

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1234 OF 2003

Vinod s/o Bajirao Salunke,
Age : 26 years, Occ. Nil,
R/o Village Dandegaon Rameshwar
Tanda, Tal. Kalamnuri,
Dist. Hingoli.

...Petitioner
(Orig. Applicant)

Versus

1. The State of Maharashtra.
2. The Joint Director,
Health Services,
(Malaria & Falaria),
Pune.
3. The Assistant Director of
Health Services (Malaria),
Aurangabad, Dist. Aurangabad.
4. The District Health Officer,
Zilla Parishad, Hingoli,
Dist. Hingoli.
5. The Medical Officer,
Primary Health Center,
Jawala-Bazar,
Tal. Aundha-Nagnath,
Dist. Hingoli.
6. The District Malaria Officer,
Hingoli, Dist. Hingoli.

...Respondents

WITH
WRIT PETITION NO. 1818 OF 2003

Sanjay s/o Bapurao Patil,
Age : 27 years, Occ Nil,
R/o Village Warwan,
Tal. Kandhar, Dist. Nanded.

...Petitioner
(Orig. Applicant)

Versus

1. The State of Maharashtra
(through the Secretary,
Department of Health Services,
M. S., Mantralaya, Mumbai.)
2. The Joint Director,
Health Services,
(Malaria & Falaria),
Pune.
3. The Assistant Director of
Health Services (Malaria),
Aurangabad, Dist. Aurangabad.
4. The District Health Officer,
Zilla Parishad, Hingoli,
Dist. Hingoli.
5. The Medical Officer,
Primary Health Centre,
Jawala-Bazar,
Tal. Aundha-Nagnath,
Dist. Hingoli.
6. The District Malaria Officer,
Hingoli, Dist. Hingoli.

...Respondents

WITH
WRIT PETITION NO. 1853 OF 2003

Vishwas s/o Laxman Mhaisekar,
Age : 29 years, Occu. Nil,
R/o. Village Patharad, Tal. Hadgaon,
Dist. Nanded.

...Petitioner
(Orig. Applicant)

Versus

1. The State of Maharashtra
(through the Secretary,
Department of Health Services,
M. S. Mantralaya,
Mumbai.)
2. The Joint Director,
Health Services,
(Malaria & Falaria),

Pune.

3. The Assistant Director of Health Services (Malaria), Aurangabad, Dist. Aurangabad.
4. The District Health Officer, Zilla Parishad, Hingoli, Dist. Hingoli.
5. The Medical Officer, Primary Health Centre, Jawala-Bazar, Tal. Aundha-Nagnath, Dist. Hingoli.
6. The District Malaria Officer, Hingoli, Dist. Hingoli.

...Respondents

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 Advocate for petitioners : Mr. Amol Joshi h/f Mr. Rajendra S. Deshmukh
 A.G.P. for respondents : Mr. U. S. Mote

**CORAM : A. V. NIRGUDE AND
 V. K. JADHAV, JJ.**

DATED : 6th FEBRUARY, 2015

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

1. All these petitions, challenging the judgment and order passed by the learned Member of Maharashtra Administrative Tribunal, Bench at Aurangabad, in Original Application Nos. 774 of 2001, 780 of 2001 and 813 of 2001, can be disposed of by this common judgment. The petitioners, in these petitions, claim that they belong to the category either of nominee of Freedom Fighter or Project Affected Person. Armed with required certificates, they approached the District Malaria Officer for seeking jobs of Clerk. They received appointment letters on

the basis of certain letter which the Maleria Officer had received earlier from the Government Officer directing him to give appointments to persons belonging to the above categories. The appointment letters, however, mentioned that the appointments were purely temporary and would come to an end at any time without any reason and without any notice etc.. On the face of it, the appointment letter did not appear to have been issued for filling up of vacant posts. As expected, the petitioners lost jobs after some days. They felt aggrieved and came to the Court. The learned Member of Tribunal dismissed their applications mainly on the ground that the appointment letter did not create any right in favour of the petitioners.

2. At the request of the learned counsel for the petitioners, we went through the Government Resolutions issued by the Government for making provisions in respect of appointment on compassionate grounds to the persons falling under certain categories. In Government Resolution of the year 1990, the Government even allowed appointing authorities to directly appoint persons belonging to these categories without following the regular procedure for recruitment.

3. However, a person would get a job and would retain it only if the post is sanctioned and vacant. When such an appointment is made it would be generally on probation. The letters of appointments received by the petitioners are almost an empty formality. They were worse than

even appointments made on daily wages. The condition put in the appointment letters clearly indicate that the appointments are temporary and would depend on whims and fancy of the appointing authority.

4. We are not here to examine whether such appointments are proper or not. We are examining as to whether such appointments accrued any right of employment to the petitioners? The answer is in negative. The petitioners ought to have demanded proper letters of appointments showing their appointments on sanctioned and vacant posts. The Government Resolutions, which we perused, clearly indicate that even persons belonging to special categories would get jobs only when such jobs are available. The appointing authorities, unfortunately, could not have created jobs. They were supposed to give jobs if the jobs were available. The appointment letters issued to the petitioners unfortunately indicate that the appointments are not certain and would not provide a long term relief to the petitioners.

5. The writ petitions stand dismissed. Rule discharged.

(V. K. JADHAV, J.)

(A. V. NIRGUDE, J.)

rlj/