

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI
ORIGINAL APPLICATION NO.875 OF 2014**

DISTRICT : NASHIK

Dr. Nawalsing Kisan Chavan,)
51 years, Medical Officer Group-A,)
Primary Health Centre, Talegaon Rohi and)
additional charge of post of Taluka Health)
Officer, Panchayat Samittee, Chandwad,)
District Nashik)..Applicant

Versus

1. The State of Maharashtra,)
Through Secretary,)
Public Health Department,)
Mantralaya, Mumbai)
2. The Director General of Health Services,)
Arogya Bhavan, St. Georges Hospital)
Campus, Near CST, Mumbai)
3. The Deputy Director of Health Services,)

GA

- Nasik Circle, Nasik)
4. The Chief Executive Officer,)
Zilla Parishad, Nasik)
5. Dr. Sulochana L. Bhoje,)
Medical Officer, Group-A, Primary Health)
Centre, Wadalibhoi, Taluka Chandwad,)
District Nasik)..Respondents

Shri J.S. Deshmukh – Advocate for the Applicant

Shri K.S. Gaikwad – Presenting Officer for Respondent No.1 to 3

Shri A.R. Kapadnis – Advocate for Respondent No.4

None for Respondent No.5

CORAM : Shri Rajiv Agarwal, Vice-Chairman

DATE : 25th April, 2016

J U D G M E N T

1. Heard Shri J.S. Deshmukh, the learned Advocate for the Applicant, Shri K.S. Gaikwad, the learned Presenting Officer for Respondent No.1 to 3 and Shri A.R. Kapadnis, the learned Advocate for Respondent No.4.

25/4/16

2. This OA has been filed by the Applicant challenging the order dated 11.9.2014 issued by the Respondent No.4 taking away the charge of the post of Taluka Health Officer, Chandwad, District Nashik from him.

3. Learned counsel for the Applicant argued that he was posted as Taluka Health Officer (THO), Chandwad by order dated 10.8.2011 by the respondent no.4 in terms of GR dated 26.5.2007. He was given additional charge of the post of Primary Health Centre (PHC), Dahiwad, Taluka Derla. The charge of the post of Taluka Health Officer, Chandwad was withdrawn from the Applicant by order dated 2.11.2013 as there was an inquiry into a complaint against him which was being conducted by BDO, Chandwad. However, no substance was found in the complaint against the Applicant and by order dated 5.9.2014, the charge of Taluka Health Officer, Chandwad was restored to the Applicant. By impugned order dated 11.9.2014, the charge was again withdrawn. Learned counsel for the Applicant argued that the rights and responsibility of a Taluka Health Officer have been prescribed by GR dated 16.5.2007 and a Medical Officers selected by MPSC and who is senior alone can be posted as THO. The person who has been given charge of the post of THO does not fulfill these conditions, as she is junior to the Applicant. Learned counsel for the Applicant argued that powers of Chief Executive Officer (CEO), Zilla Parishad (ZP) to post Medical Officers have been

withdrawn by GR dated 28.3.2012 and the order dated 11.9.2014 is illegal.

4. Learned Advocate Shri A.R. Kapadnis argued on behalf of the Respondent no.4 that the Applicant was posted as Medical Officer, PHC, Pimpalgaon Baswant, Taluka Niphad by order of the State Government. By order dated 10.8.2011, he was posted as THO, Chandwad by the CEO, ZP, Nasik. This was done as per GR dated 16.5.2007 which gives powers to the CEO to post Medical Officers as THO. These powers have not been withdrawn by GR dated 28.3.2012. The Applicant was given charge of the post of Medical Officer, PHC, Dahiwad, Taluka Devla. The order entrusting additional charge of the post of THO, Chandwad was issued on 5.9.2014. It is clear that the Applicant was given only additional charge of the post of THO, Chandwad and his regular charge was Medical Officer, PHC, Talegaon Rohi, Taluka Chandwad. The Applicant has no legal right to be given additional charge of the post of THO, Talegaon.

5. It appears that the Applicant was posted in Nasik District at PHC, Pimpalgaon Baswant, Taluka Niphad by the State Government by order dated 3.6.2011. He made a representation to the Respondent No.4 for posting as Taluka Health Officer, and he was posted as THO, Chandwad by order dated 10.8.2011. Taluka Health Officers in Nasik District were

given additional charge of the post of Medical Officers in Primary Health Centres by order dated 16.3.2013 and the Applicant was given additional charge of the post of Medical Officer, PHC, Dahiwad, Taluka Devla. The charge of THO, Chandwad was withdrawn by order dated 2.11.2013, pending enquiry against the Applicant. The Applicant was given additional charge of the post of THO, Chandwad by order dated 5.9.2014, which mentions that his regular posting was as Medical Officer, PHC, Talegaon Rohi, Taluka Chandwad. It is seen that the posting of the Applicant was changed from PHC, Dahiwad, Taluka Devla to Talegaon Rohi, Tal. Chandwad. It appears that the Applicant accepted all these orders without any protest. Now, that his additional charge of the post of THO is withdrawn, he is protesting. It is admitted that charge of the post of THO is no longer his original charge. GR dated 16.5.2007 gives ultimate powers to post a Medical Officer as Taluka Health Officer to CEO, ZP. In the present case, only additional charge of the post of THO has been withdrawn from the Applicant, keeping his regular charge intact. GR dated 28.3.2012 has placed restrictions on the powers of CEO of a ZP to transfer Medical Officers. However, it does not supersede GR dated 16.5.2007. CEO of a ZP has powers to entrust charge of the post of THO to any Medical Officer. The claim of the Applicant that he should be given charge as THO as he is senior, is just one fact which has to be considered by CEO. If, however, for some other reasons, CEO of a ZP decides to give

[Handwritten signature]

charge to some other Medical Officer, he is well within his powers to do so. The Applicant has not been able to make out any case to challenge the impugned order dated 11.2.2014. This OA is, therefore, dismissed with no order as to costs.

Sd/-

(Rajiv Agarwal) \
Vice-Chairman
25.4.2016

Date : 25th April, 2016

Dictation taken by: S.G. Jawalkar.

E:\JAWALKAR\Judgements\2016\4 April 2016\OA.875.14.J.4.2016-Dr.NKChavan-Additional charge.doc