

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4540 OF 2016

Keshav s/o Vaijnath Mundhe,
Age : 35 years, Occu. Service,
R/o C/o Laxman Girijappa Darade,
Chate Colony, Gangakhed,
Tq. Gangakhed, District Parbhani

PETITIONER

VERSUS

1. The State of Maharashtra,
through the Secretary,
Agriculture Department,
Mantralaya, Mumbai – 32
2. Vasantao Naik Marathwada
Agriculture University,
Parbhani, Basmat Road,
Tq. & District Parbhani,
through its Registrar
3. The Librarian,
Vasantao Naik Marathwada
Agriculture University,
Parbhani, Basmat Road,
Tq. and District Parbhani

RESPONDENTS

Mr. S.V. Warad, Advocate for the Petitioner
Mr. S.B. Joshi, A.G.P. for respondent No. 1/State
Mr. Gajanan G. Kadam, Advocate for respondent
Nos.2 and 3

CORAM : V.M. KANADE AND
SANGITRAO S. PATIL, JJ.

DATE : 9th January, 2017

ORAL ORDER :

Heard.

2. The grievance of the petitioner is that though he was appointed on permanent vacancy by order dated 6th February, 2007 and made permanent in 2009, for the first time, by order dated 31st March, 2016, without holding any enquiry, his services were terminated.

3. The petitioner applied for the post of Attendant (Class-IV) under the "handicapped persons" category. Petitioner has annexed certificate (Exh-A), issued by the Civil Surgeon, Parbhani, in which it has been mentioned that the petitioner is having hearing impairment to the extent of 50%. Thereafter, he was referred to the Medical Board. The Medical Board issued the certificate (Exh-R2) as follows:-

"No medical problem & no hearing handicap."

Both the above referred certificates were available with the respondents when they issued appointment order on 6th February, 2007. Almost after a period of 9 to 10 years from the date of issuance of the appointment order, the order of termination has been passed without holding any enquiry.

4. In our considered view, the impugned termination order, without holding any enquiry, is patently illegal and violative of the relevant Rules of the Maharashtra Civil Services (Discipline and Appeal) Rules. Secondly, the certificate (Exh-R2), issued by the Medical Board, does not mention the extent of the disability/hearing impairment and we do not know the circumstances under which the said observation has been made. Though it is true that the show cause notice was issued to the petitioner and he denied the allegations made by the respondents, no further enquiry has been held.

5. In view of above, we have no hesitation in setting aside the order of termination dated 31st March, 2016, issued by respondent no.2. The petitioner is directed to be reinstated in service with all back wages and continuity in service, forthwith. It is clarified that respondents would be at liberty to hold enquiry after giving personal hearing to the petitioner, including subjecting him to further medical examination before the Medical Board and/or seeking explanation from the Board regarding the expression made by the it namely

"No medical problem & no hearing handicap."

6. The Writ Petition is allowed and disposed of in the above terms.

[SANGITRAO S. PATIL]
JUDGE

[V.M. KANADE]
JUDGE

npj/wp4540-2016