

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMABI
BENCH AT AURANGABAD.

DIST. NANDED.

ORIGINAL APPLICATION NO.633/2014.

1. Dr. Balasaheb S/o Desairao Deshmukh,
Age 54 years, Occu. Medical Officer,
Presently working at Primary Health
Centre Neela, District Nanded.
2. Dr. Kisan s/o Piraji Gaikwad,
Age 45 years, Occ. Medical Officer,
Presently working at Primary Health
Centre, Ardhapur, District Nanded.
3. Dr. Suresh s/o Ramrao Pawar,
Age 50 years, Occ. Medical Officer,
Presently working at Primary Health
Centre Kapsi, District Nanded.
4. Dr. Sandesh s/o Balchand Jadhav,
Age 45 years, Occ. Medical Officer,
Presently working at Primary Health
Centre Kinwat, District Nanded.
5. Dr. Suresh s/o Mallikarjun Betkar,
Age 44 years, Occ. Medical Officer,
Presently working at Primary Health
Centre Sindkhed, District Nanded.
6. Dr. Arun s/o Sheshkumar Shirurkar,
Age 50 years, Occ. Medical Officer,
Presently working at Primary Health
Centre Kurula, District Nanded.
7. Dr. Ashok s/o Rangnathrao Jadhav,
Age 56 years, Occ. Medical Officer,
Presently working at Primary Health
Centre Wanola, District Nanded.

8. Dr. Vijaykumar s/o Murlidhar Bhayekar,
Age 56 years, Occ. Medical Officer,
Presently working at Primary Health Centre
Mohali, District Nanded.
9. Dr. Jagannath S/o Narhari Raybole,
Age years, Occ. Medical Officer,
Presently working at Primary Health Centre---,
Nanded.
10. Dr. Anil s/o Marotirao Populwar,
Age 44 years, Occ. Medical Officer,
Presently working at Primary Health Centre,
Rahati, District Nanded.
11. Dr. Sanjay s/o Khakayyappa Kasralikar,
Age 44 years, Occ. Medical Officer,
Presently working at Primary Health
Centre Mahut, District Nanded.
12. Dr. Waman S/o Chandrakant Rathod,
Age 45 years, Occ. Medical Officer,
Presently working at Primary Health Centre,
Kurula, District Nanded.
13. Dr. Jagdish s/o Tukaram Kamble,
Age 50 years, Occ. Medical Officer,
Presently working at Primary Health Centre,
Malakoli, District Nanded.
14. Dr. Pradeep s/o Dattatrya Manaspure,
Age 56 years, Occ. Medical Officer,
Presently working at Primary Health Centre,
Mandui, District Nanded.
15. Dr. Omprakash s/o Shankarrao Kadam,
Age 54 years, Occ. Medical Officer,
Presently working at Primary Health Centre
Neela, District Nanded.

-- **APPLICANTS.**

VERSUS

1. The State of Maharashtra
Through Secretary,
Public Health Department,
Mantralaya, Mumbai 32.
Copy served on C.P.O. M.A.T.
Aurangabad.
2. Director of Health Service,
Arogya Bhavan, St. Georges Hospital Campus,
Near C.S.t. Mumbai.
3. Deputy Director of Health Services,
Latur Circle, Latur.
4. The Chief Executive Officer,
Zilla Parishad Nanded.
5. The District Health Officer,
Zilla Parishad, Nanded.

-- **RESPONDENTS.**

APPEARANCE : Shri J. S. Deshmukh, learned Advocate for the Applicants.

: Shri V.R. Bhumkar, learned Presenting Officer for the Respondents no.1 to 3 ; and

: Shri K. G. Salunke, learned Advocate holding for Smt. Yogita Thorat, learned Advocate for the Respondents no.4 & 5.

CORAM : **Hon'ble Shri JD Kulkarni, Member (J).**

DATE : 27.1.2017.

JUDGMENT.**(Delivered on this 27th day of January, 2017)**

1. Heard Shri J. S. Deshmukh, learned Advocate for the Applicants, Shri V. R. Bhumkaiyr, learned Presenting Officer for the Respondents no. 1 to 3 and Shri K. G. Salunke, learned Advocate holding for Smt. Yogita Thorat, learned Advocate for the Respondents no.4 & 5.

2. The applicants are Medical Officer, and have acquired B.A.M.S. degree. They were initially appointed as Medical Officers in Group -3, in the Health Services-3, in Technical cadre in the pay scale of Rs.2000-EB-60-2300-EB-75-3200-100-3500 by Respondent no.4 in between 1985 to 1997.

3. On 28.5.2001 the Respondent no.1 took policy decision and confirmed status of Gazetted employee Group-B to those Medical Officers group "C" working under Zilla Parishad in technical cadre of non-revised pay scale of RS.2000-3500 satisfying terms and conditions of the G.R. They were promoted and upgraded as Group-B and were brought at par with M.B.B.S. Medical Officers. As many as 869 Medical Officers including the applicants were absorbed under Public Health Department in consultation with M.P.S.C. w.e.f.

28.5.2001 as per G.R. dated 17.10.2014. On 27.2.2006 the Govt. has taken a policy decision and granted revised pay scale of Rs.8000-13,500 to the Medical Officers working in the cadre of District Technical Services Group "C" under Zilla Parishad. The applicants and similarly situated Medical Officers were given pay scale of Rs.15600-39,100/- with Grade Pay of Rs.5400/- w.e.f. 1.1.2006, as per 6th Pay Commission, which was parallel to pay scale of Rs.8000 – 13,500/- in 5th Pay Commission. The pay fixation was accordingly revised vide order dated 9.3.2010.

4. The Respondent no.5, however, on 19.8.2014 modified the pay fixation of the applicants in the lower pay scale and thereby the existing pay scale of the applicants i.e. Rs.15,600 – 39,100/- with Grade Pay of Rs.5400 was brought to Rs.9300 to 34,800/- with Grade pay of Rs.4400/-, and the said action on the part of Respondent no.4 is being challenged in this O.A.

5. The applicants have prayed as under :-

“b) The impugned orders dtd. 19th of August 2014 (ANNEX-A colly) served on applicants in last week of September, 14 issued by Respondent no.5 by which revised pay fixation of applicants carried out in lower pay scale of Rs.9300-34,800/- G.P. Rs.4400/- instead of their existing pay scale of Rs.15600 -39100/- G.P. Rs.5400/- as per VIth pay since July-14, may kindly be quashed and set aside

as same is issued in violation of Principles of natural justice, without having any jurisdiction.

- c) The Respondents be directed to pay salary in pay scale of Rs.15600-39,100/- G.P. Rs.5400/- as per earlier pay fixation dtd.7.3.2010 and same is paid to other similarly situated Medical Officers working under State of Maharashtra by protecting their earlier pay fixation which already carried out as per orders dtd. 9.3.2010 pursuant to various policy decisions dated 27.2.06, 11.02.13, communication dtd.31.10.14 taken by Govt.
- d) Respondent be directed to refund the amount which is paid to applicants less by refixing their pay scale in the lower pay scale since July 14 forthwith till today.

6. The reply affidavit has been filed on behalf of Respondents no.4 & 5. According to respondents as per G.R. dated 28.5.2001 the applicants fall in the pay scale of Rs.2000-3500, Rs.6500-10,500/- and they were given status of Gazetted Officer and in the 6th Pay Commission as per G.R. dated 27.2.2009 they have been awarded pay scale of Rs.93,000 to 34,800/- with Grade Pay of Rs.4400/-. The applicants are not employee of Group-A, and therefore, the pay was revised. The excess payment paid to them has been proposed to be recovered from the period 1.1.2006 to 30.6.2014. The applicants are appointed in Group-C, Class-3 and they are not eligible in Group-B cadre. It is stated that the pay fixation order dated

19.8.2014 is as per Rule 19(d) and therefore, the excess amount is to be recovered and there is no question of refund.

7. The learned Advocate for the applicant submits that, the case of the applicant has been covered by the judgment in OA Nos.159/10 with 341/10 with 425/2015. The said judgment has been delivered in the case of Dr.Prakash Anandrao Swant & Ors. Vs. The State of Maharashtra and Ors., a common judgment delivered by this Tribunal on 18.10.2016 by this Bench. In the said judgment in para nos.5 & 6 this Tribunal has observed as under :-

“5. We find that the applicants in the original applications were also recruited as Medical Officers in District Technical Services, Class III in various Zilla Parishads. G.R. dated 17.10.2014 has finally absorbed such Medical Officers as Group B Medical Officers in the State Government. These Officers were given the pay scale of Rs.8000-13500 by G.R. dated 27.2.2006, which is applicable to Group A employees. This Tribunal has held that those Medical Officers whose names appear in the list of 869 Medical Officers in G.R. dated 17.10.2014 are entitled to get pay in the scale of Rs.8000-13500 in the Fifth Pay Commission and in the Pay Band of Rs.9300-34800 plus grade pay of Rs.5400 in the Sixth Pay Commission. They will, however, remain in Group-B as they have been absorbed in Group-B posts as per Recruitment Rules. Pay has been granted to them by G.R. dated 27.2.2006, which is applicable to Group-A Officers. A similar order was

passed on 8.8.2016 in O.A. No.160/2016 by the Principal Bench of this Tribunal. In the present Original Applications, we cannot take any other view.

6. Having regard to the aforesaid facts and circumstances of the case, Medical Officers who were recruited in the District Technical Service, Class III, and whose names figures in the list of 869 Medical Officers absorbed as Group-B Medical Officers in terms of G.R. dated 17.10.2014, are eligible to get pay in the scale of Rs.8000-13500 in the Fifth Pay Commission. They are also entitled to get pay in the Pay Band of Rs.9300-34800 + grade pay of Rs.5400/- in the 6th Pay Commission. The present Applicants, are also entitled to the above pay scale / pay band if their names figures in the list of Medical Officers, Group C working in Zilla Parishads, who were absorbed in Group B posts by G.R. dated 17.10.2014. These Original Applications are accordingly disposed of with no order as to costs.”

8. Admittedly, names of the present applicants figured in the list of 869 Medical Officers absorbed as Group B Medical Officers, in terms of G.R. dated 17.10.2014 and therefore, these Medical Officers were entitled to get pay scale of Rs.8000-13,500 in 5th Pay Commission and Rs.9300-34,800 plus Grade Pay of Rs.5400-/- in the 6th Pay Commission, and therefore, the applicants cases is/are very much covered by the judgment delivered in OA Nos. 159, 341 of 2010 and 425 of 2015. Similar view has been taken by this

Tribunal in OA No. 160/2016 in the case of Dr. Ashok Nanasahev and others Vs. State of Maharashtra and others vide judgment dated 8.8.2016 by M.A.T. Mumbai Bench and also Review Application No.25 of 2015 in OA 469/12 with OA 879/15 & 662/13 by Mumbai Bench of this Tribunal. I am therefore, satisfied that the applicants are entitled to claim pay scale as per judgment delivered by this Tribunal as already stated. Hence the following order.

ORDER.

- i) The O.A. is allowed in terms of prayer clauses B, C and D.
- ii) No order as to costs.

MEMBER (J)

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