

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 752/2019 (S.B.)**

Dr. Swati W/o Ravindra Patil,  
Aged 52 years, Occ. Retired,  
R/o Jail Road, Civil Lines, Wardha.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
through its Principal Secretary,  
Public Health Department  
G.T. Hospital Complex Building 10<sup>th</sup> floor,  
New Mantralaya, Fort, Mumbai-400 001.
- 2) Director of Health Services,  
Maharashtra State Arogya Bhavan,  
Saint Georges Hospital Campus, P-Dmelo Road, CST,  
Mumbai-400 001.
- 3) Deputy Director of Health Services,  
Nagpur Region, Mata Kacheri Compound,  
Sraddhanand Peth, Nagpur- 440 022.
- 4) Civil Surgeon,  
General Hospital, Wardha.

**Respondents.**

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**S/Shri N.D. Thombre, S.P. Chavhan, Advocates for the applicant.**

**Shri H.K. Pande, P.O. for the respondents.**

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

**Dated :- 19<sup>th</sup> November, 2020**

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## **JUDGMENT**

Heard Shri N.D. Thombre, learned counsel for the applicant and Shri H.K. Pande, learned P.O. for the respondents.

2. The applicant is challenging the order of the respondent no.1 rejecting request of the applicant to proceed on voluntary retirement. The facts in brief are as under –

3. The applicant was appointed in service on 7/3/1995 on a temporary post as Medical Officer. After giving technical breaks the applicant was appointed in service on temporary post, later on the MPSC recommended name of the applicant to the respondent no.1 and the respondent no.1 appointed the applicant in service as Group-A Medical Officer vide order dated 18/11/1998. The respondent no.1 also passed order on 2/8/1996 and gave sanction to the temporary posting of the applicant.

4. The Government of Maharashtra thereafter passed the order on 16/1/2006 and condoned the technical breaks dated 7/3/1996, 8/3/1997 and 9/3/1998 in the service of the applicant and also directed that the applicant's appointment since 7/3/1995 be treated as continuous service. The respondent no.1 in this order observed that though the applicant's service be treated as continuous

since 7/3/1995, but it should not be taken into account for determining seniority.

5. It is undisputed that the applicant submitted application on 15/2/2018 for the voluntary retirement due to her personal difficulties and this proposal was forwarded by the Director, Health Services, Mumbai to the Principal Secretary, Public Health Department, Mumbai on 24/5/2018. It is grievance of the applicant that no steps were taken by the respondent no.1 to decide her request for voluntary retirement within period specified as contemplated in Rule 66 of the Maharashtra Civil Services (Pension) Rules,1982. It is submission of the applicant that she made several requests and thereafter the respondent no.1 informed her vide letter Annex-A-9 dated 14/1/2020 that the applicant had not completed the 20 years qualifying service and therefore she was not entitled for voluntary retirement under Rule 66 (1) of the Maharashtra Civil Services (Pension) Rules,1982. This action of the respondent no.1 is challenged by the applicant in this proceeding.

6. The respondent nos.1 to 4 have submitted their reply which is at page no.40 and resisted the O.A. It is contended that the application for voluntary retirement was in the office of the respondent no.3 and it reached the office of respondent no.1 on 15/5/2018 and therefore the Rule 66 of the Maharashtra Civil Services (Pension) Rules,1982 is not attracted. The second ground of defence is that as

the applicant was not completing qualifying service of 20 years, therefore, she was not entitled for the voluntary retirement.

7. I have heard oral submissions on behalf of the applicant and on behalf of the respondents. So far as the first ground is concerned, it is undisputed that the office of the respondent no.3 received the application for V.Rs. 15/2/2018, then the respondent no.3 forwarded the same to the Commissioner of Health Services, Mumbai on 2/5/2018. It is specifically mentioned in the proposal by the respondent no.3 that the notice for the voluntary retirement was received on 15/2/2018. In these circumstances, it is difficult to say that the applicant was responsible for the fact that the notice of the voluntary was not forwarded to the respondent no.1 immediately. As the applicant handed over the notice of voluntary retirement to the respondent no.3 through the proper channel, it was duty of the respondent no.3 to forward that notice to the respondent no.1 for the prompt action, therefore, I do not see any substance in this contention raised by the respondents.

8. The second contention of the respondents is that the applicant did not complete the qualifying service of 20 years on the date on which she issued the notice of voluntary retirement and therefore, the applicant was not entitled for the voluntary retirement as per Rule 66 of the Maharashtra Civil Services (Pension) Rules, 1982.

9. The learned counsel for the applicant has placed reliance on the order passed by the respondent no.1 dated 16/1/2006 by which the applicant's service from 7/3/1995 and onwards came to be regularised as continuous service since 7/3/1995. It is submitted that when the applicant issued notice of voluntary retirement in February,2018 she had completed 20 years qualifying service.

10. The learned P.O. submitted that in order dated 16/1/2006 it is cleared that though the service of applicant was continued from 7/3/1995, but the applicant was not entitled for the benefit of that service. After reading the second para of this order, it seems that in the order it is mentioned that this continuation of service would not be considered for determining the seniority. In view of this specific language of the order, I do not see any merit in the contention of the respondents that the applicant's service was not continuous since 7/3/1995.

11. In addition, after reading the Rule 30 of the Maharashtra Civil Services (Pension) Rules,1982 which is as under -

***“(30) Commencement of qualifying service***

*Subject to the provisions of these rules, qualifying service of a Government servant shall commence from the date he takes charge of the post to which he is first appointed either substantively or in an officiating or temporary capacity ;*

*Provided that at the time of retirement he shall hold substantively a permanent post in Government service or holds a suspended lien or certificate of permanency ;”*

I do not have hesitation in holding that the applicant's service became continuous since 7/3/1995. The learned P.O. has attempted to place reliance on the Judgment delivered by the Hon'ble Apex Court in case of **Dr. Chanchal Goyal Vs. State of Rajsthan.** Issue in that case was already different, the petitioner in that case was not appointed in service as per the recruitment rules. In the present case though the applicant was initially appointed on temporary post, later on the applicant was selected by the MPSC as per the recruitment rules, her name was recommended to the Government and the Government appointed the applicant on a post of Medical Officer. Secondly, the Government issued order dated 16/1/2006 and regularised the service of the applicant since 7/3/1995 with continuity. If these facts are considered, then it is not possible to accept that the applicant had not completed 20 years qualifying service when she issued the notice of voluntary retirement. It is undisputed that the respondent no.1 did not take any action on the notice of voluntary retirement issued by the applicant within period mentioned in Rule 66 of the Maharashtra Civil Services (Pension) Rules,1982, though the applicant was entitled for voluntary retirement. I, therefore, accept submission of the applicant that after the expiry of the period of three months after issuing notice

of voluntary retirement in writing, the applicant stood retired from the service. In view of this, I pass the following order –

**ORDER**

- (i) The O.A. is allowed in terms of prayer clauses para 10 (i) & (ii).
- (ii) The respondents are directed to release all the retiral benefits to the applicant within a period of three months from the date of this order.
- (iii) No order as to costs.

**Dated** :- 19/11/2020.

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**(Anand 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 : 19/11/2020.

and pronounced on

Uploaded on : 20/11/2020.

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