

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2562 OF 2017

Dr. Prakash Genu Kamble and others .. **Petitioners**
Versus
The State of Maharashtra and others .. **Respondents**

Shri Kamlakar J. Suryawanshi, Advocate for the Petitioners.
Shri A. V. Deshmukh, A.G.P. for Respondent Nos. 1 to 3.
Shri Shivaji T. Shelke, Advocate for Respondent No. 4.
Shri Rakesh Nemichand Jain, Advocate for Respondent No. 5.
Shri Shantaram R. Dheple, Advocate for Respondent No. 6.

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Dr. Sarda Rajendra Mithulalji and others .. **Petitioners**
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Shri A. V. Deshmukh, A.G.P. for Respondent Nos. 1 to 3.
Shri Santosh S. Dambe, Advocate for Respondent No. 4.
Shri Shantaram R. Dheple, Advocate for Respondent No. 5.
Mrs. Yogita M. Kshirsagar, Advocate for Respondent No. 6.

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Respondent No. 4 served.

Shri Rakesh Nemichand Jain, Advocate for Respondent No. 5.

Shri Santosh S. Dambe, Advocate for Respondent No. 6.

Shri Ganesh V. Mohekar, Advocate for Respondent No. 8.

Shri Bhimrao S. Mundhe, Advocate for Respondent Nos. 8.

Shri Sambhaji S. Tope, Advocate for Respondent No. 9.

Shri Suhas B. Ghute, Advocate for Respondent No. 10.

Shri Shantaram R. Dheple, Advocate for Respondent No. 11.

Shri Kailas U. More, Advocate for Respondent No. 12

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.**

DATE : 16th April, 2018

PER COURT :

1. The petitioners assail the order of the Maharashtra Administrative Tribunal, Aurangabad disposing of their Original Applications bearing Nos. 341 of 2010 and 424 of 2015. In the Original Applications, the applicants claim declaration that they belong to Group 'A' category of Government employees as per the Government Resolution dated 2nd July, 2002, and further sought direction to publish seniority list by considering and recognizing the applicants in Group 'A'. The learned counsel for the petitioners relied on the Judgment of the Division Bench at Nagpur in Writ Petition No. 6757 of 2017 dated 5th March, 2018.

2. We have heard learned counsel for the petitioners and the respondents, so also, we have gone through the Judgment of the tribunal.

3. The Judgment of the Division Bench at Nagpur dated 5th March, 2018, in Writ Petition No. 6757 of 2017, relied by the petitioners may not be of any avail to the petitioners. In the said writ petition, the Judgment of the tribunal was challenged which was basically based on the Government Resolution dated 30th May, 2015.

4. In the present case, the petitioners are absorbed pursuant to the Government Resolution dated 17th October, 2014, in Group 'B'. The Original Applications are filed by the applicants in the years – 2010 and 2015. The tribunal in the order has nowhere referred to or discussed the Government Resolution dated 17th October, 2014, nor has considered the medical officers in Maharashtra Medical and Health Services, Group A (Recruitment) Rules, 2000 and as amended on 18th July, 2013. These rules would be relevant to be considered while coming to

the conclusion as to whether the petitioners would be considered in Group 'A'. According to the learned counsel for the petitioners, the petitioners are paid the salary applicable to Group 'A' medical officers. However, we don't find any discussion on the said aspect.

5. Considering the above, it would be appropriate that the petitioners bring all these material to the notice of the tribunal and if required amend the Original Applications.

6. In light of the above, we relegate the parties before the tribunal. The impugned order is quashed and set aside and the petitioners are relegated before the tribunal. The petitioners shall appear before the tribunal on 2nd May, 2018. The tribunal shall also consider the Government Resolution dated 2nd July, 2002, more particularly, Clause 3-A of the said Government Resolution.

7. The writ petitions accordingly stand disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]