

**THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.298 OF 2015

DISTRICT : RAIGAD

Meenal Gopinath Shinde,)
Residing at Ghosalkar Building,)
'B' Wing, Room No.101, Sonar Aali,)
Tal : Roha, Dist. Raigad) **...APPLICANT**

VERSUS

1. Divisional Joint Director of)
Agriculture, Konkan Division,)
Thane.)

2. Taluka Agricultural Officer,)
Roha, Tal : Roha, Dist. Raigad.) **....RESPONDENTS**

Shri R.K. Mendadkar, learned Counsel for the Applicant.

Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

CORAM : SHRI RAJIV AGARWAL, VICE-CHAIRMAN
SHRI R.B. MALIK, MEMBER(J)

DATE : 25.07.2016.

PER : SHRI RAJIV AGARWAL, VICE-CHAIRMAN

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J U D G M E N T

1. Heard Shri R.K. Mendadkar, learned Counsel for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

2. This Original Application has been filed by the Applicant challenging the order dated 16.03.2015, by which the Respondent No.1 refused to give appointment to the Applicant to the post of Agricultural Assistant, after she completed four years on 21.03.2013 on the post of Krishi Sevak, and was entitled to be appointed as Agricultural Assistant in terms of her appointment as Krishi Sevak. The Applicant has also challenged the order dated 30.04.2015, issued by the Respondent No.2 relieving the Applicant from the post of Krishi Sevak.

3. Learned Counsel for the Applicant argued that the Applicant was appointed as Krishi Sevak by order dated 31.12.2010. She was appointed initially for a period of one year. As per condition no.5 of the appointment, a person could be appointed as Krishi Sevak for a maximum period of 3 years and on completion of 3 years of service satisfactorily, the person was to be appointed on regular basis as Agricultural Assistant, depending on requirement and availability of the post. Learned Counsel for the Applicant stated that after the Applicant completed 3 years as Krishi Sevak, she was entitled to be given appointment as Agricultural Assistant. However,

she was denied such appointment by impugned order dated 16.03.2015. The Applicant, ^{had} attempted to commit suicide on 16.01.2014, while in service. A Criminal Case was, therefore registered against her. However, that case, has no bearing on her official duties and also there is no allegation of moral turpitude against the Applicant. Learned Counsel for the Applicant argued that the pendency of a case of attempted suicide could not be a ground to deny appointment as Agricultural Assistant to the Applicant. Learned Counsel for the Applicant argued that the Respondent No.1 had terminated services of the Applicant by order dated 16.03.2015, without giving any show cause notice, behind her back. This order is, therefore, liable to be quashed and set aside as it is violative of the principles of natural justice.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that order dated 16.03.2015 is not an order terminating services of the Applicant. It is only the decision of the Respondent No.1 not to appoint the Applicant as Agricultural Assistant, as there is a police case/ misconduct case pending against the Applicant, which is yet to be decided. Learned P.O. argued that for taking such a decision, it was not necessary to issue a show cause notice to the Applicant. She was never appointed as Agricultural Assistant and she has completed her term as Krishi Sevak on contractual basis and she was relieved by order dated 30.04.2015 by the Respondent No.2. Learned P.O. stated that a compliant was received from Help Desk for Women and Children, Ratnagiri

on 24.12.2013 about the misconduct of the Applicant. Police Inspector, Khopoli Police Station had informed on 13.02.2014 that an FIR is registered against the Applicant under Section 309 of I.P.C. on 18.01.2014. Considering these facts, it was decided not to appoint the Applicant as Agricultural Assistant and the matter was referred to the Commissioner of Agriculture, M.S., Pune.

5. The Applicant has not placed on record full details of her service as Krishi Sevak. From the initial order of appointment dated 31.12.2010, (Exhibit 'A') it appears that she was appointed for one year initially as Krishi Sevak. As per conditions no.5 & 6, the Applicant after 3 years of service as Krishi Sevak, a person could be considered for appointment to the post of Agricultural Assistant, subject to the requirement and availability of posts. The conditions no.5 & 6 are reproduced below :-

“(५) कृषि सेवकांची नियुक्ती प्रथमतः एक वर्षासाठी करण्यात येईल. त्याचे काम समाधानकारक असल्याचे आढळून आल्यास पुन्हा एक वर्षासाठी नियुक्ती येईल. याप्रमाणे नियुक्तीचा कमाल कालावधी ३ वर्षांचा राहिल.

(६) कृषि सेवक पदावर ३ वर्षांचा कालावधी समाधानकारकरित्या पूर्ण केल्यानंतर पदाचे उपलब्धतेनुसार व आवश्यकते प्रमाणे संबंधित उमेदवारास कृषि सहाय्यकांच्या नियमित पदावर नियुक्ती देण्याचा विचार करण्यात येईल.”

6. The claim of the Applicant that “However, by an impugned order dated 16th March, 2015 the Respondent No.1 herein terminated her services” is not correct. In fact, it is a communication from the Respondent No.1 to the Respondent No.2 and the proposal to appoint the Applicant as Agricultural Assistant was not approved. Though in paragraph 1 of the

said communication, the word 'पुनर्नियुक्ती' is used, the Applicant has not produced any material on record to show that she was ever appointed as Agricultural Assistant. The order dated 30.04.2015 (Exhibit 'C') shows that by that her services as Krishi Sevak were not continued beyond 30.04.2015. Contention of the Applicant that communication dated 30.04.2015 is a termination order cannot be accepted. The contention of the Applicant that she was entitled to be appointed as Agricultural Assistant as she fulfilled the conditions no.5 & 6 of the appointment order dated 30.10.2010 deserves consideration. In the affidavit-in-reply dated 21.08.2015, the Respondents have referred to report dated 24.12.2013 from Women & Children Help Desk, Ratnagiri, which reported that the Applicant had married Shri Amol Gajanan Murudkar, who was already married to one Smt. Ashwini Amol Murudkar. There is also a reference to report dated 13.02.2014 from Police Inspector, Khopoli Police Station informing the Respondent No.2 that a case R.C.No.12 of 2014 under Section I.P.C. of 309 was registered against the Applicant on 18.01.2014. The Applicant has placed on record judgment of Judicial Magistrate, First Class, Khalapur dated 10.09.2015 in Summary Case No.149 of 2014 acquitting the Applicant. From this, it is clear that the reason of pendency of a criminal case against the Applicant for denying appointment to her on the post of Agricultural Assistant no longer exists. In any case, such an offence did not involve moral turpitude on the part of the Applicant. It is not the case of the Respondents that the performance of the Applicant as Krishi



Sevak was not satisfactory. As regards compliant from Women and Children Help Desk, Ratnagiri, it cannot be called a case of misconduct. The Applicant appears to be eligible for appointment to the post of Agricultural Assistant, now that the criminal case against her has resulted in clean acquittal.

7. The Respondent No.1 is directed to consider the case of the Applicant for appointment as Agricultural Assistant in the light of our observations in the preceding paragraph within a period of six weeks from the date of this order. This O.A. is disposed of accordingly no order as to costs.

Sd/-
(R.B. MALIK)
MEMBER(J)

Sd/-
(RAJIV AGARWAL)
VICE-CHAIRMAN

Place : Mumbai
Date : 25.07.2016
Typed by : PRK