

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 425/2016

Dr. Fahimuddin Najmuddin,
Aged about 33 years, Occ. Service,
At post Qulla, Tahsil Patur, District Akola.
C/o Ansar Medical Stores, Mominpura, Nagpur.

Applicant.

Versus

- 1) State of Maharashtra
through its Secretary,
Public Health Department,
Mantralaya, Mumbai-32.
- 2) The Commissioner,
Employees State Insurance Scheme,
Panchdeep Bhavan, 6th floor,
N.M. Joshi Marg, Lower Parel,
Mumbai-400 013.

Respondents

Shri Rashid A. Haque, S.J. Kadu, Advs. for the applicant.

Shri A.M. Ghogre, P.O. for the respondents.

Coram :- Hon'ble Shri R.B. Malik, Member (J).

Dated :- 15/02/2017.

ORAL ORDER -

This O.A. is brought by a Medical Officer seeking directions to continue in the said post to which he was appointed on 24th April, 2015 though his term has come to an end whereby he was appointed for 364 days as bonded candidate.

2. I have perused the record and proceedings and heard Shri R.A. Haque, Id. counsel for the applicant and Shri A.M. Ghogre, Id. P.O. for the respondents.

3. It is not disputed that the applicant came to be appointed as Medical Officer by virtue of the order dated 24th April, 2015. It is at Annexure-A-9 of Page 24 of P.B. The preface of that order shows that he was appointed as a bonded Medical Officer on purely temporary basis for 364 days and read alongside the Clause 15 his term would come to an end *if so facto* the expiry of the period of 364 days and it would be deemed that he had not continued from that particular date on completion of 364 days.

4. Shri R.A. Haque, Id. counsel for the applicant told me however that in as much as the vacancies still exist he can be appointed subject to the condition that the applicant would have to vacate the office if the regularly appointed candidate was available and in that connection he invited reference to an order made by me presiding over a Single Bench at Mumbai in O.A. No. 889 of 2016 and a detailed interim order made by me there in Mumbai in O.A. 189 of 2016 (Ms. Madhuri G. Rane & 18 Ors. Vs. State of Maharashtra and one Another), dated 14-03-2016. The last mentioned order pertained to the Staff Nurses but O.A. No. 889 of 2016 was the order in respect of a Medical Officer (Bonded candidate). It needs to be mentioned

however that even in that matter the applicant moved on the last date of his appointment tenure and by way of the interim order it was continued. In this particular matter, however the term of the applicant expired on 22-4-2016 and then, after making the representation he moved this Tribunal on 24-06-2016. There would therefore be in the event of the O.A. being allowed an element of practically reinstating the applicant.

5. The affidavit-in-reply mentions that there was no workload to get the services of non permanent employees in respondent no.2's hospital. Mr. R.A. Haque, Id. counsel invites reference however to an advertisement (Page 35), whereby the Govt. of Maharashtra published the advertisement for the post of Medical Officers. The learned P.O. however submits that at Nagpur there was no vacancy as mentioned in affidavit-in-reply.

6. Mr. Haq, learned counsel however referred me to a requisition at Page 34 of the P.B. which according to him belies the recitals in the affidavit-in-reply. It is not possible for me to agree with him entirely because that requisition seems to be for ESIS, Nagpur and in any case merely by that communication it may be a little too far-fetched to rush to the conclusion that the recitals in the affidavit-in-reply should not be acted upon.

7. The concept of bonded candidate has its own peculiar hue and it cannot always be physically lifted and applied to ad-hoc and temporary appointments. There can be instances where the re-appointment of a bonded candidate after a lapse of time could result in causing hardship to the other bonded candidates who by virtue of the bond would be obliged to discharge the functions for the duration of time that he would be bound to by virtue of the bond. In this view of the matter therefore I do not think any relief can be granted to the applicant in this O.A. and the same is hereby dismissed with no order as to costs.

(R.B.Malik)
Member (J).

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