

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 5107/2016.

Shailesh Jagdish Ramteke.

-VERSUS-

The State of Maharashtra and others.

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

Court's or Judge's Orders

CORAM : B.P. DHARMADHIKARI &
MRS. SWAPNA JOSHI, JJ.

DATE : MARCH 24, 2017.

Heard Shri V.D. Muley, learned Counsel
for the petitioner, Shri S.P. Deshpande, Addl.G.P. for
respondent nos. 1, 2 and 4 and Shri A.S. Parihar,
learned Counsel for respondent nos. 3 and 5.

2. 2014 recruitment process is in dispute
before this Court. Petitioner applied for the post of
Health Worker in response to said advertisement dated
19.08.2014, however, he was not considered. There
had been subsequent advertisements, but, those
advertisements are not in dispute before this Court.
Representation made by petitioner in relation to

2

19.08.2014 advertisement has been turned down on 16.05.2016 and petitioner is informed that as a seasonal health worker, doing spraying work, he should have completed 90 days in each calender year, and as that has not been done, he could not be considered.

3. The impugned communication has been issued on 16.05.2016 and thereafter, petition has been filed before this Court on 20.07.2016. However, the fact that employer published advertisement subsequently on 02.09.2015 and recruitment in pursuance thereto has already been completed, is not in dispute. Therefore, the basic question is – Whether posts advertised on 19.08.2014 are still vacant ?

4. According to Shri Muley, learned counsel, petitioner even today is continued and therefore, post must be available. He is seeking time to make a definite statement in this respect.

5. Shri Parihar, learned counsel points out that probably petitioner is being continued as a temporary worker.

6. Perusal of impugned communication dated 16.05.2016 shows that it refers to some government

3

resolution mentioning that the same was then in force. Date or number thereof is not mentioned and nobody has produced the same for our perusal. However, the stipulation in the advertisement expected the petitioner to produce a certificate from District Malaria Officer, that petitioner has worked for 90 days as a seasonal worker.

7. Petitioner has produced that certificate. This condition nowhere requires that such period of 90 days must be in a calendar year or then for a particular number of years.

8. Thus, there is apparent inconsistency in stipulation in the advertisement and the reason recorded in the impugned communication.

9. Shri Parihar, learned counsel points out that he has no instructions on fact whether petitioner even today is continuing with his job. We do not find it necessary to record any finding on this.

10. We direct the petitioner to make appropriate representation pointing out the apparent inconsistency. If such representation is made within a period of two weeks from today, the District Health Officer, Zilla Parishad, Gondia shall look into the same

as per the relevant government resolution within further period of four weeks.

11. With these directions and keeping all rival contentions open, Writ Petition is disposed of. No costs.

JUDGE

JUDGE

Rgd.