

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 720/2017(S.B.)**

Ku. Malti Punjaramji Bele,
Now married to Sudarshan Madhukarrao Yavle,
Aged about 44 Years, Occ. Service,
At present working as Staff Nurse
at Dist. General Hospital Amravati,
Dist. Amravati as a Staff Nurse.

Applicant.

Versus

1. The State of Maharashtra,
Through its Secretary,
Public Health Services,
Mantralaya, Mumbai-400032.
2. Additional Director of Health Services,
MOH & SH, Pune.
3. Deputy Director of Health Services,
Akola Division, Akola (M.S.).
4. Medical Superintendent,
Sub District Hospital, Morshi,
Dist. Amravati (M.S.).

Respondents.

Shri V.R.Choudhari, Ld. Counsel for the applicant.
Shri A.M.Khadatkar, Ld. P.O. for the respondents.

Coram:- Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.
Dated: - 11th June, 2024.

JUDGMENT

Heard Shri V.R.Choudhari, learned counsel for the applicant and Shri A.M.Khadatkar, learned P.O. for the Respondents.

2. Case of the applicant in short is as under-

The applicant was appointed by Municipal Council, Washim by order dated 06.05.1995 on the post of Lady Health Visitor. Her name was recommended to the Chief Officer, Municipal Council, Washim. Therefore, the Chief Officer, Municipal Council Washim issued the appointment order dated 06.05.1995. In the General Body Meeting dated 13.11.1997, the Resolution no.6 came to be passed by Municipal Council, Washim by which Postpartum Centre along with its staff was recommended for transfer to the Government Hospital, in view of the fact that the said post are not sanctioned by the Director of Municipal Administration, Mumbai. Therefore, Municipal Council was not getting grant in-aid for the post upon which the applicant was appointed. The Public Health Department of Government of Maharashtra had passed the Resolution dated 18.12.1998 that the employees who were working in the Family Welfare programme of Postpartum Centre are

transferred to the Rural Hospital, Washim, but the expenses of the said transfer will not be reimbursed.

3. The applicant was getting the salary from the Municipal Council, Washim from the date of appointment. However, the dispute came up in respect of payment of salary. Therefore, the Chief Officer Municipal Council, Washim written a letter to the Secretary, Public Health Department, Mantralaya Mumbai on 31.12.1999 informing that the applicant was appointed on the post which is sanctioned by the Health Department of Government. Therefore, the applicant and other employees who were appointed in the Postpartum Centre should be transferred to the Government Hospital immediately.

4. The applicant filed Writ Petition No.640/2003 before the Hon'ble Bombay High Court, Bench at Nagpur. As per order of the Hon'ble High Court, a meeting of the Secretary, Urban Development Department, Mantralaya Mumbai and the Chief Officer, Municipal Council Washim had taken place. In the joint meeting it was decided that the applicant would be absorbed in the services of Public Health Department and with the absorption of applicant, the question of payment of arrears of salary would also be considered and appropriate decision in that behalf would be taken within four weeks. The said Petition was disposed of by order dated 08.12.2003 with liberty to approach the Hon'ble High Court.

4. In view of the decision taken by the Secretary, Public Health Department Mantralaya Mumbai, the Government has passed Resolution dated 13.04.2004 by which the applicant was absorbed on deputation in Rural Hospital, Washim as Lady Health Visitor. On 27.05.2004 the Deputy Director of Health Services, Akola Division, Akola posted the applicant at Rural Hospital, Morshi on the newly created post as Staff Nurse on a degraded salary.

5. It is submitted that in view of the order dated 27.05.2004, the applicant joined as a Staff Nurse at Morshi in the Sub-District Hospital at Morshi, but she is not paid as per 5th Pay Commission for arrears of salary of the post of Staff Nurse. Even as on today the applicant is not receiving the salary as Staff Nurse. Therefore, the applicant approached to this Tribunal for the following reliefs-

i) Direct the respondent No.1 and other respondents to decide her representation dated 14.06.2016 and 05.12.2016 within stipulated period of 3 months and to grant the applicant her arrears (difference of pay of Govt. Employee and actually paid to the applicant), salary from April 2004 till date as well as direct to grant time bound promotion to the applicant along with its difference of salary for the said promotion along with other benefits within a stipulated period.

ii) Direct the respondents to decide the present case of the applicant without fail within a stipulated period.

iii) Pass appropriate orders/directions which are deemed to be fit in the facts and circumstances of the case and allow the petition with cost.

Interim relief: -

The applicant prays for grant of an Interim relief. The applicant prays to direct the respondents to initiate the process of grant of arrears of difference of salary from April 2004 to till date as well as grant time bound promotion to the applicant along with its difference of salary for the said promotion along with other benefits within a stipulated period, during the pendency of this application, in the interest of justice.

6. The O.A. is opposed by the respondents 1 to 4. The respondent no.3 has submitted that the applicant was appointed by the Municipal Council, Washim, but the Municipal Council, Washim is not a party in this O.A.. Therefore, the O.A. is liable to be dismissed.

7. During the course of submission, the learned counsel for the applicant has pointed out the order dated 08.12.2003 of the Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.640/2003 with connected Writ Petitions. The said order is reproduced below-

The learned AGP appearing for respondents 1, 2, 4 and 5 has placed on record the minutes of the Joint meeting of the first and third respondents and submits that in view of the decision taken in the said meeting, the petitioners would be absorbed in the services of the Public Health Department and with the absorption of the Petitioners, the question of payment of

arrears of salary would also be considered and appropriate decision in that behalf would be taken within four weeks from today.

In this view of the statement made, the learned counsel appearing for the petitioners seeks permission to withdraw these Writ Petitions with liberty to approach this Court in the event, their grievance is not taken care of. With these observations, the petitions stands dismissed as withdrawn with liberty as above in favour of the petitioners, with no orders as to costs.

8. The learned counsel for the applicant has submitted that the applicant again filed the Writ Petition No.956/2014 before the Hon'ble Bombay High Court, Bench at Nagpur. The order of the Hon'ble High Court dated 20.02.2014 is reproduced below-

Heard Shri Choudhari, learned counsel for the petitioner and Mrs.Joshi, learned AGP for the respondents.

The remedy of approaching Maharashtra Administrative Tribunal under Section 19 of the Maharashtra Administrative Tribunals Act, is available to the petitioner. Hence, with leave to the petitioner to exhaust that remedy, Writ Petition is disposed of. No order as to costs.

9. As per order of the Hon'ble High Court dated 20.02.2014, the applicant approached to this Tribunal because her grievances are not redressed by the respondents. The applicant has made representations dated 14.06.2016 and 05.12.2016 to the respondents, but till date the respondents have not decided the same.

The applicant has prayed to direct the respondent no.1 and other respondents to decide her representations dated 14.06.2016 and 05.12.2016 and also prayed for direction to pay the salary---- etc.

10. The learned P.O. has submitted that the respondents will decide the applicant's representations within a period of three months, as per law. Hence, the following order-

ORDER

1. The O.A. is partly allowed.
2. The respondent no.1 and other respondents are directed to decide the representations of the applicant dated 14.06.2016 and 05.12.2016 within a period of three months from the date of receipt of this order.
3. No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman

Dated - 11/06/2024.
rsm.

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

Name of Steno : Raksha Shashikant Mankawde
Court Name : Court of Hon'ble Vice Chairman.
Judgment signed on : 11/06/2024.
Uploaded on : 13/06/2024.
