

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI  
ORIGINAL APPLICATION NO.93 OF 2018**

**DISTRICT : RATNAGIRI**

Shri Pravin Kashiram Sapate, )  
Age 35 years, Occ. Nil, R/o A/P Tal. Mandangad, )  
District Ratnagiri 415203 )..Applicant

Versus

1. The State of Maharashtra, )  
Through the Secretary, )  
Public Health Department, Mantralaya, )  
Mumbai 400032 )
2. The Director, Public Health Services, )  
Arogya Bhavan, St. Georges Hospital, )  
P.D'Mello Road, Mumbai 400001 )
3. Assistant Director, )  
Health Services (Malaria), )  
RCS Maharaj Govt. Medical Hospital, Kolhapur )..Respondents

Shri C.T. Chandratre – Advocate for the Applicant

Ms. S.P. Manchekar – Chief Presenting Officer for the Respondents

CORAM : Shri P.N. Dixit, Vice-Chairman (A)  
Shri A.P. Kurhekar, Member (J)

RESERVED ON : 30<sup>th</sup> July, 2019  
 PRONOUNCED ON : 6<sup>th</sup> August, 2019

PER : Shri P.N. Dixit, Vice-Chairman (A)

### **J U D G M E N T**

1. Heard Shri C.T. Chandratre, learned Advocate for the Applicant and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.

#### Brief facts:

2. The applicant has a grievance that he was rejected from the appointment of Multipurpose Health Worker during the selection in 2017. The applicant is aggrieved by the impugned order dated 27.10.2017. The impugned order reads as under:

“उपरोक्त संदर्भिय विषयास अनुसरून बहुउद्देशिय आरोग्य कर्मचारी पदाकरिता दि.०८.०१.२०१७ रोजी घेणेत आलेल्या लेखी परिक्षेतून आपली निवड ५० टक्के बहुउद्देशिय आरोग्य कर्मचारी यापदाकरिता करणेत येवून आपणास दि.१३.१०.२०१७ रोजी समुपदेशन करीता उपस्थित राहणेसाठी कळविणेत आले होते. त्यानुसार सदर समुपदेशन समितीनुसार आपण १४४ दिवस हंगामी कर्मचारी म्हणून काम केलेचे अनुभव प्रमाणपत्र सादर केलेले आहे.

मा.सहसंचालक, आ.से. (अर्थ व प्रशासन) मुंबई यांचेकडील संदर्भिय पत्र क्र.१ च्या अनुषंगाने हंगामी फवारणी कर्मचा-यांसाठी राखीव ५० टक्के पदाकरिता ९० दिवस हंगामी फवारणी कर्मचारी म्हणून काम केलेल्या उमेदवारांचीच निवड करावी असे सुचित करणेत आलेले आहे. त्याअनुषंगाने आपण समुपदेशन समितीसमोर सादर केलेल्या अनुभव प्रमाणपत्रानुसार हंगामी फवारणी क्षेत्र कर्मचारी म्हणून काम केलेले ६१ दिवस वगळता इतर दिवस हे आपण हंगामी फवारणी कर्मचारी म्हणून काम केलेचे दिसून येत नाही. त्याअनुषंगाने समुपदेशन समिती कडून आपणास अपात्र ठरविणेत आलेले आहे.”

(Quoted from page 11 of OA)

Submissions of Applicant:

3. The applicant enclosed a chart of his work as under:

Page No.	Duration	Particulars	Period
४३	९.१०.२००९ मं २३.१०.२००९	तात्पुरती हंगामी क्षेत्र कर्मचारी	१५
४४, ४५	१४.१२.२००९ ते २५.१२.२००९	किटक नाशक फवारणी करिता नियुक्त	१२
४६, ४७	१७.०२.२०१० ते २६.०२.२०१०	किटक नाशक फवारणीचे काम	१०
४८, ४९	२२.०६.२०१० ते ०३.०७.२०१०	हंगामी क्षेत्र कर्मचारी फवारणी कार्यक्रम	१२
५२	०६.०७.२०१० ते १७.०७.२०१०	किटक नाशक फवारणी करता हंगामी कर्मचारी	१२
			६१ दिवस
५३	जनेवारी २०१३ ते सप्टेंबर २०१३	Health Worker on contract basis राष्ट्रीय किटकजन्य रोग नियंत्रण कार्यक्रम अनुभवासाठी -कामाचे वर्णन-पृष्ठ ५५	९ महिने

4. According to the applicant the respondents have considered his work for 61 days as temporary employee. However, they have not considered his period of 9 months when he worked as Health Worker on contract basis under Rashtriya Kitakjannya Rog Niyantran Programme (राष्ट्रीय किटकजन्य रोग नियंत्रण कार्यक्रम). He has furnished the following grounds:

*“6.13 (c) Applicant states that, when the certificates are indicating the nature of the work performed by the applicant which is satisfying the experience criteria but lack of some information in specific work, it is necessary to construe that contents of the certificates in favour of applicant as he has no control over the certifying authorities.*

*(d) Applicant states that, what is required under Rule is “appointed for” spraying work. The appointment orders dated 6.12.2012 and 3.4.2013 shows that, the applicant was appointed for spraying work including all other work. As per this appointment orders the applicant had worked for more than 13 months. Thus, he was appointed for the required work. Therefore, respondents were wrong in not considering this 13 months experience and denying the appointment on that ground.”*

*(Quoted from page 7-8 of OA)*

5. The applicant submits that the impugned order is illegal and, therefore, needs to be quashed and set aside.

Submissions of Respondents:

6. The respondents no.1 to 3 have filed their affidavit and resisted the contentions raised by the applicant. The relevant portion of the same reads as under:

*“10. With reference to contents of paragraph No. 6.4, I say that the contents therein are as per record, hence not disputed. However, the process for filling in application to the post of Multi-Purpose Health Worker (50%) was online and no documentary proof was required to attach at the time of application. Therefore, on the basis of subjective information submitted by the applicant in his online application form, the same was accepted by the system. This does not mean that the applicant was eligible for the said post.*

*13. With reference to contents of paragraph No. 6.7, I say as follows : The Respondent No. 3 considered the experience of the applicant. I say and submit that as per the Recruitment Rules, only the experience as Seasonal Spraying Worker of 90 days under the National Anti - Malaria Control Programme is to be considered for the post of Multi-purpose Health Worker (50%) and the applicant is having such experience of only 61 days. The*

*other experience certificate submitted by the applicant clearly shows that the applicant has worked as Contractual Health Worker and not as Seasonal Spraying Worker under the National Anti - Malaria Control Programme. Hence the contents of this para are denied.*

14. *With reference to contents of paragraph No. 6.8, I say that, as mentioned above, only such experience which the applicant holding post of Seasonal Spraying Worker has been considered by the Respondent No. 3 which is correct as per the provisions of the Recruitment Rules. Hence, the contents of this para are denied.*

15. *With reference to contents of paragraph No. 6.9, I say that the contents therein are denied as the Respondent No. 2 has correctly issued the letter dated 25.10.2017 which is based on the provisions of the Recruitment Rules for the post of Multi - purpose Health Worker. Copy of the Recruitment Rules, dated 06.06.2014 is annexed at Exhibit A-3 at page 21 to 23 of O.A. As per the Rule 4 thereof, 50% posts are reserved for candidates having minimum 90 days experience as Seasonal Spraying Workers under the National Anti - Malaria Control Programme.*

16. *With reference to contents of paragraph No. 6.10.1, I say as follows : It is specifically mentioned in the recruitment rules that 50% of posts of Multi-Purpose Health Worker are reserved for a person who has worked for minimum 90 days as Seasonal Spraying Worker under the National Anti - Malaria Control Programme. However, the applicant is possessing experience of only 61 days. The remaining experience is as Health Worker which is the post for which, the applicant has applied for. Hence the contents of this para are denied.*

17. *With reference to contents of paragraph No. 6.10.2, I say as follows : The duties and responsibilities mentioned in the copies of appointment orders of Contractual Health Worker, annexed by the applicant, clearly shows that the applicant did not have necessarily performed only the*

*spraying work. The seasonal spraying worker performs only spraying duty. Hence the contents of this para are denied.*

19. *With reference to contents of paragraph No. 6.10.4, I say as follows : As per the provisions made in the Recruitment Rules the post of Multi - purpose Health worker, 50% posts are reserved for candidates who are having minimum 90 days experience of Seasonal Spraying Worker in National Anti - Malaria Control Programme. The candidates who do not have such experience were having option to apply for the post Multi - purpose Health worker under 40% quota. Hence the contents of this para are denied.*

(i) *It is further submitted that the Applicant in this para has made submission that if necessary the rule 3(b)(i) with rule 2(d) requires to be struck down. In prayer clause 9(a) of the O.A., the Applicant is also seeking a relief that the 3(b)(i) of the rule be struck down if necessary. However, it is submitted that Recruitment Rules come in the domain of policy decision and they may not be struck down as prayed by the Applicant. It is further submitted that the Applicant has not taken any specific ground to challenge the said rule and has casually prayed for striking down the Recruitment Rules.*

22. *With reference to contents of paragraph Nos. 6.13(a) to 6.13(d), I say as follows : The Respondents have taken action according to provisions made in the Recruitment Rules for the post of Multi- Purpose Health worker which is correct and legal, hence it may be upheld. In this case, the main issue is that the applicant is having experience of the post of Health Worker and does not have adequate required experience of Seasonal Spraying Worker. Hence the applicant was declared ineligible which is as per rules and legal. The Certificate of Health Worker does not mention that the applicant was engaged fully as Seasonal Spraying Worker. The appointment orders annexed by the applicant and duties and responsibilities mentioned therein, clearly shows that the applicant was*

*appointed as Contractual Health Worker. Hence the contents of these paras are denied. The impugned communication, therefore, is not bad-in-law as contended. It is further submitted that the Respondents were not wrong in not considering his 13 months experience as contended by the Applicant.”*

*(Quoted from page 65-70 of OA)*

7. The respondents have, therefore, submitted that the OA needs to be dismissed as it is without any foundation.

Issue for consideration:

8. The issue for consideration is whether the applicant satisfies the requirement for selection?

Discussion and findings:

9. We have perused the Health Workers (Male) Group C on the establishment of Directorate of Health Services under the Public Health Department (Recruitment) Rules, 2014 as attached at Exhibit A-3 page 21-24 of OA. The relevant portion of the same reads as under:

*“2. In these rules, unless the context requires otherwise,-*

*(f) “Seasonal Spraying Worker” means a Worker who is appointed on purely temporary basis for local indoor insecticidal spraying under the National Anti-Malaria Programme.*

*3. Appointment to the post of Health Worker (Male) shall be made either,-*

*(b) By nomination from amongst the candidates who,-*

*(i) Are not more than thirty three years of age. Provided that, the upper age limit shall be relaxed up to forty five years*

*in case of candidates who have worked as seasonal spraying worker.*

4. *Appointment to the post mentioned in rule 3 shall be made by promotion and nomination, in the ratio of 10:90 provided that, the post in nomination quota shall be filled in form,-*

*Seasonal spraying worker who have worked under the National Anti-Malaria Programme for a minimum period of ninety days and other candidates, in the ratio of 50:40.”*

(Quoted from 21-24 of OA)

10. The applicant has submitted the experience details in online application form (page 41-42 of OA). Perusal of the same shows that he worked as Temporary Field Worker for insecticidal spraying work for a period of 61 days on different occasions. Separately he worked for 10 months as contract health worker under Rashtriya Kitakjannya Rog Niyantaran Programme along with other duties to participate in insecticidal spraying work. The duties of the Rashtriya Kitakjannya Rog Niyantaran Programme ( राष्ट्रीय किटकजन्य रोग नियंत्रण कार्यक्रम ) are listed as under:

- “अ) सर्वेक्षण-पंधरवडी गृह भेटीद्वारे तापरुणांचे रक्तनमुने घेणे.
- ब) गृहीत उपचार व हिवताप रुग्णास समूळ उपचार देणे.
- क) नियमित गृह भेटीच्या वेळी किटकशास्त्रीय सर्वेक्षणाचे काम करणे व त्याबाबतचे अहवाल नियमित सादर करणे.
- ड) जीवशास्त्रीय उपाययोजने अंतर्गत कार्यक्षेत्रात आढळून आलेल्या डासोत्पत्ती स्थानांत डास अळी भक्षक गप्पी मासे सोडणे.
- इ) फवारणीच्या वेळी त्याचे कार्यक्षेत्रात फवाराणीत सहभाग.
- फ) कार्यक्षेत्रात मच्छरदाणी वाटप झाले असल्यास त्या दर ६ महिन्यांस नियमित किटकनाशक भारीत करणे.
- ट) ग्रामपंचायतीच्या मदतीने परिसर अभियांत्रिकीद्वारे कार्यक्षेत्रातील तुंबलेली गटारे वाहती करणे, पाणीसाठे नष्ट करणे याबाबत सतत पाठपुरावा करणे व आरोग्य शिक्षण इत्यादी.



- ठ) किटकजन्य रोगाचा उद्रेक आढळून आल्यास त्वरीत वैद्यकिय अधिकारी प्रा.आ.केद्र यांना त्याबाबत अवगत करून प्रतिबंधात्मक उपाययोजना राबविणे.
- ड) केलेल्या कामाचा अहवाल प्रा.आ.केद्रास नियमित पाठविणे.
- ढ) केलेल्या कामाबाबतचे रेकॉर्ड व रजिस्टर यांचेवर नियमित नोंदी करणे.”

(Quoted from page 55 of OA)

11. Examination of the above shows that the duties and responsibilities performed by the applicant as Multipurpose Health Worker are comprehensively different than working as Hangami Kshetriya Karmachari ( हंगामी क्षेत्र कर्मचारी ) in Kitak Nashak Favarni ( किटकनाशक फवारणी ) as stated in the advertisement for the post for which he has applied. His experience of 10 months had one of the job of supervisory and participating in spraying if required. This does not equate him with the experience of working as Health Worker in spraying insecticides as prescribed in advertisement. The prayer made by the applicant is his dream than possessing the requisite eligibility as mentioned in the advertisement.

12. The OA is not supported by any facts to indicate that the impugned order is illegal or arbitrary. The applicant has failed to demonstrate any reason why the Tribunal should interfere in the impugned order.

13. The Original Application is, therefore, without any merits and hence dismissed. No order as to costs.

Sd/-

**(A.P. Kurhekar)**  
**Member (J)**  
**6.8.2019**

Sd/-

**(P.N. Dixit)**  
**Vice-Chairman (A)**  
**6.8.2019**

Dictation taken by: S.G. Jawalkar.