

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD.****WRIT PETITION NO.6541 OF 2016**

Dr.Mohammed Asif Mohammed Ibrahim,
Age 58 years, Occu. Medical Officer,
R/o Hyder Bagh, Nanded,
Tq. & Dist. Nanded. ... **PETITIONER.**

VERSUS

1. The State of Maharashtra,
(Urban Development Department).
2. The Nanded Waghala City Municipal
Corporation, Nanded
through its Commissioner,
Office at the Nanded Waghala City
Municipal Corporation, in front
of Collector Office,
Nanded. ... **RESPONDENTS.**

...

Advocate for Petitioner: Mr.Zia Ul Mustafa
AGP for Respondents/State: Mr.V.S. Badakh.
Advocate for R.No.2 : Mr.R.K. Ingole.

...

CORAM: S.S.SHINDE & SANGITRAO S. PATIL, JJ.

Dated: JUNE 29, 2016.

PER COURT :-

Heard the learned Counsel for the petitioner

and the learned AGP appearing for the State and also the learned Counsel for respondent No.2 – Corporation.

2. The learned Counsel for the respondent – corporation has tendered across the Bar an affidavit-in-reply on behalf of respondent No.2. The same is taken on record. The learned Counsel for the petitioner has invited our attention to the Government Resolution dated 3rd September, 2015 issued by the General Administration Department, Government of Maharashtra and also he has tendered across the Bar the notification dated 31st May, 2016 published in the Gazette of India issued by the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) and submits that the age of superannuation for the Medical Officers, who are serving in the Central and the State Government Departments, was 60 years and by the aforesaid notification, so far as the Medical Officers serving under the Central Government are concerned, their age of superannuation is now 65

years. It is submitted that the duties assigned to the petitioner and the services rendered by him are similar to services rendered by the Medical Officers working in the Government Departments and, therefore, the petitioner's services deserve to be continued till he attains the age of 60 years. The learned Counsel for the petitioner submits that the petition deserves consideration.

3. On the other hand, learned Counsel for the respondent - Corporation, relying upon the averments in the affidavit-in-reply and the contents of the Government Resolution referred herein above, submits that the Medical Officers, who are rendering services in ESI Hospitals and the Directorate of Health Services, are only entitled to retire on superannuation at the age of 60 years and not the Medical Officers serving in the Hospitals run by the Corporations. Therefore, he submits that this Court may pass an appropriate order.

4. Upon hearing the learned Counsel for the parties and perusal of the documents placed on record and in particular, the aforesaid Government Resolution issued by the concerned department of the State Government and the notification issued by the aforementioned department of the Central Government, it is abundantly clear that the provisions / benefits stated in the said Government Resolution have been restricted to the Medical Officers rendering services in the employment of the State and Central Governments. Therefore, we are unable to persuade ourselves to grant any relief to the petitioner.

However, there is substance in the contention of the learned Counsel for the petitioner that the petitioner is also performing the same duties like the Medical Officer working in the Hospitals run by the State Government. Therefore, as and when the State Government / Corporation will take a decision to increase the age of superannuation in the cases of Medical

Officers working in the Corporation, the petitioner will be entitled to approach the respondent – Corporation / State Government for re-appointment or allowing him to continue his services till he attains the age of superannuation, in case, the respondent – State Government takes a decision to make it 60 years or 65 years, as the case may be.

5. With the above observations, the writ petition stands disposed of.

(SANGITRAO S. PATIL, J.) (S.S.SHINDE, J.)