 'legal' (विधिग्राह्य) the pay of Group 'C' Medical Officers should be done in the pay scale of Rs. 15600-39100 plus grade pay of Rs. 5400. In this connection, extracts from the report of the Pay Anomaly Committee are reproduced below:-

“ या अधिका-यांचे थेट समावेशन विधीग्राह्य आहे किंवा कसे ही बाब संबंधीत सार्वजनिक आरोग्य विभाग आणि ग्रामविकास या जलसंधारण विभागांनी सामान्य प्रशासन विभागाशी विचारविनिमय करून घ्यावी.

जिल्हा परिषदेकडील ज्या अधिका-यांच महाराष्ट्र वैद्यकीय व आरोग्य सेवा, गट-अ मध्ये समावेशन झालेले नाही अथवा ज्यांचे समावेशन विधीग्राह्य ठरणार नसल्यामुळे जे मूळ संवर्गात प्रत्यवर्तित होतील त्यांना मूळ संवर्गाची म्हणजे महाराष्ट्र वैद्यकीय व आरोग्य सेवा, गट-ब संवर्गास पुढील अ.क.२ मध्ये शिफारस केलेली वेतनबॅंड पीवी-२२, रु.९३००-३४८०० अधिक रु.४६०० ग्रेड वेतन ही वेतनसंरचना अनुज्ञेय ठरेल. (रु.६५००-१०५०० या असुधारित वेतनश्रेणीतील वैद्यकीय अधिका-यांना रु.८०००-१३५०० या वेतनश्रेणीशी समकक्ष सुधारित वेतनसंरचना- वेतनबॅंड रु.१५६००-३९१०० अधिक रु.५४०० ग्रेड वेतन मंजूरीच्या मागणीसंदर्भात पुढील आ.क.२ मधील शिफारसीमध्ये विवेचन केले आहे.)”

The Pay Band of Rs. 15600-39100 is made applicable to these Group 'C' Medical Officers who were directly absorbed as Group 'A' Medical Officers. However, we have concluded that the Applicants were absorbed as Group 'B' Medical Officers in

accordance with revised Recruitment Rules and on the advice of M.P.S.C by G.R dated 17.10.2014, though w.e.f 28.5.2001. There is no material on record to show that they were absorbed as Group 'A' Medical Officers. The G.R dated 27.2.2006 was issued by the Finance Department. It was issued independently to upgrade inter alia, the pay scale of various Group 'C' & 'D' posts in Zilla Parishads and other Departments. This is further confirmed by G.R dated 9.8.2006 issued by the Rural Development and Water Conservation Department. These G.Rs have not considered G.R dated 28.5.2001 issued by the Public Health Department. This G.R dated 28.5.2001 is regarding two things; viz :-

(i) Grant of Gazetted status to Group 'B' Medical Officers already working in Public Health Department, and

(ii) Absorbing Group 'C' Medical Officers working in District Technical Service in pay scale of Rs. 2000-3500 in the Public Health Department of the State Government in Group 'B' gazette posts, subject to revision of relevant recruitment rules, and such Medical Officers being found fit for appointment to Group 'B' post in Government as recommendation of Committee with the approval of M.P.S.C (emphasis supplied).

This was ultimately done by G.R dated 17.10.2014. This G.R dated 28.5.2001 does not mention anything about the pay scales etc. Evidently, two different G.Rs were issued by two Departments of the Government (three, if G.R dated 27.2.2006 and 9.8.2006 are considered).

G.R dated 28.5.2001 was issued by Public Health Department for absorption of Group 'C' Medical Officers of Zilla Parishad in the State Government in Group 'B' subject to certain conditions. This G.R does not state anything about pay scales. However, G.R dated 27.2.2006 was issued by Finance Department on the basis of recommendations of Pay Revision Committee which recommended, interalia, increase in pay scale of various Group 'C' & 'D' posts in Zilla Parishads. G.R dated 28.5.2001 was never considered while issuing G.R dated 27.2.2006. G.R dated 9.8.2006 has been issued by Rural Development and Water^{conservation} Department and has applied provision of G.R dated 27.2.2006 to Group 'C' & 'D' posts in Zilla Parishads. H

13. The case of the Applicants is that they were given Group 'A' status by G.R dated 27.2.2006 as they were given pay scale of Rs. 8000-13500. As per G.R dated 29.7.1993 and 2.7.2002, the posts are classified on the basis of pay scales. We are not able to accept this contention in toto. Only if the posts are not classified in Recruitment Rules, these G.Rs will come into play. The posts having revised pay scale of Rs. 8000-13500 are considered as Group 'A' posts as per G.R dated 2.7.2002. The Applicants claim that they are Group 'A' officers as their pay has been fixed in Group 'A' posts by G.R dated 27.2.2006. This claim of the Applicants is legally not tenable. The Applicants have been absorbed in Government service in Group 'B' posts by G.R dated 17.10.2014. This has been done under the Recruitment Rules dated 30.11.2012 ('F' on page 152). The Applicants have not been appointed to Group 'A' posts as per Recruitment Rules R

for Group 'A' Medical Officers. They have admittedly not been considered by duly constituted Committees for appointment to Group 'A' posts. They have not been recommended by M.P.S.C for appointment to Group 'A' posts. However, they were given pay scale of Rs. 8000-13500 by G.R dated 27.2.2006. The Pay Revision Committee, apparently did not consider this aspect, while recommending pay scale of Group 'A' posts to those, working in Group 'C' posts in Zilla Parishads. The claim of the Applicants that they are getting salary of Group 'A' post by virtue of G.R dated 27.2.2006 is undoubtedly correct, but that does not mean that they were absorbed in Group 'A' posts.

14. Let us now examine the recommendation of Pay Anomaly Committee and G.R dated 11.2.2013. As mentioned in para 12 above, the Pay Anomaly Committee has not made any comment as to whether the Applicants were absorbed in Group 'A'. Entry 43 in Schedule to G.R dated 11.2.2013 mentions that the pay of Group 'A' Medical Officers in Maharashtra Medical & Health Services will be in the Pay Band of Rs. 9300-34800 plus grade pay of Rs, 5400, provided their direct absorption in Group 'A' is legal (emphasis supplied). We have already concluded that the Applicants have not been absorbed in Group 'A' posts, but by G.R dated 17.10.2014, they have been absorbed in Group 'B' posts. However, they were granted pay scale of Rs. 8000-13500 by G.R dated 27.2.2006. As they have not been absorbed in Group 'A', this clause is not applicable to them. They are eligible to get pay in the Pay Band of Rs. 9300-34800 plus grade pay of Rs. 5400 corresponding to pay scale of Rs. 8000-

13500 as per G.R dated 11.2.2013. This anomaly that the Applicants are absorbed in Group 'B' posts, but are getting salary of Group 'A' has been created as there appears to be no coordination between different departments of the State Government. The Applicants demand of pay in the Pay Band of Rs. 15600-39100 plus grade pay of Rs. 5400/- cannot be accepted for the reasons discussed above.

15. These Original Applications and Review Application are disposed of accordingly. The Applicants are absorbed in Group 'B' posts of Medical Officers from 28.5.2001 and are eligible to get pay in Pay Band of Rs. 9300-34800 plus grade pay of Rs. 5400. The order dated 25.6.2015 in O.A no 469 of 2012 is modified accordingly.

Sd/-

(R.B. Malik)
Member (J)

Sd/-

(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai

Date : 11.07.2016

Dictation taken by : A.K. Nair.