

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.1777 OF 2014

Kalyan s/o Sarjerao Sutar
Health Worker, R/o Sub Centre,
Jatnandur Primary Health Centre,
Shirur (Kasar) Tq. Shirur (Kasar)
District Beed.

- PETITIONER

VERSUS

- 1) The State of Maharashtra
Through its Secretary,
Public Health Department
Mantralaya, Mumbai.
- 2) The Chief Executive officer
Zilla Parishad, Beed.
Tq. And District Beed.
- 3) The District Health Officer,
Zilla Parishad, Beed,
Tq. And District Beed.

- RESPONDENTS

Mr.S.S.Thombre, Advocate for Petitioner;
Mr.G.K.Naik-Thigale, AGP for Respondent-State;
Mr.A.D.Aghav, Advocate for Respondent Nos. 2 & 3.

CORAM : **S.S.SHINDE &**
 P.R.BORA,JJ.

DATE OF RESERVING JUDGMENT: **17th March,2015.**

DATE OF PRONOUNCING JUDGMENT: **01st April,2015**

JUDGMENT (PER:- P.R.BORA,J)

- 1) Heard. Rule. Rule made returnable forthwith
with the consent of learned Counsel for respective
parties.

2) The Petitioner, who is working as health worker in the employment of Zilla Parishad, Beed, has filed the present petition, seeking directions against Chief Executive Officer of the said Zilla Parishad (Respondent No.2) for giving him benefits of regularization from the date of his initial appointment along with all other consequential benefits.

3) It is the case of the Petitioner that, he was selected as health worker and vide order dated 30.12.1991 was appointed in Respondent No.3 Zilla Parishad and thereafter completed twelve months' training of the multi purpose health worker. He was posted at primary health center Chakalamba, Tq. Georai, Dist. Beed. He was relieved under the order of Respondent No.3 passed on 10.05.1995 along with other eleven employees. Subsequently, he was reinstated vide order dated 08.01.1997. On 03.09.1997 he was issued with an appointment for a period of six months and he was continued thereafter vide order dated 05.05.1999. Other eleven employees, alike the Petitioner, were also given appointment order dated 13.04.1999. Petitioner had appeared before the

selection committee since he was issued a call letter by the District Selection Committee vide its letter dated 29.12.1998 and was also selected.

4) It is the further contention of the Petitioner that, the Chief Executive Officer of the Zilla Parishad had written a letter to Deputy Secretary, Rural Development Department, Mantralaya, Mumbai, based on the order passed by the High Court in Writ Petition No.1209/1998 filed by one V.M. Kendre and Others, and had proposed to regularize services of 72 employees selected by the District Selection Committee. It is the further contention of the Petitioner that, amongst the 72 employees, i.e. health workers, name of the present Petitioner was also included. It is the further contention of the Petitioner that, the Chief Executive Officer has also separately submitted a proposal for approval of appointment of the Petitioner, as a Special Case, vide letter dated 20.09.2003 on the lines of the letter dated 13.04.1999, whereby he has requested for regularization of the services of 72 employees. It is the further contention of the Petitioner that, the Deputy Secretary, Rural Development Department,

Mantralaya, Mumbai, vide communication dated 27.04.2004, informed the Chief Executive Officer that the Government has accorded sanction for providing service benefits to the Petitioner from the date of his initial appointment i.e. from the year 1992. The Petitioner has placed on record the copies of all the aforesaid communications. It is the further contention of the Petitioner that, the Chief Executive Officer issued an order in favour of the Petitioner on 31.07.2004 in pursuance of letter dated 27.02.2004 issued by Respondent No.1. However, it is the grievance of the Petitioner that, Respondent No.2 did not extend the service benefits to the Petitioner with effect from his initial appointment from the year 1991.

5) The petitioner has placed on record order dated 30th December, 1991 by which the petitioner was appointed as multi-purpose health worker in the employment of Zilla Parishad, Beed at Health Sub Centre at Chaklamba, Tq. Georai, District Beed. The petitioner has also placed on record order dated 10th May, 1995, whereby his services along with 12 other employees were terminated by Respondent No.2.; the

order dated 3rd September, 1998, whereby the petitioner came to be re-appointed for the period of six months is also filed on record. Order dated 13th April, 1999 whereby services of 11 employees came to be regularized, is also filed on record. Order dated 13th April, 1999, 27th February, 2004, 31st July 2004, 3rd March, 2011, which have been referred hereinabove are also filed on record.

6) In the Affidavit in reply filed on behalf of Respondent Nos. 2 and 3, the only contention raised in oppose to the petition is that, since the petitioner was appointed in the year 1992 on contract basis and there were technical breaks in his service, petitioner's services cannot to be regularized without permission and/or direction of Respondent No.1 from the date of his initial appointment.

7) After having carefully gone through the pleadings of the parties and documents placed on record, the fact that the petitioner was a bonded employee, is not in dispute. It is also not in dispute that Respondent No.2 had proposed to the State Government to regularize the services of 72

such bonded employees selected by the District Selection Committee and amongst the said 72 employees, i.e. multi-purpose health workers, name of present petitioner was also included. What transpires from the material placed on record is that out of said 72 employees, 70 employees had approached the Court and had obtained the order of protection. However, such order was not there in favour of the present petitioner and he, therefore, remained to be permanently absorbed and/or regularized. It is quite evident that when case of the present petitioner is as similar to the said 70 employees, who had obtained some order from the Court, the relief, which was extended to said employees, must have been extended to the present petitioner also irrespective of the fact whether he had approached the Court or not.

. The second contention that there were technical breaks and the appointment of the petitioner was on contract basis will also not come in the way of granting him the said benefit, which has been already granted to the similarly situated employees for the reason that the employees, who have been granted the benefit of permanency and/or

regularization from their date of initial appointment, vide order passed on 3.3.2011, had also suffered such technical breaks.

8) Learned Counsel appearing for the petitioner has placed reliance on the judgment of the Hon'ble Apex Court in the case of State of Uttar Pradesh and Ors. Vs. Arvind Kumar Srivastava and Ors. - (2015) 1 SCC 347, wherein the Hon'ble Apex Court has, in clear terms, held that, -

" It is a normal rule that when a particular set of employees is given relief by the Court, all other identical situated persons should be treated alike by extending same benefit, since in not doing so would amount to discrimination and the violative of Article 14 of the Constitution."

9) As elaborately discussed herein above, the case of the present petitioner is as similar to the case of the employees, who have been granted regularization from the date of their initial appointment, vide order dated 3.3.2011. We,

therefore, do not see any reason for not extending such benefit by the respondents to the present petitioner. The petition, hence, deserves to be allowed. In the result the following order.

ORDER

- (a) The Respondent No.2 shall extend the permanency benefits to the Petitioner from the date of his initial appointment i.e. 30.12.1991.
- (b) The petition is disposed of in the aforesaid terms. No order as to costs;
- (c) Pending civil application, if any, stands disposed of.

sd/-
(P.R.BORA)
JUDGE

sd/-
(S.S.SHINDE)
JUDGE

bdv/
fldr 17.3.15