

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

COMMON ORDER IN O.A. NOS. 118, 119 AND 120 ALL OF 2017

01. ORIGINAL APPLICATION NO. 118 OF 2017

DISTRICT: - AHMEDNAGAR.

Manasi d/o Kamlakar Kulkarni,

Age: - 36 years, Occu.: - Service,

as Public Relation Officer

(Presently terminated)

R/o 9, Urban Bank Colony,

Near Hotel Premdan,

Savedi Road, Ahmednagar.

.. APPLICANT

V E R S U S

- 1] The State of Maharashtra,**
Through the Secretary,
Social Justice & Special Assistance
Department, Hutatma Chowk,
Madam Kama Road, Mantralaya,
Mumbai-32.
- 2] The Commissioner for Social Welfare,
Maharashtra State,**
Commissionerate of Social Welfare,
3, Church Road, Maharashtra State,
Pune-1.
- 3] The Regional Deputy Commissioner,**
Social Welfare Department,
Office of Deputy Commissioner and
Member, District Caste Certificate
Verification Committee,
Dr. Babasaheb Ambedkar Samajik
Nayabhavan, Khokadpura,
Aurangabad.
- 4] The Director General,**
Dr. Babasaheb Ambedkar Research
& Training Centre, Pune and Chief
Coordinator, District Verification
Scrutiny Committee,
Maharashtra State, 28,
Queens Garden, Near Old Circuit
House, Pune.

.. RESPONDENTS

W I T H
02. ORIGINAL APPLICATION NO. 119 OF 2017

DISTRICT: - LATUR.

Gajanan S/o Digambarrao Dhage,

Age: - 36 years, Occu.: - Service,

as Public Relation Officer

(Presently terminated)

R/o "Saroj Kunj", LIC Colony,

Khopegaon Road, Latur,

District Latur.

.. APPLICANT

V E R S U S

- 1] **The State of Maharashtra,**
Through the Secretary,
Social Justice & Special Assistance
Department, Hutatma Chowk,
Madam Kama Road, Mantralaya,
Mumbai-32.
- 2] **The Commissioner for Social Welfare,
Maharashtra State,**
Commissionerate of Social Welfare,
3, Church Road, Maharashtra State,
Pune-1.
- 3] **The Deputy Commissioner,**
Divisional Caste Verification
Scrutiny Committee No. 2,
Latur, Dist. Latur.
- 4] **The Director General,**
Dr. Babasaheb Ambedkar Research
& Training Centre, Pune and Chief
Coordinator, District Verification
Scrutiny Committee,
Maharashtra State, 28,
Queens Garden, Near Old Circuit
House, Pune.

.. RESPONDENTS

W I T H

03. ORIGINAL APPLICATION NO. 120 OF 2017**DISTRICT: - AURANGABAD.****Bhushan S/o Pandurang Chandile,**

Age: - 34 years, Occu.: - Service,

as Public Relation Officer

(Presently terminated)

R/o I-302, Gloria City,

Near Narsing Hostel,

Padegaon Road, Bhavsingpura,

Aurangabad.

.. APPLICANT

V E R S U S

- 1] The State of Maharashtra,**
Through the Secretary,
Social Justice & Special Assistance
Department, Hutatma Chowk,
Madam Kama Road, Mantralaya,
Mumbai-32.
- 2] The Commissioner for Social Welfare,
Maharashtra State,**
Commissionerate of Social Welfare,
3, Church Road, Maharashtra State,
Pune-1.
- 3] The Regional Deputy Commissioner,**
Social Welfare Department,
Office of Deputy Commissioner and
Member, District Caste Certificate
Verification Committee,
Dr. Babasaheb Ambedkar Samajik
Nayabhavan, Khokadpura,
Aurangabad.
- 4] The Director General,**
Dr. Babasaheb Ambedkar Research
& Training Centre, Pune and Chief
Coordinator, District Verification
Scrutiny Committee,
Maharashtra State, 28,
Queens Garden, Near Old Circuit
House, Pune.

.. RESPONDENTS

APPEARANCE : Shri S.D. Joshi, learned Advocate for the applicants in all the matters.
: Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents in all the matters.

CORAM : **J.D. KULKARNI, VICE CHAIRMAN**
AND
ATUL RAJ CHADHA, MEMBER (A)

DATE : **24th AUGUST, 2018**

J U D G E M E N T

(Per : J.D. KULKARNI, VICE CHAIRMAN)

1. Heard Shri S.D. Joshi, learned Advocate for the applicants in all the matters and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents in all the matters.
2. In all these Original Applications, the respective applicants claimed following reliefs :-

“8. *RELIEFS SOUGHT :-*

A) By issue of an appropriate order or direction, the order of termination dated 29.12.2016 passed by respondent No. 2 may kindly be quashed and set aside to the extent of applicant.

B) By issue of an appropriate order or direction, the respondents No. 1 to 4 may kindly be directed to absorb the applicant on the establishment of District Caste Verification Scrutiny Committee under respondent No. 2 of to any other office, department / post commensurate to the post of Public Relation Officer in the regular pay scale w.e.f. the date of his termination i.e. 31.12.2016.”

3. Learned Advocate for the applicants, during the course of the arguments, has submitted that the applicants are not claiming relief clause 8 (A) and, therefore, the applicants insisted for relief clause 8 (B) only, whereby they are requesting that the res. nos. 1 to 4 directed to absorb the applicants on the establishment of Dist. Caste Verification Scrutiny Committee under res. no. 2 or to any other office, department / post commensurate to the post of Public Relation Officer in the regular pay scale w.e.f. the date of their termination i.e. 31.12.2016.

4. According to the applicants, they responded to the advertisement issued by the res. nos. 1 & 2 in 2013 for appointment to the post of Public Relation Officer (for short P.R.O.). They participated in the recruitment process, undergone written and oral examinations and came to be selected and subsequently appointed on the post of Public Relation Officer. Considering the merits of the applicants, the applicant in O.A. no. 118/2017 - Smt. Mansi Kamlakar Kulkarni - was continued for further period of 11 months each vide orders dtd. 10.2.2015 & 18.1.2016, whereas in similar manner the applicant in O.A. no. 119/2017 - Shri Gajanan Digambarrao Dhage - was continued vide orders dtd. 1.1.2014 & 13.2.2015 and the applicant in O.A. no. 120/2017 - Shri Bhushan Pandurang Chandile - was also continued in similar fashion vide orders dtd. 5.2.2011, 27.3.2012,

28.1.2014, 11.2.2014, 26.12.2014 & 29.9.2015. Vide Government decision dtd. 26.2.2016, the pay in respect of the post of P.R.O. was revised from Rs. 15,000/- to 22,500/- per month.

5. On 1.6.2016, the res. no. 2 had taken a policy decision in view of its decision under Resolution dtd. 9.6.2014 & 2.3.2015 to constitute 36 posts of District Caste Scrutiny Committees. The said decision led to review the staffing pattern in operation and it was resolved to abolish 17 posts including the post of P.R.O. at the same time, 115 new posts were directed to be created and, therefore, 11 posts of P.R.Os. were abolished. Vide letter dtd. 5.7.2016 the res. no. 1 apprise the office of res. no. 2 that the post of P.R.Os. were abolished and, therefore, incumbents working on the post of P.R.Os. were to be absorbed on other equivalent posts. In view of the said communication the services of the applicants came to be terminated on 29.12.2016.

6. The Government absorbed 7 employees only and other 4 incumbents including the present applicants were terminated and, therefore, the applicants have filed these O.As., whereby they initially challenge the termination orders. As already stated, the said relief has already been given up by the applicants and now they are only claiming that they shall be absorbed.

7. The res. no. 4 i.e. the Director General, Dr. Babasaheb Ambedkar Research & Training Institute, (herein referred as BARTI), Pune has filed affidavit in reply and justified the termination of the applicants. Almost all the facts have been admitted. It is submitted that there was no post of P.R.O. or equivalent posts having same honorarium existing either in the District Caste Certificate Verification Committees or in the office of BARTI and, therefore, it was not possible to absorb the applicants. It is further stated that as per letter dtd. 11.2.2017, the res. no. 2 informed all the Deputy Commissioners & Members of District Caste Certificate Verification Committees to outsource the applicants through private company like Brisk Facilities, in case required for the work of Manager or Assistant Research Officer on contract basis by paying honorarium of Rs. 17,300/- per month. However, none of the applicants were willing to join such post. It is further stated that the respondents are not bound to absorb the applicants but only on humanitarian ground, the res. no. 2 asked for willingness of the applicants for appointment. Applicants are not willing to be absorbed through BARTI moreover through outsourcing agency. At present no post is available with Caste Certificate Scrutiny Committee commensurate to the post of P.R.O.

8. The res. nos. 1 to 3 have also filed affidavit in reply and justified the termination of the applicants.

9. We have perused individual orders of appointment of the respective applicants. It seems from the said orders that the applicants were appointed on contract basis on honorarium of Rs. 15,000/- per month, which was admittedly raised to Rs. 22,500/- per month subsequently. It is no doubt true that almost all the applicants were initially appointed for 11 months only and were purely on temporary and on contract basis and were liable to be terminated at any time. In the circumstances, the applicants have no case for continuation to their service and even they are not claiming continuation. The termination orders were earlier challenged by the respective applicants, but the said challenge has been withdrawn and, therefore, only prayer to be considered is whether the applicants are entitled to claim directions to the res. nos. 1 to 4 to absorb them on the establishment of District Caste Certificate Verification Scrutiny Committee or any office of res. no. 2 on a suitable post.

10. There is nothing on record to show that the respondents ever promised to absorb the applicants on any post. There is nothing on record to show that the applicants, in any manner, got vested right on any post. On the contrary, the post to which they were

appointed were on contractual basis. Applicants have not challenged the policy decision of the Government, whereby the posts became surplus and, therefore, in such circumstances, there is no need to consider the illegality of the policy decision of the Government and even otherwise also, the Tribunal is not expected to enter into the validity of policy decision taken by the State Government.

11. From the record, it seems that the applicants were given an opportunity whereby it was decided to absorb them on humanitarian ground through private outsourcing agency, but they did not show their willingness.

12. Learned P.O. has placed on record the copies of communications dtd. 23.8.2018 & 21.8.2018, which are taken on record and marked as documents 'X1 & X-2' for the purpose of identification. From these communications, it seems that, some of the applicants like Smt. Mansi Kamlakar Kulkarni, Shri Gajanan Digambarrao Dhage & Shri Bhushan Pandurang Chandile have even accepted the appointment on contract basis and they are already appointed on contract basis at the time of filing of O.As. before this Tribunal. This fact, however, has not been disclosed by the said applicants before the Tribunal for the best reasons known to them. Learned Advocate for the applicants also placed

on record communication dtd. 18.8.2018, which is taken on record and marked as document 'X-3' for the purpose of identification. It seems from the said document that the appointment through private outsourcing has been stopped. However, this document is not relevant to decide the present controversy.

13. Considering all the above circumstances, we are satisfied that the applicants were appointed to their respective posts of P.R.O. purely on contract basis for a particular period and their services were liable to be terminated at any time. Since the posts became surplus, the same were abolished and as per the policy decision taken by the Government the services of the applicants have been terminated through respective termination orders. The said termination orders, though, initially were challenged, the applicants have relinquished the said relief subsequently. Applicants have not placed on record any document to show that the respondents had ever taken responsibility to continue them or to absorb them on any other post and, therefore, no right has been created against the respondents to absorb the applicants in service. We, therefore, do not find any merit in the O.As. Hence, the following order :-

ORDER

Original Application Nos. 118, 119 & 120 of 2017 stand dismissed with no order as to costs.

(ATUL RAJ CHADHA)
MEMBER (A)

(J.D. KULKARNI)
VICE CHAIRMAN

Place : Aurangabad

Date : 24th August, 2018

ARJ O.A.NOS.118, 119 AND 120 ALL OF 2017 (D.B.) (TERMINATION) JDK