



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

973 WRIT PETITION NO. 3888 OF 2025

The State Of Maharashtra Thr Secretary Medical Education And Drugs
Department Mantralaya Mumbai

VERSUS

Dr Ahmed Munibuddin

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AGP for the Petitioner : Mr. P.K. Lakhotiya

Advocate for Respondent : Mr. M. R. Kulkarni

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CORAM : NITIN B. SURYAWANSHI AND

VAISHALI PATIL-JADHAV, JJ.

DATED : 10th MARCH, 2026.

ORDER :

. By this petition filed under Article 226 of the Constitution of India, the petitioner seeks following reliefs :-

"B. The judgment and order passed by the Maharashtra Administrative Tribunal. Mumbai Bench at Aurangabad in Original Application No. 997/2019 dated 07.08.2024 may kindly be quashed and set aside."

2. Issue raised in the present petition is squarely covered by the decision of this Court (Coram : Nitin W. Sambre & Mrs. Vrushali V. Joshi, JJ) at Nagpur in Writ Petition No.154/2025 with connected petitions rendered on 09.05.2025, wherein it is held that : -

"17. We have considered the rival claims. The admitted position on facts is that till the services of the respondents are regularized or made permanent as an Assistant Professor, all the respondents were working on, the said post on ad hoc basis pursuant to their selection by the Divisional Selection Board. As

such, there is a reason to believe that the initial entry of the respondents was after undergoing the selection process and the same cannot be in any case termed as a back-door entry.

18. The fact remains that the posts which were occupied by the respondents were to be filled in through the State Public Service Commission and it is the failure of the State Public Service Commission to fill in the posts timely, as the respondents were continued for years together, for more than a decade or so on ad hoc basis, wherein they were not only discharging clinical and surgical duties but also that of imparting medical education to the students. The petitioner-State having realized its failure, decided to absorb the services of the respondents on permanent basis on its establishment.

19. It is also not in dispute that in view of the order of the Tribunal dated 5th April, 2010, the technical breaks granted by the petitioners were ordered to be duly condoned by the Tribunal and as such there is a reason to hold that the respondents are in continuous service from the date of their initial appointment on the establishment of the petitioners. The grant of continuity of service pursuant to the order dated 5th April, 2010 passed in the Original Application was though questioned by the State Government before the High Court, however, such proceedings were withdrawn by the State Government thereby condoning the artificial breaks which were granted by the petitioners.

20. The petitioner-State Government is only banking on the conditions which are incorporated in the order of granting permanency, viz. non-attachment of financial benefits of the earlier continuous service rendered by the respondents.

21. We are required to be sensitive to the judgment of the Hon'ble Apex Court in the matter of State of Uttar Pradesh and others Vs. Arvind Kumar Srivastava and others, reported in (2015) 1 SCC 347, wherein the Hon'ble Apex Court had an occasion to consider and laid down the legal principles in the

matter of service jurisprudence as under:

"22.1. The normal rule is that when a particular set of employees is given relief by the court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently."

"22.2. However, this principle is subject to well-recognised exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim."

"22.3. However, this exception may not apply in those cases where the judgment pronounced by the court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated persons. Such a situation can occur when the subject-matter of the decision touches upon the policy matters, like scheme of regularisation and the like (see K.C. Sharma v. Union of India). On the other hand, if the judgment of the court was a personam holding that benefit of the said judgment shall

accrue to the parties before the court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence."

22. The fact remains that the petitioner-State in a similarly-placed circumstances has withdrawn a Writ Petition No.2303 of 2019 (The State of Maharashtra and Ors. Vs. Dr. Rajesh Gaikwad) and extended all the financial benefits including that of pay fixation from the date of their initial entry on ad hoc basis in service. The aforesaid authoritative pronouncement in the matter of State of Uttar Pradesh and others Vs. Arvind Kumar Srivastava and others (supra) squarely covers the case in hand, particularly when the State has extended the benefits by withdrawing Writ Petition No.2303 of 2019 from the High Court in the similar set of facts.

23. When confronted, the learned Additional Government Pleader is unable to explain the Court as to how the case of the respondents can be differentiated on facts and also service rules from that of the case of Dr. Rajesh Gaikwad. Rather in the Government Resolution dated 8th November, 2023, it is mentioned that the State has withdrawn its writ petition bearing No.2303 of 2019 thereby accepting the verdict of the Tribunal. The only explanation coming forward from the learned Additional Government Pleader is the Administrative Department being different than the one to which the respondents belong. We are required to be sensitive to the fact that the State Government has created different Departments for its administrative convenience and not for conducting itself contrary to the constitutional mandate guaranteed under Articles 14 and 16 of the Constitution of India. The petitioner-State is bound to give equality of opportunity in the matter of public employment. Just because it has an authority to incorporate unreasonable condition in the order granting permanency cannot by itself do so contrary to the constitutional

rights guaranteed under Article 16 of the Constitution of India and then bank on such condition for justifying the discriminatory approach.

24. In that view of the matter, we see no reason to cause interference in the extra ordinary jurisdiction with the judgment of the Tribunal passed on 23rd February, 2024, which is questioned in both these petitions.

25. That being so, we deem it appropriate to dismiss both these petitions and we accordingly do so.

26. We direct the petitioner-State to release all the benefits to the respondents to which they are entitled, as has been provided in the judgment impugned passed by the Tribunal within a period of three months from today. No costs."

3. Present petition is squarely covered by the aforesaid observations/decision.

4. In view of the reasons recorded in the aforestated paragraphs, we see no merit in the petition and the same is accordingly dismissed.

(VAISHALI PATIL-JADHAV,J.)

(NITIN B. SURYAWANSHI,J.)