

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 6071 OF 2010

1. State of Maharashtra, Through its **Petitioners**
Secretary, Public Health Department
Mantralaya, Mumbai.
2. The Director, Health Services,
Maharashtra State, Mumbai.
3. Deputy Director of Health Services,
Nagpur Circle, Nagpur.
4. Civil Surgeon, General Hospital,
Gadchiroli.

-Versus-

1. Dr. Naresh Rajaramji Madavi, C/o **Respondents**
M.R.Madavi, In front of Govt. Science
College, Near Chamorshi Naka, Gokul
Nagar, Gadchiroli.
(Original Applicant in O.A.
No.193/2005)
2. Dr. Kuldip Shripat Sahare, R/o Ward
No.4, Lakhni, Tq. Lakhni, Distt.
Bhandara. (Original Applicant in O.A.
No.194/2005)
3. Dr. Rajunand Vishvanath Gaikwad, R/o
358, New Subhedar Layout, Nagpur.
(Original Applicant in O.A.
No.270/2005)
4. Dr. Hemchand Gurudas Kannake, R/o
C/o Deo Kannake, Vijay Rachna Apptt.
Shivajinagar, Chandrapur.

- (Original Applicant in O.A. No.282/2005)
5. Dr. Dharmendra Nanasaheb Sulbhewar, R/o Gadge Nagar, Shalini Niwas, Yeotmal.
(Original Applicant in O.A. No.283/2005)
 6. Dr. Anand Govindrao Kinnake, R/o Borgaon (Kawadsi), Post – Chargaon (Dharni), Tq. Warora, Distt. Chandrapur.
(Original Applicant in O.A. No.309/2005)
 7. Dr. Lahu Tukaram Kulmethe, R/o Rural Hospital Rajura, Tq. Rajura, Distt. Chandrapur.
(Original Applicant in O.A. No.574/2005)
 8. Dr. Deorao Madguji Holi, R/o Rural Hospital, Chamorshi, Distt. Gadchiroli.
(Original Applicant in O.A. No.373/2005)
 9. Dr. Anita Dayalal Arke, R/o Rural Hospital, Rajura, Tq. Rajura, Distt. Chandrapur.
(Original Applicant in O.A. No.590/2005)
 10. Dr. Makhanlal Kachrulal Agrawal, R/o at post Tq. Sadak-Aarjuni, Distt. Gondia.
(Original Applicant in O.A. No.281/2005)
 11. Dr. Surekha Purushottam Selukar, R/o 301, Sharvashri Nagar, Umred Road, Dighori, Nagpur.
(Original Applicant in O.A.

No.592/2005)

12. Dr. Priti Rameshwar Paradkar R/o 46-A
“Upasna” Yashodanagar, B/H Renuka
Temple, Hingna Rd., Nagpur.
(Original Applicant in O.A.
No.593/2005)
13. Dr. Karuna S. Naik, R/o Civil Lines,
Quarter No.B/16, Opp. Zilla Parishad,
Bhandara.
(Original Applicant in O.A.
No.03/2005)

Mrs.K. R. Deshpande, AGP for the petitioners.
Mr. G.K.Bhusari, counsel for respondent Nos.1 to 3 & 5 to 13.

**CORAM : ROHIT B. DEO AND
M.W.CHANDWANI, JJ.**

DATE : 3RD JULY, 2023

JUDGMENT (Per : M. W. Chandwani, J.)

By this writ petition, the State of Maharashtra and others challenge the common order of the Maharashtra Administrative Tribunal dated 31/03/2010, allowing Original Application Nos. 193, 194, 270, 282, 283, 309, 574, of 2005, 373, 590, 281, 592, 593 of 2007 and 3 of 2008 filed by the respondents and directing the petitioners to grant the increment to the respondents on completion of one year of service and

continue to grant the same to the respondents till they are continued in service.

2. According to the respondents, who had filed above numbered original applications before the Maharashtra Administrative Tribunal, in view of the bond furnished by them at the time of securing admission to the post graduation medical course, they were appointed as medical officers on *ad hoc* basis on respective dates. The services of the respondents were continued from time to time on *ad hoc* basis and they claimed to have worked with the petitioners as an *ad hoc* medical officers till they filed the original applications in the years 2005, 2007 and 2008. Since the respondents were not granted increment after the completion of one year of service and also further increments, the respondents prayed in the original applications that a direction be issued to the petitioners to grant the annual increment to them after the completion of one year and thereafter during every year, while they were in service. The tribunal, by considering the orders passed by it in some other original applications granted the relief in favour of

the respondents and directed the State Government to grant annual increment to the respondents after completion of one year of service and to grant them annual increments regularly till they were in service.

3. Mrs.Kalyani Deshpande, the learned Assistant Government Pleader appearing for the petitioners, submitted that the Tribunal was not justified in directing the petitioners to grant annual increments to the respondents on completion of one year of service on *ad hoc* basis. It is submitted that the respondents were appointed only for certain period or till candidates selected by the Maharashtra Public Service Commission were appointed by the petitioners on the post of medical officers, whichever was earlier. It is submitted that there was a break in the services of the respondents on each of the occasions, when a fresh appointment order was granted. It is stated that the Full Bench of the Maharashtra Administrative Tribunal has held in the order dated 30/03/2010 in Original Application No.240 of 2009 and others that an employee, who is not appointed on regular basis and is continued on *ad hoc*

basis from time to time would not be entitled to yearly increments. It is stated that it is well settled that only an employee appointed on regular basis would be entitled to increments after each year of service.

4. The learned counsel for the respondents, supported the order of the Tribunal. It is submitted that the respondents were appointed as bonded candidates on the post of medical officers and though there was an artificial break in the services, the respondents have in all worked for a period of about ten years or more as medical officers on *ad hoc* basis. It is submitted that the orders passed by the Tribunal in several other original applications were relied on by the Tribunal while granting the relief in favour of the respondents. It is submitted that the Full Bench of the Maharashtra Administrative Tribunal has considered the cases of medical officers and lecturers that were not duly selected but the respondents were selected by duly constituted selection committee and their appointments are not irregular. It is submitted that when the relief is granted

to several other employees that are similarly situated, the respondents cannot be left out.

5. On hearing the learned counsel for the parties, it appears that the Tribunal was not justified in granting the relief in favour of the respondents solely on the basis of the orders passed in some other original applications. Probably, the order passed by the Full Bench of the tribunal on 30/03/2010, was not brought to the notice of the tribunal when the tribunal decided the matter in the original applications filed by the respondents on 31/03/2010. The tribunal, therefore, wrongly relied on the decisions that were rendered by the Bench of Two Presiding Officers of the Tribunal, without considering the decision rendered by a Bench comprising of the Three Presiding Officers of the tribunal. The appointment orders of the respondents are placed on record. The appointment orders clearly show that the respondents were appointed on *ad hoc* basis only for a certain period or till a candidate selected by the Maharashtra Public Service Commission was appointed by the petitioners on the post of the medical officer, whichever was

earlier. The appointment orders of the respondents clearly show that they were not even appointed for a period of four months and their appointments could have come to an end if a duly selected candidate was appointed by the recommendations of the Maharashtra Public Service Commission on the post they were holding. Merely because the respondents continued to serve as medical officers, the tribunal could not have directed the petitioners to condone the break in the services of the respondents and grant them annual increments. Had the services of the respondents regularised from the date on which they were appointed, they may have been entitled to claim the increments after the end of each year of service. However, it appears that the services of the respondents were not regularised till their services were terminated. The appointments of the respondents were on temporary and *ad hoc* basis and they were therefore not entitled to claim yearly increments, solely because they were permitted to continue from time to time as a medical officer on *ad hoc* basis. It is well settled that only regular employees would be entitled to increments and the other benefits to which they are entitled to. We find that the tribunal

has committed a serious error in allowing the original applications and directing the petitioners to release the increments in favour of the respondents.

6. Hence, for the reasons aforesaid, the writ petitions are allowed. The impugned order dated 31/03/2010 passed in Original Application Nos. 193, 194, 270, 282, 283, 309, 574, of 2005, 373, 590, 281, 592, 593 of 2007 and 3 of 2008 are quashed and set aside. The Original Application Nos. 193, 194, 270, 282, 283, 309, 574, of 2005, 373, 590, 281, 592, 593 of 2007 and 3 of 2008 filed by the respondents stand dismissed.

7. Rule is made absolute in the aforesaid terms with no order as to costs.

(M.W.CHANDWANI, J)

(ROHIT B. DEO, J)