

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 538/2017 (S.B.)

Dr. Digambar Ajabrao Choudhari,
Aged about 52 years, Occ. _____,
Resident of Joshi Layout,
Pandharkawada, Dist. Yavatmal.

Applicant.

Versus

- 1) The State of Maharashtra,
Through the Secretary,
Ministry of Public Health,
Mantralaya, Mumbai - 32.
- 2) Deputy Director of Health Services,
Akola Division, Akola.
- 3) District Health Officer,
Zilla Parishad, Yavatmal.

Respondents

Shri S.U.Kothekar, Id. Advocate for the applicant.

Shri A.P.Potnis, Id. P.O. for the respondents 1 & 2.

Shri R.D.Tajne, Id. counsel for the respondent no. 3.

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

Dated :- 23.10.2024.

JUDGEMENT

Heard Shri S.U.Kothekar, Id. counsel for the applicant, Shri
A.P.Potnis, Id. P.O. for the Respondents 1 & 2 and Shri R.D.Tajne, Id.
counsel for the Respondent no. 3.

2. The case of the applicant is as under:-

The applicant was initially appointed as Medical Officer on 29.04.1995 at Kutir Hospital (Sub District Hospital, Pandharkawda). In the year 2009 applicant was served in a Primary Health Centre and thereafter in 2011 the applicant was posted at Primary Health Centre Pahapal. In 2009 applicant was placed under suspension for six months and subsequently he was reinstated. The applicant was absent from duties from 29.01.2013 to 10.11.2014 and thereafter on 11.11.2014 he submitted an application for joining duties. Though the joining report was accepted by the authorities but the applicant was not permitted to join the duties. The applicant has undergone the entire process. The applicant has submitted Character Certificate issued by the Superintendent of Police, Yavatmal, but the respondents have not allowed him to join duty. Therefore, present O.A..

3. The O.A. is strongly opposed by the respondents. It is submitted by respondent no. 3 in paras 2 to 5 which is as under:-

2. *It is submitted that the applicant by order dated 9/2/2009 was appointed as Medical Officer at Primary Health Centre Runza where he was absent without leave on 24/9/2011 and due to such unauthorised absence of the applicant one of the patient who came for treatment expired since he could not get proper treatment in due time. As such, by order dated 26/9/2011 the applicant was suspended.*

3. *Thereafter as per directions of the Dy. Director Health dated 9/11/2011 the answering respondent further issued reinstatement order on 20/9/2012 and as such the applicant was again continued in the services. However, since 2/9/2013 till 1/12/2015 the applicant was*

again absent without any leave and such period of absence was unauthorised. Since there was continued unauthorised abstention by the applicant, the respondent by communication dated 2/4/2014 and 7/11/2014 called upon the applicant to joining the services immediately however the applicant remained absent and did not join the services.

4. As such, the respondent was left with no other option than to send proposal for termination of services of the applicant. Such proposal was sent by communication dated 3/12/2015. Meanwhile, the applicant applied for joining the services however the period of abstention being long it was necessary for the answering respondent obtained approval from the office of respondent no 2. Accordingly the answering respondent send proposal on 14/11/2014 seeking further direction with respect to whether applicant should be resumed in services or not.

5. Further in view of government resolution dated 13/7/2016 all such employees who were unauthorisedly absent were granted an opportunity to resume the services on or before 31/12/2016. Accordingly, the applicant also applied for resumption of services however since the period of abstention was long, it was necessary to undertake certain formalities and documentation from the applicant. That after completion of such formalities, the proposal for joining of applicant was sent by the answering respondent to the respondent no. 2 on 21/11/2016. That the proposal is still pending before the office of respondent no. 2 and during pendency of such proposal the answering respondent no. 3 cannot take any further action in the matter. As such, with respect to relief of reinstatement/resumption of services, the respondent no. 3 cannot be faulted with and the application is liable to be dismissed.

4. Respondent no. 1 has submitted in the reply that applicant remained absent from 02.09.2013 onwards and, therefore, public notice was issued in the Newspaper. Looking to the urgency of Medical expert, some of the Doctors were allowed to join duties, but subject to condition to appear before the Medical Board and get the Character Certificate. The applicant not joined duty till the age of retirement and, therefore, applicant cannot claim relief as prayed.

5. During the course of the submission, ld. counsel for the applicant submits that applicant was not allowed to join duty. Now age of the applicant is about 59/60 years. The age of superannuation of the applicant is 58 years. The applicant was not on duty from 2013.

6. As per submission made by ld. P.O. and respondent no. 3 the proposal for dismissal of service of the applicant was submitted to the Government and it was pending. The applicant never joined the duty since 2013. Because of the absenteeism of applicant, one patient died therefore, applicant was suspended. The applicant was not on duty for long period, therefore, prayer in respect of directing the respondents to allow him to join on duty cannot be granted. Now, the applicant is already over-aged. However, relief of pensionary benefit also cannot be granted. Hence, the following order:-

O R D E R

The O.A. is dismissed with no order as to costs.

(Shri Justice M.G.Giratkar)
Vice Chairman

Dated :- 23/10/2024.
aps

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

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 23/10/2024.
and pronounced on