

ORIGINAL APPLICATION NO. 197 OF 2015

Dr. Aarti w/o Jaiprakash Borse,
Age. 47 years, Occ. Service, Medical Officer
Class-II (Dental Surgeon),
Sub District Civil Hospital at Taloda,
Dist. Nandurbar (now terminated),
R/o Dhandai Kripa, 16-B, Ambika Colony,
Janta Raja Chowk, Nandurbar. -- APPLICANT.

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Public Health Department,
Mantralaya, Mumbai.
 2. The Director of Health Services,
Mumbai.
 3. The Dy. Director of Health Services,
Nashik Region, Nashik.
- RESPONDENTS

APPEARANCE : Shri J.B. Choudhary, learned Advocate for the Applicant.

: Shri I.S. Thorat, learned Presenting Officer for the Respondents.

CORAM : Hon'ble Shri J.D. Kulkarni, Member (J)

JUDGEMENT**{Delivered on 8th September, 2016}**

1. The applicant was working as a Dental Surgeon in the Cottage Hospital, Taloda, Dist. Nandurbar. She was appointed on temporary basis on 26.10.1998 and continued to work there as such till 28.2.2008, on which date she came to be terminated.

2. According to learned Advocate for the applicant, the applicant had completed 9 years, 4 months & 20 days temporary service on the post of Dental Surgeon. The chart showing her service period which is certified by the Medical Officer, Cottage Hospital, Taloda, Tq. Taloda, Dist. Nandurbar is placed on record at Annex. A.3 at paper book page 23. The Govt. of Maharashtra has taken a decision to absorb temporary Dental Surgeons in the permanent service vide G.R. dated 16.10.2014. The list of those 21 Dental Surgeons is placed on record at paper book pages 21 & 22. The name of the applicant, however, was not included in the said list. According to the applicant, she has completed more than 9 years, 4 months & 20 days service as a Dental Surgeon and, therefore, her name should have been included in the said list. The applicant has, therefore, claimed that the res. Nos. 1 & 2 be directed to include her name in the list annexed to

G.R. dated 16.10.2014 for absorption in Govt. service as Dental Surgeons Group – B.

3. The res. Nos. 1 to 3 have filed a common affidavit in reply. According to them, 21 Dental Surgeons, who were absorbed in the regular service were, in fact, working on the respective post on the date of issuance of G.R. dated 16.10.2014. As per the said G.R. the absorption was made on the certain conditions after taking the concurrence of Maharashtra Public Service Commission such as :-

- 1) 21 Adhoc Dental Surgeons were working under Public Health Department will have to undergo viva voce examination by the M.P.S.C.
- 2) Government will provide details of service record and performance details of 21 Adhoc Dental Surgeons to M.P.S.C. for scrutiny.
- 3) As per the final decision of M.P.S.C. eligible candidates will be absorbed in Government service on prescribed terms & conditions.

4. The applicant was not at all working on that date and therefore there was no question of her name being included in the list of Dental Surgeons to be absorbed.

5. The applicant has filed rejoinder to the reply of res. Nos. 1 to 3 and reiterated almost the same contentions as in original application.

6. Heard Shri J.B. Choudhary, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents. I have also perused application, affidavit, affidavit in reply filed by res. Nos. 1 to 3, rejoinder filed by the applicant and various documents placed on record.

7. The only material point to be considered is whether the name of the applicant has been wrongly excluded from the list of Dental Surgeons to be absorbed in regular service ?

8. The impugned order (Annex. A.2) shows that the Government has taken a decision to absorb those Dental Surgeons, who were in service and who have completed service period of 4 to 10 years. On Scrutiny, it seems that the Govt. has identified 21 such Dental Surgeons whose names are mentioned in the list at paper book pages 21 & 22.

9. The opening part of the G.R. dated 16.10.2014 shows that only those Dental Surgeons were to be absorbed, who were working at that time, and this can be seen from the introductory part of the said G.R. The proposal and decision taken by the Govt. vide this G.R. is as under :-

“प्रस्तावना :-

आरोग्य सेवा संचालनालयांतर्गत कार्यरत असलेल्या सामान्य राज्य सेवा गट-ब संवर्गातील दंतशल्य चिकित्सक हे राजपत्रित पद महाराष्ट्र लोकसेवा आयोगाच्या कक्षेतील आहे. राज्यातील रुग्णांना दंतशल्य चिकित्सक पूर्विण्याची आवश्यकता लक्षात घेऊन महाराष्ट्र लोकसेवा आयोगाकडून नियमित उमेदवार उपलब्ध होईपर्यंत दंतशल्य चिकित्सकांच्या नेमणूका अस्थायी स्वरूपात करण्यात आलेल्या आहेत. या दंतशल्य चिकित्सकांनी ४ ते १० वर्षे अस्थायी स्वरूपात सेवा केली असून सध्या वाढत्या मौखिक आरोग्याच्या वाढत्या समस्यांना तोंड देण्यासाठी विभागाला अनुभवी दंतशल्य चिकित्सकांची आवश्यकता विचारात घेऊन अस्थायी दंतशल्य चिकित्सकांचे समावेशन शासन सेवेत करण्याचा प्रस्ताव शासनाच्या विचाराधीन होता. यानुसार शासन आता खालीलप्रमाणे आदेश देत आहे.

शासन निर्णय :-

सार्वजनिक आरोग्य विभागांतर्गत अस्थायी स्वरूपात कार्यरत असलेल्या शासन निर्णयासोबतच्या परिशिष्ट “अ” मधील एकूण २१ दंतशल्य चिकित्सकांचे समावेशन शासन सेवेत महाराष्ट्र लोकसेवा आयोगाला प्रस्ताव पाठवून आयोगाच्या मान्यतेने पुढील अटी व शर्तीनुसार करण्यास शासन मान्यता देण्यात येत आहे.

१. सार्वजनिक आरोग्य विभागांतर्गत अस्थायी स्वरूपात कार्यरत असलेल्या २१ अस्थायी दंतशल्य चिकित्सकांचे समावेशन महाराष्ट्र लोकसेवा आयोगामार्फत संबंधीतांची मुलाखत घेऊन करण्यात येईल.
२. मुलाखतीच्यावेळी सदर दंतशल्य चिकित्सकांचा सेवा तपशील व त्यांच्या कामगिरीचा वैयक्तिक अहवाल महाराष्ट्र लोकसेवा आयोगाला तपासणीसाठी शासनाकडून सादर करण्यात येईल.
३. महाराष्ट्र लोकसेवा आयोगाच्या अंतिम निर्णयानंतर विहित अटी / शर्तीस अनुसरून पात्र उमेदवारांचे शासन सेवेत समावेशन करण्यात येईल.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावांने.”

10. The applicant in this case has been terminated from service as per the order dated 28.2.2008. Thus, admittedly on the date of issuance of the G.R. dated 16.10.2014, the applicant was not at all in service and, therefore, in such circumstances, there was no reason for the competent authority to include applicant's name in the list of Dental Surgeons to be absorbed in regular employment. I, therefore, do not find any illegality in not including the applicant's name in the list of the Dental Surgeons to be absorbed on regular post. The applicant knowing full well that she was not in service on the date of G.R. has filed this O.A.

In view thereof, there is no merit in the original application.

Hence, I pass following order :-

ORDER

The original application stands dismissed with costs of Rs. 1,000/- (Rs. One thousand only).

MEMBER (J)

ARJ OA NO. 197-2015 JDK (ARJ JUDGMENTS AUG. 2016) ABSORPTION