

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 844 of 2012**

Dr. Mahesh S/o Sadashiv Manwar,  
Aged about 36 years, R/o Ayurvedic Dispensary, Kotha,  
Tq. Kalamb, Dist. Yavatmal.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Health Services, Mantralaya, Mumbai.
- 2) Deputy Director of Health Services,  
Akola Circle, Akola, near Civil Hospital,  
Akola.
- 3) District Health Officer,  
Zilla Parishad, Yavatmal.
- 4) Block Development Officer,  
Panchayat Samiti, Maregaon,  
District Yavatmal.

**Respondents**

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**S/Shri M.V. Mohokar, R.V.Bhanarkar, Advs. for the applicant.**

**Smt. S.V. Kolhe, P.O. for the respondent nos.1&2.**

**Shri D.M. Kale, Advocate for respondent no.3.**

**None for respondent no.4.**

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**Coram :- Hon'ble Shri J.D. Kulkarni,  
Vice-Chairman (J).**

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## JUDGEMENT

**(Delivered on this 10<sup>th</sup> day of October,2017)**

Heard Shri M.V. Mohokar, Id. Counsel for the applicant and Smt. S.V. Kolhe, Id. P.O. for respondent nos.1&2. Shri D.M. Kale, Id. Counsel for respondent no.3. None for respondent no.4.

2. The applicant is a degree holder B.A.M.S. Doctor. He was appointed by respondent nos. 2&3 vide order dated 17/10/2007 for a period of 11 months on temporary / ad-hoc basis and was posted at Ayurvedic Dispensary, Navargaon, Tq. Maregaon, Dist. Yavatmal vide order dated 22/10/2007 issued by respondent no.3. He has worked there till 3/1/2008.

3. According to the applicant, vide order dated 4/1/2008 the applicant was deputed at Yavatmal Medical College Civil Hospital and he joined the duties on the same day. Said deputation continued from 4/1/2008 to 30/6/2008.

4 The applicant again from 1/7/2008 to 21/9/2008 was re-posted to Navaragon Ayurvedic Dispensary vide order issued by respondent no.3 dated 2/7/2008 and joined at Navaragon on 2/7/2008.

5. Since the applicant was interested in service, he submitted application for continuation in service on 5/9/2008 to respondent no.3 which was forwarded to respondent no.2 and specifically it was accepted. Then vide order dated 26/2/2009 the applicant was granted

continuation again on temporary basis from 24/9/2008 to 23/8/2009 for 11 months and said appointment continued on temporary basis from 27/8/2010 to 27/6/2011 and then from 1/6/2012 to 30/04/2013.

6. According to the applicant during the period from 22/10/2007 to 3/1/2008 and from 1/7/2008 to 21/9/2008 and from time to time from 24/9/2008 to 31/3/2009 and has actually worked and performed his duties for which the respondent no.3 also issued a Certificate, but the respondent no.4 deliberately did not pay the amount of salary to the applicant. The applicant has therefore prayed salary for the period from 22/10/2007 to 3/1/2008, 1/7/2008 to 21/9/2008 and from 24/9/2008 to 31/3/2009 with interest.

7. The respondent no.3 submitted reply-affidavit and submitted that on 6/11/2007 the Medical Officer, P.H.C., Vegaon visited the Ayurvedik Hospital, Navargaon and it was found that the applicant was absent unauthorisedly. He therefore inquired from the Villagers and Staff and it was noticed the applicant did not open the hospital even for a single day. The applicant was found continuously absent from duty. The applicant was relived on 7/12/2007 by the Medical Officer, P.H.C., Vegaon, during the period from 22/10/2007 to 31/1/2008 and 1/7/2008 to 21/9/2008 and 24/9/2008 to 31/3/2009 the applicant was found absent without permission of higher officer and as such he remained absent unauthorisedly. During this entire period,

the applicant neither opened the O.P.D. nor filled in the Challan for the amount received from said O.P.D. The Block Development Officer, P.H.C., Panchayat Samiti, Maregaon and Medical Officer, P.H.C., Vegaon vide order dated 30/3/2009 informed the Chairman of Zilla Parishad, Yavatmal about the applicant's absence. It was also intimated that the applicant is using pressure tactics. According to the respondents, since the applicant remained absent unauthorisedly, there is absolutely no reason for salary being paid to the applicant.

8. The learned counsel for the applicant invited my attention to the counter-affidavit filed by the applicant in response to the reply-affidavit. The said counter-affidavit is dated 7/4/2017. In the said affidavit the applicant stated that no show cause notice, memo or any letter was issued to the applicant by the respondent authorities alleging about his absence and therefore without holding any inquiry the applicant cannot be treated as unauthorisedly absent.

9. It is material to note the applicant was appointed temporary for 11 months and therefore he is not regular employee of the respondents. In such circumstances, there was absolutely no reason for respondents to initiate the departmental enquiry against the applicant for unauthorised absence. Salary of the employee is paid on the basis of work done by the employee.

10. The learned Counsel for the applicant submits that the Health Officer of Zilla Parishad has directed the Medical Officer and Block Development to consider the case of the applicant for arrears of salary not paid to the applicant. However, such recommendations itself cannot force the respondent no.4 to pay the amount. The respondent no.4 is the Drawing and Disbursing Officer (DDO) and it has to get verified whether the applicant actually worked or not. In para-5 of the reply-affidavit the respondent no.4 has stated that though the respondent no.3 informed the respondent no.4 to pay salary for the period the applicant for asking for, it does not mean that without actual working the applicant is entitled for the same. It is stated that the applicant and respondent no.3 were very much under knowledge that the applicant has not actually worked for the period for which he was asking for salary. The respondents have placed on record the reports in this regard. The copies charges which is placed on record at PB at Page nos. 30 & 31. The Medical Officer has rightly informed to the respondent no.4 from time to time that the applicant had not at all worked during that period and further informed that he had not even opened the O.P.D. In the absence any concrete evidence produced by the applicant shows that he had actually worked there during said period, respondent no.4 was justified in

denying the salary of said period to the applicant. I, therefore, do not find any merits in the O.A. Hence the following order :-

**ORDER**

The O.A. stands dismissed with no order as to costs.

**(J.D. Kulkarni)**  
**Vice-Chairman (J).**

dnk.