

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

**WRIT PETITION NO. 9402 OF 2013
WITH
CIVIL APPLICATION NO.13673 OF 2014**

Urmila Prabhakar Mule,
Age : 34 years, Occ. Service,
r/o. Vikas Nagar, By-pass road,
Osmanabad
and another

..Petitioners

Vs.

The Chief Executive Officer,
Zilla Parishad, Osmanabad
and others

..Respondents

Mr.A.N.Nagargoje, Advocate for petitioners

Mr.R.V.Naiknavare, Advocate for respondent nos.1 and 2

**CORAM : S.V. GANGAPURWALA AND
R.G. AVACHAT, JJ.
DATE : OCTOBER 17, 2018**

ORDER :

The petitioners are appointed as bonded Auxiliary Nurse Midwife (A.N.M.) under appointment order dated 19.04.2012. A proposal was submitted by the Zilla Parishad seeking regularisation of services of the petitioners, which was turned down by the State

Government. The services of the petitioners came to be terminated under the letter dated 23.10.2013. The petitioners assailed the order of termination and the order rejecting the proposal for regularisation.

2. Mr.Nagargoje, learned Advocate for the petitioners submits that the allotment order was issued by the Joint Director of Health Services on 11.07.2000, thereby allotting the petitioners, upon having passed the examination of Auxiliary Nurse, to Zilla Parishad, Osmanabad. The petitioners were appointed as bonded candidates for a period of 18 months under the order dated 19.04.2012. The learned Advocate submits that the date of allotment i.e. 11.07.2000 should be considered as the relevant date. The State Government has clarified that the candidates, who are allotted prior to 2006, be considered for regularisation. He submits that the date of allotment is the relevant date for considering the case for regularisation and not the date of appointment. The learned Advocate relies on

the letter dated 03.06.2009. He submits that in view of the said policy of the State Government, the petitioners, having been allotted as an A.N.M. on 11.07.2000, are required to be regularised. He submits that the respondents now cannot turn around and raise the ground, on which the proposal for regularisation was rejected. The proposal of regularisation was rejected only on the ground that while appointing the petitioners, due selection process was not followed. An advertisement was issued, the candidates were interviewed and thereafter, the appointment order was issued in favour of the petitioners. The learned Advocate submits that the respondents are duty bound to regularise the services of the petitioners. The letter of termination dated 23.10.2013 is a back-dated letter. The outward number of the letter of termination is 3157, whereas the outward number 3157 is for a different letter. The copy of the outward register is also placed on record by the petitioners.

The learned Advocate submits that when the petitioners made application under the Right to Information Act, the respondents realised the mistake and thus, the other letter was referred bearing outward number 3157A. This has been done by the respondent - Zilla Parishad to save their skin. According to the learned Advocate, though it is shown that the petitioners are terminated under letter dated 23.10.2013, the petitioners continued in service and were not relieved by the Health Officer. The muster and the other documents showing that the petitioners were continued in service from time to time, are placed on record. He, therefore, prays that the petitioners may be regularised in service.

3. Mr.Naiknaware, the learned Advocate for the respondents - Zilla Parishad, submits that the petitioners were appointed as bonded candidates for 18 months under the order dated 19.04.2012. Upon completion of the bond period, their services are terminated on 23.10.2013. However, the concerned

Health Officer did not relieve the petitioners. The petitioners, under the interim order dated 25.10.2015, were continued in service. He submits that, however, the letter of appointment is absolutely clear. The letter of appointment specifically refers to the appointment on bond period of 18 months and upon culmination of the said period, the services of the petitioners would come to an end. The petitioners are selected through Walk-in-Interview and not by adopting the due selection process.

4. The learned AGP also supports the stand of the respondents – Zilla Parishad and submits that the Divisional Commissioner has taken into consideration all the relevant aspects and has turned down the proposal for regularisation.

5. It is not disputed that the petitioners were appointed pursuant to the order dated 19.04.2012 as bonded candidates for 18 months. Condition no.1 of

the appointment order specifically states that the appointment is seasonal and temporary for a period of 18 months and that upon culmination of 18 months, the appointment is would come to an end. The order of termination issued on 23.10.2013. We are not inclined to enter into any debate with regard to the Outward number, as contended by the learned Advocate for the petitioners. In the Outward Register, the other letter is given outward number 3157A. No *malafide* have been alleged against the Officers. The two letters are produced on record. One is the termination letter issued to the petitioner and another is different one bearing outward no.3157A. In absence of of any *malafide* alleged against the Officers, it would not be proper to enter into the debate regarding the genuineness of the letter of termination. The respondents - Zilla Parishad has also filed an affidavit, confirming that the petitioners were terminated on 23.10.2013. This Court has granted interim protection to the petitioners,

pursuant to which it appears that they have been continued in service.

6. The question would be about regularisation of the services of the petitioners. The petitioners are harping upon the letters dated 03.06.2009 and 05.04.2008. The letter dated 05.04.2008 was written by the Chief Executive Officer, Zilla Parishad, Solapur, to the Secretary, Rural Development and Water Conservation Department, Mantralaya, Mumbai. Thereafter, again on 20.05.2009, a letter was issued by the Chief Executive Officer, Zilla Parishad, Solapur, that 33 bonded candidates have been issued allotment order on 16.01.2006 and sought guidance for their regularisation. Pursuant thereto, the Secretary, Rural Development and Water Conservation Department, Mantralaya, Mumbai, on 03.06.2009 granted approval, as sought by the Chief Executive Officer, under letter dated 20.05.2009. The same was regarding 33 bonded candidates only, who were appointed prior to 2008 and regarding whom, a proposal was sent by

the Chief Executive Officer, Zilla Parishad, Solapur. The petitioners are appointed much later i.e. on 19.04.2012. The appointment letter dated 19.04.2012, specifically recites about the terms and conditions of appointment of the petitioners for 18 months, and the appointment would come to an end automatically after 18 months. The petitioners have worked for 18 months and the services came to be terminated on 23.10.2013. However, the services of the petitioners were continued pursuant the interim order passed by this Court. The interim order passed by this Court cannot be considered for determination of length of service of the petitioners. It is not the case that after the bond period was over, the petitioners were continued in service for many years. After expiry of the bond period, the services of the petitioners stood terminated immediately.

7. The learned Advocate for the petitioners placed reliance on the Government Resolution dated 02.05.2009. The said Government Resolution read as a

whole, would depict that upon culmination of the bond period, the service of a bonded candidate would come to an end and the said post would become vacant to be filled-in by adopted by the due procedure. The said Government Resolution would not inure to the petitioners.

8. The petitioners have been selected through Walk-in-Interview and not by undergoing a due selection process. The respondents – Zilla Parishad had sought regularisation of services of the petitioners, which was turned down. The bonded candidates, whose services were only for the bond period, cannot claim regularisation as of right. No legal right vests with the petitioners to claim regularisation in service. The interim order passed by this Court, certainly cannot enure to the benefit of the petitioner.

9. Further for giving appointment to a candidate on regular establishment, the District

Selection Committee has to give appointment after conducting the due selection process. In the present case, as argued by the respondents, the petitioners were selected through Walk-in-Interview only. In view of the aforesaid, the case of the petitioners for regularisation cannot be entertained.

10. It is submitted that the petitioners have not been regularised, though their services were continued from time to time. They are entitled to get emoluments during the period they had worked.

11. In our view, as the petitioners rendered service, they would certainly be entitled for the emoluments for the period of service rendered by them. In the circumstances, the respondents shall pay the petitioners the amount which was being paid to a bonded candidate, during the period of service rendered by them. The same shall be paid within a period of three months from today.

12. However, we leave to the respondents to take a decision, whether to continue the petitioners in service, till regular selected candidates are appointed.

13. The Writ Petition is accordingly disposed of. No costs.

14. In view of disposal of the Writ Petition, the Civil Application stands disposed of.

[R.G. AVACHAT, J.]

[S.V. GANGAPURWALA, J.]

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