

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR.

ORIGINAL APPLICATION NO.100/2018. (S.B.)

Shri Sudhakar Mahadeorao Pande,
Aged about 48 years,
Occ. Service,
R/o Prasad Nagar, Near Om Mangal Karyalaya,
Balapur Naka Road, Akola.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Rural Development,
Bandhkam Bhavan,
Fort, Mumbai-32.
2. The Divisional Commissioner,
Amravati Division, Camp Amravati.
3. The Zilla Parishad, Akola
Through its Chief Executive Officer,
Zilla Parishad, Akola.

Respondents.

Shri A.P. Sadavarte, the Ld. Advocate for the applicant.
Shri P.N. Warjekar, Ld. P.O. for the respondent Nos. 1 and 2.
Shri K.S. Malokar, the Ld. Adv. for the respondent No.3.

Coram:- Shri J.D. Kulkarni,
Vice-Chairman (Judicial)

ORAL JUDGMENT

(Passed on this 3rd day of May 2018.)

Heard Shri A.P. Sadavarte, the Ld. counsel for the applicant and Shri P.N. Warjekar, the learned P.O. for the respondents 1 & 2. Shri K.S. Malokar, the learned counsel for respondent No. 3.

2. In this O.A., the applicant is claiming directions to the respondents to allow him to join the duty as Assistant Block Development Officer, Group-B at Panchayat Samiti, Akola. Since during the pendency of the O.A., the applicant has been transferred to Panchayat Samiti, Mahagaon, District Yavatmal and he has already joined there on 8.3.2018. The prayer clause 11 (i) may not survive. The only grievance now remains is that the directions to the respondents to release the arrears of salary of the applicant from August 2017 till he was relieved from Akola on 3.3.2018.

3. It seems that the applicant proceeded on leave vide application dated 21.8.2017 (copy of application is at page No.25), whereby he requested that he may be granted medical leave, since he was ill. He also expressed his willingness to produce medical certificate of joining. Thereafter he sought permission to join the duty on 22.9.2017 (Annexure A-4) (Page 26).

The medical certificate was also produced alongwith the application.

The applicant was, however, not allowed to join.

4. The applicant thereafter filed representation on 9.10.2017 (Annexure A-5) and also requested that since his name was included in the list of training, he be allowed to join the training. A request in this regard is at (Annexure A-6). He again filed an application (Annexure A-7) on 10.10.2017 and on 30.10.2017 at (Annexure A-8) and requested that he may be allowed to join. In spite of repeated requests, no action was taken by the respondents and, therefore, the applicant was constrained to file this O.A. In the meantime, instead of allowing the applicant to join at Akola, he was transferred to Mahagaon in Zilla Parishad, Yavatmal district. Admittedly, the applicant is getting salary regularly at Mahagaon after he joined there.

5. The respondent No.3, the Zilla Parishad, Akola, however, is not paying arrears of salary to the applicant.

6. The respondent No.3 has filed an affidavit on record today and the same is taken on record. According to The respondent No.3, the applicant proceeded on leave on 21.8.2017. But there was a complaint and a crime was registered against him

under the Prevention of Corruption Act and, therefore, the Zilla Parishad thought it proper to seek guidance from the State Government and intimated that it would not be proper to allow the applicant to join. It is stated that, the respondent No.3 has written a letter to the Divisional Commissioner, Amravati Division, Amravati on 24.8.2018 and brought this fact to the notice of the Divisional Commissioner, Amravati Division, Amravati and called for guidance. Copy of the said letter is placed on record at Page No.44.

7. The learned counsel for respondent No.3 submitted that since the applicant is a Class-II officer, necessary orders are required from the State Government. The learned P.O., however, submits that it is a matter between the Zilla Parishad and the applicant, since the Government has already transferred the applicant and for a particular period the applicant had served in the Zilla Parishad, Akola. Since the salary is to be paid by the respondent No.3, the Government, has nothing to do.

8. It is further stated that no guidelines have been sought by respondent No.3 from the Government.

9. It is an admitted fact from the record that the applicant proceeded on medical leave from 21.8.2017 to 22.9.2017

and has submitted an application accordingly. But he was not allowed to join. Admittedly, the applicant has given number of representations and requested the respondent No.3 to allow him to join. Admittedly, the Government has not kept the applicant under suspension for any reason including the reason that the applicant was trapped under the Prevention of Corruption Act. Admittedly, no directions are issued to respondent No.3 not to allow the applicant to join or not to pay the applicant his salary. From the reply affidavit filed by respondent No.3, it cannot be revealed as to why the applicant was not allowed to join. Merely saying that some crime was registered against the applicant, will not be sufficient. There was absolutely no reason for respondent No.3 not to allow the applicant to join, when the applicant was time and again requested the respondent No.3 to allow him to join. Even from correspondence dated 24.4.2018, it seems that the respondent No.3 has sought guidance from the Divisional Commissioner, Amravati Division, Camp Amravati and not from the Government. If it is a fact that the guidance was required from the Government, it was expected that some correspondence should have been made with the Government in this regard. In any case, it seems to be no order from the Government or the competent authority to respondent No.3

not to allow the applicant to join or not to pay salary. In such circumstances, withholding of salary, *prima facie* seems to be without reasonable cause and hence, I proceed to pass the following order:-

ORDER

- (i) The O.A. is partly allowed.
- (ii) The respondent No.3 is directed to take immediate action as regards regularization of leave period of the applicant for which he was on medical leave.
- (iii) After taking such a decision, the respondent No.3 is directed to release the salary of the applicant, depending on such decision, from August 2017 till the applicant was relieved from Zilla Parishad, Akola so as to join at Mahagaon.
- (iv) Action in this regard shall be taken within a period of one month from the date of this order.
- (v) No order as to costs.

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

