

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**

**NAGPUR BENCH NAGPUR**

**M.C.A. NO. 36/2013 IN M.C.A. NO. 37/2013 IN**

**ORIGINAL APPLICATION NO. 732/1996**

Gopal Aditya Dharami,  
Aged about 30 years.

2. Ravindra Janardhan Sidam  
(expired), aged about 28 years,
3. Tukaram Ramaji Gadapayale,  
Aged about 27 years,
4. Bhagwan Somaji Kouap,  
Aged about 28 years,
5. Uddav Ramdas Ramteke,  
Aged about 20 years,
6. Raghunath Dinna Madavi,  
Aged about 36 years,
7. Smt. Indira Kawadu Nagapure,  
Aged about 28 years,
8. Dilip Krishna Kumre,  
Aged about 30 years,
9. Keshav Isuji Chapale (expired)  
Aged about 30 years,

All resident of C/o, The Secretary,  
Vidarbha Laghuvetan Sarkari  
Karmachari Sangh, District Branch,  
Gadchiroli, at, post, Tah. & Dist.  
Gadchiroli.

.....**Applicants.**

**Versus**

- 1) The State of Maharashtra,  
Department of Revenue,  
Mantralaya, Mumbai-32,  
by its Secretary.
- 2) The Collector,  
Gadchiroli District- Gadchiroli.
- 3) Chandrakant Adjuji Bambode,  
Collectorate, Gadchiroli (deleted).
- 4) Maroti Raoji Gedam,  
R/o Bhimpur, Tahsil Alapalli,  
District Gadchiroli.
- 5) Ku. Rasika Kashinath Undirwade,  
Resident of Collectorate, Gadchiroli,  
District Gadchiroli (deleted).
- 6) Ku. Shobha Ramaji Bhaisare,  
R/o Gagaon, Post Gagaon, Tah.  
Gadchiroli, Dist. Gadchiroli (deleted).
- 7) Sudhakar M. Deshmukh,  
Tahsil Office Mulchera,  
Dist. Gadchiroli.
- 8) Sharad M. Surpam,  
R/o Arsoda, Tahsil Armori,  
Dist. Gadchiroli.
- 9) Ku. Sunita Govinda Dhurve,  
R/o Wadsa Desaiganj,  
Dist. Gadchiroli.
- 10) Ku. Saraswati Sapa Mallayya,  
R/o Shironcha, Dist. Gadchiroli.
- 11) Ku. Dana Dewaji Walde,  
Safai Kamgar Zilla Karyalaya,  
Gadchiroli, Dist. Gadchiroli (deleted).

- 12) Smt. Lilabai Balu Thamam,  
Resident of Dadapur, Tah.  
Kurkheda, Dist. Gadchiroli (deleted).
- 13) Bhaskar Hansraj Dongre,  
Chandaltola, Post Bodli,  
Tq. Distt. Gadchiroli.
- 14) Mukru Manohar Karemore,  
C/o Mukesh Pan Center, Gandhi  
Ward No. 4, Near Ambika Cut piece,  
Distt. Gadchiroli (deleted).
- 15) Surendrakumar Adityakumar  
Thakur, Soman Guard House,  
Gokulnagar, Distt. Gadchiroli.
- 16) Jagdeo Dokaji Nardelwar,  
At Dongargaon, Post- Thanegaon,  
Tq. Armori, Distt. Gadchiroli.
- 17) Satyanarayan Nanaji Embadwar,  
Aged Tharari, Post Asti, Tq.  
Chamorshi, Distt. Gadchiroli.
- 18) Damant Patruji Bhaisare,  
Post Sakhara, Tq. Distt. Gadchiroli.
- 19) Ganpat Jasuji Choudhari,  
At Gurnoli, Post Gewardha,  
Tq. Kurkheda, Distt. Gadchiroli (deleted).
- 20) Rajendra Bijulal Malvi,  
C/o Tahsil Karyalaya Aheri,  
Distt. Gadchiroli (deleted).
- 21) Sumanbai Gowardhan,  
Gokulnagar, Tq. Distt. Gadchiroli.
- 22) Gayabai Bhoyar,  
At Diwar Mohalla, Gadchiroli.
- 23) Wachhlabai Barshinghe,  
At Fule Ward, Gadchiroli.

- 24) Sadhana Dholne,  
At Gokulnagar, Gadchiroli.
- 25) Vandana Gedam,  
At Fule Ward, Gadchiroli.
- 26) Bhandekar Sheop,  
Tahsil Karyalaya, Sheroncha,  
Gadchiroli.
- 27) G.N.Naktode,  
Post Peon, Tahsil office Desaiganj,  
District Gadchiroli (deleted).
- 28) B.K.Mohurle,  
Post Peon, Tahsil office Kurkheda,  
District Gadchiroli (deleted).
- 29) R.V.Sontake,  
Post Peon, Tahsil office Attapalli,  
District Gadchiroli.
- 30) M.V.Sahare,  
Post Peon, Tahsil office Sironcha,  
District Gadchiroli.
- 31) T.M.Meshram,  
Post Peon, Tahsil office Sironcha,  
District Gadchiroli.
- 32) A.G.Tupe,  
Post Peon, Tahsil office Dhanora,  
District Gadchiroli.

**Respondents**

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**Shri D.B.Walthare, Advocate for the applicant.**

**Smt. H.K.Pande, P.O. for the respondents no. 1 & 2.**

**None for remaining respondents.**

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**Coram :- Hon'ble Shri J.D.Kulkarni,  
Vice Chairman (J).**

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**JUDGMENT**  
**(Delivered on this 05<sup>th</sup> Day of May 2017)**

Heard Shri D.B.Walthare, Id. counsel for the applicant and Shri H.K.Pande, Id. P.O. for Respondents no. 1 & 2. None for remaining respondents.

2. Vide order dated 17 March, 2017 this Tribunal observed that M.C.A.36/2013 and 37/2013 as well as O.A.732/1996 shall be kept for final hearing on merits as the respective counsels for the parties have showed their willingness to argue the matter on merits. The O.A. No. 732/1996 has been filed by the applicants whereby they are claiming that the order dated 31/10/1996, whereby their services have been terminated, be quashed and set aside and it be held that the appointments of seven persons i.e. Respondents No. 3 to 9 are *ipso facto* illegal and similarly the Respondent No. 10 to 12 who are appointed temporarily on regular basis in supersession of the rightful claim of the applicant, be quashed and set aside.

3. In the O.A. it is stated that the applicants have been appointed in the Class-IV posts as their names were sponsored by Employment Exchange. The applicants were called for interview and then were medically examined. Their names appeared in the order dated 03/08/1994 at Sr. No. (4, 7, 8, 10, 14, 15, 16, 17 and 18) respectively. They came to be appointed for six months, but thereafter their services were discontinued vide order dated 01/02/1995. Thereafter the Respondent no. 2, vide order dated 04/02/1995 appointed the applicants on Class-IV posts on temporary basis till further orders and the applicants will be posted against the vacant posts. Eighteen posts of Class-IV posts were available. However, vide order dated 28/02/1995 the services of the applicants were discontinued.

4. Again vide order dated 02/03/1996 the services of the applicants were taken back by Respondent no. 2 on temporary basis, but vide order dated 31/10/1996 their services were again terminated. However, the Respondent no. 2 appointed seven persons in Class-IV posts. None of these seven persons were earlier appointed/ recruited. According to the applicant, the appointment order of private Respondents and termination order of the applicant dated 31/10/1996, is illegal and required to be quashed and set aside.

5. The Respondent no. 2 resisted the claim by submitting that as per the direction of the Election Commission of India, the Chief Election Officers, Maharashtra State, Mumbai dated 18/07/1994, thirteen temporary posts of peon were created under the relevant province of Election Commission. The process was urgent and important and, therefore, the experienced regular peons were diverted for said purposes, vide order dated 27/07/1994. Five vacancies again arose and therefore total eighteen posts of peon were required to be filled in and therefore the said eighteen persons were appointed as peon for a period of six months only as per the order dated 03/08/1994 and all of them were terminated after six months w.e.f. 02/02/1995. Thereafter vide order dated 04/02/1995, eighteen candidates were again reappointed and after expiry of the period, for which they were appointed, twelve candidates were terminated vide order dated 28/02/1995 and six candidates were absorbed on permanent basis.

6. As per the Government Resolutions dated 04/03/1996 and 01/07/1996, some temporary posts were created for the purpose of issuing Identity Cards upto 31/10/1996. Out of twelve candidates, ten were retrenched but again they were reappointed for election purposes, vide order dated 02/03/1996 and thereafter they were

terminated w.e.f. 31/10/1996. The applicants didn't get any right to be continued and therefore there is no merits in the O.A.

7. The O.A. No. 732/1996 came up for hearing on 14/12/2007 but it was dismissed in default, since nobody appeared for the applicants. The applicants have, therefore, filed O.A.37/2013 for restoration of the O.A.

8. The application for restoration could not be filed within limitation and therefore along with the application for restoration, the applicants have filed O.A. No. 36/2013 which is for condonation of delay in filing application for restoration. It is stated that there is a delay of five years and ten months in filing the application for restoration. It is because the applicants contacted their Advocates on 30/09/2013 and at that time they came to know that the O.A. was dismissed on 14/12/2007. It is stated that the delay was due to negligence on the part of the Advocate.

9. A detailed order was passed on 17/03/2017 from which it is clear that the learned counsel for the applicant as well as Respondents have agreed to dispose of, of the application on the merits at one and the same time.



10. The applicants had filed the copy of the complaint which they have forwarded to the Secretary of the Bar Council of the Maharashtra and Goa. The copy of the said complaint is placed on record as per paper book, page number 13 to 16 (both inclusive). From the said complaint, it seems that after the application was dismissed, in default on 14/12/2007, the applicants approached their Advocate Manoj Pillai, but Advocate Manoj Pillai avoided to take steps. He prepared the application for condonation of delay of restoration on 09/04/2013. But, he claimed Rs. 5000/-, though the fees was already paid to him and therefore there was delay. It is material to note that there is no date on the copy of the complaint filed before the Bar Council. However the same has been affirmed before Notary on 09/10/2014 and therefore it can be said that some complaints were filed against the Advocate. Considering these aspects, the application for restoration and the application for condonation of delay are allowed.

11. So far as merits of the case is concerned, the applicants are claiming that their services cannot be terminated and in their place private respondents cannot be appointed. The impugned order

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vide which their services of the applicants are terminated, is dated 31/10/1996.

12. The applicants have placed on record their appointment orders as well as termination orders as also the appointment order of the private Respondents. Perusal of one of such order of appointment in respect of applicant which is at paper book, page number 27 to 30 shows that the applicants were appointed temporarily. The conditions of the appointment order clearly shows that the applicants can be terminated at any time without issuing any notice.

13. The termination order is placed on record at Paper book, page number 37 and 38 it is dated 31/10/1996. The very beginning para of the order shows that the applicants were appointed temporarily only for the purposes of distribution of Identity Card to the Voters and since the said work was over, they were terminated. The relevant order reads as under :-

आदेश:-

‘मतदारांना ओळखपत्रे वाटपासाठी मंजूर करण्यात आलेली शिपायाची पदे दि.३१.१०.१६ पासून कमी झाल्यामुळे खालील शिपायांना या आदेशान्वये दिनांक ३१.१०.१६ चे मध्यान्हानंतर पासून सेवेतून कमी करण्यात येत आहे.’

14. The applicants could not place on record any documentary evidence to show that they have any right to claim the appointment. From the records, it seems that the applicants were appointed for a particular purpose i.e. for distributing Identity Cards to the Voters and since that work was over, their services came to be terminated. The appointment order clearly shows that the purpose for the appointment was temporary and it created no legal right to the applicant to claim continuation. I therefore do not find any merits in the O.A. In view thereof, the following order is passed:-

**ORDER:-**

M.C.A. No.36/2013 in M.C.A. No.37/2013 are allowed and O.A.732/1996 stands dismissed with no order as to costs.

**(J.D.Kulkarni)**  
**Vice Chairman**

aps.