

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No.639 of 2023 (S.B.)**

Mrs. Shital W/o Pradip Chawariya,
Aged 41 years. Occu.: Nil,
R/o New Walmiki Colony,
Near Isolation Hospital, Imamwada, Nagpur.

Applicant.

Versus

- 1) State of Maharashtra,
Through its Principal Secretary,
Public Health Department,
10th Floor, G.T. Hospital Campus Building,
New Mantralaya, Fort, Mumbai-400001.
- 2) Commissioner of Public Health Arogya Bhawan,
Saint Georges Hospital Compound,
C.S.T, Mumbai-400001.
- 3) Director of Public Health,
Central Building, Pune-411001.
- 4) Deputy Director of Health Services,
Nagpur Region, Mata Kacheri Compound,
Sraddhanand Peth, Nagpur-440022.

Respondents.

Shri N.D. & T.N. Thombre, Advocates for the applicant.

Smt. A.D. Warjekar, learned P.O. for respondents.

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Acting Chairman.**

Date of Reserving for Judgment : 20th March, 2025.

Date of Pronouncement of Judgment : 17th April, 2025.

JUDGMENT

(Delivered on this 17th day of April, 2025)

Heard Shri N.D. Thombre, learned counsel for applicant and Smt. A.D. Warjekar, learned P.O. for respondents.

2. The case of applicant in short is as under -

Mother-in-law of applicant namely Smt. Shamabai Garibdar Chawariya was working with respondents at Daga Memorial Government Hospital, Nagpur on the post of Sweeper. She retired on superannuation on 30/11/2015. The applicant requested the respondents to grant her appointment on the post of Sweeper in place of her mother-in-law as per the recommendation of Lad-Page Committee and various G.Rs. issued by the Government in this regard. Considering the application made by the applicant, Respondent No.4 appointed the applicant on the post of Sweeper at General Hospital, Gadchiroli by order dated 13/11/2018.

3. Mother-in-law of applicant was suffering from illness and she expired on 19/11/2018, because of her other difficulties, the applicant requested the Respondent No.4 to change the place of posting from Gadchiroli to Wardha where the posts are vacant and which is near to Nagpur as per representation dated 05/03/2019. The applicant made various representations to respondents regarding change in place of posting, but nothing has been done by the respondents. Respondent No.4 by letter dated 24/03/2022 informed the applicant that as applicant had not joined on the post within time,

she has lost opportunity. Hence, the same could not be granted again. The respondents have given the reason that the applicant has not joined duty as per the G.R. dated 28/05/2018 and therefore she could not be given appointment again. The applicant again made representation to the respondents. Respondent No.4 by letter dated 12/05/2023 informed the applicant that she has already been informed in this regard. Hence, she shall not make repeated representations / correspondence with the office.

4. The District Civil Surgeon, General Hospital, Gadchiroli by order dated 16/01/2024, cancelled the appointment order of applicant dated 13/11/2018 during the pendency of present O.A. Hence, the applicant is challenging the same before this Tribunal. The applicant has filed the present O.A. for the following reliefs -

“10 (i) Direct the Respondents particularly the Respondent No.4 to grant appointment to the Applicant on the post of Sweeper by changing her posting at Nagpur or nearby place on vacant post within stipulated period as per the recommendations of Lad-Page Committee;

(i-a) Quash and set aside the impugned Order dated 16/1/2024 issued by the District Civil Surgeon, General Hospital, Gadchiroli at Annexure No.A-7(A) being illegal and without any authority.

(ii) Direct the Respondents to grant continuity to the Applicant on the post of Sweeper her initial appointment;”

5. The O.A. is opposed by respondent no.4. It is submitted that the applicant was appointed by the Civil Surgeon, General Hospital, Gadchiroli on the post of Sweeper vide order dated 13/11/2018. The applicant without joining on the post of Sweeper made representation for change of posting to other district. It was not possible without joining on appointed post at Gadchiroli, she cannot be transferred. It is submitted that considering to the aforesaid submission, the Civil Surgeon, General Hospital, Gadchiroli is necessary party, but he is not made party.

6. As per the condition no.2 mentioned in the appointment order of the applicant, the Appointing Authority i.e., Civil Surgeon, General Hospital, Gadchiroli has terminated the services of applicant vide order dated 16/01/2024. Therefore, present application is liable to be dismissed.

7. It is submitted that to fill 83 vacancies of Safai Kamgar at various Institutes and Hospitals under the authority of respondent no.4, the proposal was submitted to the Director of Health Services, Nagpur vide letter dated 26/02/2018. The said proposal was accepted and granted permission by letter dated 16/08/2018 to fill the vacant posts of Safai Kamgar as per G.R. of Lad-Page Committee. At the time of counselling, the applicant has herself selected Gadchiroli District and given written consent that "*she is ready to go anywhere*".

The applicant was selected for the post of Sweeper. The Civil Surgeon General Hospital, Gadchiroli has issued appointment order to the applicant on the post of Sweeper vide order dated 13/11/2018 and posted at General Hospital, Gadchiroli. The applicant has not joined at the same place. The applicant has not joined at Gadchiroli within time. The applicant has made several representations. She was informed by Respondent No.4 that she has not joined at Gadchiroli within time, therefore, services of applicant was terminated by Appointing Authority vide order dated 16/01/2024. In the appointment order, condition no.2 is very specific. As per this condition, the applicant should have joined at the place of posting within seven days, else the appointment order shall deemed to be cancelled. The applicant was aware of this fact, but she did not join at Gadchiroli. Hence, the O.A. is liable to be dismissed.

8. During the course of submission, the learned counsel for applicant has submitted that because of family difficulty, the applicant could not join at Gadchiroli. The applicant made several representations requesting the respondents to give her posting at Wardha or nearby to Nagpur, but her representations are not considered. At last, the Appointing Authority i.e. Civil Surgeon, General Hospital, Gadchiroli has cancelled the appointment of applicant as per order dated 16/01/2024 in view of G.R. dated

28/05/2018. The learned counsel for applicant has pointed out the G.R. dated 28/5/2018 and submitted that it is not applicable to the applicant. The said G.R. is applicable to the direct recruited employee. Hence, the learned counsel for applicant has submitted that the cancellation of order by Civil Surgeon, General Hospital, Gadchiroli is liable to be quashed and set aside. The respondents be directed to give her posting at Nagpur or nearby Nagpur.

9. The learned P.O. has pointed out the appointment order and submitted that as per the condition mentioned in the appointment order, she was to join within seven days, but she did not join for a long period. The appointment order was issued on 13/11/2018, but she did not join till the cancellation of appointment order by Civil Surgeon, General Hospital, Gadchiroli dated 16/01/2024. He has further pointed out the copy of counselling letter filed on record and submitted that the applicant herself has given consent for posting at Gadchiroli. She had further stated in her application / certificate that she is ready to go and join anywhere. Hence, the applicant cannot claim that she should be given posting at Wardha or any other place near to Nagpur.

10. The learned counsel for applicant has pointed out rejoinder and submitted that the applicant is not well qualified. Whatever documents are filed at the time of counselling, nothing was

asked or informed to the applicant at the time of counselling and only her signature was obtained.

11. There is no dispute that the applicant was appointed as per the G.R. of Lad-Page Committee in place of her mother-in-law. After the retirement of her mother-in-law, the applicant applied for the post of Sweeper. She was called for counselling. The applicant herself has given consent for posting at Gadchiroli. She herself has written as “*Kahi bhi jane ko taiyar hu*”. It appears that the applicant has passed 8th Standard examination. The applicant has signed all documents in English, therefore, it cannot be said that the applicant was not aware about the contents of counselling process. The material part of the counselling process is reproduced below-

“ समुपदेशनाने निवडलेला जिल्हा

दिनांक २६ सप्टेंबर २०१८ रोजीच्या समुपदेशनात मला सफाईगारांची जिल्हानिहाय रिक्त पदांची स्थिती दाखविण्यात आली, त्यानुसार नियुक्तीकरीता मी स्वखुषीने गडचिरोली या जिल्ह्याची निवड केलेली आहे.

कही भी जाने को तैयार हू

Sd/-

उमेदवाराचे नाव व सही

शितल प्रदिप चावरिया ”

12. The applicant was appointed on the post of Sweeper as per order dated 13/11/2018. Till the cancellation of appointment order, the applicant did not join at Gadchiroli. The cancellation of appointment order is dated 16/01/2024. It is clear that for about six years, the applicant not joined at the place of posting at Gadchiroli. The applicant herself has given consent for posting at Gadchiroli. The applicant has given in writing that she is ready to join anywhere. Therefore, it cannot be said that the applicant was not aware about the consent given by her. She has signed on the paper in English. After the appointment order, the applicant without joining at the place of posting made several representations. The applicant should have joined first at the place of posting and thereafter she should have made representations. Without joining at the place of posting at Gadchiroli, the applicant made several representations. For about six years she did not join at Gadchiroli. The applicant herself had given consent for posting at Gadchiroli. Now she cannot say that she is not aware about the contents of document. It appears that the applicant had signed in English on the said document. Moreover, she had given consent to be posted anywhere.

13. Argument advanced by the side of applicant that the contents of counselling process were not explained to her and only signature was obtained. It is pertinent to note that the applicant has

given her consent to be posted at Gadchiorli. The documents were signed by her.

14. As per normal procedure, the transfer can be made after joining the post. The applicant did not join at Gadchiroli. For about six years without joining she has made several representations. Lastly, the Civil Surgeon, General Hospital, Gadchiroli has cancelled the posting order on 16/01/2024. As per the condition mentioned in the appointment order, the applicant should have joined at Gadchiroli within seven days. She has not complied with the condition mentioned in the appointment order. It appears that the applicant was / is not interested in the service, therefore, she did not join at Civil Surgeon, General Hospital, Gadchiroli, but she made only representation. Hence, the following order -

ORDER

- (i) The O.A. is dismissed.
- (ii) No order as to costs.

Dated :- 17/04/2025.

(Justice M.G. Giratkar)
Acting Chairman.

dnk.

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

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Acting Chairman.

Judgment signed on : 17/04/2025.