

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH, NAGPUR**  
**ORIGINAL APPLICATION NO. 417/2021 (D.B.)**

Dr. Hemlata W/o Purshottam Madavi (Gedam),  
Aged about 48 years, Occ. Service,  
R/o Plot No. 13, Mahakali Nagar No. 3,  
Manewada Ring Road,  
Nagpur-24.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Principal Secretary,  
Department of Public Health,  
10<sup>th</sup> Floor, GT Hospital Campus Building,  
New Mantralaya, Mumbai-400001.
- 2) Commissioner, Public Health Department,  
Aarogya Bhavan, St. Georges Hospital Campus,  
P.D.Mello Road, Mumbai-400001.
- 3) Deputy Director of Health Services,  
Nagpur Region, Mata Kacheri Compound,  
Shradhanand Peth,  
Nagpur.
- 4) Medical Superintendent,  
Daga Memorial Government Ladies Hospital,  
Gandhi Bagh, Nagpur.

**Respondents.**

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**Shri N.D.Thombre, Id. Advocate for the applicant.**  
**Shri S.A.Sainis, Id. P.O. for the respondents.**

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**Coram :- Shri Shree Bhagwan, Vice-Chairman and  
Shri M.A.Lovekar, Member (J).**

**Dated :- 20/09/2022.**

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**JUDGMENT****Per : Member (J).**

Heard Shri N.D.Thombre, ld. Counsel for the applicant and Shri S.A.Sainis, ld. P.O. for the respondents.

2. Case of the applicant is as follows. The applicant was working as a Medical Officer, Group-A at Daga Hospital, Nagpur. By order dated 15.09.2020 (A-1) she was promoted in the cadre of Civil Surgeon and posted at Sub District Hospital, Parshivani as a Medical Superintendent. She was suffering from Covid-19 and was on medical leave from 01.09.2020. By letter dated 20.09.2020 (A-2) she requested respondent no. 4 not to relieve her (for joining on the promotional post). To this letter medical certificate dated 01.09.2020 was attached. She had to get her medical leave extended from time to time due to Covid complications as well as breast surgery as reflected in medical papers collectively marked A-3. She made representations dated 21.09.2020 and 03.10.2020 (A-4 collectively) to respondents 1 & 2 that she be posted at Daga Hospital, Nagpur as Additional Civil Surgeon or Anaesthetist, Class-I. By the impugned order dated 27.05.2021 (A-5) order of her promotion was cancelled. She had never refused promotion. She had given her willingness (A-6) for promotion in the specialist cadre as an Anaesthetist, Class-I. Similar request made by a Medical Officer was

acceded to by order at A-7. However, abrupt and arbitrary order was passed against the applicant by cancelling her promotion. Hence, this application.

3. Reply of respondents is at pp. 44 to 50. According to them, the applicant did not quarantine herself after testing Covid-Positive. She left the headquarter and went to Wardha thereby breaching Covid protocol. Medical certificates produced by the applicant cannot be implicitly relied upon. During this period the applicant had filed several applications for changing her posting. Thus, it can be inferred that she was primarily interested in getting her posting changed which will reflect adversely on genuineness of her case as is tried to be made out before this Tribunal. Since the applicant did not join on the promotional post apparently because she was not satisfied with the posting, it became necessary to pass the impugned order. Representations of the applicant for change of posting could not be considered favourably because the post of choice given by her was not vacant.

4. Papers placed on record by the applicant show that by application dated 14.01.2022 she had sought permission to join on the promotional post and in this respect guidance was sought and reply was awaited from respondent no. 3. By letter dated 17.02.2022 the applicant further pursued the matter of joining on the promotional post. By G.R.

dated 01.08.2022 certain promotions were given and Dr. Gajanan Dhurve attached to Rural Hospital, Parshivani was promoted and posted there itself as a Medical Superintendent. By G.R. dated 05.08.2022 the applicant was promoted in the cadre of Civil Surgeon and posted at Rural Hospital, Narkhed as a Medical Superintendent. On 01.09.2022 the applicant joined on the promotional post but under protest as reflected in her letter dated 30.08.2022. These are the events which took place during pendency of the original application.

4. The first thing to be considered is whether the impugned order can be sustained. We have referred to the medical papers collectively marked A-3. The applicant had tested Covid-Positive. She had undergone surgery on left breast. In her representation dated 21.09.2020 (A-4) she had stated that she was suffering from Meningioma and needed treatment from Neurologist. Authenticity and reliability of these facts has not been really disputed by the respondents. Consequently, the impugned order cannot be sustained. In view of this conclusion the impugned order cancelling promotion of the applicant is quashed and set aside but only to the extent of giving the benefit of notional date of promotion to her i.e. 15.09.2020. However, the applicant will be entitled to get salary of promotional post only from the date of actual joining i.e. 01.09.2022. If the applicant desires to apply for change

of posting she may do so and the concerned authority shall consider and decide her representation on its own merits. The **Original Application is allowed in these terms with no order as to costs.**

**(M.A.Lovekar)**  
**Member(J).**  
**Dated :-20/09/2022.**  
\*aps.

**(Shree Bhagwan)**  
**Vice-Chairman.**

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Akhilesh Parasnath Srivastava

Court Name : Court of Hon'ble V.C. and Member (J).

Judgment signed on : 20/09/2022.

Uploaded on : 21/09/2022.