

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 226 OF 2016

DIST. : BEED

Shivram Narayan Dhapate,
Age.55 years, Occu. : Nil,
R/o Bhantumba, Tq. Kaij,
Dist. Beed.

-- APPLICANT

V E R S U S

1. The State of Maharashtra,
Through :Secretary,
To the Government of Maharashtra,
Health Department,
Mantralaya, Mumbai – 400 032.
2. The Director of Health Service,
Maharashtra, St. Gorgeous Hospital
Premises, Mumbai.
3. The Deputy Director of Health Service,
Aurangabad Division, Aurangabad.
4. The Deputy Director of Health Service,
(BCG & TBC), Mumbai.
5. The District Tuberculosis Officer,
District Tuberculosis Center,
Beed.
6. The Deputy Director,
Health Services, Latur.

-- RESPONDENTS

APPEARANCE :- Shri P.M. Shinde, learned Advocate for the
applicant.
: Smt. Resha S. Deshmukh, learned
Presenting Officer for the respondents.

CORAM : Hon'ble Shri B.P. Patil, Member (J)
DATE : 12th February, 2018

ORAL - ORDER

1. Heard Shri P.M. Shinde, learned Advocate for the applicant and Smt. Resha S. Deshmukh, learned Presenting Officer for the respondents.

2. The applicant has filed the present Original Application for issuing directions to the respondents to regularize his services as a Driver in view of different G.Rs. as he served as a Driver continuously since the year 1985 but his services have been terminated by the order dtd. 8.6.2011 without any just reasons.

3. It is contention of the applicant that the res. no. 5 the District Tuberculosis Officer, Beed has sent a proposal for regularization of his services to the res. no. 6 the Deputy Director of Health Services, Latur and the res. no. 6 forwarded the said proposal to the res. no. 2 the Director of Health Services, Mumbai for taking appropriate decision on the said proposal. He has submitted that the res. no. 2 the Director of Health Services, Mumbai has not taken any decision on the said proposal forwarded by the res. no. 6. It is his contention that the respondents have regularized the services of other similarly situated employees as per the G.R. dtd. 8.3.1999 and therefore the respondents ought to have consider the proposal for

regularization of services of the applicant and ought to have regularized his services from initial date of appointment i.e. from 16.8.1985 and therefore he approached the Tribunal by filing the present O.A.

4. The learned Advocate for the applicant has submitted that applicant is in service since 16.8.1985 on temporary basis and his services have been continued since then from time to time. He has submitted that applicant's services have been continued in view of orders of Hon'ble High Court and this Tribunal in the earlier matters till availability of regularly selected candidate. He has submitted that the respondents have relieved the applicant on 8.6.2011 without regularizing his services, though the res. no. 5 had sent a proposal for regularization of his services to the res. no. 6. He has argued that the res. no. 6 has forwarded the said proposal received from res. no. 5 to the res. no. 2 on 20.6.2011, but the res. no. 2 has not taken any decision on the said proposal till today and therefore the applicant has approached this Tribunal. He has submitted that in the cases of similarly situated employees viz. S/shri B.V. Gurav, S.D. Ghorpade, B.T. Yadav the concerned respondent had taken a decision to regularize their ad-hoc / temporary services and granted regularization to them. He has submitted that the respondent no. 2 ought to have considered

the proposal forwarded by the res. no. 6 regarding regularization of services of the applicant as the applicant has rendered more than 25 years service. Therefore, he prayed to allow the O.A.

5. The learned P.O. submitted that the applicant's services were continued in view of the order of the Tribunal and Hon'ble High Court from time to time till appointment of regularly selected candidate. She has submitted that after appointment of regularly selected candidate the services of the applicant has been discontinued. She has submitted that applicant has no right to claim for regularization of his service. She has submitted that proposal of res. no. 5 and forwarded by the res. no. 6 to the res. no. 2 is still pending. Therefore she prayed to dismiss the O.A.

6. On going through the documents it reveals that the applicant was appointed as a Driver on ad-hoc basis by the order dtd. 16.8.1985. Thereafter he has been appointed on temporary basis on the recommendation of Regional Subordinate Board vide order dtd. 18.3.1989. Thereafter his services have been continued till termination i.e. till 8.6.2011 with technical breaks. In the meanwhile the applicant approached to this Tribunal as well as Hon'ble High Court. Because of the orders of Hon'ble High Court and the Tribunal the applicant's services were continued without break continuously till regularly selected candidate is appointed

on the post of Driver. Thereafter on 8.7.2011 his services have been terminated and he has been relieved. Perusal of documents reveals that the respondents have regularized services of similarly situated employees viz. S/shri B.V. Gurav, S.D. Ghorpade, B.T. Yadav. The applicant is seeking regularization on the ground of parity. The res. no. 5 sent a proposal on 8.6.2011 to the res. no. 6 for regularization of services of the applicant. The said proposal was forwarded by the res. no. 6 to the res. no. 2 on 20.9.2011. The res. no. 2 has not taken decision on the said proposal till today.

7. In these circumstances it is just and proper to direct the res. no. 2 to take a conscious decision on the proposal sent by the res. no. 5 and forwarded by the res. no. 6 on the basis of several G.Rs. on merit. Therefore, I direct the res. no. 2 to take a conscious decision on merit on the said proposal sent by the res. no. 5 on 8.6.2011 and forwarded by the res. no. 6 on 20.7.2011 as per rules within 3 months from the date of this order and to communicate the decision thereof to the applicant in writing. Accordingly the O.A. is disposed of with above said directions. There shall be no order as to costs.

MEMBER (J)