

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1824 OF 2003

Swapnil s/o Deorao Jadhav
Age : 26 years, Occ : Service
(as junior clerk), C/o : Rural
Hospital, Kallamb, Dist. Osmanabad.

...Petitioner
(Orig. Applicant)

VERSUS

1. The State of Maharashtra
Through the Secretary,
Health Department,
Mantralaya, Mumbai.
2. The Deputy Director
Health Services, Aurangabad
Circle, Aurangabad.
3. The Deputy Director,
Health Services, Latur Circle,
Latur.
4. The Civil Surgeon,
General Hospital,
Osmanabad.

...Respondents

.....
Advocate for petitioner : Mr. V. D. Salunke
A.G.P. for respondent Nos. 1 to 4 : Mr. U. S. Mote
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**CORAM : A. V. NIRGUDE AND
V. K. JADHAV, JJ.**

DATED : 6th FEBRUARY, 2015

JUDGMENT (PER A. V. NIRGUDE, J.) :-

1. This petition challenges the judgment and order dated 25.03.2003 passed by the learned Member, Maharashtra

Administrative Tribunal, Bench at Aurangabad, rejecting the petitioner's application seeking redressal about termination of his service. The following facts are admitted:-

2. The petitioner's land was acquired for an irrigation project and therefore, he was a Project Affected Person. A Committee constituted for providing jobs to Project Affected Persons was formed under the auspices of Director of Health. Such Committee recommended the case of petitioner on 28.06.1999, certifying that he deserved to get a job on priority basis. The Government of Maharashtra, since 1980, recognized need to give such jobs to such people on priority basis. In 1990, the Government also decided to allow appointing authorities of various departments to receive applications directly from the Project Affected Persons and give them appointments. Reservation to the extent of 5% of vacant posts was made for such persons.

3. In view of these facts, what happened in this case must be appreciated. After recommendation was secured, the petitioner went before the Deputy Director, Health Services, Aurangabad and sought an appointment. On 17.02.2000, the Deputy Director issued an appointment letter in favour of the petitioner. Curiously, this letter does not mention as to whether the petitioner's claim as 'Project

Affected Person' is taken into account for issuing this appointment letter. The appointment letter simply says that the appointment is for a period of 90 days and the petitioner would not be made permanent in this service etc. As expected, after 90 days, the petitioner lost his job and he was not given any benefit of the Project Affected Person. His application before the Maharashtra Administrative Tribunal was rejected mainly on the ground that the appointment letter did not create any right in his favour.

4. The learned counsel for the petitioner took us through the Government Resolutions of 1980 and 1990. Indeed, the Government Resolution of the year 1990 gave discretionary power to the appointing authority to give appointment letters directly to the persons belonging to this category. In other words, regular procedure for appointments was given a go-bye. So, when the petitioner moved his application for job before the Deputy Director, it was necessary for the Deputy Director to examine his record and to find out whether there was any vacancy available for petitioner's appointment in the category of Project Affected Persons. As mentioned above, the appointment letter did not make any mention of such category. The appointment was given purely on temporary basis.

5. We are not here to examine whether such appointment could have been given or not but we are certain that the appointment was not given to the petitioner as Project Affected Person. So, this appointment would not give any legal right to the petitioner in getting permanency in service or for getting any other benefit.

6. The petition should therefore, fail and the same is dismissed.

Rule discharged.

(V. K. JADHAV, J.)

(A. V. NIRGUDE, J.)

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