

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No.513 of 2017 (D.B.)

Manik S/o Bhagwanji Maliye
 aged-53 years, Occupation- Nil,
 R/o Bhaipur (Pipri Punarvasan) Deurwada Road,
 ARVI, District Wardha.

Applicant.

Versus

- 1) The District Malaria Officer,
Old Z.P.Building, Near General Hospital, Wardha.
- 2) The Assistant Director,
Health Services (Malaria & Filiria),
Near Rahate Colony, Nagpur.
- 3) The Joint Director (Malaria), Yerwada, Pune.
- 4) The Director,
Health Services Directorate, Mumbai.
- 5) The State of Maharashtra,
through It's Secretary, Public Health Department,
Mantralaya, Mumbai-32.

Respondents.

Shri L.H. Kothari, Advocate for the applicant.
Shri S.A. Sainis, learned P.O. for respondents.

**Coram :- Hon'ble Shri Justice M.G. Giratkar, Vice Chairman
and
Hon'ble Shri Nitin Gadre, Member (A).**

Dated :- 13/11/2024.

J U D G M E N T

Heard Shri L.H. Kothari, learned counsel for the applicant
 and Shri S.A. Sainis, learned P.O. for the respondents.

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

The applicant was appointed on the post of 'Health Employee' reserved for Nomadic Tribe (N.T.) category in the office of District Malaria Officer, Wardha (R/1) on 26/07/1984. He was posted at Selu, District Wardha. In the month of May, 1986 on administrative ground the applicant was transferred to Burkoni, Tah. Hinganghat, District Wardha. The applicant had joined at Burkoni. The applicant was sick. He was on medical leave from 16/06/1986 to 16/09/1986. When the applicant went to join his duty by obtaining medical certificate of Medical Superintendent, Rural Hospital, Arvi, he was not allowed to join duty. On 05/05/1987, the applicant issued one notice of hunger strike. Even though the respondents not allowed him to join duty. On 10/04/1995 respondent authority issued letter to the applicant and sent him to the Medical Board. Accordingly, the Medical Board after examining, issued medical certificate, but the applicant was not allowed to join duty. Thereafter, again letter / correspondence was issued by the applicant. The respondents have conducted the departmental inquiry in the year 2016. On 30/04/2016 the respondent authority passed the order of termination as per letter dated 03/05/2016. Hence, the applicant has approached to this Tribunal for the following reliefs -

“ (8) (i) Order of termination on 30.4.2016 should be quashed and set aside.

(ii) To direct the respondents to reinstate the applicant in service as before.

(iii) To direct the respondents to treat the applicant in continuous duty even during the period.

iv) To direct the respondent to pay the applicant with all service benefits of every nature like as full back wages promotion etc.”

3. The O.A. is strongly opposed by the respondents. It is submitted that the applicant was not interested to discharge his duty. The applicant had contested election. The applicant had given hunger strike notice etc.--, but the applicant never joined duty since year 1986. Therefore, departmental inquiry was conducted in the year 2015 and applicant was given opportunity in the departmental inquiry. The misconduct of the applicant is proved, therefore, the applicant is terminated by the respondents. Hence, the O.A. is liable to be dismissed.

4. During the course of submission, the learned counsel for applicant has submitted that after 27 years, the departmental inquiry is conducted. There is a huge delay. Hence, the punishment order passed by the respondents is totally illegal. Therefore, the impugned order of termination is liable to be quashed and set aside. In support of his submission he has pointed out the following Judgments –

(i) The Judgment of the Hon'ble Supreme Court in the case of the State of Andhra Pradesh Vs. N. Radhakishan, AIR 1998 SC 1833.

(ii) *The Judgment of the Hon'ble Supreme Court in the case of P.V. Mahadevan Vs. MD, T.N. Housing Board (2006) 6 SCC,636.*

(iii) *The Judgment of the Hon'ble Supreme Court in the case of Roop Singh Negi Vs. Punjab National Bank & Ors. (2009) 2 SCC 570.*

(iv) *The Judgment of the Hon'ble Supreme Court in the case of Reetu Marbles Vs. Prabhakant Shukla (2010) 2 SCC 70.*

(v) *The Judgment of this Tribunal in O.A.No.858/2019, decided on 04/01/2024.*

(vi) *The Judgment of the M.A.T., Bench at Aurangabad in O.A.No.123/2017, decided 22/01/2018.*

(vii) *The Judgment of this Tribunal in O.A.No.685/2010, decided on 06/10/2018.*

5. There is no dispute that the applicant was appointed in the year 1984. The applicant remained absent from duty from the year 1986. There is no dispute that the applicant contested the election of Gram Panchayat, but he had no time to join his duty. The applicant was having ample time in the politics. The applicant was trying to pressurize the respondents by issuing hunger strike notice. This itself shows that the applicant is a political person and therefore he was not interested to join duty. He was pressurizing the respondents. This is clear by the notice issued by the respondents to start hunger strike.

6. There is no dispute that the applicant approached to Labour Court for direction to the respondents to allow him on duty. The applicant has not prosecuted his claim before the Labour Court. There is no dispute that the applicant had withdrawn all the proceedings before the Labour Court. The applicant was at liberty to

contest all the proceedings before the Labour Court. The relief should have been given, if he was eligible for the same. The applicant now approached to this Tribunal. Only contention of the applicant is that there is a huge delay in the departmental inquiry. The delay may be caused because of the political status of the applicant. The applicant was continuously absent from 1986 to 2015. The respondents have given ample opportunity to the applicant to join his duty. At last the respondents have initiated the departmental inquiry. Opportunity was given to the applicant in departmental inquiry. As per the Judgment of the Hon'ble Supreme Court in the case of the ***Union of India & Ors. Vs. P. Gunasekaran (2015) 2 SCC,610***, this Tribunal cannot interfere in the order passed by disciplinary authority. Therefore, the applicant cannot say that the departmental inquiry is belated. The cited Judgments by the side of applicant are on different footing and not applicable to the case in hand. Hence, we pass the following order—

ORDER

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

**(Nitin Gadre)
Member(A).**

**(Justice M.G.Giratkar)
Vice Chairman.**

Dated :- 13/11/2024.

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 Vice Chairman and
Member (A).

Judgment signed on : 13/11/2024.