

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**REVIEW APPLICATION NO 29 OF 2015  
IN  
ORIGINAL APPLICATION NO 253 OF 2012**

**DISTRICT : PUNE**

Shri Ashok Motiram Jadhav, )  
E-29, 423, Somwar Peth, )  
Sassoon Quarters, Pune 411 001. )...**Applicant**

**Versus**

1. The Director, )  
Medical Education & Research )  
Dental College & Hospital )  
Building, Mumbai 400 001. )
2. Dean, )  
B.J Medical College, )  
Dental Department, )  
Pune 411 001. )

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3. The State of Maharashtra, )  
Through its Secretary, )  
Medical Education & Dental )  
Department, Mantralaya, )  
Mumbai 400 032. )
4. The Principal Secretary, )  
Finance Department, )  
Government of Maharashtra, )  
Mantralaya, Mumbai 400 032. )...**Respondents**

Shri V.V Joshi, learned advocate for the Applicant.

Shri A.J. Chougule Presenting Officer for the Respondents.

**CORAM : Shri Rajiv Agarwal (Vice-Chairman)**

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

**DATE : 28.03.2016**

**PER : Shri Rajiv Agarwal (Vice-Chairman)**

### **ORDER**

1. Heard Shri V.V Joshi, learned advocate for the Applicant and Shri A.J. Chougule Presenting Officer for the Respondents

2. This Review Application has been filed seeking review of our order dated 27.3.2015 in O.A no 253 of

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2012 and praying that Original Application may be allowed.

3. Learned Counsel for the Applicant argued that the Applicant was appointed as Dental Technician in the scale of pay of Rs. 365-760 on 8.9.1981. This pay scale was revised to Rs. 1400-2300 w.e.f 1.1.1986 after implementation of 4<sup>th</sup> Pay Commission. As per G.R dated 8.6.1995, the scheme of Time Bound Promotion was introduced. The Applicant was granted Time Bound Promotion with effect from 1.10.1994 as per this G.R. The recommendations of the 5<sup>th</sup> Pay Commission were implemented from 1.1.1996. As per the pay scale granted to him on getting Time Bound Promotion, the Applicant's pay was fixed in the pay scale of Rs. 5500-9000 in the 5<sup>th</sup> Pay Commission. The Applicant's claim is that the pay of those getting pay in the scale of Rs. 5500-9000 in 5<sup>th</sup> Pay Commission is equated with the Pay Band of Rs. 9300-34800 with Grade Pay of Rs. 4300/-. The Applicant is, therefore, entitled to get pay in this pay band with Grade Pay of Rs. 4300/-. Learned Counsel for the Applicant argued that this Tribunal has ignored this fact that the pay of a person getting pay in the scale of Rs.5500-9000 under the 5<sup>th</sup> Pay Commission has to be fixed in the Pay Band of Rs. 9300-34800 with Grade Pay of Rs. 4300/-. The Time Bound Promotion granted to the Applicant was never withdrawn. The action of the Respondents in fixing his pay in the Pay Band of Rs. 5200-20200 +grade pay of

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Rs. 2800+ Rs. 300, is therefore, wrong and has to be set aside.

4. Learned Presenting Officer (P.O) argued on behalf of the Respondents that the present Review Application is not maintainable at all. The Applicant has not alleged any error of fact or law in the judgment of this Tribunal dated 27.3.2015. The Applicant is seeking straight parity of pay scales granted in 5<sup>th</sup> Pay Commission with the Pay Band and Grade Pay in the 6<sup>th</sup> Pay Commission. Learned Presenting Officer argued that such an approach cannot be taken as it will lead to anomalous situation. The system of salary etc. in 6<sup>th</sup> Pay Commission has undergone a qualitative change as compared to that in earlier Pay Commissions. Earlier, a person on promotion used to get pay in a higher pay scale. Now, a person may continue to get pay in the same Pay Band on getting promotion. As a result, the scheme of Time Bound Promotion, now called as Assured Career Progression (A.C.P) Scheme has also undergone change. Now on getting benefit (first or second, depending on number of years of service) of A.C.P scheme, a person may only get higher grade pay. His pay may be fixed at a higher level in the same Pay Band as per the pay rules. The post of Dental Technician is an isolated post, meaning thereby that no chain of promotion is available. Such persons on getting benefit of A.C.P Scheme are entitled to get higher Grade Pay. The

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Applicant was not granted regular promotion w.e.f 1.10.1994, but only the Time Bound Promotion. His pay was fixed in the pay scale for the post for which no higher post is available in the chain of promotion. On implementation of Sixth Pay Commission, in such case, the pay was first fixed in the Pay Band and Grade Pay in the Sixth Pay Commission based on the pay scale of the post before granting Time Bound Promotion. The Grade Pay was then enhanced to give benefit of A.C.P Scheme. Learned Presenting Officer argued that it was done to ensure that no anomaly arises. If direct one to one parity was resorted to, the Applicant would have got pay in the Pay Band of Rs. 9300-34800 + grade pay of Rs. 4300/- while the persons getting benefit of A.C.P scheme after implementation of Sixth Pay Commission will get pay in the Pay Band of Rs. 5200-20200 + grade pay of Rs. 2800 + Rs. 300/-. Learned Presenting Officer argued that the qualification of the Applicant is Dental Mechanics, while the Grade Pay of Rs. 4300/- is admissible to Group 'B' officers, with much higher qualification. Learned Presenting Officer argued that this Tribunal had taken note of all these facts and had upheld revised pay fixation of the Applicant after implementation of the Sixth Pay Commission.

5. We find that it is an admitted fact that the post of Dental Technician is an isolated post, with no channel of promotion. In G.R dated 8.6.1995, introduced the Time

Bound Promotion Scheme. This scheme was modified by G.R dated 3.8.2001 and the scheme was called Assured Career Progression Scheme. The pay scales for isolated post to be granted were revised from 1.1.1996 (after implementation of the 5<sup>th</sup> Pay Commission). The Applicant, got Time Bound Promotion on 1.10.1994 and his pay was fixed in the scale of pay of Rs. 5500-9000 from 1.1.1996 as per G.R dated 3.8.2001. In para 6(c) of the Original Application, he has made the following claim:

“As he is entitled to get revised pay scale as applicable from 1.1.1996 Rs. 6500-10000. But the Respondents are avoiding to grant him revised pay scale.”

This claim of the Applicant was categorically rejected. Pay Scale of Dental Technician in 5<sup>th</sup> Pay Commission was Rs. 4500-7000, which is equated with Pay Band of Rs. 5200-20200 with grade pay of Rs. 2800/-. A person on getting A.C.P benefit get additional grade pay of Rs. 300/-. This is what the Applicant is getting. The claim of the Applicant is that his pay should be fixed in the Pay Band of Rs. 9300-34800+ grade pay of Rs 4300/- on the basis of his pay in the scale of Rs. 5500-9000 in 5<sup>th</sup> Pay Commission. The Applicant was not granted regular promotion in the Pay Scale of Rs. 5500-9000. He does not have any justification to get higher Pay Band

when all other similarly situated persons will be getting pay in a lower Pay Band. The Applicant's pay has been fixed for isolated posts on getting A.C.P benefit as per G.R dated 31.8.2009. The Applicant has not been able to point out any error of fact or law in our order. The present Review Application is in the nature of appeal and is not maintainable at all. All the issues raised by the Applicant were considered at great length in our order and rejected.

6. Having regard to the aforesaid facts and circumstances of the case, this Review Application is dismissed with no order as to costs.

Sd/-

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

Sd/-

**(Rajiv Agarwal)**  
**Vice-Chairman**

**Place : Mumbai**

**Date : 28.03.2016**

**Dictation taken by : A.K. Nair.**