

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 880 OF 2016

DIST. : HINGOLI

Dr. Sushilkumar Balajirao Kendre,
Age. 40 years, Occu. : Private Medical
Practitioner,
R/o Shastri Nagar, Parbhani,
Dist. Parbhani.

-- APPLICANT

V E R S U S

1. The State of Maharashtra,
Through the Secretary,
Health / Rural Development Department,
Mantralaya, Mumbai.
(Copy to be served on P.O.,
Office of MAT at Aurangabad)
2. Chief Executive Officer,
Zilla Parishad, Hingoli,
Dist. Hingoli.
3. District Health Officer,
Zilla Parishad, Hingoli.
4. Zilla Parishad, Hingoli,
Through Senior Clerk
Finance Department.

-- RESPONDENTS

APPEARANCE :- Shri S.V. Mundhe, learned Advocate for the
applicant.

: Shri I.S. Thorat, learned Presenting Officer
for the respondent no. 1.

: Shri Pradeep Shahane, learned Advocate for
respondent nos. 2 & 3.

: None appears for respondent no. 4.

CORAM : **Hon'ble Shri B.P. Patil, Member (J)**

DATE : **24th April, 2017**

ORDER

1. The applicant has prayed to direct the respondent nos. 2 & 3 to pay the salary for the month of March, 2013 to June, 2013 to him along with consequential benefits.

2. The applicant entered in the service of res. no. 1 as a Medical Officer in the year 2005 and posted under Zilla Parishad, Hingoli since then. The applicant has rendered about 10 years service under the control and supervision of the res. nos. 2 & 3 and in the month of April, 2015 he left the job. It is the contention of the applicant that when he was in service he had not received the salary for the period from March, 2013 to June, 2013. He made enquiry with the res. nos. 2 & 3 time and again. They assured him to pay the salary of the said period, but they had not acted upon their said assurance. In the month of September, 2013 the respondents paid the salary to the applicant for the period from July, 2013 to September, 2013. Thereafter also the applicant has made enquiry with the res. nos. 2 & 3 about payment of salary for the period from March, 2013 to June, 2013

but they had not paid the said salary to him. The applicant made several representations to the respondents for payment of salary from March, 2013 to June, 2013, but it was in vain. Therefore, the applicant has filed the present original application for issuance of directions to the res. nos. 2 & 3 to pay salary for the period from March, 2013 to June, 2013.

3. The res. nos. 2 & 3 filed their affidavit in reply and contended that the applicant was appointed as a Medical Officer for 11 months on temporary basis as per the order dated 11.8.2011 at Jawalabazar Primary Health Centre, Jawalabazar, Tq. Aundha, Dist. Hingoli under Zilla Parishad, Hingoli and accordingly he joined the duty on 11.10.2011 for 11 months. Thereafter again the applicant was appointed on temporary basis for 11 months vide office order dated 28.6.2012 w.e.f. 27.6.2012 at the same place. Thereafter the applicant was lastly appointed as per order dated 31.5.2014 for 11 months and the said period came to an end on 27.4.2015. Since April, 2015 the applicant is not working as a Medical Officer with the res. nos. 2 & 3 as his appointment order dated 31.5.2014 came to an end on 27.4.2015. It is their contention that, they have paid the salary to the applicant as per rules and there is no illegality committed by them. It is averred by them that, they have paid the salary to the

applicant for the entire months of March & April, 2013 amounting to Rs. 86,540/- by cheque no. 797509 dated 20.5.2013 and deposited the same in the Bank A/c of the applicant bearing no. 11040900911. They have also paid the salary to the applicant for the month of May, 2013 amounting to Rs. 24,186/- by cheque no. 681951 dated 5.1.2017 and deposited the same in the Bank A/c of the applicant bearing no. 11040900911. It is further averred by the res. nos. 2 & 3 that they have deposited cheque no. 888112 dated 24.9.2013 amounting to Rs. 44,950/- in the Bank A/c of the applicant towards salary for the month of June, 2013. It is their contention that as the applicant had worked only for 18 days in the month of May, 2013, salary for the 18 days amounting to Rs. 24,186/- has been paid to the applicant for the month of May, 2013. They had produced the copy of the pay bill and salary bill extract in support of their contention. It is their contention that they have paid entire salary to the applicant for which he was entitled from time to time and nothing remained to be paid to him. Therefore, they prayed for dismissal of the present original application.

4. The applicant has filed rejoinder and contended that he has received 9 months' salary in the year and it shows that he had not received salary for the 3 months during the said

period. The learned Advocate for the applicant contended that the applicant worked for entire month in May, 2013 and, therefore, he is entitled to get the salary of the complete month of May, 2013 and, therefore, he prayed to direct the res. nos. 2 & 3 to pay him entire salary of the May, 2013 month.

5. I have heard Shri S.V. Mundhe, learned Advocate for the applicant, Shri I.S. Thorat, learned Presenting Officer for the respondent no. 1 and Shri Pradeep Sahane, learned Advocate for respondent nos. 2 & 3. None appears for respondent no. 4. I have also perused the various documents placed on record.

6. The learned Advocate for the applicant has submitted that the applicant entered in the service of res. no. 1 as a Medical Officer in the year 2005 and was posted under Zilla Parishad, Hingoli since then. The applicant has rendered about 10 years service under the control and supervision of the res. nos. 2 & 3 and in the month of April, 2015 he left the job. It is the contention of the applicant that when he was in service he had not received the salary for the period from March, 2013 to June, 2013. He made enquiry with the res. nos. 2 & 3 time and again and they assured him to pay the salary of the said period, but they had not acted upon their said assurance. In the month of September,

2013 the respondents issued the salary to the applicant for the period from July, 2013 to September, 2013. The applicant made several representations to the respondents for payment of salary from March, 2013 to June, 2013, but the res. nos. 2 & 3 have not paid his salary.

7. The learned Advocate for the applicant has submitted that the extract of the pass book produced at paper book pages 10 to 13 shows that the salary for the disputed period had not been disbursed to the applicant. He has submitted that in spite of representation made by the applicant to the respondents, the applicant has not received the amount and, therefore, he prayed to allow the present original application and direct the res. nos. 2 & 3 to pay the salary for the period from March, 2013 to June, 2013 to the applicant.

8. The learned Presenting Officer for res. no. 1 & learned Advocate for res. nos. 2 & 3 submitted that the respondents have paid the salary to the applicant for the entire months of March & April, 2013 amounting to Rs. 86,540/- by cheque no. 797509 dated 20.5.2013 and deposited the same in the Bank A/c of the applicant bearing no. 11040900911. The learned P.O. & learned Advocate for res. nos. 2 & 3 have further

submitted that they have deposited the salary for the month of June, 2013 in the S.B. A/c of the applicant vide cheque no. 888112 dated 24.9.2013 amounting to Rs. 44,950/-. They have further attracted my attention towards the relevant entries in the pass book produced by the applicant in that regard. They have also attracted my attention to the copy of pay bill for the month of March, 2013 (page 29 of the O.A.), copy of pay bill for the month of April, 2013 (pages 31 & 32 of the O.A.), Bank A/c statement of the Drawing & Disbursing Officer at pages 30 & 33 of the O.A. They have submitted that the applicant worked only for 18 days in the month of May, 2013 and, therefore, on the basis of report submitted by the Taluka Health Officer, Aundha, Dist. Hingoli an amount of Rs. 24,186/- has been drawn towards salary of the applicant for the month of May, 2013 and also paid it to the applicant vide cheque no. 681951 dated 5.1.2017 by depositing the same in the S.B. A/c of the applicant bearing no. 11040900911.

9. They have further attracted my attention towards the copies of pay bills produced by them in that regard at paper book pages 34 to 41, pay slips at paper book page 42 and Xerox copy of the cheque 681951 dated 5.1.2017 in the name of the applicant amounting to Rs. 25,186/-. They have submitted that,

during the course of hearing the res. no. 3 informed them vide communication dated 10.4.2017 that, due to mistake the salary of 13 days, which were holidays in the month of May, 2013 has not been drawn and paid to the applicant and, therefore, the res. no. 3 is taking steps to pay the salary to the applicant of 13 days of the month of May, 2013 and the same would be disbursed to the applicant within the period of one month. They have submitted that in view of the said fact nothing remains to be paid to the applicant in the present original application and, therefore, they prayed to dismiss the same.

10. I have gone through the extract of pass book, copies of the pay bills produced by the res. nos. 2 & 3 and the extract of the Bank statement of the D.D.O. and on perusing the same it would reveal that the salary amounting to Rs. 86,540/- for the month of March, 2013 & April, 2013 had been deposited in the S.B. A/c no. 11040900911 of the applicant vide cheque no. 797509, dated 20.5.2013. There is an entry of amount of Rs. 86,540/- at credit side in the bank a/c of the applicant on that date. Likewise there is also an entry in the pass book on 24.9.2013 regarding credit of an amount of Rs. 44,950/- in the bank account of the applicant and the said amount has been disbursed to the applicant towards salary for the month of June,

2017. All these facts are mentioned by the res. nos. 2 & 3 in the affidavit in reply on oath. It further shows that the salary of March, April & June, 2013 had already been paid to the applicant before filing the present original application. The applicant without verifying the said fact has claimed the salary of the said period on the ground that it was not paid to him. The applicant has not admitted the simple fact. As regards arrears of salary for the month of May, 2013, the respondents have paid Rs. 24,186/- during the pendency of the present original application by depositing the said amount in his bank account by cheque no. 681951 dated 5.1.2017. This fact has not been much disputed by the applicant. The respondent nos. 2 & 3 have stated that they paid salary of 18 days in the for the month of May, 2013 to the applicant as he worked for 18 days only as per the report submitted by the Taluka Health Officer, Aundha, Dist. Hingoli dated 3.12.2016 (paper book page 40 of the O.A.), but vide communication dated 10.4.2017 produced on record by the respondents, they admitted that mistake has been occurred for non-payment of 13 days' salary of the month of May, 2013 to the applicant, because of the report of the Taluka Health Officer, Aundha, Dist. Hingoli and they are now ready to pay the salary of 13 days to the applicant of the month of May, 2013 within a period of one month. From this it is crystal clear that only 13

days' salary for the month of May, 2013 remained to be paid to the applicant and, therefore, he is entitled to receive the same only. As regards claim of the applicant regarding salary for the months of March, April and June, 2013 is concerned, there is no substance in the contention of the applicant as salary of the said period has already been paid to the applicant. Therefore, I find no merit in the present original application in that regard. In these circumstances, the original application deserves to be allowed partly to the extent of salary of 13 days of May, 2013. Therefore, I proceed to pass the following order :-

ORDER

- (i) The original application is partly allowed.
- (ii) The res. nos. 2 & 3 are directed to pay remaining salary of 13 days of May, 2013 to the applicant as per rules within a period of 2 months' from the date of this order, failing which, the said amount shall carry interest at the rate of 9% per annum from the date of this order.
- (ii) The rest of claim of the applicant is rejected.

There shall be no order as to costs.

MEMBER (J)