

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No.156 of 2020 (S.B.)**

Dr. Ashish s/o. Ramesh Rao Dudhe,  
aged about 33 years,  
presently serving as Medical Officer,  
at P.H.C. Hatrun, Tah. Balapur, Dist. - Akola,  
R/o. Nandgaon - Khandeswar,  
Tah.-Nandgaon - Khandeswar, Dist.-Amravati.

**Applicant.**

**Versus**

1. The State of Maharashtra,  
through its Secretary, Department of Public Health,  
10<sup>th</sup> floor, Sankul Building, Mantralaya, Mumbai - 400 001.
2. The Director of Health Services,  
8<sup>th</sup> floor, Arogya Bhavan, Saint George Hospital Compound,  
D'Mello Road, Mumbai - 400 001.
3. The Deputy Director of Health Service,  
Akola Mandal Akola, New Radhakisan Plot,  
Akola- 444 001.
4. The District Health Officer,  
Zilla Parishad, Akola-444001.
5. The Chief Executive Officer, Zilla Parishad,  
Amravati- 444 601.

**Respondents.**

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**S/Shri K.N. and T.S. Dadhe, Advocates for the applicant.**

**Shri A.M. Khadatkhar, learned P.O. for the respondent nos.1 to 3.**

**Shri B.N. Jaipurkar, learned Advocate for resp. nos.4 and 5.**

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**Coram :- Hon'ble Shri Justice M.G. Giratkar,  
Vice Chairman.**

**Dated :- 24/01/2024.**

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## JUDGMENT

Heard Shri K.N. Dadhe, learned counsel for the applicant, Shri A.M. Khadatkar, learned P.O. for respondent nos.1 to 3 and Shri B.N. Jaipurkar, learned counsel for respondent nos.4 and 5.

2. The case of the applicant in short is as under –

The applicant had filed O.A.No.794/2017 for directing the respondent nos.1 to 3 to pass an order of posting of the applicant and payment of salary for the period from 09/11/2016 till he received the posting order. By an order dated 21/01/2019, this Tribunal directed the respondents to take action regarding the posting of applicant within a period of three weeks.

3. The respondents have complied the said order, but not paid the salary. Therefore, the applicant approached to this Tribunal for directing to pay the salary of the period from 09/11/2016 to 08/01/2020. He has filed the present O.A. for the following reliefs –

*“(7) It is, therefore, prayed that this Hon'ble Tribunal may kindly be pleased to direct the respondents to make payment of salary to the applicant for the period from 09-11-2016 to 08-01-2020, within prescribed period, in the interest of justice.”*

4. The O.A. is strongly opposed by the respondents. In the reply, it is submitted that the applicant was transferred, but he had not challenged the transfer order. He had only challenged the relieving

order before this Tribunal and therefore he is not entitled for the salary. The applicant was bound to obey the transfer order. During pendency of the earlier O.A.No.794/2017, there was no any stay to the transfer order. Therefore, the applicant cannot claim the salary of the period prayed in this O.A. Hence, the O.A. is liable to be dismissed.

5. Heard Shri B.N. Jaipurkar, learned counsel for respondent nos.4 and 5. He has also strongly opposed this O.A. He has submitted that the applicant was transferred, but the transfer was not challenged and there was no any stay to the transfer order. Therefore, he cannot claim the salary of the said period till he was given posting, as per the order of this Tribunal.

6. During the course of submission, the learned counsel for applicant has pointed out the Judgment of this Tribunal in O.A.No.794/2017. The operative part of the order is reproduced below-

*“(i) The respondent No.2 is directed to take action as regards posting of the applicant in view of letter dated 9.11.2016 issued by respondent No.3 and in view of application of the applicant dated 12.1.2017 (Annexure A-12) or as per the administrative convenience, as early as possible and in any case with a period of three weeks from the date of this order and on receiving such proposal, the respondent No.1 shall pass necessary order within a further period of two weeks from the date of receipt of proposal.*

*(ii) No order as to costs.”*

7. There is no dispute that the applicant was transferred, but the said transfer was not challenged. He had only challenged the relieving order. There was no any stay to the transfer order. Transfer is a condition of service. The applicant should have obeyed the transfer order. The applicant himself remained absent from duty. However, this Tribunal directed the respondents to pass order on the application of the applicant dated 09/11/2016 as per the letter issued by respondent no.3 and in view of the application of applicant dated 12/01/2017.

8. During the course of submission and from the pleading it is clear that in earlier O.A.No.794/2017 the applicant had prayed for direction to the respondents to pay the salary of the period from which he was transferred and till the date on which he was given posting. The said relief was not granted by this Tribunal. Again and again the same relief cannot be prayed. The applicant has prayed the same relief in this O.A. The applicant himself was responsible for not joining the duty. He had not obeyed the transfer order. There was no any specific direction by this Tribunal to pay the salary of the period on which he remained absent from duty.

9. The applicant cannot claim the salary of the period from the date of transfer order till he was given posting. The applicant had not challenged any transfer order. There was no any stay by this

Tribunal. Hence, the applicant cannot claim the salary. Moreover, said relief was prayed in the earlier O.A. Hence, the present O.A. itself is not tenable. Therefore, the following order is passed –

**ORDER**

(i) The O.A. is dismissed.

(ii) No order as to costs.

**Dated** :- 24/01/2024.

**(Justice M.G. Giratkar)**  
**Vice Chairman.**

dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 24/01/2024.