

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

WRIT PETITION NO.766 OF 2019

Pravin Wamanrao Gedam, District Health Office, Gadchiroli

-vs-

State of Maharashtra, Thr. Secretary, Rural Development Dept. Mantralaya, Mumbai and anr.

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

Court's or Judge's Orders.

Shri P. S. Kshirsagar, Advocate for petitioner.

Ms Tajwar Khan, Assistant Government Pleader for respondent No.1.

Shri A. W. Paunikar, Advocate for respondent No.2.

CORAM : A. S. CHANDURKAR AND M. W. CHANDWANI, JJ.

DATE : October 20, 2022

Heard.

The challenge raised in this writ petition is to the order dated 31/12/2018 thereby reverting the petitioner from the post of Health Supervisor (Male) to the post of Health Assistant. It is seen that the petitioner came to be appointed on the post of 'आरोग्य सेवक' on 31/05/1997 which post was reserved for candidate from 'SC' category. On 08/01/2014 the petitioner was promoted on the post of Health Assistant in the Open Handicapped category. Subsequently the petitioner came to be promoted on the post of Health Supervisor by the order dated 01/08/2018.

On the basis of the complaint made to the Chief Executive Officer that the petitioner was not entitled to the benefit of

Government Resolution dated 14/01/2011 which provided for the benefit of promotion from the Handicapped category to an employee who suffers disability of one leg, the Chief Executive Officer by the impugned order upheld that objection and directed reversion of the petitioner.

We have heard the learned counsel for the parties as well as the learned counsel representing the Intervenor in Civil Application No.1190/2022. It is seen that under the Government Resolution dated 14/01/2011 benefit of promotion can be extended only for the disability suffered to one leg as stipulated at Sr.No.28 against the entry 'आरोग्य सेवक' (Male). It is undisputed that the disability suffered by the petitioner is with regard to his arm. By subsequent Government Resolution dated 22/02/2021 the disability pertaining to one arm has now been included. The Chief Officer has found that on 01/08/2018 when the petitioner was promoted, the Government Resolution dated 14/01/2011 was operating. As a result, benefit was available only for those employees who suffered disability of one leg. As the petitioner did not come under the purview of that resolution, it has been directed that he should be reverted.

We find this decision is taken in accordance with the Government Resolution dated 14/01/2011. Hence there is no

reason to interfere with the order of reversion.

The writ petition is therefore dismissed with no order as to costs.

Needless to state that in case the aspect of promotion is to be considered in future, the prevailing Government Resolution would be taken into consideration. This exercise would be subject to outcome of appeal which is pending before the Divisional Commissioner challenging the initial promotion to the petitioner.

Since the petitioner has worked on the promotional post pursuant to the interim orders passed on 29/01/2019, no recovery of the salary which has already been paid shall be undertaken.

Pending Civil Application also stands disposed of accordingly.

(M. W. Chandwani, J.)

(A. S. Chandurkar, J.)

Asmita