

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 6589 OF 2015

The State of Maharashtra, through the Secretary, Department of Health Service and others

-vs-

Mahendra Babanrao Sangode

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Ms P. D. Rane, A.G.P. for the petitioners.

CORAM : SMT. VASANTI A. NAIK &
PRASANNA. B. VARALE, JJ.

DATE : 10.12.2015.

By this petition, the petitioners impugn the order of the Maharashtra Administrative Tribunal, Nagpur, dated 03/11/2014 allowing an original application filed by the respondent and directing the petitioners to treat that the respondent had voluntarily retired from service from 03/08/2010 and pay his retiral benefits.

It is the case of the petitioners that though the respondent was appointed as a bonded Medical Officer from 21/06/1985 and merely continued on the said post till he was selected in the year 1994 through the Maharashtra Public Service Commission and his services were regularized, the Tribunal has considered his services from 21/06/1985 for grant of pensionary benefits. It is submitted, by referring to a document at Annexure-27 that the period of absence of the respondent from 16/07/1996 to 24/01/1997 was not regularized. It is submitted that in the circumstances of the case, the order of the Tribunal is liable to be set aside.

On hearing the learned Assistant Government Pleader and on a perusal of the impugned order, we do not find any reason for interference with the impugned order, in exercise of the writ jurisdiction. Though the respondent was appointed as a Medical Officer on 21/06/1985 as a bonded candidate, the respondent was

continued on the said post without break till he was duly selected by the Maharashtra Public Service Commission in the year 1994 and his services were regularized. The Tribunal found that after the appointment of the respondent in the year 1985, he was continued in service without break and from the entries in his service book, it could be gathered that he was granted regular increments every year. The Tribunal found from the material on record that necessary exemption was granted to the respondent from passing the Hindi and Marathi examinations and he was treated as a regular employee. Since the respondent worked continuously from 1985 till he sought voluntary retirement in May, 2010, the Tribunal held that it was necessary for the petitioner to grant him pensionary benefits. While holding so, the Tribunal considered the judgments rendered by this Court, that relate to counting of qualifying service. We reject the submission made on behalf of the petitioners that since the leave period of the respondent from 16/07/1996 to 24/01/1997 was not regularized, the respondent would not be entitled to any relief. This plea was not raised by the petitioners before the Tribunal and the respondent did not have an occasion to refuse the plea. In fact, by the same communication on which reliance is placed by the Assistant Government Pleader for pointing out that the leave period of the respondent was not regularized, it is mentioned that the respondent has completed 20 years of qualifying service for grant of pension. It appears that the petitioners are blowing hot and cold. The order of the Tribunal appears to be just and proper.

Since the order of the Tribunal is just and proper, we dismiss the writ petition with no order as to costs.

JUDGE

JUDGE