

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATIONS 829 & 830 OF 2015

DISTRICT : NANDED

1. ORIGINAL APPLICATION NO 829 OF 2015

Dr Nandkumar R. Aswar,)
Occ : Service as Associate Professor in)
Prevention and Social Medicine at)
Dr. Shankarrao Chavan Government)
Medical College, Nanded.)
R/o: A-5, 'Godawari', Medical College)
Quarters, Vazirabad, Nanded,)
Dist-Nanded.)... Applicant

Versus

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|---------------------------------|---|
| 1. The State of Maharashtra |) |
| Copy to be served on the C.P.O, |) |
| In M.A.T, Mumbai bench at |) |
| Aurangabad. |) |
| 2. The Secretary, |) |
| Medical Education & Drugs Dept, |) |
| Mantralaya, Mumbai 400 032. |) |

3. The Director,)
 Medical Education & Research,)
 Mumbai.)
4. The Dean,)
 Dr Shankarrao Chavan Government)
 Medical College, Nanded,)
 Dist-Nanded.)...**Respondents**

2. ORIGINAL APPLICATION NO 830 OF 2015

Dr Sanjaykumar Rajaram More,)
 Occ : Service as Associate Professor in)
 Microbiology at Dr. Shankarrao Chavan)
 Government Medical College, Nanded.)
 R/o: A-7, 'Godawari', Medical College)
 Quarters, Vazirabad, Nanded,)
 Dist-Nanded.)...**Applicant**

Versus

1. The State of Maharashtra)
 Copy to be served on the C.P.O,)
 In M.A.T, Mumbai bench at)
 Aurangabad.)
2. The Secretary,)
 Medical Education & Drugs Dept,)
 Mantralaya, Mumbai 400 032.)

3. The Director,)
Medical Education & Research,)
Mumbai.)
4. The Dean,)
Dr Shankarrao Chavan Government)
Medical College, Nanded,)
Dist-Nanded.)...**Respondents**

Shri S.D Joshi, learned advocate for the Applicants.

Shri K.B Bhise learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

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

DATE : 16.09.2016

PER : Shri Rajiv Agarwal (Vice-Chairman)

ORDER

1. Heard Shri S.D Joshi, learned advocate for the Applicants and Shri K.B Bhise, learned Presenting Officer for the Respondents.

2. These Original Applications were heard together and are being disposed of by a common order as the issues to be decided are identical.

3. Learned Counsel for the Applicants stated that the Applicants were working as Associate Professors in Government Medical College, Nanded and Ambejogai respectively. The Pay Band for the post of Associate Professor is Rs. 37400-67000 with grade pay of Rs. 9000/-. Learned Counsel for the Applicants stated that the Government had issued a G.R dated 10.11.2009, to implement the Sixth Pay Commission for Teachers in Government Medical /Dental and Ayurvedic Colleges. As per clause 3(a)(xii) of this G.R, an Associate Professor on completing 3 years of service in the Academic Grade Pay (AGP) of Rs. 9000/- and possessing a M.D/M.S/D.N.B/D.B/M.Ch/Ph. D degree in the relevant discipline shall be eligible to be appointed and designated as Professor, subject to other conditions of academic performance as laid down by the U.G.C and, if any, by the University. A.G.P for Professor is Rs. 10,000/-. Learned Counsel for the Applicants argued that the Applicants fulfilled the requirement of the aforesaid G.R and were granted A.G.P of Rs. 10,000/- after completion of three years as Associate Professor. However, by the impugned orders dated 22.6.2011 the Applicants were informed that they were not eligible to get A.G.P of Rs. 10,000/- after completion of 3 years' service as Associate Professor and were asked to refund the 'excess' payment. Learned Counsel for the Applicants argued that the impugned orders have been passed on the basis of letter dated 29.3.2010 from the Respondent no. 2.

This letter has attachment giving guidelines regarding how to implement the recommendations of the University Grants Commission (U.G.C) for medical teachers. In item no. 11, it is clarified that clause 3(a)(xii) in G.R dated 10.11.2009, prescribes the qualifications for an Associate Professor for promotion to the post of Professor. A person is eligible to be promoted after 3 years of service as Associate Professor, subject to his being found fit, availability of post etc. Learned Counsel for the Applicants argued that this is complete misreading of the G.R dated 10.11.2009, which is regarding revision of pay scale for inter-alia, medical teachers and not about promotion. This will be clear from the scheme of this G.R. In clause 2(2)(iii), it is stated that there will be different stages of Academic Grade Pay, which shall ensure that teachers will have multiple opportunities for upward movement during their career. Also in para 2(3)(a) of the aforesaid G.R, an Assistant Professor after 4 years of service and having M.D / M.S etc. qualification moves to A.G.P of Rs. 7000/-. Learned Counsel for the Applicants stated that the Respondent no. 3 had issued a letter dated 30.6.2016 to all Government Medical Colleges, wherein two earlier Government letters, regarding grant of AGP to Associate Professors in Government Ayurvedic Colleges of Rs. 10,000/- after 3 years of service in terms of G.R dated 10.11.2009 is mentioned. Learned Counsel for the Applicants stated that G.R dated 10.11.2009 is applicable to Government

Medical, Dental and Ayurvedic Colleges. If on the basis of this G.R, Associate Professors in Ayurvedic Colleges were given A.G.P of Rs. 10,000/- after 3 years of service, the same cannot be denied to the Applicants.

4. Learned Presenting Officer (P.O) argued on behalf of the Respondents that the Respondent no. 1 has clarified by letter dated 29.3.2010 (Exhibit R-2, page 61 of the Paper Book) that clause 3(a)(xii) of the G.R dated 10.11.2009 only prescribed eligibility for promotion to the post of Professor. However, unless the posts of Professor are available, there is no question of promoting the Applicants as Professors, merely on completion of 3 years as Associate Professor.

5. We have carefully perused the G.R dated 10.11.2009. It is regarding 'Revision of Pay Scales of Medical Education and Drugs Department-Teachers in Government Medical/Dental and Ayurvedic Colleges. In para 12, it is stated that:-

“1.2 The question of implementing Government of India's scheme of revision of pay scales of teachers and equivalent cadres in colleges and other relevant guidelines was under active consideration of the State Government. The State Government has now decided to implement the revise pay scales of all teachers and equivalent cadres w.e.f 1.1.2006 as per the Central Government (U.G.C) scheme while other allowances as per the State Government employees; to keep the age of superannuation and

leave package unchanged and the terms and conditions of services are as detail below for medical education.”

Para 2(2)(iii) reads:-

“(iii) The pay of teachers and equivalent positions in Colleges shall be fixed according to their designations in two pay bands of Rs. 15600-39100 and Rs. 37400-67000 with appropriate “Academic Grade Pay” (AGP in short). Each Pay Band shall have different stages of Academic Grade Pay which shall ensure that teachers and other equivalent cadres covered under this Scheme subject to other conditions of eligibility being satisfied, have multiple opportunities for upward movement during their career.”

Two things are clear, viz. the State Government had decided to implement the U.G.C package regarding pay scales in toto, except the age of superannuation, and the scheme envisaged multiple opportunities for upward movement during the career of a teacher. This ‘multiple opportunities’ will clearly mean, that there will be opportunities for financial upgradation, other than actual promotion. This interpretation is strengthened if the provisions of clause 2(3)(a) are considered as a whole. In sub clause (ii), it is mentioned that an Assistant Professor, on completion of 4 years, will be eligible to get AGP of Rs. 7000/- from earlier AGP of Rs. 6000/-. Only condition is that he should have a degree of M.D/M.S etc. Sub clause (xi) reads:-

“(xi) Assistant Professors completing 3 years of teaching in AGP of Rs. 8000 shall be eligible, subject to other conditions that may be prescribed by the UGC and the university, to move to the Pay Band of Rs. 37400-67000 with AGP of Rs. 9000 and to be designated as Associate Professor.”

It is clear that an Assistant Professor, who has worked for 3 years in AGP of Rs. 8000/- is designated as Associate Professor and his AGP is increased to Rs. 9000/-. Sub clause (xii), relied upon by the Applicant is logical extension of the scheme that an Associate Professor, after 3 years, will be designated as Professor and his grade pay would be enhanced to Rs. 10,000/- of course, at this stage, Government can place conditions of academic performance as laid down by U.G.C and University. However, the State Government does not seem to have implemented U.G.C guidelines in this regard viz. condition of academic performance. In fact, no affidavit has been filed by the Respondent no. 2 or 3 in these Original Applications and the task has been left to the Dean of the Government Medical College, who is unlikely to be acquainted with the matter, which is in the domain of the Respondent no. 2, i.e. the Government in Medical Education & Drugs Department. However, if there were any conditions of academic performance before an Associate Professor on completion of 3 years, could be given grade pay of Rs. 10,000/- it was for the Respondents to ensure that such conditions were satisfied. However, the Respondents have taken a stand

that clause 3(3)(a)(xii) of the G.R dated 10.11.2009 is regarding promotion to the post of Professor. Looking into scheme of G.R dated 10.11.2009, this stand of the Government does not appear to be correct and is rejected. The view taken by us is strengthened by the letter dated 30.6.2016 issued by the Respondent no. 3 to all Government Medical Colleges. The relevant portion reads:-

“शासनाच्या संदर्भ ३ व ४ येथील पत्रान्वये आयुर्वेद संचालनालयच्या नियंत्रणात असलेल्या आयुर्वेद तसेच अनुदानित महाविद्यान यातकार्भरत असलेल्या सहयोगी प्राध्यापकांना ज्यांची रु ९,०००/- शैक्षणिक ग्रेडवेतनात तीन वर्षे किंवा पेक्षा जास्त सेवा झालेली आहे अश्या सहयोगी प्राध्यापकांना रु १०,०००/- शैक्षणिक ग्रेड वेतन देऊन नामाभिधानित प्राध्यापक म्हणून संबोधण्यात यावे असे नमूद केलेले आहे.”

It is clear that Associate Professors in Ayurvedic Colleges on completion of three years have been given AGP of Rs. 10,000/-. There is no reason, why the same should not be done for Associate Professors in Government Medical Colleges, when the same G.R is applicable to both set of teachers.

6. Having regard to the aforesaid facts and circumstances of the case, the impugned orders dated 22.6.2011 are quashed and set aside. The letter dated 29.3.2010 is not in tune with the G.R dated 10.11.2009. Also in the light of facts mentioned in the letter dated 30.6.2016 by the Respondent no. 2, it is clear that the

Respondent no. 2 is having rethinking about that letter dated 29.3.2010 [not 20.3.2011 as mentioned in the relief clause 8(B)]. The Respondent no. 2 may issue appropriate instructions in this regard. No recovery will be made from the Applicants on account of granting them AGP of Rs. 10,000/-. This order will, however, not come in the way of the Respondents, if the conditions of academic performance as laid down by U.G.C or the concerned University are made applicable for grant of AGP of Rs. 10,000/- to Associate Professors in terms of clause 3(3)(a)(xii) of G.R dated 10.11.2009. These Original Applications are allowed accordingly with no order as to costs.

Sd/-
(R.B. Malik)
Member (J)

Sd/-
(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai
Date : 16.09.2016
Dictation taken by : A.K. Nair.