

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

**WRIT PETITION NO. 1745 of 2021**

Rajkumar s/o Natthuji Belsare,  
Aged about : 37 years, Occupation : Service.  
R/o. Flat No.303-A, Empressa Classic Homes,  
Shambhu Nagar,  
Nagpur-440 030. (Phone No.9975638353)

..... **PETITIONER**

**...V E R S U S...**

1. State of Maharashtra,  
through its Secretary,  
Ministry of Public Health, Mantralaya,  
Mumbai-400 032.
2. The Civil Surgeon,  
Government General Hospital,  
Wardha.
3. Dr.Mariya Khatun Sultan Ahmad,  
Medical Officer, Grade - I,  
Government General Hospital,  
Wardha.
4. Maharashtra State Aids Control Society,  
through its President,  
Acworth Leprosy Complex,  
R.A.Kidwal Road, Wadala (W),  
Mumbai – 400 031.

..... **RESPONDENTS**

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Shri T.D.Mandlekar, Advocate for petitioner.  
Shri A.M.Deshpande, Additional Government Pleader for respondent nos. 1 &  
2.  
None for respondent nos.3 and 4 though served.  
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**CORAM : SUNIL B. SHUKRE AND  
SMT. M.S.JAWALKAR, JJ.  
DATE : 28<sup>th</sup> APRIL, 2022.**

**ORAL JUDGMENT (Per SUNIL B. SHUKRE, J.)**

1. Rule. Rule made returnable forthwith. Heard finally by consent of learned counsel for the parties.
2. The petitioner 'Lab Technician', having been appointed on contractual basis for every year till 2019-20, was not continued with his contractual service with effect from 01.04.2020. The petitioner was informed by the communication dated 31.03.2022 that his contractual service came to an end on 31.03.2020 and since it was decided to not renew it, it would not be renewed any further. He was relieved from the job by the respondent no.2.
3. On such non-renewal of the contractual service of the petitioner, the petitioner made an enquiry and learnt that submission of false report by the Committee of which Civil Surgeon, Wardha was a part that the performance of the petitioner was not satisfactory was the basis for the decision to not renew his contractual service. The petitioner laid his hand on a communication dated 23.10.2020 and also some other documents which indicated that the record was created against the petitioner regarding non-satisfactory performance of his contractual service. Therefore, the petitioner has also questioned the

legality and correctness of the communication dated 23.10.2020.

4. The learned counsel for the petitioner submits that the communication dated 23.10.2020 is contrary to the certificate issued by the Civil Surgeon, General Hospital, Wardha on 13.11.2019 and the evaluation report dated 04.07.2020 sent by District Project Officer, General Hospital, Wardha. He points out from these documents that the performance of the petitioner, while rendering his service on year to year basis from the year 2009 till the year 2019-20, was perfect and completely satisfactory and, therefore, it is an injustice to the petitioner that the Authorities, which had found the performance of the petitioner as satisfactory earlier, have now sent adverse report of non-satisfactory performance of the petitioner on duty. In these circumstances, it is submitted by the learned counsel for the petitioner, that the impugned order dated 31.03.2020 became stigmatic and, in any case, the communication dated 23.10.2020 is patently stigmatic and untrue and, therefore, both these documents deserved to be quashed and set aside.

5. So far as the communication dated 23.10.2020 challenged in this petition by the petitioner is concerned, we do not think that the challenge is sustainable in law. The reason being that this communication is an internal communication of the department of the respondents and it forms a part of the

internal correspondence between its officers and, therefore, it makes no impact on the public image of the petitioner in the sense that the internal correspondence being not part of public domain, would not come in the way of the petitioner in securing employment elsewhere and, therefore, no challenge can be made to the document dated 23.10.2020, which is a part of the internal communication between the two different officers.

6. As regards other communication dated 31.03.2020, we find that this communication does not terminate midway the contractual service of the petitioner. It only states that the Project Director of the Maharashtra State Aids Control Society, Mumbai has taken a decision to not renew the contractual service of the petitioner any further and, therefore, the petitioner would stand relieved from his job as 'Lab Technician' with effect from 31.03.2020, the date on which the contractual service of the petitioner was even otherwise expiring. The communication dated 31.03.2020 does not give any reason for not renewing the contractual service of the petitioner and, therefore, by no stretch of imagination, it can be called as stigmatic.

7. The learned counsel for the petitioner submits that termination of the contractual service of the petitioner has come from the respondent no.2- Civil Surgeon, Wardha, but, he is not an authority to do so in law. According to the learned counsel, the appointing authority was the respondent no.4 and,

therefore, if any communication of termination was to be issued, it ought to have been issued by the respondent no.4 only. The argument cannot be accepted for two reasons. Firstly, there is no pleading in this petition and new case is being tried to be made out by the petitioner of which no notice has been given to the respondents. Therefore, this submission cannot be considered in any manner. Secondly, the communication dated 31.03.2020 is a reflection of the decision taken by the respondent no.4 himself. It shows that the decision to not renew the contractual service of the petitioner is not taken by the Civil Surgeon, Wardha-respondent no.2 but by the Project Director, Maharashtra State Aids Control Society-respondent no.4. Therefore, the submission made in this regard by the learned counsel for the petitioner, is rejected.

8. The learned counsel placed reliance on the decisions in *Gridco Limited and another vs. Sadananda Doloi and others (2011) 15 SCC 16*, *Ramendra Nath and etc. vs. Mandi Samiti, Sultanpur and another AIR 1989 Allhabad 154*, *Priyanka Datta vs. State of Tripura and others AIR Online 2019 Tri 171* and of this Court in Writ Petition No.6109 of 2015 (*Dr.Akankhsa Vinod Bele vs. State of Maharashtra and others*) decided on 17.12.2015, to support his argument that whenever a stigmatic order is passed, show cause notice and giving an opportunity of hearing to the affected party both are necessary.

There can be no quarrel about the law laid down in these cases. But, on the facts of this case discussed earlier, we are of the view that the law propounded by these cases would have no application to the facts of the present case. The impugned communication was found to be non-stigmatic by us. It only says that a decision has been taken to not renew further the contractual service of the petitioner.

9. Considering the fact that the petitioner was appointed on contractual service on the establishment of the respondent no.2 since the year 2009 till 31.03.2020, we direct the respondent no.4 to give sympathetic consideration to the representation that the petitioner now proposes to make seeking renewal of his contractual service as it is his submission that the Civil Surgeon, Wardha has already certified his performance in the year 2019 to be satisfactory. If any such representation is made by the petitioner within two weeks from the date of the order, the same shall be considered appropriately and decision rendered within a period of eight weeks from the date of receipt of such a representation by the respondent no.4.

10. In the result, the writ petition is dismissed. Rule stands discharged.

No costs.