

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3005 OF 2000

- 1 Madhukar Ramdas Shimpi,
 Age : 62 years, Occupation : Pensioner,
 R/o N-5, Cidco, Aurangabad.
- 2 Shriram Pannalal Wani,
 Age : 60 years, Occupation : Pensioner,
 R/o Gawali Mohalla, Jalna.
- 3 Suresh Chintaram Natu,
 Age : 61 years, Occupation : Pensioner,
 R/o Latur.
- 4 Diwakar Dinkar Desai,
 Age : 61 years, Occupation : Pensioner,
 R/o Satkar Nagar, Ring Road,
 Jalna.
- 5 Bhaskar Dattatraya Chobe,
 Age : 62 years, Occupation : Pensioner,
 R/o Mayur Nagar, Hudco, Aurangabad.
- 6 Shashikant Bhimrao Mote,
 Age : 60 years, Occupation : Pensioner,
 R/o Osmanabad.

....PETITIONERS

-VERSUS-

- 1 The State of Maharashtra.
- 2 The Joint Director,
 Health Services, Pune-1.
- 3 K.G.Naik at Nanded,
 C/o District Malaria Officer,
 Nanded.

- 4 H.Y.Haral at Bhokar,
C/o District Malaria Officer,
Nanded.
- 5 S.K.Latkar at Kandhar,
C/o District Malaria Officer,
Nanded.
- 6 P.B.Shikhare at Beed,
C/o District Malaria Officer,
Nanded.

....RESPONDENTS

...
Advocate for the Petitioners : Shri Y.P.Deshmukh h/f Shri A.D.Gadekar.
AGP for the Respondents/ State : Smt.M.A.Deshpande.
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**CORAM: RAVINDRA V. GHUGE
AND
SUNIL K. KOTWAL, JJ.**

DATE :- 07th November, 2017

Oral Judgment :

1 By this petition, the Petitioners have put forth their prayers in terms of clause 21-A, B and C, which read as under:-

- "(A) *By issue of writ of mandamus or any other appropriate writ, order or direction of like nature, the Respondents No.1 and 2 be directed to grant the deemed date of promotion to the petitioners with effect from 01.09.1979 to the post of Malaria Supervisor by granting all the consequential benefits arising out of it.*
- (B) *By issue of appropriate writ, order or direction, as the case may be, the impugned judgment and order dated 23.02.1996 passed by the Honourable Maharashtra Administrative Tribunal, Bombay, Bench at Aurangabad, which is at Exhibit-D be quashed and set aside.*

(C) *By issue of writ of mandamus or any other appropriate writ, order or direction of like nature, the Respondent No.1 and 2 be directed to grant the revised pay scale in favour of the Petitioners based on 5th Pay Commission Recommendations and the pensionary benefits be revised accordingly."*

2 While admitting this petition on 02.08.2000, this Court has not granted any interim relief to the Petitioners.

3 We have considered the submissions of the learned Advocate for the Petitioners and the learned AGP.

4 The Petitioners contend that by the judgment delivered on 27.09.1996 by the learned Maharashtra Administrative Tribunal (MAT) at Nagpur Bench in Transfer Application No.535/1992 (Laxman Gulabrao Salunke and others vs. State of Maharashtra and others), identically placed employees were directed to be considered for grant of the deemed date of their promotion, keeping in view that their representations were pending. Pursuant thereto, the Joint Director of Health Services (Malaria and Filariasis), Pune granted certain benefits to the Applicants before the MAT by order dated 18.06.1997.

5 The contention of the Petitioners herein, therefore, is that they should be considered at par with those employees who have been granted the deemed dates.

6 The learned AGP points out that after the MAT delivered the

judgment, the Joint Director of Health Services considered the representations of those employees and granted them the benefits as per his order dated 18.06.1997. Subsequently, it was noticed that the Joint Director of Health Services had no authority to take any decision in that context. By the Government Resolution dated 13.03.2001 issued by the Public Health Department, State of Maharashtra, the order dated 18.06.1997 was withdrawn and the benefits granted by the Joint Director of Health Services were taken back.

7 In the above backdrop, the learned Advocate for the Petitioners submits that as their representations are pending before the Public Health Department, it is high time that the Public Health Department takes a decision on the grievances of the Petitioners since there are several such employees all over the State, who have been litigating for their benefits and the deemed date of promotion to the post of Malaria Supervisor.

8 At this juncture, it is submitted that the Petitioners would prefer to make a fresh representation for consideration of the Director of Health Services, State of Maharashtra.

9 By recording the above statement, this Writ Petition is disposed of by permitting the Petitioners to make a representation, either jointly or individually, within a period of FOUR WEEKS from today addressed to the Director of Health Services, State of Maharashtra. After

receipt of the said representation, the competent authority would consider the same taking into account all similarly situated and comparable employees.

10 We make it clear that we do not intend to direct that the cases of these Petitioners alone should be considered merely because they are before us. We deem it appropriate to observe that the competent authority would consider the cases of all such employees who are similarly situated as like the Petitioners in order to ensure parity amongst identically situated employees.

11 Such representations and the cases of identically situated employees shall be considered for the benefits that they have prayed for, within a period of SIXTEEN (16) WEEKS after receiving the representations, on their own merits.

12 Rule is discharged.