

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 366 OF 2016

DISTRICT: - BEED.

Dr. Sweta Harischandra Wange,

Age : - 29 years, Occu: Service,
R/o. Parli Vaijnath, Tq. Parali Vaijnath
District. Beed.

.. APPLICANT.

V E R S U S

- 1. The State of Maharashtra,**
Through its Secretary,
Health Department, Mantralaya,
Mumbai.
- 2. The Director of Health,**
Arogya Bhavan, 1st Floor,
St. George's Hospital Compound,
Near C.S.T. Station,
Mumbai – 400 001.
- 3. The Deputy Director of Health
Services,**
Latur, District Latur.
- 4. The District Health Officer,**
Zilla Parishad, Beed,
Ta and Dist. Beed.

.. RESPONDENTS

APPEARANCE : Shri S.P. Dhoble, learned Advocate
holding for Shri Arvind N. Gaddime –
learned Advocate for the applicant.

: Shri S.K. Shirse – learned Presenting
Officer for the respondent Nos. 1 to 3.

: Shri S.S. Devgude, learned Advocate holding for Shri P.D. Suryawanshi – learned Advocate for respondent No.4.

CORAM : **HON'BLE SHRI B.P. PATIL
MEMBER (J)**

DATE : **31ST AUGUST, 2017**

ORDER

1. The applicant is claiming salary for the period commencing from 5th July, 2014 to 30th October, 2014 as per the rules along with interest at the rate of 15% p.a. with all consequential benefits from the respondents as she had discharged the duties as Medical Officer during the said period, by filing the present Original Application.

2. The applicant was appointed on the post of Medical Officer as bonded Medical Officer at Parli Vaijnath, District Beed. She joined her duties as Medical Officer on 3.7.2013. She worked there up to 2nd July, 2014. She has received salary regularly during the said period. She was reappointed as a temporary Medical Officer after giving two days' breaks after 2nd July, 2014, as per the directions of Deputy Director, Health Services, Latur.

Accordingly, the applicant worked there from 4th July, 2014 till October, 2014, but salary for the said period was not paid to her by the respondents. Therefore, she made several representations with the respondents and claimed her salary for the period from 5th July, 2014 till 30th October, 2014.

3. The Medical Officer Urban Hospital, Parli Vaijnath issued a certificate on 22nd September, 2015 certifying that she had worked as a Medical Officer during the period from 5th July, 2014 to 30th October, 2014. In spite of the said fact, she has not received the salary for the said period. Therefore, she filed an application and prayed to direct the respondents to disburse her salary for the period from 5th July, 2014 till 30th October, 2015 as per the rules with interest @ 15% p.a.

4. Respondent No. 3 has filed affidavit in reply and contended that the applicant was appointed as a Medical Officer on temporary basis w.e.f. 3.7.2013 to 2.7.2014. She has received the salary from the Chief Executive Officer, Zilla Parishad, Beed, regularly during that period.

She rendered her services as bounded Medical Officer, in view of the appointment order issued by the respondent No. 3 on 13.06.2013. Respondent No. 3 is the competent authority to issue order of Medical Officer on temporary basis, as per the guidelines issued by the respondent No. 2. Thereafter, the applicant was reappointed on the post of Medical Officer for the period from 5.7.2014 to 4.8.2014 (for one month) by the respondent No. 3 vide order dated 24.09.2014, in view of the proposal of the respondent No. 4 dated 10.07.2014. Therefore, the applicant is entitled to receive salary of one month commencing from 5.7.2014 to 4.8.2014 from the respondent No. 4. It is his contention that he has not given appointment to the applicant after 4.8.2014. Therefore, the applicant is not entitled to claim salary for the period w.e.f. 5.8.2014 to 30.10.2014. She had discharged her duties without prior permission and without appointment order of the respondent No. 3. Therefore, she cannot claim salary for the said period. Her appointment was up to 4.8.2014 and thereafter, her services were terminated. Therefore, she is not entitled to

claim salary thereafter. Therefore, he prayed to reject the present Original Application.

5. Respondent No. 4 has filed affidavit in reply and contended that the applicant was bonded Medical Officer appointed from 3.7.2013 to 2.7.2014 by the respondent No. 4 and she has been paid for the said period. Thereafter, the applicant worked without appointment orders from respondent No. 3 in the Rural Hospital, Parli Vaijanath w.e.f. 5.7.2014 to 30.10.2014. It is his contention that he forwarded the proposal for continuation of the applicant from 5.7.2014, but the respondent No. 3 vide his order dated 24.9.2014 had given appointment to the applicant for the period from 5.7.2014 to 04.08.2014 (for one month) only. The respondent No. 3 had given *ex post facto* sanction to the applicant for joining her duties w.e.f. 5.7.2014. She worked up to 30.10.2014 and thereafter she left job. Respondent No. 3 had given approval to her appointment for the period from 5.8.2014 to 4.8.2014 (for one month). Therefore, he prayed to reject the present Original Application.

6. Heard Shri S.P. Dhoble, learned Advocate holding for Shri Arvind N. Gaddime – learned Advocate for the applicant, Shri S.K. Shirse – learned Presenting Officer for the respondent Nos. 1 to 3 and Shri S.S. Devgude, learned Advocate holding for Shri P.D. Suryawanshi – learned Advocate for respondent No.4. I have perused the affidavit, affidavit in reply filed on behalf of the respondent Nos. 3 & 4. I have also perused the documents placed on record by both the parties.

7. Admittedly, the applicant was appointed as a bonded Medical Officer for the period commencing from 3.7.2013 to 2.7.2014 on the basis of appointment letter issued by respondent No. 3 in the Rural Hospital, Parli Vaijnath. She received the salary for the aforesaid period regularly. Thereafter, proposal for her continuation on the same post from 5.7.2014 onwards had been sent by the respondent No. 4 to the respondent No. 3 for approval on 10.7.2014. Admittedly, respondent No. 3 had given appointment to the applicant on the post of Medical Officer at Urban Hospital, Parli Vaijnath for one month commencing from

5.7.2014 to 4.8.2014 by his order dated 24.9.2014. Thereafter, her services have not been continued. The applicant worked without appointment order till the end of October, 2014. The respondent Nos. 3 & 4 have admitted the fact that the applicant is entitled to get salary of one month commencing from 5.7.2014 to 4.8.2014, but they have disputed the fact that the applicant is entitled to get salary for the further period commencing from 5.8.2014 to 30.10.2014.

8. Learned Advocate for the applicant has submitted that the applicant worked till October, 2014 and this fact has been admitted by the respondent No. 4. He has submitted that the applicant rendered the services and put her signature on the muster role regularly, but the respondents have not disbursed her salary though she worked for the period from 5.7.2014 to 30.10.2014. He has submitted that as the applicant rendered services, she is entitled to get the salary during the said period. Therefore, he prayed to allow the present Original Application.

9. Learned Presenting Officer for respondent Nos. 1 to 3 and learned Advocate for respondent No. 4 have submitted that the services of the applicant continued after two days' break from 5.7.2013 to 4.8.2014 only by order issued by respondent No. 4 dated 24.9.2014 (page Nos. 19 & 20 both inclusive). They have submitted that accordingly, respondent No. 4 issued order giving reappointment to the applicant on 20.4.2015 (page No. 26 of paper book of O.A.). They have submitted that the applicant worked for one month w.e.f. 5.7.2014 to 4.8.2014 in view of the said order issued by respondent No. 3 and, therefore, she is entitled to get the salary for one month only. She worked till the end of October, 2014 without appointment order and, therefore, she cannot claim salary for the period w.e.f. 5.8.2014 to 30.10.2014. They have submitted that the applicant is entitled to claim salary for the period of one month only commencing from 5th July, 2014 to 4th August, 2014 and they are ready to disburse the said amount to the applicant. Therefore, they prayed to reject the claim of the applicant made in the present Original Application.

10. On going through the documents, it reveals that initially the applicant was appointed for the period from 3.7.2013 to 2.7.2014 as bonded Medical Officer. Thereafter, after two days break, she was again reappointed for a period of one month w.e.f. 5.7.2014 to 4.8.2014 in view of the order issued by respondent No. 3, which is at page Nos. 19 & 20 (both inclusive). The order shows that the services of the applicant will be terminated w.e.f. 4.8.2014. No doubt, the respondent No. 4 sent proposal for continuation of the services of the applicant for further one year, but it was not accepted by respondent No. 3 and the applicant was reappointed for one month only commencing from 5.7.2014 to 4.8.2014. Thereafter, there was no continuation order issued by the respondent No. 3. Therefore, the services rendered by the applicant thereafter are unauthorized and without appointment order and, therefore, the applicant cannot claim salary for the said period w.e.f. 5.8.2017 to end of October, 2014. However, she rendered the services for a period of one month w.e.f. 5.7.2014 to 4.8.2014. Salary of the said period was not paid to the applicant. Therefore,

she is entitled to get the salary for the period of one month commencing from 5.7.2014 to 4.8.2014. Admittedly, the said amount has not been disbursed to her by the respondents till today. Therefore, it is just to direct the respondents to disburse the salary of one month to the applicant for the period commencing from 5.7.2014 to 4.8.2014. Therefore, the Original Application deserves to be allowed partly. Therefore, I pass the following order: -

ORDER

- (i) The present Original Application is partly allowed.
- (ii) The respondents are directed to disburse one month's salary for the period commencing from 5.7.2014 to 4.8.2014 to the applicant within a period of one month, failing which the respondents shall pay the interest @ 9% p.a. on the said amount from 01.09.2014 till realization of the amount.
- (iii) Rest of the claim of the applicant is rejected.
- (iv) There shall be no order as to costs.

MEMBER (J)

O.A.NO.366-2016(SB)-HDD-2017-salary