

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11186 OF 2014

Shri Dilip Sitaram Desai.	...	Petitioner.
V/s.		
The State of Maharashtra and others.	...	Respondents.

Sagar A. Mane for the petitioner.

C.PYadav, AGP for the respondents.

**CORAM : NARESH H. PATIL AND
A.S. GADKARI, JJ.**

DATED : 5th January 2015.

PC.

The petitioner was appointed as Sweeper in the year 2001 on compassionate ground in Public Health Department under the District Collector of Sindhudurg District. He joined duties on 17th February 2001 for a day and thereafter remained absent for near about 10 years. By order dated 18th February 2011, respondent No.4- the District Civil Surgeon, Sindhudurg terminated the services of the petitioner. The said order was challenged before the Maharashtra Administrative Tribunal by filing Original Application No.265/2013. By judgment and order dated 11th September 2014, the Tribunal dismissed the original application filed by the petitioner.

2. The learned counsel appearing for the petitioner submits that a clerk in the office restrained the petitioner from working. Therefore, the petitioner was unable to continue in service. It is submitted that the petitioner filed several representations to the authorities including Collector of Sindhudurg but the said representations were not considered. The petitioner was expecting that his representations be considered and his grievances be redressed. As nothing was heard from the department, the petitioner did not report on duty after putting in a day's service. It is further submitted that without holding appropriate enquiry the petitioner's services were abruptly terminated.

3. The learned A.G.P appearing for the respondents submits that the Tribunal has considered the details and the facts of the case and dismissed original application after appreciating the facts. The petitioner, without any reason, on his own volition remained absent from service for about 10 years. Therefore, no fault can be found with the impugned order. The respondents had no other alternative but to pass termination order.

4. Heard learned counsel for the petitioner and learned A.G.P for the respondents. Perused the record placed before us and the impugned order passed by the Tribunal.

5. We do not find any sufficient reason for the petitioner to remain absent from service for about 10 years. The petitioner was appointed on compassionate ground to discharge his duties as Sweeper.

Assuming that the petitioner was prevented by the Clerk in the office, the petitioner had adequate remedies to approach appropriate forum for redressal of his grievance. But, according to the petitioner, he preferred representations and remained absent from service. This conduct of the petitioner is not acceptable. We do not find that the petitioner had any reason to remain absent. Submission of representations, if any, by the petitioner or his father is no ground to remain absent. In the peculiar facts and circumstances, the Tribunal considered the case and after appreciating facts dismissed the original application filed by the petitioner.

6. In exercise of extra ordinary writ jurisdiction under Article 226 of the Constitution, we are not inclined to entertain this petition. Petition is dismissed.

(A.S. GADKARI, J.)

(NARESH H. PATIL, J.)