

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 713 of 2016 (D.B.)

Kailash S/o Shamrao Shahare,
Aged about 32 years, Occupation :
R/o Ward No.6, Samata Colony,
Near Dr. Khobragade Hospital,
Taluka : Nagbhid,
District Chandrapur-441 205.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary Ministry of Agriculture,
Animal Husbandry Dairy Development and
Fisheries Department, Hutatma Rajguru Chowk,
Madam Kama Road, Mantralaya, Mumbai-32.
- 2) The Commissioner of Agriculture,
Office of the Commissionerate,
Maharashtra State, Pune-5.
- 3) The Director, ATMA,
Office of Commissioner of Agriculture,
"Sahakar Sankul" Shivaji Nagar, Pune.
- 4) The Joint Director of Agriculture,
Nagpur Division,
7th floor, new Administrative Building-II,
Opp. Zilla Parishad Area, Civil Lines,
Nagpur-440 001.
- 5) The Project Director,
ATMA, Wadgaon Ward,
Gajanan Mandir Road,
Vidyanagar, Chandrapur.

Respondents.

Shri Rohan Chandurkar, Ms. Mugdha Chandurkar & S. Pahade
Advocates for the applicant.

Shri V.A. Kulkarni, learned P.O. for the respondents.

**Coram :- Hon'ble Shri J.D. Kulkarni,
Vice-Chairman (J) and
Hon'ble Shri Shree Bhagwan, Member(A).**

JUDGMENT

PER : V.C. (J).

(Delivered on this 6th day of July,2018)

Heard Ms. Mugdha Chandurkar, learned counsel for the applicant and Shri V.A. Kulkarni, learned P.O. for the respondents.

2. The applicant was appointed on the post of Block Technology Manager (BTM). He initially worked for one year at Deori, Dist. Gondia vide order dated 27/12/2010. Thereafter the respondent no.4 continued his appointment of 15 months and 16 days vide order dated 01/12/2011. On 12/03/2012, the applicant was transferred from Deori, Dist. Gondia to Bramhapuri, Dist. Chandrapur. He was re-appointed by respondent no.4 at Bramhapuri, Dist. Chandrapur vide order dated 01/03/2013 and thereafter again for 11 months vide orders dated 10/02/2014 and 13/05/2015. All these appointments were on contractual basis and the applicant has, in fact, worked for almost 5 years on the contractual basis. He is Member of ATMA employees' Welfare Association.

3. The applicant's Association preferred the Writ Petition No.5060/2015 before the Hon'ble High Court, Bench at Aurangabad challenging action on the part of respondent no.1 whereby ignoring the Members of the Association, the Government wanted to outsource the post. Vide order dated 30/04/2015 the Hon'ble High Court directed that the work assigned to the Members of the Association should not be withdrawn by the respondents. However, the applicant received a termination letter on 12/10/2015. Thereafter he was reinstated on 08/02/2016. Again on 16/04/2016 the applicant received second termination letter within 2 months from reinstatement. The applicant also requested to respondent no.5 to reinstate him by filing letter dated 04/05/2016.

4. The applicant was thereafter required to file contempt petition bearing no.399 of 2016 as his representation was not replied. The applicant was called upon to explain on certain allegations allegedly constituting misconduct. The Writ Petition No.5060/2015 was finally disposed of on 24/08/2016.

5. The applicant has challenged in this O.A. the letter from the Project Director (ATMA), Chandrapur received by him dated 16/04/2016 (Annex-A-2) at P.B. page no. 26 whereby it has been intimated to him that his tenure was to come an end on 15/04/2016 and therefore his services will come to an end on that date. The

applicant has challenged this letter before the Director (ATMA), office of the Commissioner of Agriculture, Pune. But the order passed by the Project Director (ATMA), Chandrapur was maintained and therefore this O.A. The applicant has claimed following main reliefs :-

- (a) Quash and set aside the order dated 30/08/2016 passed by the respondent no.3 (Annex-A-1).*
- (b) Quash and set aside the order dated 16/04/2016 passed by the respondent no.5 (Annex-A-2).*
- (c) Stay the effect and operation of the orders dated 30/08/2016 and 16/04/2016 (Annex-A-1 & A-2).*
- (d) Direct the respondent to re-appoint the applicant as Block Technology Manager under the jurisdiction respondent no.5 in view of the order passed by the Aurangabad Bench in Writ Petition no.5060/2015.*

6. The learned counsel for the applicant submits that the applicant's association has filed the Writ Petition No.5060/2015 before the Hon'ble High Court and the Hon'ble High Court vide interim order directing the respondents not to discontinue the services of the Members of the Association (ATMA). This interim order was passed on 30/04/2015 and in spite such order the impugned order whereby the services of the applicant has come to an end was passed by the Project Director (ATMA), Chandrapur (R/5) and not only that the Director of ATMA, Pune (R/3) confirmed said

order vide letter 30/08/2016. It is therefore stated that the both these orders are illegal since there was a specific directions from the Hon'ble High Court not to discontinue the work of the Members of the Association during the pendency of the Writ Petition. Though the argument putforth by the learned counsel for the applicant, prima facie seems to have hold some water, it is not so.

7. It seems that being aggrieved by the order of termination or discontinuation from the work in spite interim order dated 30/04/2015 passed by the Hon'ble High Court in Writ Petition No.5060/2015, the applicant and some members who were not continued, have filed Contempt Petition No.399/2016 in Writ Petition No.5060/2015. The copy of the said order passed on Contempt Petition dated 8/7/2016 is placed on record at P.B. page nos. 50 to 52 (both inclusive). So far as the present applicant is concerned, the Hon'ble High Court has specifically passed an order and observed in para nos.4,5 & 6 as under :-

“(4) In that view of the matter, so far three members of the petitioner association are concerned, their grievance stands redressed / satisfied. So far as Mr. K.S. Sahare is concerned, there is complaint against him, therefore, he is not taken back in service.

(5) Needless to observe that in case, if there is any provision to give opportunity to Shri K.S. Sahare the member of the

petitioner association, to defend himself, respondent no.4 shall give opportunity to him to reply allegations in the complaint.

(6) With the above observations, the Contempt Petition stands disposed of.”

8. From the aforesaid order, it will be clear that there is specific mentioned about the case of applicant Mr. Shahare and the respondents were directed to give an opportunity to him to reply allegations in the complaints against him. Thus, the Hon'ble High Court did not take cognizance of the alleged Contempt as claimed by the applicant.

9. From the impugned order dated 30/08/2016 (P-22 to 25) it seems that the Director of ATMA, office of Commissioner of Agriculture, Pune has considered allegations against the applicant and he has also considered the explanation submitted by the applicant. Following observations made in this order clearly shows that the applicant was given an opportunity and the respondents come to the conclusion that the applicant's work was not satisfactory.

The said observations are as under :-

^ fnukad 11@08@2016 jksth Jh- dSyk'k 'kgkjs ; kauh R; kps Eg.k.ks ys[th Lo#i kr finY; kuarj ys[th Li "Vhdj.kk0; frfjDr oxGs dkggh I kaxko; kps ulgh] vI s Jh- dSyk'k 'kgkjs; kauh Li "Vi .ksI kxrys i dYi I pkyd vRk] pmi ij ; kauh Jh- dSyk'k 'kgkjs; kauh dk; kiy; hu vuq fLFkrhckr o elfgrh I knj u dj .ksckr fnyY; k i =kpsvuqkxkusi dYi

I pkyd vRrek ; kauk I knj dSyY ; k fnukad 22@02@2015 jkstH ; k [kyk'kkpsvoykdu dY ; kurj vl s fun'kLkl vkys dh] ofj "Blauh i=kOnkjs vuj fLFkrickcr fopkj.kk dY ; kurj Jh- dSyk'k 'kgkjs ; kauh rRdkG [kykl k I knj dSyY ukgh-

rl p i dYi I pkyd vRrek pmi j ; kauh i pZl puk noul qnk fnukad 18@02@2015 jkstH Jh- dSyk'k 'kgkjsdk ; kzy ; kr vuj fLFkr jkghysvl Y ; kpsLi "V >kysvks ; kdfjrk Jh- dSyk'k 'kgkjs ; kps 22@02@2015 jkstH i dYi I pkyd] vRrek ; kauk I knj dSyY ; k [kyk'kkpsvoykdu dSyYvks

Jh- dSyk'k 'kgkjs ; kps 22@07@2015 jkstH I knj dSyY ; k [kyk'kkps voykdu dSyY vl rk fnukad 18@02@2015 jkstH R ; kauh djath rk- xkMfi ah ; k xkoki HkV fnyh vl Y ; kpsuem dY ; kpsfni u ; srs

djath ; k xkok HkV nouugh R ; kauh I nj xkokrhy 'kr djh fe= dlsk vksr ; kckcr 'kgkfu'kk dSyY ukgh- djath ; k xkokrhy 'kr djh fe= I kS ofurk HkMth <kxs ; kpsckcr [kk=h dSyY ukgh- ; ko#u 'kr djh fe=kph ; knh I knj djrkauk xkMth ; a mZl o tckcnkjhus dke dSyY ukgh-

tkxrh vkkks QM+ bMh ; k ik ; Ogv fyehVM] i&jij ; k I kFkpsdke d#u R ; kauh da=kvh inkojhy depk& ; kR ; k djjkke/khy vVh o 'krhps mYyaku d#u [kktxh da uhps dke dSyYvks

tkxrh vkkks QM+ bMh ; k ik ; Ogv fyehVM] i&jij ; k da uhr xro.knd dSyY ; k 'kr-d& ; ka sth Jh- /kui ky Mkeksth jk [kMg] jk- [kMkGk] rk- cEgijh] ft- pmi j ; kpskh ; k dk ; kzy ; krhy Jh-ch- vkj- f'kns ; kauh ng/ouho#u I a dZl kkyk vl rk] Jh- dSyk'k 'kgkjs ; kauh [kktxh da uhps I knjhdj.k yWVWoj nk[kou 'kr-d& ; kauk [kktxh da uhr xro.knd dj. ; kl i dRr dSyY vl Y ; kps 'kr-d& ; kus Lor% Qkvoj I kachrys vks R ; kuqkackus Jh-dSyk'k 'kgkjs ; kauh fnukad 11@08@2016 jkstH I knj dSyY [kykl k ; kX ; ul Y ; kpsfni u ; srs

fu.k

1- Jh-dSyk'k 'kgkjs gs i dYi I pkyd vRrek] pmi j ; kauh I krR ; kus i= noul qnk dk ; kzy ; kr vuj fLFkr jkghysvksr-

2- i dYi I pkyd] vRrek] pmi j ; kauh i=kOnkjsrl p ekfl d vk<kok I Hke/ ; sl puk nouugh vko' ; d ekfgrh ofj "B dk ; kzy ; kl foghr emrhe/ ; sl knj dSyY ukgh-

3- 'kr djh fe=kph fuoM ; knh i dYi I pkyd] vRRek] pni j ; k dk; k; k; kI I knj
djr kau dkskrhgh dkG th ?kr-yh ukgh-

4- djkj rRokojhy i nHkj rHP; k vVh o 'krhLud kj fuoM gkouw rkyplk ra=Kku 0; oLFkki d
i nkoj dke djhr vl rkau vVh o 'krhpk Hkx d#u tixrh vRksQM4 bMh; k i k; OgV
fyehVM] i a; j i j ; k [kktxh dā uhsdke dY; kpsLi "V gkr vks

Jh- dSyk'k 'kgkjs; kpsckrhr i dYi I pkyd ¼vRRek½] pni j ; kau dsysyh dk; bkg
; k; ; vks**

10. It is material to note that the applicant was appointed on contractual basis and therefore there was no need to initiate any regular departmental inquiry against the applicant. The respondents considered applicant's explanation and after giving opportunity to the applicant, as observed by the Hon'ble High Court and came to the conclusion not to continue the applicant and therefore the order dated 16/04/2016 was issued whereby it was intimated to the applicant that his services will come to an end on 15/04/2016 i.e. on the date of completion of his contract period.

11. It seems that even the Writ Petition No.5060/2015 has been finally decided vide order dated 24/08/2016. The said Judgment is placed on record which is at P.B. page nos. 76 to 91 (both inclusive) (Annex-A-21). The final order was passed in the said Writ Petition is as under :-

“ (i) The impugned communication dated 9th April,2015, to the extent of Clause-2 issued by respondent no.2 directing appointment on contract basis through outsourcing, is hereby quashed and set aside.

(ii) The respondents shall continue the services of the members of the petitioner until continuation of the scheme sponsored by respondent no.1 Union of India or until they attain the age of superannuation, whichever occurs earlier, subject of course to earlier termination either on medical or disciplinary grounds or for unsatisfactory performance.”

12. The Clause (ii) as observed above in the final order makes it clear that for continuation of services of the members of the association earlier termination orders either on medical or disciplinary grounds or for unsatisfactory performance were exempted. In other words, those who are either terminated on medical or disciplinary grounds or for unsatisfactory performance during the pendency of the Writ Petition were not to be continued. As already stated this final order in the Writ Petition has been on 24/08/2016 and during pendency of this Petition the applicant's services came to an end vide order dated 16/04/2016 which was confirmed by the Competent Authority on 30/08/2016. The order dated 30/08/2016 clearly shows that the competent higher authority was also satisfied that the applicant's work was not satisfactory and the applicant was negligent

in his work and was found working for private company in contravention of the terms and conditions of the contract. In such circumstances, we are satisfied that there is no merits in the claim.

Hence, the following order :-

ORDER

The O.A. stands dismissed with no order as to costs.

**(Shree Bhagwan)
Member(A).**

**(J.D. Kulkarni)
Vice-Chairman (J).**

Dated :- 06/07/2018.

dnk.