

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 62/2017 (S.B.)

Dr. Rangrao S/o Shankarrao Mude,
Aged about 60 years, Occ. Retired Govt. Servant,
R/o 'Nirpeksha' Main Road, Sindi Railway,
Tah. Seloo, Distt. Wardha.

Applicant.

Versus

- 1) The State of Maharashtra,
through Secretary, Public Health Department,
Mantralaya, Mumbai-32.
- 2) The Director,
National Health Mission,
Arogya Bhavan, 3rd floor,
St. George Hospital, Campus,
Near CST, Fort, Mumbai-400 001.
- 3) The Joint Director of Health Services,
Filaria, Malaria & Sathrog,
Maharashtra State, Arogya Bhavan,
Vishrant Wadi, Pune.
- 4) Assistant Director,
Health Services & State Integrated,
Disease Surveillance Project,
Vishrant Wadi, Pune.
- 5) District Health Officer,
Zilla Parishad, Chandrapur.
- 6) Dr. Sudhir Khushal Meshram,
Taluka Health Officer, Mul and
Incharge, District Surveillance Project,
Health Department, Zilla Parishad, Chandrapur.

Respondents.

Shri M.R. Khan, Advocate for the applicant.

Shri H.K. Pande, P.O. for respondent nos. 1 to 4.

Shri M.M. Sudame, Advocate for respondent nos. 5&6.

**Coram :- Hon'ble Shri Anand Karanjkar,
Member (J).**

Date of Reserving for Judgment : 6th August, 2019.

Date of Pronouncement of Judgment : 26th August, 2019.

JUDGMENT

(Delivered on this 26th day of August,2019)

Heard Shri M.R. Khan, learned counsel for the applicant and Shri H.K. Pande, learned P.O. for respondent nos. 1 to 4 and Shri Sudame learned counsel for the respondent nos. 5&6.

2. The applicant was appointed as Medical Officer, Class-II in the Maharashtra Health Services in the year 1983. The applicant stood retired on attaining superannuation in the year 2014. The advertisement was published by National Health Mission (M.S.), Mumbai for filling the post of Epidemiologist, the applicant applied for the post, he was selected and thereafter he was appointed. It is grievance of the applicant that he has discharged the duties as per his appointment. The initial appointment was on contract basis. The applicant was continued in service even after the expiry of the initial term and thereafter the Data Manager submitted the proposal to release the honorarium of the applicant, but it was not paid to him. This application is filed by the applicant to recover the honorarium

from 25/6/2015 to 8/4/2016 together with interest @18 p.a. from the due date till realization and cost Rs. 1,00,000/- for mental agony and etc.

3. The application is resisted by the respondent no.5, District Health Officer, Zilla Parishad, Chandrapur. It is contention of the respondent no.5 that the applicant was selected on the post of Epidemiologist and he was appointed for period of 11 months which expired on 23/6/2015. According to the respondent no.5 there was a separate Muster Roll to mark the presence of the contractual employees, the applicant remained absent from the duty, the applicant did not sign the Muster and consequently the applicant is not entitled to claim honorarium for this period. It is contention of the respondents that the applicant did not perform the duty and therefore decision was taken not to pay the honorarium for the period as claimed by the applicant. According to the respondent no.5, there is no substance in this application and consequently it is liable to be dismissed.

4. I have heard submissions on behalf of the applicant and on behalf of the respondent nos. 1 to 4 & 5. On perusal of the record it seems that the Note sheet was prepared by the Data Manager to pay the honorarium to the applicant. The learned counsel for the applicant submitted that the official record was examined by the Data Manager and thereafter Note sheet and cheques were prepared, but

the Cheques which were prepared for honorarium to the applicant were cancelled as per the instructions of the respondent no.6 and false contention is raised by the respondent no.5 that the applicant did not perform the work during this period.

5. After reading the reply and after hearing the submission of the respondent no.5, I would like to point out that the respondent no.5 was the Controlling Officer and he was in possession of the Muster Rolls. In the present case the Note sheet was prepared by the Data Manger mentioning that on which date the applicant performed the duty and accordingly the Data Manager came to the conclusion that the applicant was entitled for the honorarium for the concerned period. In this background, the respondent no.5 who is in possession of the Muster Rolls was bound to produce those Muster Rolls before this Bench to justify the contention that the applicant did not sign the Muster Roll and he remained absent. Though the strict rules of the evidence are not applicable, but the principles of natural justice are attracted and the rule is that the party who is in possession of the best evidence shall produce it and if it is not done, then adverse inference is to be drawn. As specific contention is raised by the respondent no.5 that Muster Rolls are maintained, then why the respondent no.5 avoided to produce the Muster Rolls. Due to failure of the respondent no.5 to produce the Muster Rolls, in my opinion this is a fit case to

draw the adverse inference and I therefore accept the contention of the applicant that the Note sheet which was prepared by the Data Manager was as per the attendance of the applicant and therefore the O.A. is to be partly allowed. Hence, the following order –

ORDER

The O.A. is partly allowed. The respondents are directed to pay the amount to the applicant as per the calculations in Anx A 5, made by the Data Manager. The amount shall carry the interest @ 6% p.a. from the date of filing of the O.A. till actual realization. No order as to costs.

Dated :- 26/08/2019.

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(A.D. Karanjkar)
Member (J).

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

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 26/08/2019.

and pronounced on

Uploaded on : 27/08/2019.