

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 569 OF 2018

DISTRICT : AURANGABAD

Prashant S/o Asaram Bonge,)
Age : 37 years, Occu. : Service,)
R/o : Amba, Taluka Partur, Dist. Jalna.)
Currently Residing at House No. 119,)
Shantiban Society, Behind Nandini Hotel,)
Satara Parisar, Aurangabad.).. **APPLICANT**

V E R S U S

1. **The State of Maharashtra,**)
Through its Secretary,)
Public Health Department,)
Mantralaya, Mumbai.)
2. **Joint Director of Health Services,**)
Malaria and Filariasis Vishrantwadi)
Yerwada, Pune -06.)
3. **Assistant Director of Health Services)**
Malaria and Filariasis, Mahaveer Square)
Jalna Road Aurangabad.)
4. **District Malaria Officer,**)
District Malaria Office Mahaveer Square)
Road Aurangabad.)
5. **District Malaria Officer,**)
District Malaria Office District Jalna.)
6. **Medical Officer,**)
Primary Health Centre, Ranjani Taluka)
Ghansavangi, District Jalna.) **.. RESPONDENTS**

APPEARANCE : Shri S.B. Solanke, Advocate for
Applicant.

: Shri V.R. Bhumkar, P.O. for respondent
Authorities.

CORAM : **Shri V.D. Dongre, Member (J)**
and
Shri Bijay Kumar, Member (A)
Reserved on : **06.02.2023**
Pronounced on : **13.04.2023**

ORDER

(Per : Shri Bijay Kumar, Member (A))

1. This Original Application has been filed by one Shri Prashant S/O Asaram Bonge on 31.07.2018 invoking provisions of Section 19 of the Administrative Tribunals Act, 1985, on being aggrieved by impugned order passed by respondent No. 4 bearing outward No. जिहिअओ/आस्था/निवड रद्द/ ३८९३-३९००/१८, Dated 26.07.2018, rejecting representation by the applicant dated 18.07.2018 for giving him appointment under 50% quota for seasonal spraying workers for the post of Multi-Purpose Health Worker (in short, 'MPHW'). A copy of the impugned order is marked as Annexure A-8, at page 31 of the paper-book.

2. As prayed for by the applicant ad interim relief was granted by this Tribunal vide para 8 of the Oral Order dated 31.07.2018 which is quoted as follows :-

“8. By way of interim relief, it is hereby directed that the appointment made, if any, shall be subject to final outcome of the present O.A.”

3. The applicant was granted leave by the Tribunal to amend the O.A. vide its Oral Order dated 25.06.2019 on oral prayer of the applicant for which the applicant had not submitted any draft amendments by filing a Miscellaneous Application. However, from record it does not appear that the learned Presenting Officer taken any objection in this regard. The applicants applied amendment to the O.A. whereby, para 6 (F₁) to 6 (F₃) were introduced and a correction in respect of the date of impugned order was made.

4. Brief Facts of the Matter:- From the facts on record, following main facts emerge :-

(a) It is admittedly that the applicant had worked as seasonal spraying worker in the district of Jalna. It is also undisputed that District Malaria Officer, Aurangabad issued advertisement dated 21.01.2016 calling for applications for the post of Multi-Purpose Health Workers (Male) both under 40% quota for open selection and 50% quota for Seasonal Spraying Workers. Applicant had applied for the post MPHWS (50% quota) in response to the same advertisement, but he was not considered for appointment in spite of having second highest marks in 'open' category under which two vacancies had been

advertised. The applicant has claimed that he had submitted experience certificate of 98 days of work as a seasonal spraying worker during period extending over 9 years from 03.10.1998 to 01.10.2007, issued by District Malaria Officer, Jalna dated 21.01.2008 (Annexure A-5, page 25 of paper-book) at the time of document verification held on 21.06.2018. Grievance of the applicant is that the respondents have scrutinized the experience certificate and accepted only such number of days of work experience for which the applicant had been paid remuneration as seasonal spraying worker, The applicant has alleged that this method of scrutiny of experience certificate is not as per provisions of Recruitment Rules.

(b) On the other hand, the respondents have relied upon suitability of scrutiny process adopted by them in compliance with requirement of scrutiny of experience certificates mandated under para 10 (1) of the said advertisement which reads as follows :-

“► बहुउद्देशिय आरोग्य कर्मचारी (पु) हंगामी फ़वारणी कर्मचारी यांचे मधून ५० टक्के पदासाठी अर्ज करणा-या उमेदवारांनी जिल्हा हिवताप अधिकारी यांचा हंगामी फ़वारणी कर्मचारी म्हाणून किमान ९० दिवस काम केलेबाबत चा अनुभव दाखला उमेदवार लेखी परीक्षेत उत्तीर्ण

झालेनंतर गुणवत्तेनुसार निवड झाल्यास नेमणुकी पुर्वी अनुभवाच्या दाखल्याची पडताळणी करण्यात येईल. त्यानंतरच नियुक्ती आदेश देण्यात येतील.”

(c) After scrutiny, the respondents have determined experience of the applicant to be of 81 days only and on that basis; the applicant was declined appointment order.

5. Relief Prayed For:- the applicant has prayed for relief in terms of para 11 of the O.A. which is being reproduced verbatim for ready reference as below:

“11. Reliefs Claimed

Hence it is prayed that

- (A) *Hon’ble Tribunal may kindly allowed present Original Application with cost.*
- (B) *Hon’ble Tribunal may kindly Quashed and set aside impugned order dated 26.07.2018 issued by Respondent No. 4.*
- (C) *Hon’ble Tribunal may please to direct the Respondent No. 3 to 5 to consider the claim of applicant for issuance of order of appointment on the post of Multipurpose Health Worker (Male) and accordingly, issue an appointment order in favor of the applicant and for the purpose issue necessary orders.*

INTERIM RELIEFS PRAYED FOR

- (D) *Pending the hearing and final disposal of this original application, the respondent No. 4 may kindly to be directed to keep 1 post of multipurpose health worker vacant for the applicant from the 50% Reserved Quota.*

(E) *Any other appropriate relief to which the applicant is entitled to may please be granted in favor of the applicant.”*

6. About Pleadings and Final Hearing :- All the respondent Nos. 1 to 6 filed affidavit in reply to the O.A, however, the learned Advocate for the applicant filed Affidavit in Rejoinder to the affidavit in reply filed by respondent Nos. 1 to 4 only. The applicant amended the O.A. with permission of the Tribunal and therefore, respondent Nos. 1 to 4 filed affidavit in reply to amended O.A. also. The respondent Nos. 3 to 5 were directed by the tribunal to file Additional affidavit clarifying certain ambiguities and discrepancies in respect of experience certificate of the applicant which they did on 29.07.2021. The Applicant did not file any counter affidavit to the same. The matter was taken up for final hearing with consent of the two sides to above the disputes. Necessary details about how the pleadings proceeded are as follows :-

(a) Learned Presenting Officer submitted affidavit in reply on behalf of respondent Nos. 1 to 4 on 25.03.2019, which was taken on record and copy thereof was served on the other side. Affidavit in reply was filed on behalf of respondent No. 5 on 16.10.2018 and by respondent No. 6 on 04.10.2018. The applicant filed affidavit in rejoinder to

affidavit in reply submitted by respondent Nos. 1 to 4 only, on 08.04.2019.

(b) Applicant was granted leave to amend the O.A. vide Oral Orders dated 25.06.2019 on oral prayer of the applicant without asking for filing a Miscellaneous Application whereby, para 6 (F) of O.A. was amended by introducing para 6 , sub para (F₁) to (F₃) and a correction in respect of date of impugned order was made. In view of the amendment in O.A., the respondent Nos. 1 to 4 filed affidavit in reply to the amended O.A. on 22.08.2019 which too, was taken on record and copy thereof served on the other side.

(c) The respondents were required by Tribunal by Oral Order dated 09.06.2021 to explain discrepancies in experience certificates of the applicant issued on 21/25.09.2008 (enclosed at page 25 of paper-book), on 08.06.2018 (page 27 of paper-book) and on 18.07.2018 (enclosed at page 32 of the paper-book). In response, District Malaria Officer Jalna, who is respondent No. 5 has filed Short affidavit on behalf of respondent Nos. 3 to 5 stating, in addition to other things, that- “Field Worker,

radical Treatment Worker, Seasonal Spraying Worker, Surveillance Worker, all are the same.” This submission made will be examined in the light of Health Workers Recruitment Rules, 2003 in the later part of this Order.

(d) Learned Presenting Officer was required by the Tribunal to produce for inspection original muster register, joining report and inward & outward register which they did on 02.03.2023 during final hearing.

(e) Thereafter, the matter was closed for orders.

7. Analysis of Facts:-

(a) It is a matter of record that the first 4 candidates from open category (50% quota) scored marks as shown below among which the applicant had scored second highest marks :-

TABLE- 1

Combined Merit Rank and 50% quota)	Name of candidate	Category	Quota type	Marks Secured
6	Somase Mahadu Bhavadu	Open	50%	118
7	Bonge Prashant Asaram	Open	50%	118
8	Pholane Gajanan Khandu	Open	50%	112
9	Morwal Lakhan Uttam	Open	50%	112

(b) It is also a matter of record that the applicant had submitted on the date designated for scrutiny of documents i.e. 21.06.2018, an experience certificate for 98 days' work as issued by District Malaria Officer, Jalna, dated 21/25.02.2008. The said certificate which is at Annexure A-5, page 25 of the paper-book, reads as follows :-

“आरोग्य सेवा

जा.क्र./जिहिअजा/आस्था/अनुप्र./७५५/०८
कार्यालय, जिल्हा हिक्ताप अधिकारी,
जालना. दिनांक. २१/२५.२.२००८

“प्रमाणपत्र”

प्रमाणीत करण्यात येते की, श्री प्रशांत आसाराम बोनगे यांनी क्षेत्र कर्मचारी/ हंगामी फवारणी कर्मचारी /सर्व्हेलन्सचे काम / खालील प्रमाणे वेळोवेळी दिलेल्या आदेशानुसार केलेले असून त्यांचे संबंधीत कालावधीतील काम समाधानकारक आहे. करिता प्रमाणपत्र देण्यात येत आहे.

अ. क्र.	कालावधी		एकूण दिवस	शेरा
	पासुन	पर्यंत		
१)	३/१०/९८	१७/१०/९८	१५	
२)	१६/११/९८	३०/११/९८	१५	
३)	१६/१२/९८	३०/१२/९८	१५	
४)	२/८/९९	१६/८/९९	१५	
५)	१/९/०१	१७/९/०१	१६	
६)	२४/४/०६	८/५/०६	१५	
७)	२६/०९/०७	०१/१०/०७	०७	
	एकूण		९८	

आक्षरी :- अठयान्व दिवस फक्त.

सही/-
जिल्हा हिक्ताप अधिकारी,
जालना.”

(c) It is noticed that in the said experience certificate, the experience of 98 days is shown for working as Field Worker/ Seasonal Spraying worker / Surveillance Worker. However, as per Recruitment Rules, 2003 for the Health

Workers (Male), Group-C, these designations are mutually exclusive. For ready reference definitions of 'Field Worker' and 'Seasonal Spray Worker' as given in rule 2 (d) and 2 (f) respectively of The Health Workers in Public Health Department of Government of Maharashtra (Recruitment) Rules 2003 are quoted below :-

“2(ड) ‘क्षेत्र कर्मचारी’ म्हणजे नियमित गट ‘ड’ मधील राष्ट्रीय हिवताप प्रतिरोध कार्यक्रमाखाली स्थानिक फवारणीसाठी कायम स्वरूपी नियुक्ती केलेला कर्मचारी.

(फ) ‘हंगामी फवारणी कर्मचारी’ म्हणजे जो कर्मचारी गरजेनुसार हिवताप प्रतिरोध औषधांचे, किटकनाशकांची घरोघरी जावून वाटप करण्यासाठी किंवा फवारणी करण्यासाठी निव्वळ तात्पुरत्या स्वरूपात नेमण्यात आलेला कर्मचारी.”

(d) Thus, as per definitions of Field Worker, a Field Worker is a regular appointee, permanent Group D employee and Seasonal Spraying Worker is an ad hoc, seasonal worker. Therefore, experience certificate issued by respondent No. 5 has major discrepancy which he has not explained even after having been given opportunity for the same.

(e) It is also noticed that as per rule 3 of the Recruitment Rules, 2003 for the Health Workers (Male) Group-C, a Field Worker is eligible for recruitment to the post of MPHWP by promotion under 10% quota and, depending on meeting

eligibility criteria, also for nomination under 40% quota whereas only Seasonal Spray-workers are eligible for recruitment to the post of MPHWH by nomination under 50% quota. Even this has not been referred to by respondent No. 5 while filing short affidavit as elaborated in following sub-para.

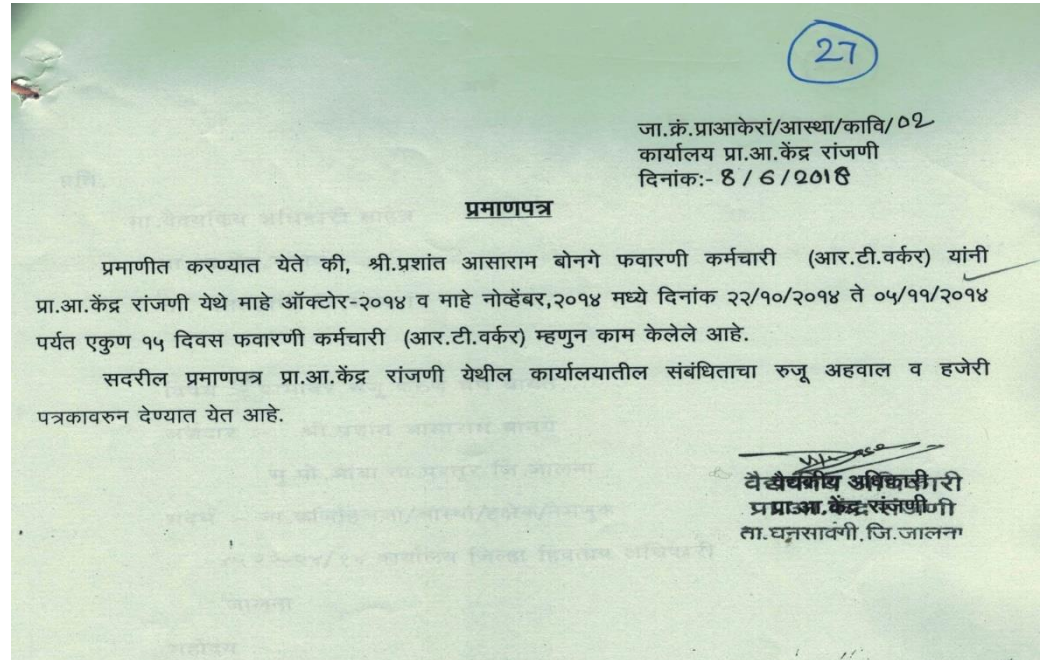
(f) When the respondents were required by Tribunal by Oral Order dated 09.06.2021 to explain discrepancies in experience certificates of the applicant issued on 21/25.09.2008 (enclosed at page 25 of paper-book), on 08.06.2018 (page 27 of paper-book) and on 18.07.2018 (enclosed at page 32 of the paper-book). In response, District Malaria Officer Jalna, who is respondent No. 5 has filed Short affidavit on behalf of respondent Nos. 3 to 5 on 29.07.2021 stating, in addition to other things, that- "*Field Worker, radical Treatment Worker, Seasonal Spraying Worker, Surveillance Worker, all are the same.*" This submission made on oath is to the contrary of the provisions of the aforesaid said Recruitment Rules, 2003 which, in our considered opinion, is misleading in nature and requires serious view to be taken.

(g) Learned Presenting Officer was required by the Tribunal to present for inspection the original muster register, joining report and inward & outward register, which they did on 02.03.2023 during final hearing. It is evident that none of the registers were duly maintained, did not have attestation of senior officers regarding date of opening of the register, index, page numbers and entries appeared to be recently made for the years as old as year 1998 to 2007.

(h) There is a provision in para (1) of the aforesaid advertisement regarding scrutiny of experience certificates, under which respondent Nos. 1 and 2 were mandated to carry out scrutiny of experience certificates, in view of above facts, it must have been a challenging task to evolve a protocol for scrutiny of experience certificates issued by District Malaria Officers with ambiguity and lack of foolproof basis in respect of content of the certificate. Doing so by making reference to number of days for which remuneration was paid to the satisfaction of the applicant by referring to cask book entries, in our considered opinion, has been a rational protocol. It is mention worthy that it is not the case of applicant that the said protocol was not

applied uniformly to all the candidates under 50% Seasonal Spraying Workers Quota.

(i) Scan copy of Additional Experience Certificate submitted by the applicant at page No. 27 of the paper-book is given below which clearly shows that there is manipulation in the date of issue of the certificate issued by Medical Officer, PHC Rajani, Taluka- Ghansavangi, District- Jalna.



(j) It is also noticed that the applicant made representation to the District Malaria Officer on 26.08.2018 to count number of days of experience mentioned in aforesaid experience certificate issued by the said Medical

Officer, PHC Rajani. However, the District Malaria Officer had not accepted the representation, which would not have been of any consequence as by that time scrutiny of certificate submitted had been over. Moreover, apparent manipulation in date of issue of the said document renders the same unreliable. Respondent Nos. 5 and 6 have not given any explanation for this discrepancy. In view of these facts, this additional experience certificate is not only inadmissible as proof of experience but it also shows that the applicant has not come with clean hands and respondent No. 5 was submitting apparently misleading information before the Tribunal.

(k) Learned Advocate for the applicant has also cited a judgment delivered by Hon'ble Bombay High Court, bench at Aurangabad in Writ Petition No. 3602 of 2019, Madhu Bhavadu Somase Vs. State of Maharashtra, delivered on 12.03.2020. However, ratio in this judgment is different and therefore, not applicable in the present matter.

8. **Conclusion:-** In view of above analysis of facts on record and oral submissions made, in our considered opinion, the applicant has submitted apparently manipulated documents to buttress

his claim of experience as a seasonal spraying worker for more than 90 days. Respondent No. 5 has made misleading statement in respect of designation under which the applicant had worked during the period covered by experience certificate issued by him. Moreover, no evidence has been produced by the applicant to establish that the protocol for scrutiny of experience certificates was irrational, had any loophole or had been applied in a non-uniform & discriminatory manner. The citation of judgment delivered by Hon'ble Bombay High Court, bench at Aurangabad in Writ Petition No. 3602 of 2019, Mahadu Bhavadu Somase Vs State of Maharashtra, dated 12.03.2020 has a different ratio and therefore, does not help the applicant in supporting his claim. Therefore, in our considered opinion, the Original Application is devoid of merit and hence the following Order:-

ORDER

- (A) Original Application No. 569 of 2018 is dismissed for being devoid of merit.
- (B) Respondent Nos. 1 and 2 may look into contents of short affidavit filed by respondent No. 5 on behalf of respondent Nos. 3 to 5 on 29.07.2021 in the light of Recruitment Rules, 2003 for the post of Health Worker (Male) Group-C and take suitable action against the concerned for making apparently

misleading submissions on oath stating that the cadre of 'Field Worker' and 'Seasonal Spraying Worker' to be the same.

(C) No order as to costs.

MEMBER (A)

MEMBER (J)

Kpb/D.B. O.A. No. 569/2018 appointment