

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

67 WRIT PETITION NO. 4139 OF 2018

ARUNA GANPATRAO SURYAWANSHI ARUNA PRAKASH JADHAV
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. S.V.Suryawanshi h/f Mr. Munde Dhanraj P.
AGP for Respondents : Mr. K.N.Lokhande

**CORAM : S.V.GANGAPURWALA
AND
SUNIL K.KOTWAL, JJ.**

DATE : JULY 31, 2018

O R D E R :

Learned counsel for the petitioner submits that the respondents have treated the period as waiting period and not on duty period. According to the learned counsel on 10.6.2015 respondent no.2 issued an order of promotion in favour of Mrs. Balubai Munde and promoted her to the post of Matron in respondent no.3 Hospital. On 9.6.2015 the petitioner was transferred from respondent no.4 to respondent no.3 Hospital. In view of transfer of one Smt. Balubai on 11.6.2015 the

petitioner was relieved by respondent no.4 to join respondent no.3. On 15.9.2015 the petitioner went to join respondent no.3 Hospital but was not allowed to join as the post was not vacant. On 24.6.2016 the petitioner joined the duty with respondent no.3, however, requested that the period from 15.9.2015 to 23.6.2016 be treated as duty period. Same is erroneously refused. The Tribunal also did not consider the case of the petitioner in its proper perspective.

2. Learned AGP supports the order passed by the Tribunal.

3. It is a matter of record that on 9.6.2015 the petitioner was transferred to respondent no.3 Hospital and was relieved on 11.6.2015 by respondent no.4. The petitioner reported for duty on 15.9.2015 with respondent no.3, but as vacancy was not available, the petitioner was not allowed to join.

The new posting at Nanded was not joined by the petitioner and the petitioner voluntarily remained absent. The petitioner was informed by subsequent transfer order to join, but still thereafter she did not join the duty. Non-joining of the duty for the said period is on the own volition of the petitioner though there was no interim order passed in Original Application No. 357 of 2015 filed by the petitioner. Once fresh transfer order was issued, there was no impediment for the petitioner to join the transferred place. All these aspects are considered by the Tribunal. In view of above, we do not find any illegality committed by the Tribunal.

4. Writ Petition is dismissed. No costs.

[SUNIL K.KOTWAL, J.] [S.V.GANGAPURWALA, J.]

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