

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

**WRIT PETITION NO. 1646 OF 2019**

1. Dr. Arvind Namdeorao Bagate,  
age – 48 years,  
occupation – Associate Professor  
Swami Ramand Teerth Government  
Medical College and Hospital, Ambajogai,  
R/o – 'Sahyadri', MDP, 1-5-2,  
Medical college campus, Ambajogai,  
District Beed.
2. Dr. Vaishali Bhagwantrao Bhagwat,  
Age – 44 years,  
occupation – Associate Professor  
Swami Ramand Teerth Government  
Medical College and Hospital, Ambajogai,  
R/o – 'Sahyadri', Class I quarters  
SRTGR Medical College Campus,  
Ambajogai, District Beed.
3. Dr. Satish Babruvahan Mane,  
age – 54 years,  
occupation – Associate Professor  
Swami Ramand Teerth Government  
Medical College and Hospital, Ambajogai,  
R/o – Housing Society, Ambajogai,  
District Beed.
4. Dr. Sunita Subhash Dhule,  
age – 44 years,  
occupation – Associate Professor  
Swami Ramand Teerth Government  
Medical College and Hospital, Ambajogai,  
R/o – Sai Prayag, Chausalkar  
Colony, Ambajogai, District Beed.
5. Dr. Rajesh Sahebrao Ovhal,  
age – 43 years,  
occupation – Associate Professor  
Swami Ramand Teerth Government  
Medical College and Hospital, Ambajogai,

R/o – Satpuda Block No. P-1/2/6,  
S.R.T.R. Medical college campus,  
Ambajogai, District Beed.

6. Dr. Deepali Madhukar Kulkarni,  
age – 41 years,  
occupation – Associate Professor  
Swami Ramand Teerth Government  
Medical College and Hospital, Ambajogai,  
R/o – “Guruchaya”, Hanuman Mala,  
Near Anand Gas, Ambajogai,  
District Beed.
7. Dr. Sheela Lakshmanrao Gaikwad,  
age – 48 years,  
occupation – Associate Professor (Ad-hoc),  
Swami Ramand Teerth Government  
Medical College and Hospital, Ambajogai,  
R/o – C/o Pramod Adnak, “Neha  
Service centre”, Parli Road, Ambajogai,  
District Beed.
8. Dr. Sheshrao Sakharam Chavan,  
age – 51 years,  
occupation – Associate Professor  
Swami Ramand Teerth Government  
Medical College and Hospital, Ambajogai,  
R/o – 'Sahyadri-4', Medical Campus,  
SRTRMC, Ambajogai, District Beed.
9. Dr. Manoj Bhagoji Dongre,  
age – 47 years,  
occupation – Professor (Ad-hoc)  
Swami Ramand Teerth Government  
Medical College and Hospital, Ambajogai,  
R/o- “Himalaya”, P-1/2/3, SRTR  
Medical college campus, Ambajogai,  
district – Beed.
10. Dr. Deepali Sharadkumar Deo,  
age – 44 years,  
occupation – Associate Professor,  
Swami Ramand Teerth Government  
Medical College and Hospital, Ambajogai,

R/o- P-3, Sahyadri SRTR Medical  
College Campus, Ambajogai,  
district – Beed.

11. Dr. Vinod Shivajirao Deshmukh,  
age – 48 years,  
occupation – Associate Professor,  
Government Medical College and Hospital,  
Latur, R/o- Omkar Residency, B wing,  
Ganeshnagar, Ambajogai road,  
Latur. 413531.
12. Dr. Ganesh Ramkishan Tondge,  
age – 41 years,  
occupation – Associate Professor  
Swami Ramand Teerth Government  
Medical College and Hospital, Ambajogai,  
R/o- Housing Society 8/1327, Ambajogai,  
district – Beed.
13. Dr. Sudhir Vinayakrao Bhise,  
age – 45 years,  
occupation – Associate Professor (Ad-hoc)  
Swami Ramand Teerth Government  
Medical College and Hospital, Ambajogai,  
R/o- Plot No. 8, Rajmata Jijau  
Nagar, Ambajogai, district – Beed.
14. Dr. Pramod Govindrao Salve,  
age – 48 years,  
occupation – Associate Professor  
Dr. Shankarrao Chavan Government  
Medical College and Hospital, Nanded,  
R/o- "Rukmini Niwas", Saptagiri  
Colony, Taroda (BK), Nanded.
15. Dr. Ganesh Kishanrao Nikam,  
Age : 43 years,  
occupation – Associate Professor,  
Swami Ramanand Teerth Government  
Medical College and Hospital, Ambajogai,  
R/o – 'Raigad-6', S.R.T.R. Medical  
College campus, Ambajogai,  
District – Beed.

16. Dr. Sachin Nandkishor Solanke,  
Age : 38 years,  
occupation – Associate Professor,  
Swami Ramanand Teerth Government  
Medical College and Hospital, Ambajogai,  
R/o – Plot No. 25 Shreenath  
Residency, near BABA Petrol Pump,  
Aurangabad.
17. Dr. Sunil Yogiraj Swami,  
Age : 46 years,  
occupation – Associate Professor,  
Swami Ramanand Teerth Government  
Medical College and Hospital, Ambajogai,  
R/o – 'Shivkala Niwas' Bhagwanbaba  
Chawk, Gitta Road, Ambajogai,  
District – Beed PIN – 431517.
18. Dr. Rakesh Ramaratan Jadhav,  
Age : 42 years,  
occupation – Associate Professor,  
Swami Ramanand Teerth Government  
Medical College and Hospital, Ambajogai,  
R/o – 'Govardhan Building', -1/3,  
SRTR Medical college campus,  
Ambajogai, District – Beed.
19. Dr. Dnyneshwar Shivajirao Jadhav,  
Age : 45 years,  
occupation – Associate Professor,  
Swami Ramanand Teerth Government  
Medical College and Hospital, Ambajogai,  
R/o – House No. 8/1503, near Mauli  
Hospital, Ring Road, Ambajogai,  
District – Beed.
20. Dr. Vinod Limbnath Vedpathak,  
Age : 42 years,  
occupation – Associate Professor,  
Swami Ramanand Teerth Government  
Medical College and Hospital, Ambajogai,  
R/o – 'Govardhan 1/4', SRTR Medical  
College Campus, Ambajogai,

District – Beed, PIN – 431517 36.

21. Dr. Satishkumar Sukhanand Porwal  
Age : 37 years,  
occupation – Assistant Professor,  
Swami Ramanand Teerth Government  
Medical College and Hospital, Ambajogai,  
R/o – Himalaya Building, Doctors  
Quarters, SRTR Medical Campus,  
Ambajogai, District – Beed.
22. Dr. Anant Karbhari Shingare,  
Age : 42 years,  
occupation – Associate Professor,  
Grant Government Medical College  
and Hospital, Mumbai,  
R/o – Panchasheela Building  
Block No. 1 Mumbai.
23. Dr. Dinkar Ravan Kekan,  
Age : 41 years,  
occupation – Associate Professor,  
Grant Government Medical College  
and Hospital, Mumbai,  
R/o – Panchasheela Building  
Block No. 20 Mumbai.
24. Dr. Savita Satyanarayan Somani  
Age : 37 years,  
occupation – Assistant Professor,  
Swami Ramanand Teerth Government  
Medical College and Hospital, Ambajogai,  
R/o – Savita steel Centre, Mangalwar  
Peth, Ambajogai, district – Beed.
25. Dr. Mahendrakumar Gajanan Dhabe  
Age : 44 years,  
occupation – Associate Professor,  
Swami Ramanand Teerth Government  
Medical College and Hospital, Ambajogai,  
R/o – Kailas Building 1/3, S.R.T.R.  
Med. Col. Ambajogai, District – Beed.

26. Dr. Charusheela Sheshrao Halgarkar,  
Age : 39 years,  
occupation – Assistant Professor,  
Swami Ramanand Teerth Government  
Medical College and Hospital, Ambajogai,  
R/o – Kailas Block No. 1/4 , Medical  
Quarters, S.R.T.R. Med. Col., Ambajogai,  
District – Beed.
27. Vishwajeet Govindrao Pawar,  
Age : 37 years,  
occupation – Associate Professor,  
Swami Ramanand Teerth Government  
Medical College and Hospital, Ambajogai,  
R/o – Anurag Colony, Parli Road,  
Ambajogai, district – Beed.
28. Dr. Sanjay Bhagwanrao Bansode,  
Age : 41 years,  
occupation – Associate Professor,  
Swami Ramanand Teerth Government  
Medical College and Hospital, Ambajogai,  
R/o – “Dev giri”, Block No. 1/2 , Medical  
Quarters, S.R.T.R. Med. Col. Ambajogai,  
District – Beed.
29. Dr. Deepak Ramrao Lamture,  
Age : 46 years,  
occupation – Associate Professor Orthopaedics,  
Swami Ramanand Teerth Government  
Medical College and Hospital, Ambajogai,  
R/o – Kailas Block 1/1”, SRTRMCH  
Ambajogai, District – Beed.
30. Dr. Nitin Narayanrao Chate,  
Age : 39 years,  
occupation – Associate Professor,  
Swami Ramanand Teerth Government  
Medical College and Hospital, Ambajogai,  
R/o – “Dev giri Block 1/4”, SRTR Medical  
Campus, Ambajogai, District – Beed.
31. Dr. Satish Gangaramji Gireboinwad,  
Age : 42 years,

occupation – Associate Professor,  
Swami Ramanand Teerth Government  
Medical College and Hospital, Ambajogai,  
R/o – Kailas Block 1., SRTR Medical  
Campus, Ambajogai, District – Beed.

32. Dr. Prashant Laxmanrao Dahire,  
Age : 39 years,  
occupation – Associate Professor,  
Government Medical College and  
Hospital, Miraj,  
R/o – Near Dr. Ambedkar Colony,  
Beed Road, Morewadi, Ambajogai,  
District – Beed – 431517.
33. Dr. Manish Mahadeo Tiwari,  
Age : 38 years,  
occupation – Professor (Ad-hoc)  
Government Medical College and  
Hospital, Gondia,  
R/o – Block No. 36, Ekta Housing Society,  
Beltarodi road, Nagpur.
34. Dr. Amol Ramrao Suryawanshi  
Age : 35 years,  
occupation – Associate Professor,  
Government Medical College and  
Hospital, Aurangabad,  
R/o – C/O R.B. Suryawanshi, Dharur  
Road, Ani Nagar, Kaij, 431123.
35. Dr. Avinash Laxmanrao Kashid,  
Age : 37 years,  
occupation – Assistant Professor,  
Swami Ramanand Teerth Government  
Medical College and Hospital, Ambajogai,  
R/o – Ratndurg Building, SRTR Medical  
Campus, Ambajogai, District – Beed.
36. Dr. Shailendra Dattusingh Chauhan,  
Age : 46 years,  
occupation – Associate Professor,  
Government Medical College and

Hospital, Latur,  
R/o – C/o Professor D. C. Chauhan,  
Dattakrupa Batteries, Udaynagar,  
Nanded Road, Udgir, District – Latur.

37. Dr. Ramakant Govindrao Alapure,  
Age : 43 years,  
occupation – Associate Professor,  
Government Medical College and  
Hospital, Aurangabad,  
R/o – At Belgaon, Post Satala,  
Tq. Chakur, District – Latur.
38. Dr. Aparna Gundeshwar Kulkarni,  
Age : 38 years,  
occupation – Associate Professor,  
Swami Ramanand Teerth Government  
Medical College and Hospital, Ambajogai,  
R/o – 'Godavari' Flat No. 6, Near  
Kapil Ganesh Mandir, Adarsh Colony  
Ambajogai, District – Beed.
39. Dr. Prashant Jongonda Pachore,  
Age : 39 years,  
occupation – Associate Professor,  
Government Medical College and  
Hospital, Aurangabad,  
R/o – Flat No. 2, Shreenath Residency,  
Plot No. 25, Bhagya Nagar,  
Aurangabad.
40. Dr. Sonal Anil Chaudhari,  
Age : 35 years,  
occupation – Associate Professor,  
Government Medical College and  
Hospital, Aurangabad,  
R/o – Flat No. 2, Shreenath Residency,  
Plot No. 25, Bhagya Nagar,  
Aurangabad.
41. Dr. Ajay Baliram Warade,  
Age : 36 years,  
occupation – Assistant Professor,  
Swami Ramanand Teerth Government

Medical College and Hospital, Ambajogai,  
R/o – Govardhan 1, S.R.T.R. Medical  
college campus, Ambajogai,  
District – Beed.

42. Dr. Vijaykumar Virshetty Chincholkar,  
Age : 40 years,  
occupation – Assistant Professor,  
Government Medical College and  
Hospital, Latur,  
R/o – Row Bunglow No. 8,  
Ajinkya Megacity, Latur.
43. Dr. Kachru Tukaram Dalvi,  
Age : 47 years,  
occupation – Associate Professor,  
Government Medical College Latur,  
R/o – “Nandgaon”, Post Siddeshwar,  
Tq. Aundha, Dist: Hingoli. .. Petitioners

**Versus**

1. The State of Maharashtra  
Through the Secretary,  
Department of Medical Education  
& Drugs Department,  
Mantralaya, Mumbai.
2. The Director of Medical Education,  
Government Dental College and  
Hospital Building, St. George's  
Hospital Compound,  
Mumbai – 400 001.  
Through The Director.
3. Swami Ramanand Teerth Government  
Medical College and Hospital,  
Ambajogai, through the Dean. .. Respondents

Shri Milind Patil, Advocate for the Petitioners.  
Mrs. Vaishali N. Patil Jadhav, A.G.P. for the Respondent Nos. 1  
to 3.

**CORAM : MANGESH S. PATIL AND  
SANDEEP V. MARNE, JJ.**

**CLOSED FOR JUDGMENT ON : 04.10.2022**  
**JUDGMENT PRONOUNCED ON : 14.10.2022**

**JUDGMENT (*Per Sandeep V. Marne, J.*) :-**

. Rule. Rule made returnable forthwith. With the consent of parties taken up for final disposal.

2. By present petition, the petitioners assail judgment and order dated 13 December 2018 passed by the Maharashtra Administrative Tribunal, Bench at Aurangabad (for short “Tribunal”) in Original Application No. 295 of 2018. Before the Tribunal, the petitioners had challenged Clause 4 of clarification dated 17.01.2012. They also sought a declaration for confirmation of their pay fixation with grant of two different incentives, one for possessing higher qualification at entry level and another for their qualification being recognized by the Medical Council of India (MCI), Dental Council of India (DCI), Central Council of India Medicine System (CCIMS), University Grants Commission (UGC) as per the Government Resolution dated 10 November 2009. By the judgment and order impugned before us, the Tribunal has proceeded to dismiss the original application.

3. We must note at the outset that the Tribunal has completely misunderstood the prayers sought in the original application before it. For the sake of convenience, we are reproducing the prayers sought by the petitioners in their original application as under:

“A] This Original Application may kindly be allowed and clause 4 of the clarification dated 17<sup>th</sup> January 2012 issued by the learned Assistant Secretary, Department of Medical Education and Drugs, of the State of Maharashtra, may kindly be quashed and set aside and the Respondent may be restrained from acting upon the same by declaring the same as ultra-virus to the Government decision dated 10<sup>th</sup> November 2009.

B] This application may kindly be allowed and the respondents may kindly be directed to confirm applicants' pay fixation with grant of two different incentives, one for possessing higher qualifications at entry level and another for their qualifications being recognised by the MCI/CCIM/UGC, as provided by the Government decision dated 10<sup>th</sup> November 2009.”

4. The Tribunal however misunderstood the prayers as if the petitioners were awarded  $3 + 5 = 8$  non-compounded increments. The Tribunal erroneously assumed that the petitioners were first awarded three increments for possessing qualification of MD/MS/DNB/Ph.D. degrees and upon acquisition of higher qualification of DM/MCh, they were awarded additional five increments. The Tribunal therefore proceeded to decide the issue whether grant of such  $3 + 5 = 8$  increments was permissible under the G. R. dated 10 November 2009. The Tribunal has held that the qualification DM/MCh is higher than the qualification of MD/MS/DNB/Ph.D and that therefore upon acquisition of higher qualification, they were not entitled to be granted both the benefits of three increments for lower qualification and five increments for higher qualification. The Tribunal therefore, proceeded to dismiss the original application.

5. This understanding on the part of the Tribunal is completely flawed. The petitioners' case before the Tribunal was that at the time of their entry into service, they already possessed the qualification of MD/MS/DNB/Ph.D. At that time,

there were other assistant professors recruited with qualification of MD/MS/DNB/Ph.D. awarded by the university which were not recognized by the MCI/DCI/CCIMS. Both groups were however treated on par and awarded three increments in view of the scheme that prevailed prior to introduction of G. R. dated 10 November 2009. Later on, G. R. dated 10 November 2009 introduced additional benefit of three more increments to the teachers who are in service and who possess the decree of MD/MS/DNB/Ph D, which was recognized by the MCI/DCI/CCIMS. Para 8(iii) of the G. R. dated 10 November 2009 envisages grant of three non-compounded increments to those possessing the decrees recognized by MCI/DCI/CCIMS. It was petitioners' case that since they belong to the group of Assistant Professors whose degrees are recognized by the MCI/DCI/CCIMS, they were entitled to three additional increments under Clause 8(iii) of the G. R. dated 10 November 2009. As against this, the counterparts of the petitioners who possess degrees of MD/MS/DNB/Ph.D. conferred by the university which were not recognized by the MCI/DC/CCIMS are not to be granted three increments under clause 8(iii) in addition to the three increments which they have already earned at the time of their appointments. This is how the petitioners were awarded  $3 + 3 = 6$  increments under Clause 8(i) and 8(iii) of the G. R. dated 10 November 2009. This benefit of additional three increments on account of recognition of their degrees by MCI/DCI/CCIMS/UGC, was sought to be withdrawn by the impugned clarification dated 17.01.2012, on account of which the petitioners approached the Tribunal by filing Original Application No. 295 of 2018. This was their grievance before the Tribunal, which has been completely misunderstood by the Tribunal.

6. Ideally, we would have been justified in remanding the original application for fresh decision as the Tribunal has misunderstood the grievance of the petitioners. However, we have heard both the sides in depth on the issue of entitlement of the petitioners to receive  $3 + 3 = 6$  increments and therefore instead of remanding the original application for fresh decision, we proceed to determine the issue in the present judgment.

7. For the purpose of brevity and convenience we are henceforth referring to the degrees of MD/MS/DNB/Ph.D. recognized by MCI/DCI/CCIMS as '*recognised degrees*' and those not recognized by MCI/DCI/CCIMS as '*non-recognised degrees*'.

8. Appearing for the petitioner, Mr. Milind Patil, learned counsel would submit that at the relevant time the degrees of MD/MS/DNB/Ph.D. awarded by majority of medical colleges were not recognized by the Medical Council of India. Despite non-recognition of their courses by the MCI/DCI/CCIMS, such non-recognised degree holders were held eligible for Government appointments. For the purpose of grant of initial three increments at the time of entry into service, the non-recognised degree holders and recognized degree holders were treated at par and both the set of Assistant Professors were granted three increments uniformly. He would submit that despite being recognised degree holders the petitioners were erroneously treated at par with non- recognised degree holders. He would submit that this discrepancy was cured by issuance of G. R. dated 10 November 2009, which incorporated Clause 8(iii) conferring additional benefit of three additional increments on

Assistant Professors who are already in service and who are recognised degree holders. He would therefore submit that petitioners have correctly been granted three additional increments under Clause 8(iii) of the G. R. Alternatively, Mr. Patil would urge before us that in the event this Court holds that the petitioners are not eligible to be granted three additional increments, recoveries sought to be effected against them be protected as the recovery has been protected throughout the pendency of the original application as well as during the pendency of the present petition.

9. Per contra, Smt. Vaishali Patil Jadhav, learned A. G. P. appearing for respondent Nos. 1 to 3 submits that the Government Resolution dated 11.10.2009 does not envisage grant of twin benefits of  $3 + 3 = 6$  increments. She would submit that for possession of same degrees, petitioners cannot claim two benefits. She would submit that Clauses 8(i) to (iii) of the government resolution do not provide that two incentives would be payable for those whose qualifications are recognized by the MCI/DCI/CCIMS. She prays for dismissal of the petition.

10. After having heard learned counsel for parties, we find that the interpretation sought to be placed by Mr. Patil of G. R. dated 10 November 2009 is completely flawed. The correct reading of clauses 8(i) to (iii) of the G. R. dated 10.11.2009 would indicate that only one benefit in the form of three non-compounded increments is grantable either at the entry level of the recruitment or after joining the service. If an Assistant Professor already possesses qualification of MD/MS/DNB/Ph.D. at the time of his initial recruitment, he would be granted three non-

compounded advance increments at the entry level of recruitment. If however any Assistant Professor did not possess that degree, but acquires the same after joining service, he would be entitled to three non-compounded increments from the date of acquisition of such degree. The G. R. also provides for grant of five increments for those who are in possession of super specialty qualification in the form of DM/MCh either at the time of initial recruitment or acquired while in service. We are not concerned with the grant of five non compounded increments for DM/MCh holders. So far as petitioners are concerned, they admittedly hold MD/MS/DNB/Ph.D. degrees. Therefore, they are entitled to only one benefit of three non-compounded increments.

11. Clauses 8(i) to 8(iii) of the Government Resolution dated 11<sup>th</sup> November, 2009 are reproduced thus :

(8) Incentives for MD/MS/DNB/DM/Mch/Ph.D. and Other Higher Qualifications:

(i) Three non-compounded advance increments shall be admissible at the entry level of recruitment as Assistant Professor to persons possession the degree of MD/MS/DNB/Ph.D awarded in the relevant discipline by the University following the process of admission, registration, course work and external evaluation as prescribed by the UGC in its Regulation.

(ii) Those possessing DM/Mch degree recognized by the Medical Council of India/Dental Council of India/Central Council of Medicine System shall be entitled to 5 non compounded advance increments at the entry level.

(iii) Teachers who are in service possession MD/MS/DNB/Ph.D degree recognized by the Medical Council of India/Dental Council of India/Central Council of India Medicine System shall be entitled to 3 non compounded increments. Teachers who are in service possessing **DM/Mch degree**

recognized by the Medical Council of India/Dental Council of India/Central Council of India Medicine System shall be entitled to 5 non compounded increments. Provided such degree is in the relevant discipline and has been awarded by a University complying with the process prescribed by the UGC for enrollment, course work and evaluation, etc. in its Regulation.

12. The contention of Mr. Patil is that the objective behind including clause 8(iii) in the G. R. would be frustrated, if the petitioners are not awarded additional three increments on account of their degrees being recognized by the MCI/DCI/CCIMS. His contention is stated only to be rejected. The G. R. nowhere intends to confer any additional benefit to those whose degrees are recognized by MCI/DCI/CCIMS. The correct reading of Clauses 8(i) to (iii) of the G. R. would be that the Assistant Professors possessing degree of MD/MS/DNB/Ph.D. awarded by the university (even though not recognized by the MCI/DCI/CCIMS) would be granted three non-compounded advance increments at the time of recruitment. If, however, the incumbent acquires such degree after joining service, the degree must be recognized by the MCI/DCI/CCIMS. This is the distinction between Clause 8(i) and 8(iii) of the G. R. While the degree at the time of initial recruitment could be awarded by the university (not recognized by the MCI/DCI/CCIMS), the degree acquired after joining service must be recognized by the MCI/DCI/CCIMS.

13. In the result, we do not find any merit in the claim of the petitioners. We are of the considered view that they have been erroneously awarded three increments at the time of initial recruitment and three additional increments under Clause 8(iii),

merely because they are recognised degree holders. In our opinion, the petitioners were entitled to be awarded only one incentive in the form of three non-compounded advance increments at the time of their initial appointment in accordance with Clause 8(i) of the G. R. The additional incentive in the form of three increments on account of their degrees being recognized by the MCI/DCI/CCIMS under Clause 8(iii) is completely erroneous and has rightly been withdrawn by the respondents.

14. This takes us to the issue of recovery of over payments made to the petitioners on account of erroneous award of three additional increments under Clause 8(iii) of the G. R. The petitioners drew these increments while working on the post of Assistant Professors. Mr. Patil submits that the post of Assistant Professor has later been re-designated as Associate Professor. He does not dispute the position that the post of Assistant/Associate Professor does not fall in Group C or Group D category. In the case of State of Punjab Vs. Rafiq Masih (White Washer) reported in *AIR 2015 SCC 1267*, the Apex Court has restricted the benefit of protection from recovery only in respect of Group – C and Group – D employees. The objective behind it was that the employees belonging to lower strata in service may find it difficult to refund the excess payment on account of receipt of lesser wages. On the other hand, officers holding Group - A and Group – B posts would find it much easier to refund the excess payment made to them. Since the petitioners do not hold Group – C or Group – D posts, the protection of the judgment of the Apex Court in the case of Rafiq Masih (supra) would not be applicable to them. We therefore reject the prayer for protection against recovery and direct that the overpayments made to them

need to be recovered.

15. The petition is thus devoid of any merits. It is dismissed without any orders as to the costs. Interim protection granted earlier stands vacated. Rule is discharged.

**[SANDEEP V. MARNE, J.]**

**[MANGESH S. PATIL, J.]**

*bsb/Oct. 22*