

(2014) 10 RAJ CK 0128
In the Rajasthan High Court
Case No : Civil Writ Petition No. 6919/2014

Maresh Purohit

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 01-10-2014

Acts Referred:

Citation : (2014) 10 RAJ CK 0128

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Advocate : Nupur Bhati, Advocate for the Appellant

Final Decision : Disposed Off

Judgement

Dr. Vineet Kothari, J.—Heard learned counsel for the petitioner.

2. The petitioners, who were working as "Multi Purpose Health Workers (Male) (MPW/s), under the National Health Mission funded by the Central Government, Ministry of Health and Family Welfare, Govt. of India, are aggrieved by the Office Memorandum issued by the said Department of the Central Government vide Annex. 8 dated 23.06.2014 by which the Central Government has stopped the funding of the engagement of the said MPW/s beyond 30.09.2014. The said order dated 23.06.2014 (Annex. 8) is quoted herein below for ready reference:-

"File No. 7 (35)/2014-NRHM-I

Government of India

Ministry of Health & Family Welfare

National Health Mission

(NRHM-1 division)

Nirman Bhawan, New Delhi

Dated: 23rd June, 2014

Office Memorandum

Subject: Support for continuation of contractual MPW (Male) engaged under NHM.

With reference to the subject above, I am hereby directed to convey that Secretary (Health & Family Welfare) has accorded approval for supporting the continuation of contractual Multi-Purpose Workers (MPWs)-Male who were in position under NRHM additionalities or under NVBDCP as on 01.01.2014, until 30.09.2014, subject to State's proposal. GoI shall not support engagement of MPWs (Male) beyond 30.09.2014.

State Governments shall create requisite number of positions of MPW (Male), if such services are required beyond 30.09.2014 and fill them on regular basis. Hence, proposal for continuation of contractual MPW (Male), if any received from States, may be treated accordingly.

This issues with the approval of competent authority.

Sd/-

(Capt. Kapil Chaudhary)

Deputy Secretary, NHM"

3. Dr. Nupur Bhati, learned counsel for the petitioners submits that this gives rise to a reasonable apprehension that the petitioners who are working as MPW(s), their contractual employment since 2008 will be discontinued, whereas the respondent State Government has notified in Annual Action Plan, 2014-15, showing as many as 873 vacancies of MPW (M) vide Serial No. 7 in the said report (Page 153 of the paper book). The present writ petition has been filed by the petitioner in this Court on 29.09.2014 with the following prayers:-

"It is, therefore, humbly and respectfully prayed that this writ petition of the petitioner may kindly be allowed:-

A. By an appropriate writ, any order or direction, terminating services of the petitioners and memorandum dated 23.06.2014 (Annex. 8) may kindly be quashed and set aside.

B. By an appropriate writ, order or direction, the respondents may kindly be directed to continue the petitioners on the post of "MPW-M" under NVBDC Programme of NRHM till the NRHM are in existence or regularly selected person is appointed.

C. By an appropriate writ, order or direction, the respondents may kindly be directed to conduct the regular recruitment for the post of Multi Purpose Health Worker Male.

D. By an appropriate writ, order or direction, the respondents may kindly be directed to give petitioners the training for the course of MPW.

E. Any other appropriate writ, order or direction which this Hon''ble Court may deem just and proper in the facts and circumstances of the case may kindly be passed in favour of the petitioner.

F. Writ petition filed by the petitioner may kindly be allowed with costs."

4. Upon the Court question, learned counsel for the petitioners submitted that although the petitioners filed representation to the State Government for their continued employment as MPW/s on contractual basis or against the regular vacancies since the nature of work which they are discharging, is perennial in nature and their continued employment is necessary for running various schemes even under the NRHM in the State of Rajasthan, for which they were employed on contract basis. However, no such copy of the representation in writing made to any authority of the State Government has been placed on record.

5. Having heard the learned counsel for the petitioners, this Court is of the opinion that the challenge laid to the Office Memorandum (Annex. 8) dated 23.06.2014 is without any merit, and it is for the concerned Department of the Central Government, namely, the Ministry of Health & Family Welfare, (National Health Mission) to decide in its own wisdom whether they would extend the financial sanction for employing the MPW(s) under the N.R.H.M. Scheme. By the aforesaid order dated 23.06.2014, the State Government has been allowed to create requisite number of positions of MPW(s), if such services are required beyond 30.09.2014 and fill them on regular basis. The proposal for continuation of contractual MPW(s) like the present petitioners, are directed to be not financed by the Central Government. In view of this situation, it is for the petitioners to approach the respondent State Government only to seek their continued employment, either on contractual basis or on regular basis, if regular vacancies of MPW/s exist with the State Government. No mandamus directions can be issued to the respondent State Government in this regard to continue the contractual employment of the present petitioners as MPW/s. The petitioners have not produced the copy of any such representation, if any, made to the authority concerned.

6. Accordingly, the present writ petition is disposed of with liberty and direction to the petitioners to approach the concerned authority of the State Government i.e. the Secretary of the Medical & Health Department, Govt. of Rajasthan, Jaipur, by way of suitable representation, and it is for the said authority to decide the representation of the petitioners after providing an opportunity of being heard to the petitioner, expeditiously. No costs. A copy of this order be sent to the concerned parties forthwith.