

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO.03/2025 (S.B.)**

**Dr. Swati D/o. Manoharrao Bhise,**  
Aged about 50 yrs.; Occ: Service,  
R/o C/o Deepak Walke, 102-B,  
Near Jwala Mata Mandir, Pension Nagar,  
Behind Police Line Takli, Nagpur-440 013.

... **APPLICANT**

**// V E R S U S //**

- 1] **The State of Maharashtra,**  
Through its Principal Secretary,  
Medical Education and Drugs Department,  
9<sup>th</sup> Floor GT Hospital Campus Building,  
New Mantralaya, Fort, Mumbai-01.
- 2] **Commissioner of Medical Education and Research,**  
4<sup>th</sup> Floor, Dental College and Hospital Building,  
St. Georges Hospital Campus,  
P.D'Mello Road, Mumbai-01.
- 3] **Executive Director,**  
All India Institute of Medical Sciences,  
Plot No.2, Sector-20,  
MIHAN, NAGPUR-440 108.
- 4] **Dean,**  
Indira Gandhi Government Medical College,  
Central Avenue, NAGPUR-440 018.

... **RESPONDENTS**

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**Shri N.D. & T.N. Thombre, Ld. Advs. for the Applicant.**

**Shri M.I. Khan, Learned P.O. for the Respondents.**

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**Coram :- Hon'ble Shri Justice M. G. Giratkar,  
Vice Chairman.**

**Dated :- 06/03/2025.**

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**J U D G M E N T**

Heard Shri N.D. Thombre, learned counsel for the applicant and Shri M.I. Khan, learned P.O. for the respondents.

2. The case of the Applicant in short is as under :-

The Applicant was initially appointed as a Lecturer in Microbiology by Respondent through District Selection Board (DSB) as Bonded candidate w.e.f. 31/05/20002. Applicant was serving with the respondents from 31/05/2002 to 18/09/2008 on temporary basis. Thereafter, Applicant was selected through Maharashtra Public Service Commission (M.P.S.C.) for the post of Lecturer in Microbiology by Government Resolution dated 19/09/2008 on regular basis and was posted at Government Medical College, Nagpur.

3. Applicant is selected as an Additional Professor in Microbiology (Group-A) at All India Institute of Medical Sciences (AIIMS), Nagpur as per order dated 21/09/2024. Thereafter, as per her application dated 26/09/2024, applicant has applied for Voluntary Retirement. Her explanation was called, she had given her explanation on 21/10/2024 that her earlier service from 2002 shall be counted for the purpose of Voluntary Retirement. The respondent No.4 has forwarded her application to Respondent No.1. Respondent No.1 by order dated 26/12/2024 rejected her application on the ground that applicant has not completed eligible service of 20 years for the purpose of voluntary retirement as per Rule 66 of the Maharashtra Civil Services (Pension) Rules, 1982. Therefore, applicant has approached to this Tribunal for the following reliefs:-

*“i) Quash and set aside impugned order dated 26/12/2024 issued by Respondent No. 1, Principal Secretary, Medical Education and Drugs Department, Mumbai at Annexure No. A-5 rejecting the voluntary retirement of the Applicant being illegal and against the rules;*

*ii) By allowing the present Original Application and grant declaration that the Applicant stood retired from 27/12/2024;*

*iii) Direct the Respondents to release all the retirement benefits for which she is entitled as per the rules within stipulated period of 03;*

*iv) Any other relief, which this Hon'ble Tribunal deems fit and proper in the circumstances, be granted in the interest of justice."*

4. O.A. is strongly opposed by the Respondent Nos.1, 2 and 4 by filing affidavit-in-reply. It is submitted that applicant was appointed as a Bounded candidate and therefore her temporary service cannot be counted as a Regular service for the Voluntary retirement as per Rule 66 of the Maharashtra Civil Services (Pension) Rules, 1982.

5. Learned counsel for applicant has pointed out Rule 30 of the Maharashtra Civil Services (Pension) Rules, 1982 and submitted that as per Rule 30, temporary service shall be taken into count while calculating pension provided that the employee must be permanent at the time of retirement. Learned counsel has further submitted that after the retirement i.e. (Voluntary Retirement) their temporary service i.e. from the year 2002 shall be taken into consideration. In support of his submission, he has pointed out the Judgment of this Tribunal in Original Application No.752/2019 in the case of ***Dr. Swati W/o Ravindra Patil VS***

*State of Maharashtra and Ors.*, decided on 19/11/2020 and the Judgment of the Hon'ble Bombay High Court in Writ Petition No.7458/2010 in the case of *Devidas Bhiku Borker & Ors. VS State of Maharashtra & Ano.*, decided on 19/07/2011 and also the Judgment of the Hon'ble Bombay High Court in Writ Petition No.6928/2016 in the case of *Dr. Shailejkumar Kanku Mane VS The State of Maharashtra & Ors.*, decided on 25/04/2018.

6. There is no dispute that applicant is continuously working as Lecturer with the respondents from the Year 2002. There is no break in his service, as per the order of this Tribunal, her service is continued by the respondents. She was regularly appointed by the respondents after passing the Maharashtra Public Service Commission (MPSC) examination in the year 2008.

7. Learned P.O. has submitted that applicant herself has stated in her application, that she has completed 16 years of service. Therefore, it is clear that applicant has not completed 20 years of service as provided under Rule 66 of the Maharashtra Civil Services (Pension) Rules, 1982. Therefore, her application is rightly rejected.

8. This Tribunal in Original Application No.752/2019 in the case of ***Dr. Swati Patil (cited supra)*** has decided that while deciding the application under Rule 66, earlier temporary service shall be taken into consideration as per Rule 30 of the Maharashtra Civil Services (Pension) Rules, 1982.

9. The Hon'ble Bombay High Court in Writ Petition No.7458/2010 in the case of ***Devidas Borker (cited supra)***, has held that Rule 30 would encompass the services rendered by the Government employees even in the capacity of the temporary appointment as Seasonal Godown Keepers. Rule 30 makes no distinction between the first appointment either substantively or in the officiating capacity or temporary capacity for the purpose of qualifying service. It is also held that Administrative Tribunal is bound by another decision of the same Tribunal.

10. The Hon'ble Bombay High Court in Writ Petition No.6928/2016 in the case of ***Dr. Shailejkumar Mane (cited supra)*** has held that while counting the service for the purpose of Rule 66 of the Maharashtra Civil Services (Pension) Rules, 1982, service mentioned in Rule 30 of the Maharashtra Civil Services (Pension) Rules, 1982 shall be taken into consideration.

**11.** From the Judgments cited by the side of applicant, it is clear that temporary service as mentioned in Rule 30 of the Maharashtra Civil Services (Pension) Rules, 1982 shall be counted for the purpose of Rule 66 of the Maharashtra Civil Services (Pension) Rules, 1982. Applicant has completed 20 years of service, if her earlier service from the year 2002 is taken into consideration. There is no break in her service from the Year 2002. Though, applicant had passed the Maharashtra Public Service Commission (MPSC) examination in the year 2008, respondents have also issued Government Resolution dated 29/06/2019, by which technical break is condoned for the purpose of increment, leave, etc. But it is mentioned in Para 3 of the Government Resolution dated 29/06/2019 that the temporary service shall not be counted for other purpose. Therefore, it is clear from the Government Resolution dated 29/06/2019, that technical break in service of the applicant is condoned, that means she has completed 20 years of service. Rule 30 and Rule 66 of the Maharashtra Civil Services (Pension) Rules, 1982, if read conjointly then it is clear that Rule 30 is to be taken into account while deciding the application under Rule 66 of the Maharashtra

Civil Services (Pension) Rules, 1982. Applicant is now selected by All India Institute of Medical Science (AIIMS), Nagpur.

**12.** Application of the applicant for voluntary retirement is wrongly rejected by the Respondent No.1 by not taking into consideration her temporary (Bounded Service) from the year 2002. The Government itself has condoned the technical break in service. As per Rule 30 and the above cited Judgments, it is clear that the service of the applicant from the year 2002 is to be taken into consideration. Hence, the following order:-

**O R D E R**

- (i) O.A. is allowed;
- (ii) The impugned order dated 26/12/2024 issued by Respondent No.1 is quashed and set aside;
- (iii) The respondents are directed to consider the service of applicant w.e.f. 31/05/2002 while deciding the application under Rule 66 of the Maharashtra Civil Services (Pension) Rules, 1982;



(iv) Respondent No.1 is directed to decide the application of applicant dated 26/09/2024 afresh within a period of one week from the date of receipt of this order.

**(Justice M.G.Giratkar)**  
**Vice Chairman.**

**Dated :-06/03/2025.**  
**PRM.**

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Piyush R. Mahajan.

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 06/03/2025.