

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,
BENCH AT AURANGABAD.

ORIGINAL APPLICATION NO. 1069 OF 2019

DIST.: AURANGABAD

Prabhakar S/o Madhavrao Kathar,)
 Age 45 Years, Occu: Service,)
 R/o Ganesh Nagar, Garkheda Parisar,)
 Aurangabad, Dist. Aurangabad.) .. **APPLICANT**

V E R S U S

1. **State of Maharashtra,**)
 Through Secretary,)
 Public Health Department,)
 Mantralaya, Mumbai – 32.)
2. **The Director of Health,**)
 "Aarogya Bhavan",)
 St. Jorge Hospital Campus,)
 P. D'emalo Road, Mumbai-400001.)
3. **Joint Director of Health (M & F)**)
 "Aarogya Bhavan",)
 Opp. Vishrantwadi Police Station,))
 Alandi Road, Yerwada, Pune - 6.)
4. **Assistant Director of Health (M & F),**)
 Mahavir Chowk,)
 Near Baba Petrol Pump,)
 Railway Station Road,)
 Aurangabad - 431001.)
5. **The District Malaria Officer,**)
 Mahavir Chowk,)
 Near Baba Petrol Pump,)
 Railway Station Road,)
 Aurangabad - 431001.)
6. **The Medical Officer (Group – A),**)
Primary Health Centre,)
 Pimpalwadi (P), Tq. Paithan,)
 Dist. Aurangabad.) .. **RESPONDENTS**

APPEARANCE :- Shri A.D. Gadekar, learned counsel for
the applicant.
: Shri S.S. Dambe, learned Presenting
Officer for the respondent authorities.

CORAM : **Hon'ble Shri Justice V.K. Jadhav,**
Vice Chariman
AND
Hon'ble Shri Vinay Kargaonkar,
Member (A)

DATE : **12.03.2025**

ORAL - ORDER

(Per : Justice V.K. Jadhav, Vice Chairman)

1. Shri A.D. Gadekar, learned counsel for the applicant and Shri S.S. Dambe, learned Presenting Officer for respondent authorities, are present.

2. The matter is finally heard with consent of both the sides at the admission stage.

3. By filing this Original Application, the applicant is seeking quashing and setting aside the order dated 04.12.2019 issued by the respondent no. 05, thereby cancelling the appointment order dated 19.09.2019 of the applicant for the post of Multipurpose Health Worker (Male). The applicant has also challenged the relieving order dated 05.12.2019 issued by

respondent no. 06 in terms of the order dated 04.12.2019 issued by respondent no. 05 and further prayed for reinstatement of the applicant in service with all consequential benefits.

4. Brief facts giving rise to this Original Application are as under:-

(i) In response to the advertisement to fill up 50% posts of Multipurpose Health Workers (Male) [for short the MPW], the applicant has applied for the said post of MPW (Male) from O.B.C. reserved category. The applicant had worked as a seasonal MPW and as per clause of the advertisement, it is necessary for such a candidate to work for 90 days on the post of MPW (Male) spraying worker and to submit the requisite certificate on record.

(ii) It is the further case of the applicant that in the earlier round of litigation, the applicant had approached this Tribunal by filing Original Application No. 135/2019 challenging thereby the communication dated 20.11.2018 issued by respondent no. 05 stating therein that the applicant does not fulfill the condition of 90 days working as MPW and he had worked only for 75 days and, as such, the applicant is not eligible for appointment on the post of MPW (Male) under 50% category as per advertisement, though the name of the applicant is appearing at sr. no. 01 in the final list of eligible candidates to be appointed and, therefore, the applicant has filed the aforesaid O.A.

No. 135/2019. However, during pendency of the said O.A. no. 135/2019, the respondent no. 05 personally remained present before this Tribunal at the time of hearing and placed on record the order of appointment of the applicant and tendered unconditional apology of the Tribunal for filing erroneous affidavit in the matter. Consequently, the applicant has withdrawn the said O.A. No. 135/2019 and the Tribunal has also disposed of the said O.A. in terms of withdrawal by order dated 19.09.2019.

(iii) The applicant has discharged his duties under the control and supervision of respondent no. 06 till issuance of illegal and arbitrary termination order dated 04.12.2019 by respondent no. 05 authority. Hence, this Original Application.

5. The learned counsel for the applicant submits that respondent no. 05 authority has violated the prescribed procedure while issuing impugned termination order of the applicant. Before issuance of the impugned order of termination of the applicant, neither any enquiry was initiated nor any show cause-notice issued to the applicant. Thus, the said order is against principles of natural justice.

6. The learned counsel for the applicant submits that without any fault on the part of the applicant the respondent nos. 05 and 06 authorities terminated the services of the applicant illegally and in arbitrary manner. The learned

counsel submits that if the impugned orders are not set aside the applicant could not get any job in future as he became age bar. The applicant has no other source of income to maintain his family consisting of his old aged mother, wife and 02 children. The learned counsel submits that the Original Application deserves to be allowed in terms of the prayer clauses.

7. The learned Presenting Officer on the basis of the affidavit in reply filed on behalf of respondent nos. 01 to 06 submits that the applicant did not fulfill the condition of experience in terms of the advertisement issued for filling up the posts of MPW. The learned Presenting Officer submits that as per the advertisement there are 02 categories, one is direct recruitment on the post of MPW in which candidates can directly appear without any experience of the said post. However, those vacancies are limited to the extent of 40% and the other category, which is limited to the extent of 50%, is for the appointment of MPW having 90 days experience as a seasonal spraying worker under the National Malaria Control Programme. The learned Presenting Officer submits that bare perusal of the advertisement reveals that the candidate, who is intending to apply for the post of MPW from 50% category is

required to possess 90 days experience as seasonal spraying working. The applicant has applied from 50% category and not fulfilled the said required experience criteria.

8. The learned Presenting Officer submits that the applicant has obtained 110 marks in the written examination and, therefore, he was called in the last round for document verification by the District Malaria Officer, Aurangabad on 21.06.2018. The applicant has submitted 02 experience certificates of 77 days and 15 days i.e. total 92 days. The same were verified by the document verification committee constituted under Dr. V.S. Bhatakar, ADHS (Malaria) and it was found that the applicant had worked only for 77 days as a seasonal spraying worker as per office record. The applicant has not fulfilled the eligibility criteria as per the Recruitment Rules.

9. The learned Presenting Officer submits that initially the applicant has filed Original Application no. 135/2019 before this Tribunal and during pendency of said O.A. Dr. P.N. Vaishnav was personally present before this Tribunal and submitted unconditional apology with an appointment order of the applicant. However, later on this fact came to the notice of respondent no. 03 that the applicant did not fulfill the requisite

criteria as per the Recruitment Rules. The learned Presenting Officer submits that the respondent no. 03, the Joint Director of Health Services (Malaria & Filariasis & Water Borne Disease), Pune, has conducted a detailed enquiry in this matter and after completion of the enquiry, appointment order of the applicant was cancelled. Even this Tribunal has rejected the interim relief to the applicant by order dated 10.12.2019. Being aggrieved by the same, the applicant has filed Writ Petition before the Hon'ble High Court of Bombay, Bench at Aurangabad, but the Hon'ble High Court has disposed of the said Writ Petition without granting any relief to the applicant. The learned Presenting Officer submits that there is no substance in this Original Application and it is liable to be dismissed.

10. The learned counsel for the applicant on the basis of the rejoinder affidavit submits that pursuant to the appointment order dated 19.09.2019 the applicant had served only for two and half months i.e. up to 04.12.2019 and all of a sudden without giving any prior notice to the applicant, the respondent no. 05 has issued termination order dated 04.12.2019 and accordingly the respondent no. 06 terminated the services of the applicant w.e.f. 05.12.2019. The observations made by the respondent no. 05 while issuing

termination order of the applicant that appointment order was issued to the applicant contrary to the rules and regulations. However, the said appointment order was issued and produced on record before this Tribunal by respondent no. 05 with an unconditional apology for filing erroneous affidavit. The learned counsel submits that as per the certificates dated 21.05.2008 and 06.01.2015 issued by the authority i.e. the District Malaria Officer, Aurangabad, the applicant had worked for 77 days as a seasonal spraying worker. The learned counsel submits that, however, the certificate of 15 days' work of the applicant as a seasonal spraying worker dated 06.01.2015 has not been considered by the respondent authorities in its proper perspective. The said certificate came to be issued on 07.10.2014 by the Medical Officer, Primary Health Centre, Daulatabad, Dist. Aurangabad. Thus, the applicant had worked as seasonal spraying worker for a total period of 92 days.

11. On perusal of the pleadings and after hearing the rival submissions of both the sides at length we have come to the conclusion that there is no substance in the Original Application. On the basis of issuance of appointment order, which is subject to the fulfillment of condition about qualification and experience, the applicant seems not to have

fulfilled the said condition and, as such, he would not get any right to substantiate his case only for the reason that the said appointment order was placed by respondent no. 5 before the Tribunal in the pending Original Application.

12. We have carefully gone through the original record so also the certificates annexed to the Original Application. The applicant has submitted 02 experience certificates of 77 days and 15 days respectively of total 92 days. The same were verified by the Verification Committee constituted under chairmanship of Dr. V.S. Bhatakar, ADHS (Malaria). It was found that the applicant had worked only for 77 days as a seasonal spraying worker as per the record. So far as the disputed period of 15 days working of the applicant as seasonal spraying worker as certified by the Medical Officer of Primary Health Centre, Daulatabad, the said period is already mentioned and included in the total period of 77 days. It seems that the applicant is trying to mislead this Tribunal.

13. We have carefully gone through the certificate issued from the office of District Malaria Officer, Aurangabad dated 23.10.2018 (page 45 of the paper book). On perusal of the said certificate, it appears that the applicant had worked as a seasonal spraying worker for the period from 20.09.2014 to

30.09.2014 i.e. for 11 days at Primary Health Centre, Daulatabad, District Aurangabad and for further period from 01.10.2014 to 04.10.2014 i.e. for 04 days at the same Primary Health Centre at Daulatabad. It further appears from the said certificate that the applicant had also worked for total period of 15 days as a seasonal spraying worker at Primary Health Centre, Nachanwel, Tq. Kannad, Dist. Aurangabad during the period from 06.03.1999 to 20.03.1999. It thus appears that the period of working of the applicant as a seasonal spraying worker at Primary Health Centre, Daulatabad so also at Primary Health Centre at Nachanwel, Tq. Kannad, Dist. Aurangabad is considered by the respondents and certificate is also issued in that regard. It appears from the said certificate that the applicant had worked for total 75 days as a seasonal spraying worker. Dr. V.S. Bhatakar, ADHS (Malaria), Aurangabad has also verified all the documents and found that the applicant has completed only 75 days of work as a seasonal spraying worker and has communicated the said fact to the District Malaria Officer, Aurangabad vide communication dated 29.10.2018 (page 44 of paper book).

14. Beside this, we have gone through the original record, which we have called for verification of the contentions

raised by the applicant. We do not find any record, which indicate that the applicant had worked for more than 75 days as a seasonal spraying worker. In view of the same, we agree with the findings recorded by the document verification committee headed by Dr. V.S. Bhatakar, ADHS (Malaria) that the applicant does not fulfill the experience criteria as a seasonal spraying worker. Thus, the impugned termination order is legal and proper. There is no substance in the present Original Application and the same deserves to be dismissed. Hence, the following order:-

ORDER

- (i) The Original Application No. 1069/2019 is hereby dismissed.
- (ii) In the circumstances, there shall be no order as to costs.
- (iii) The Original Application is accordingly disposed of.
- (iv) The original record be returned to the concerned Presenting Officer.

MEMBER (A)

Place : Aurangabad

Date : 12.03.2025

VICE CHAIRMAN