



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

WRIT PETITION NO.8165 OF 2023

Dr. Pavan Devidas Dhakde, age – 36
years, occ. Service, R/o Arjun Nagar,
Amravati, Tq. And Dist. Amravati.

... PETITIONER

VERSUS

1. Commissiner, Health Services and
Mission Director, National Health
Mission (N.H.M.) Mumbai office at
3rd floor, Arogya Bhavan, St. George
Hospital Compound, P.d. Mellor
Road, Mumbai, Tq. And Dist.
Mumbai.
2. Join Director (Non-Technical)
National Health Mission, Office at 3rd
floor, Arogya Bhavan, St. George
Hospital Compound, P.D. Mello Road,
Mumbai, Tq. And Dist. Mumbai.
3. District Integrated Health and Family
Welfare Society, Amravati and
District Health Officer, Zilla Parishad,
Amravati, Office at. Health
Department, Zilla Parishad Camp,
Amravati, Tq. And Dist. Amravati.

... RESPONDENTS

Shri P.S. Patil, Advocate for the petitioner.
Mrs Khan, Assistant Government Pleader for the State.
Respondent no. 3 is served.

CORAM : VINAY JOSHI AND M.W. CHANDWANI, JJ.

DATED : 29.07.2024.

JUDGMENT : (Per : Vinay Joshi, J.)

Heard. **RULE.** Rule is made returnable forthwith.

2. The matter is taken up for final disposal by consent of the parties.

3. The petitioner was appointed on contract basis on the post of District Epidemiologist/ Health Specialist in the Health Department of Zilla Parishad, Amravati for the period of 11 months and the contract was executed to that effect. The petitioner was reappointed on said post for one year from 02.06.2022. In the meantime, additional charge of District Programme Manager has been assigned to the petitioner vide communication dated 28.07.2021.

4. The petitioner was served with show cause notice dated 03.03.2023 alleging misappropriation and certain malpractices in his duty. The petitioner has replied the same however it was followed by substantive allegations vide communication dated 31.10.2023. It has been alleged that the petitioner has not followed the Rules,

Regulations, due procedure was not followed while purchasing the sim cards. Inaction in time bound compliances, continuous absence, disobeying orders of superior and so on. The petitioner though replied however vide impugned order dated 04.12.2023, the petitioner has been terminated.

5. It is the contention of the petitioner that in show cause notice it has been stated that the Scheme was not approved however he has demonstrated that there was approval/sanction to the Scheme. It is the petitioner's contention that he was meritorious at his workplace as it was recognized by his superior. In the new recruitment process, he appeared and stood first, but due to termination, he was not employed again on contract basis.

6. The respondents have resisted the petition by filing affidavit in reply dated 24.06.2024. The respondent has produced guidelines set out by the Commissioner (Health Services) and Mission Director (National Health Mission), Mumbai for initiating disciplinary action. In addition to that, learned Assistant Government Pleader fairly conceded that the procedure contemplated under Clause 3(a) of the guidelines have not been followed. It is also conceded that personal hearing was not given, which the respondent would undertake.

7. We have gone through the disciplinary procedure/ guidelines, which are formulated for initiating action against contractual employees. Clause 3(a), in particular provides that the show cause notice has to be issued, followed by giving a personal hearing to the employee before taking any action. Admittedly, said course was not adopted. Several factual allegations have been raised, which needs to be addressed after giving opportunity to the petitioner. The matter requires reconsideration by following the procedure provided under the guidelines.

8. In view of the above, we hereby quash and set aside the impugned order dated 05.12.2023 issued by the respondent no. 2.

9. The petitioner is at liberty to file an additional reply to the respondent no.2 Joint Director (Non-Technical), National Health Mission, Mumbai, within two weeks. On receipt of the reply, the Authority shall fix a date of hearing within a week thereafter, and then take appropriate decision within two weeks thereafter.

10. We may clarify that in case, petitioner's termination is set aside, then it has no impact on his future appointment on contractual basis.

11. The petition stands disposed of in aforesaid terms. Rule is made absolute. No costs.

(M.W. CHANDWANI, J.)

(VINAY JOSHI, J.)

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