

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

**Writ Petition No. 00081 of 2013**

District : Beed

Prafullakumar s/o. Prabhakar  
Deshmukh,  
Age : 34 years,  
Occupation : Service,  
R/o. Patoda, Taluka Patoda,  
District Beed.

.. Petitioner.

**versus**

1. The State of Maharashtra,  
Through the Secretary,  
Village Development and  
Irrigation Department,  
Mantralaya, Mumbai - 32.
2. The Chief Executive Officer,  
Zilla Parishad, Ahmednagar.
3. The District Health Officer,  
Zilla Parishad, Ahmednagar.
4. The Joint Director,  
Health Services  
(Malaria Elephantiasis and  
Water bound diseases),  
Pune, In front of  
Vishrantwadi Police Station,  
Yerwada, Pune - 411 006.

.. Respondents.

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*Mr. R.P. Dhase, Advocate, for the petitioner.*

*Mr. S.G. Karlekar, Asst. Government Pleader, for  
respondent nos.01 and 04.*

*Mr. S.T. Shelke, Advocate, for respondent  
nos.02 and 03.*

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**CORAM : R.M. BORDE &  
SMT. VIBHA KANKANWADI, JJ.**

**DATE : 06TH OCTOBER 2017**

**ORAL JUDGMENT [Per R.M. Borde, J.] :**

01. The petitioner is objecting to the communication dated 16.06.2012 issued by the Chief Executive Officer, Zilla Parishad, Ahmednagar, accepting resignation tendered by the petitioner with effect from 08.09.2011 with retrospective effect.

02. The petitioner was functioning as a Multi-purpose Health Worker at Ahmednagar. He appeared for the selection process of Malaria Technician and was issued a letter of appointment by the Zilla Parishad, Beed, appointing him as a Malaria Technician. In terms of letter of appointment, the petitioner was required to join in Health Department within 08 days from the date of issuance of letter of appointment. The letter of appointment came to be issued on 02.09.2011. The petitioner with a view to join the post of Malaria Technician, tendered his resignation to the Zilla Parishad, Ahmednagar, on 08.09.2011. Along with the letter of resignation, the petitioner also tendered one month's pay and requested for dispensing with the notice period. The petitioner also made a request to relieve him with effect from 09.09.2011. The petitioner without waiting formal communication or issuance of relieving order from Zilla Parishad, Ahmednagar, proceeded to join in

Health Department as Malaria Technician and reported at Beed. The petitioner thereafter moved an application to the Chief Executive Officer, Zilla Parishad, Ahmednagar, requesting for acceptance of letter of resignation with effect from 08.09.2011. The request made by the petitioner was accepted and the letter of resignation tendered by the petitioner on 08.09.2011 was accepted from the date of its tender i.e. 08.09.2011 with retrospective effect.

03. The petitioner contends that, in fact, it was not necessary for him to tender letter of resignation and Zilla Parishad, Ahmednagar, simply should have relieved him with a view to facilitate him to join at Beed in Health Department as Malaria Technician. The petitioner apprehends that as a result of acceptance of letter of resignation, the past service rendered by him in Zilla Parishad, Ahmednagar, will not be considered for the purpose of computation of pension.

04. The apprehension expressed by the petitioner is misplaced. Since there is a policy decision taken by the State Government on 06th February, 1990, where under it has been prescribed that if a Zilla Parishad employee accepts another post either with any other Zilla Parishad or with the State Government with a deemed prior permission from the competent authority, the past service rendered by him shall be considered for the purposes of pension for extending pensionary benefits even though such employee tenders his

resignation of the earlier posting with the Zilla Parishad.

05. In the instant matter, it does appear that the petitioner sought permission from the Zilla Parishad, Ahmednagar, before participating in the process of selection for appointment to the post of Malaria Technician in the State Government service. The application was tendered by the petitioner seeking employment to the State Government through proper channel i.e. through Zilla Parishad, Ahmednagar. The resignation that was tendered by the petitioner in respect of his earlier employment has also been accepted with retrospective effect from 08.09.2011.

06. Since the petitioner satisfies the condition laid down in the Government Resolution dated 06th February, 1990, he is entitled to claim pensionary benefits on consideration of his past service with Zilla Parishad, Ahmednagar. The respondents i.e. the State and the present employer i.e. respondent no.04 are directed to take necessary entry in that regard in the service record of the petitioner, entitling the petitioner to claim pensionary benefits of his earlier service with Zilla Parishad, Ahmednagar, for the purposes of gaining pensionary benefits.

07. We do not find that there is any inconsistency or illegality in accepting the letter of resignation tendered by the petitioner with

retrospective effect from 08.09.2011 by the Chief Executive Officer, Zilla Parishad, Ahmednagar.

08. In view of the above, the Writ Petition is disposed of. Rule discharged. There shall be no order as to costs.

( Smt. Vibha Kankanwadi )  
JUDGE

( R.M. Borde )  
JUDGE

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