

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

925 WRIT PETITION NO. 9586 OF 2014

Ashok Ratan Thorat.

Petitioner.

Versus

Principal District Judge, Ahmednagar.

Respondent.

Mr. A.P. Sonpethkar, Advocate holding for

Mr. P.N. Sonpethkar, Advocate for the petitioner.

Mr. N.B. Suryawanshi, Advocate for the respondent.

Mr. Milind Patil, Advocate for respondent Nos.3 to 5.

**CORAM : T.V. NALAWADE AND
SUNIL K. KOTWAL, JJ.**

Dated : 21 February 2019.

ORDER :-

1. The petition is filed for giving direction to the respondent-District Judge, Ahmednagar to reinstate the petitioner on the post of Watchman. The relief of setting aside the order of termination is also claimed. The relief is claimed to regularize the services of the petitioner on the post of Watchman and pay him the salary as per the scale.

2. The submissions made show that by Government Resolution dated 18.08.2004 the State Government made

available one post of Watchman on contract basis on fixed pay of Rs. 1500/- per month. There was specific direction to fill this post on contract basis and accordingly budgetary provision was made by the Government. It appears that the District Court called list of some persons from Employment Exchange for giving appointment on contract basis. The present petitioner was also sent by the Employment Exchange and he came to be given the appointment on contract basis on aforesaid pay. An undertaking was obtained from him that he would not claim regular appointment if any post becomes available in future. Subsequently the petitioner realised that in Osmanabad District to a similar person higher pay like Rs. 3830/- was given and he applied for such pay. On that basis the Principal District Judge issued order on 25.09.2012. The Principal District Judge also referred the Circular issued by Labour Department of the Government and ordered to give Rs. 4300/- per month w.e.f. 23.02.2012. Accordingly the payment was made and there is communication dated 19.12.2014 made by Civil Judge, Junior Division, Rahata to show that the order of Principal District Judge was complied.

3. There is correspondence of Additional Secretary of the Government from Law and Judiciary Department, dated 24.07.2014 showing that a direction was given to the Courts to see that the appointments made without taking sanction of the Courts are cancelled. It appears that after this communication dated 24.07.2014, by an order dated 01.09.2014, the appointment of the present petitioner came to be cancelled and he came to be terminated. Further, the order of appointment was for 11 months and that period was over.

4. The aforesaid circumstances show that pay at higher rate as per the Government Resolution dated 23.02.2012 was given to the petitioner from the date mentioned in the Government Resolution. His appointment was on contract basis and only to that extent permission was given by the State Government. Due to that the post was not advertised and appointment was given on contract basis from time to time. Undertaking was also given by the petitioner that he would not claim appointment as against the regular post if such regular post becomes available in future. Thus, there is no question of making him a regular employee, give him post of permanent employee.

Such post is not available. It can be said that the District Court could have given the work by outsourcing on contract basis, but the appointment was given to individual person. In that case also the appointment is made as per the Government policy. As there is no vested right to the petitioner for getting continuation of the said work, the order of reinstatement cannot be given in his favour.

5. In the result, the petition stands dismissed.

(SUNIL K. KOTWAL)
JUDGE

(T.V. NALAWADE)
JUDGE

vdd/