

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI

ORIGINAL APPLICATION NO.242 OF 2015

DISTRICT : PUNE

1. Shri Vinayak Digambar Kulkarni,)
Aged 52 Yrs, Occ. Talathi,)
Saza- Varkute [Bk],)
Tal. Indapur, Dist. Pune,)
R/O. A/P. Sonai Nagar,)
Tal. Indapur, Dist. Pune.)
2. Shri Laxman Yadavrao Salunke,)
Aged 53 Yrs, Occ. Talathi,)
Saza- Late, Tal. Baramati,)
Dist. Pune,)
R/O. Shriramnagar, Baramati,)
Morgaon Road, Pune.)
3. Shri Rajkumar Shivram Pawar,)
Aged 51 Yrs, Occ. Talathi,)
Saza- Jalochi,)
Tal. Baramati, Dist. Pune,)
R/O. Patas Road, Baramati,)
Dist. Pune.)
4. Shri Manikrao Shivaji More,)
Aged 59 Yrs, Occ. Nil)
[Retd. as Talathi],)
Saza- Baramati,)
Tal. Baramati, Dist. Pune.)

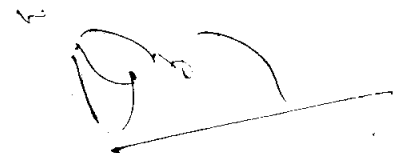
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- R/O. Chandra Vijay Housing)
Society, A/P. Baramati,)
Dist. Pune.)
5. Shri Sampat Shrirang Gaikwad,)
Aged 54 Yrs, Occ. Talathi,)
Tehsil Office Baramati,)
Dist. Pune, R/O. A/P. Dalaj,)
Tal. Indapur, Dist. Pune.)
6. Shri Shivaji Baburao Jagtap,)
Aged 56 Yrs, Occ. Talathi,)
Saza- Kalashi,)
Tal. Indapur, Dist. Pune,)
R/O. A/P. Dalaj, Tal. Indapur,)
Dist. Pune.)
7. Shri Sadashiv Sarjerao Kale,)
Aged 55 Yrs, Occ. Circle)
Officer – Loni Devkar,)
Tal. Indapur, Dist. Pune,)
R/O. A/P. Agoti No.2,)
Tal. Indapur, Dist. Pune.)
8. Shri Bharat Narayan Palase,)
Aged 57 Yrs, Occ. Talathi,)
Saza- Vadgeon- Nimbalkar,)
Tal. Baramati, Dist. Pune,)
R/O. Khandoba Nagar,)
Morgaon Road, Dist. Pune.)
9. Shri Kundlik Laxman Jadhav,)
Aged 63 Yrs, Occ. Nil)
[Retd. as Awal Karkoon])
Office of Tahasildar,)



- Indapur.)
 R/O. Kasaba Baramati,)
 Old Morgaon Road, Baramati,)
 Dist. Pune.)
10. Shri Tukaram Nemachand)
 Chavare, Aged 60 Yrs,)
 Occ. Nil [Retd. as Circle)
 Officer, Sansar,)
 Tal. Indapur, Dist. Pune.)
11. Smt. Anjana Laxman Bandgar,)
 Widow of deceased Laxman)
 Harischandra Bandgar,)
 Aged 52 Yrs, Occ. Talathi,)
 Saza-Ravangaon,)
 Tal. Daund, Dist. Pune,)
 R/O. A/P. Kumbhargaon,)
 Tal. Indapur, Dist. Pune.)
12. Shri Shaikh Iqbal Abdul Ajij,)
 Aged 54 Yrs, Occ. Talathi,)
 Saza- Sangaon,)
 Tal. Baramati, Dist. Pune,)
 R/O. Chandannagar,)
 Post Malegaon Bk,)
 Tal. Baramati, Dist. Pune.)
- Address for Service of Notice:)
- Shri Arvind V. Bandiwadekar,)
 Advocates, Having Office at 9,)
 "Ram-Kripa", Lt. Dilip Gupte Marg,)
 Mahim, Mumbai - 400 016.)... **Applicants**

Versus



1. The Sub Divisional Officer,)
Baramati Sub Division,)
Baramati, Dist. Pune.)
2. The District Collector,)
Pune, Having Office at Pune.)
3. The State of Maharashtra,)
Through Principal Secretary)
[Revenue],)
Revenue & Forest Department,)
Having Office at Mantralaya,)
Mumbai - 400 032.)
4. The State of Maharashtra)
Through Principal Secretary)
General Administration)
Department, Having Office at)
Mantralaya, Mumbai - 32.)...**Respondents**

Shri A.V. Bandiwadekar, Advocate for Applicants.

Shri A.J. Chougule, Presenting Officer for Respondents.

CORAM : RAJIV AGARWAL (VICE-CHAIRMAN)
R.B. MALIK (MEMBER-JUDICIAL)

DATE : 18.07.2016

PER : R.B. MALIK (MEMBER-JUDICIAL)



JUDGMENT

1. The 12 Applicants in this Original Application (OA) in effect seek regularization in the post of Talathi from their initial date of appointments as set out in what is Exh. 'A' to this OA (Page 27 of the paper book).
2. The 1st Respondent is the Sub Divisional Officer, Baramati Sub Division, Baramati while the 2nd Respondent is the District Collector, Pune, the 3rd Respondent is the State of Maharashtra in the Department of Revenue and the 4th Respondent is the State of Maharashtra as stated in the cause title through Principal Secretary.
3. We have perused the record and proceedings and heard Shri A.V. Bandiwadekar, the learned Advocate for the Applicants and Shri A.J. Chougule, the learned Presenting Officer for the Respondents.
4. The Applicants came to be appointed by the 1st Respondent on various dates during 22nd December, 1983 and 28th June, 1985. One Shri Laxman H. Bandgar whose widow is the 11th Applicant unfortunately died, but he too apparently was appointed by 1st Respondent SDD, Baramati during the period above referred to. The 11th

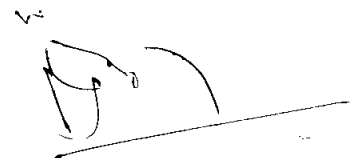


Applicant represents his estate especially with regard to the claim for family pension, etc. The reference to the said deceased would be through the 11th Applicant. The Applicants were born on various dates during 1.6.1951 and 2.6.1963. They belong to Maratha (6 Applicants), Muslim, Sonar, Mali, Brahmin and Dhangar community. The Applicants other than Marathas are one each in their respective caste/category. All the Applicants cleared their SSD examination during September/October, 1984 to September/October, 1986 which was more or less inside two years or thereabout after their appointments. All of them cleared Revenue Qualifying Examination (RQE) or were exempted therefrom and broadly speaking, this took place during July, 1996 and 2007. The 4 Applicants have got the qualification of SSC, 2 have studied in under graduation upto 1st year (FY) and all the remaining Applicants are either Arts or Commerce Graduates. Therefore, at this stage itself, it can safely be mentioned that on the anvil of qualification, the Applicants come true to the test. Applicants 5 and 7 got Assured Career Progression Scheme benefit (after 24 years) but somehow, they did not get Time Bound Promotion after 12 years. All the other Applicants got neither of the two. Applicants 4, 9 and 10 retired on 31.7.2014, 31.5.2009 and 31.5.2012 respectively. The Applicants 9 & 10 are in fact the



beneficiaries of pension also. But the Applicant No.4 has not got the said benefit so far. Applicants 9,7 & 10 got the promotions also as Circle Officers while others were not promoted. These details are to be found from what is Exh. 'A-1' referred to hereinabove at Page 27 of the paper book. In the body of the OA also, these averments are made. Except for one Applicant who was from the category of what is called, 'strike recruit', all the others were from the category of Project Affected Persons (PAP).

5. The Affidavit-in-reply has been filed on behalf of Respondents 1 to 3. As a matter of fact, almost all the statement of facts in the OA which have been summarized hereinabove are practically admitted though with hesitation underlying the denial of the case, based on the plea that the Selection Committees were in the manner of speaking abolished then, and the Respondent No.1 (then incumbent) made these recruitments. That was outside his powers and in fact, there are averments to the effect that he was proceeded against for that particular act. However, despite all our efforts, we have not been able to find any material at all as to the nature of the accusations against him, the nature of the enquiry itself and its outcome. At this stage, it will be most appropriate to refer to a few orders made in this OA earlier. On 7.7.2015, the




Bench of the Hon'ble Chairman inter-alia granted time to the P.O. to make a statement as when the entire issue would be finally concluded. By an order dated 14.12.2015 made by one of us (R.B. Malik, Member (Judicial)), it would appear that time was being sought repeatedly to solve the case of all the similarly placed persons. It was observed in that order that these 12 Applicants should not be made to wait endlessly. On 5.1.2016, the same Bench clarified that under some pretext, the further progress of the matter of the Applicants should not be held up. Quite pertinently, the perusal of the order of 12.1.2016 would show that the cases of a large number of employees seeking regularization were pending, but then the case of the Applicants might have to be considered in what can be described as, "independent basis". The learned P.O. sought three months' time to take a final decision in respect of the present Applicants. It was made specifically clear that the process might continue because it was always better to have solution which would sub-serve the interest of all concerned, but in any case, the progress of this OA should not be held up indefinitely and directions were given that Affidavit-in-reply should be filed. By an order of 12th April, 2016, this very Bench recorded inter-alia its disapproval at the manner in which the State went about complying with our orders. We noted that we had



directed that even as efforts might continue to settle the matters of all similarly placed employees, but the compliance in the present case must be made. It was made clear that the said compliance must be made by 28th June, 2016 and if the compliance was not made, then without any further directions or orders, the OA would be heard finally on 30.6.2016. The OA was actually heard and is being disposed of.

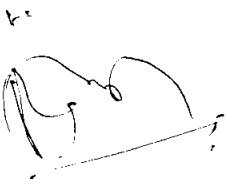
6. What quite clearly emerges from the above discussion is that it is not as if there are just 12 Talathis seeking regularization. In fact, these 12 have moved this Tribunal with this OA and in fact, there are several others like them for which the Government wanted to take probably one time final decision. That they have not been able to do so is a different matter, but the fact remains that a large number of similarly placed employees await their fate in the career and the significance thereof lies in the fact that it is not as if a few favoured people were just picked up from nowhere and appointed by the then incumbent of Respondent No.1. There were several others who came to be appointed, and therefore, the vice attached of what has come to be known as, 'backdoor entrants' could not have attached to the Applicants and others of their ilk. What really seems to have happened was that the

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problems of PAP and certain other categories in so far as their claim for appointment as Talathis was pressing and SDOs were given the authority to appoint by virtue of some provisions in the Maharashtra Land Revenue Code. There are several intra-departmental communications whereby it appears that even the Collector made request to the Government to regularize the services of Talathis like the present Applicants.

7. It is, therefore, quite clear that an extremely large number of Talathis came to be appointed without the intervention of Selection Committee by the SDOs and it could not be said that a determinate number of persons for extraneous considerations were sought to be appointed. In fact, the contemporaneous events were such that this mode of functioning by way of convention or practice at least at that point in time became more or less established for, why else, even the Collector would request the Government to regularize them and in fact, it was still quite late in the day that even the Government was so minded as to favourably consider the case of the Talathis like the present Applicants.

8. A G.R. came to be issued on 18.6.1983 regarding the disbanding of Regional and Special Selection Boards.



In Para 4(3) (in Marathi), it was provided *inter-alia* that after they were disbanded and till such time as their successor Committees were established, the appointments made in the interregnum would be treated as temporary and persons so appointed by them could be considered for appointment in regular manner after the Committees came into existence. Therefore, at the highest that could be said is that the appointments of the Applicants and those not before this Tribunal, but similarly placed would have to be treated as temporary appointments or ad-hoc or by whatever name one calls them. This G.R. was apparently issued in pursuance to an Ordinance being "Maharashtra Ordinance No.XIV of 1983".

9. The above discussion must make it very clear that the only, "defect" that could possibly have been said to have affected the case of the Applicants was that they came to be appointed by the SDO, but even that was not a defect in that sense, taking into consideration the contemporaneous events such as they were, and therefore, there could be no difficulty in our view in concluding that this particular instance was not of backdoor entry. The post was of Talathi, which without meaning any disrespect, was not such a high post. The source was affected people in one or the other way which in this particular matter was



from Project Affected category and one had equity heavily in his favour because he apparently worked during strike. It bears repetition that a large number of similarly placed persons came to be appointed and all of them await the final decision of the Government in their cases. That being the state of affairs, on facts, we do not think that there was any vice of the backdoor entry or any other such vice. As for rest, the Applicants were treated like any other Government employee. Their pay structure was a definitive one. Some of them were promoted. The fact of actual promotion to an individual is not that material. The fact is that a group of such people could be promoted and 3 of them were actually promoted. Similarly, the crux of the matter is their entitlement to Time Bound Promotion and ACP and not actual benefits being given to them. But still 3 of them did actually get that benefit. There is no challenge to the averment that the Applicants were being transferred on administrative exigencies. Therefore, these Applicants were just like any other Government servant and there is no reason why despite the initial hitch which is not so profound anyway, they should not be regularized. The Respondents despite having shown not much hostility to the cause of the Applicants and several others who are not before us initially still heavily relied upon the judgment of the Hon'ble Supreme Court in A. Umarani Vs.



Registrar, Cooperative Societies & Ors. (2004) 7 SCC 112 and **The State of Karnataka and others Vs. Umadevi and others, AIR 2006 SC 1806.** Now, it is very clear that on facts, we have already noted that the Applicants have been treated as any other Government employee and their appointments cannot be considered to be that of backdoor entrants. We shall presently elaborate on this aspect of the matter and by referring to another judgment of the Hon'ble Supreme Court in **State of Karnataka and others Vs. M.L. Kesari and others (2010) 9 SCC 247** wherein **Umadevi's** case was considered, it would be possible to say that application of law laid down in **Umadevi's** case would not in these facts go against the Applicants.

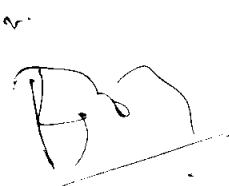
10. The issue like the present one fell for the consideration of this very Bench in **OA 1136/2012 (Smt. Ratna S. Thakurdesai & 17 others Vs. The State of Maharashtra and one another, 22.1.2016** and in **OA 308/2012 (Shri Sunil S. Padave Vs. The Commissioner, State Intelligence Department, 22.6.2015)** which was confirmed by the Hon'ble High Court in **Writ Petition No.163/2016 (The Commissioner, State Intelligence Department Vs. Sunil S. Padave, 2.3.2016)**. We may have to read these two judgments somewhat closely so as



to be able to explain the rationale of the conclusions that we seek to draw herein.

11. In **Thakurdesai's** case, the judgment commenced straightaway by referring to a judgment of the Nagpur Bench of the Hon'ble Bombay High Court in **Writ Petition No.2046/2010 (Sachin A. Dewale and 90 others Vs. State of Maharashtra and one another, dated 19.10.2013)** which was confirmed by the Hon'ble Supreme Court in **Special Leave to Appeal (C) No.39014/2013 (State of Maharashtra and another Vs. Sachin A Dawale, dated 6.1.2015)**. The Applicants in **Thakurdesai's** case were the Junior Clerks seeking permanency a'la the present Applicants. In so far as their precise place of posting in the Lottery Department is concerned, that may not be highly relevant for our present purpose because after-all, it is the principle that is relevant. But the initial nature of their appointments were also not exactly regular as it were, and it was contract appointments.

12. In Para 19 thereof, we recapitulated the facts therein which coincidentally would be relevant here also, and therefore, we may quote it verbatim.



“19. In the above set of facts and circumstances even if there may be a little repetition but a concised recapitulation will be perfectly in order. A few deductions need to be noted, as under :

- (a) The posts were duly and legally created as per rules as evidenced inter-alia by the G.R.s etc.
- (b) The appointments to those permanent posts may have been on contract basis but the posts were permanent in the sense that term is understood in this field of Law.
- (c) Though the appointments were not made through M.P.S.C. but the process adopted was remarkable for its openness, exactitude and fairness and objectivity.
- (d) The nature of appointments was dictated basically by the peculiar nature of the scheme of lottery.
- (e) The temporary nature of appointment was attributable to (d) above and there was no extraneous or dishonourable or questionable motive either to gain dishonestly or cause loss in an improper or culpable manner.

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(f) There was no adhocism or discriminatory conduct nor was there any other vitiating vice affecting the process of examination.

(g) The Applicants were not backdoor entrants.”

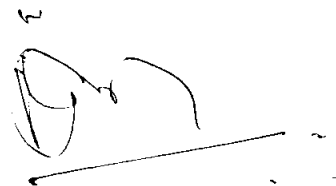
13. In **Sachin Dawale's** case, the Petitioners were Lecturers in different Polytechnic Colleges in our State. They had rendered services for the period from 3 to 10 years. Their appointment was not permanent and they had been longing for achieving permanency of job. There also, the Directorate of Technical Education was in the manner of speaking favourably disposed towards their claim of permanency. It was noted by us in **Thakurdesai's** case in Para 26 that in **Sachin's** case, it was held that an appointment of a person on contract basis for an uninterrupted period of 10 years, which incidentally here is a lot more would amount to exploitation. In Para 27 of **Thakurdesai's** case, it was noted by taking guidance from **Sachin's** case that in the circumstances like the present one, the employee had no option but to take whatever is dished out to them by the employers.

14. Before we proceed further, it needs to be mentioned that in the present OA, it is nobody's case that regardless of the manner of their initial appointments, the



posts that the Applicants were appointed to, were not permanent. In other words, they may have been temporary or whatever, but they came to be appointed to the posts which were permanent. In Para 29 of **Thakurdesai's** case needs to be reproduced.

“29. Thereafter, in **Sachin** (supra), Their Lordships discussed **Umadevi's** case. In Para 16, Their Lordships in **Sachin** (supra) were pleased to hold that the Rule of **Umadevi** would not be applicable to those facts in as much as the Petitioners were working on duly sanctioned posts. Now, here in this OA as well, as already discussed in extenso by a legitimately known process, posts were created and there was nothing even irregular much less illegal in that behalf. Their Lordships were pleased to refer to the fact that in **Sachin** (supra), a regular Selection Committee was constituted for selection which is exactly the case in this OA as well. Further, it was found by Their Lordships that though the appointment was for fixed term, but the same continued. The same is the state of affairs here also and in the context of these facts, the break as it is called would cause no ultimate



difference to the outcome. In Para 17 of Sachin (supra), Their Lordships were pleased to read the observations of the Hon'ble Supreme Court in Umadevi (supra) to highlight as to how in Umadevi, the appointments were what can be called, "through backdoor". Another judgment of the Hon'ble Supreme Court which was considered in Umadevi's case was referred to in **Sachin's** case and the facts and legal principles were crystallized in Paras 18 and 19 of **Sachin's** case (supra)."

It was noted in **Thakurdesai's** case in Para 33 that post **Sachin**, other Benches of the Hon'ble Bombay High Court and also of this Tribunal followed the same principles. The observations in Para 34 of **Thakurdesai's** case are fully applicable hereto and we would, therefore, quote the same as well.

"34. It is, therefore, very clear that to the present facts, the Rules of **Sachin** (supra) and **M.L. Kesari** (supra) are squarely applicable. The law laid down by the Hon'ble Supreme Court in **Umadevi's** case when applied hereto in the context of the above discussion, would lead us to

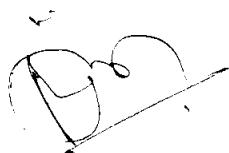


uphold the case of the Applicants. We have discussed this aspect of the matter in extenso hereinabove to which a reference can usefully be made. The interpretation of **Umadevi** by **Sachin Dawale** will have to be applied vide **P.H. Advani Vs. Harpal Singh, AIR 1975 Bombay 120 (DB)**.

15. Now, turning attention to **Padave's** case, the issue arose in the context of the notice of voluntary retirement given by the Applicant there. The said Applicant initially came to be appointed on a purely temporary leave vacancy. However, he continued with all the attributes of any other Government employee including the Service Book, increments, Efficiency Bars and even the negative aspects of censure, etc and when consideration of his notice of voluntary retirement came up, the State took a stand that his appointment was temporary and irregular and there was no question of he being allowed to take voluntary retirement. The Pension Rules also fell for consideration. However, the issue herein involved was also involved in that particular matter as at least as one issue. The State in that particular matter also relied upon **Umarani** (supra) and **Umadevi** (supra). Having said so, as for the rest, we think we should fully reproduce Paras 25, 26 and 27 from **Padave's** case.

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“25. In as much as the Respondents in the Affidavits filed later on by the Secretary of Finance Department and the submissions of Ms. N.G. Gohad, the learned P.O. sought to rely upon the principles enunciated by the Hon’ble Supreme Court in **Umadevi** and **Umarani** (supra), we think we had better dealt with that aspect of the matter here and now. In our opinion, it is not at all possible to find any parity between the Applicant in this OA and those that were before the Hon’ble Supreme Court in **Umadevi** and **Umarani** as appointed on temporary, ad-hoc basis, etc. Almost all of them or at least a significant number of them continued with the aid of the orders made by the Courts. They were not appointed in the manner mandated by the Constitution and law. They were either on contract basis, temporary or ad-hoc. Now, it is very pertinent to note, however, that in **Umadevi** as well as **Umarani** (supra), the Hon’ble Supreme Court had provided for the continuation in service of a particular class of employees even as the Hon’ble Supreme Court was pleased to frown



upon the illegal and or irregular appointments. For example, the Hon'ble Supreme Court was pleased to lay down that in case of certain class of employees who had put in more than 10 years of service, they could be effectively regularized. This aspect of the matter fell for consideration in a later judgment of the Hon'ble Supreme Court in **State of Karnataka and others Vs. M.L. Kesari and others (2010 9 SCC 247 (M.L. Kesari's case)**. In that matter, the Hon'ble Supreme Court discussed **Umadevi** (supra).

26. Before we proceed further, it needs to be mentioned clearly that here it is nobody's case that the Applicant did not hold the qualification essential for the post which he was appointed to by the then Commander and Special Inspector General of Police (CID) on 3rd October, 1985. Here the issue is as to whether the Applicant is or is not entitled to the benefit of Pension Rules.

27. Returning to the back to **M.L. Kesari's** case (supra), we find that therein in Para 6,

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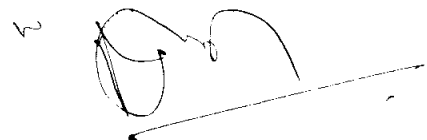
Their Lordships reproduced Para 53 of **Umadevi's** case which Para 53 in turn referred to a few earlier judgments of the Hon'ble Supreme Court. The term "regularization" as a one-time measure fell for consideration of the Hon'ble Supreme Court in the context of those that have put in more than 10 years of service. Reading of Para 7(ii) of **M.L. Kesari's** case would make it very clear that if the person whose appointment was at issue did not even possess the prescribed minimum qualification, then his appointment would be incurably illegal. But when the person concerned possessed the prescribed qualification and was working against sanctioned posts without having been selected through the process of open competitive selection, such an appointment would be irregular. It is, we think, very clear that the words "illegal" and "irregular" are distinct in their import and effect, and therefore, in the context of the present facts, for the foregoing, there should be little room for dispute that at best or at worst, the Applicant's appointment was irregular. In **M.L. Kesari's** case (supra), the word "one-time measure" fell for consideration



and in Paras 9, 10 and 11 thereof in fact need to be reproduced which we hereby do.

“9. The term “one-time measure” has to be understood in its proper perspective. This would normally mean that after the decision in Umadevi, each department or each instrumentality should undertake a one-time exercise and prepare a list of all casual, daily-wage or ad-hoc employees who have been working for more than ten years without the intervention of courts and tribunals and subject them to a process verification as to whether they are working against vacant posts and possess the requisite qualification for the post and if so, regularize their services.

10. At the end of six months from the date of decision in Umadevi, cases of several daily-wage/ad-hoc/casual employees were still pending before courts. Consequently, several departments and instrumentalities did not commence the one-time regularization process. On the other hand, some government departments or instrumentalities undertook one-time exercise excluding several employees from consideration either on the ground that their cases were pending in courts or due to sheer oversight. In such circumstances, the employees who were entitled to be considered in terms of para 53 of the decision in Umadevi, will not lose their right to be considered for regularization, merely because the one-time exercise was



completed without considering their cases, or because the six-month period mentioned in para 53 of Umadevi had expired. The one-time exercise should consider all daily-wage/ad-hoc/casual employees who had put in 10 years of continuous service as on 10.4.2006 without availing the protection of any interim orders of courts or tribunals. If any employer had held the one-time exercise in terms of para 53 of Umadevi, but did not consider the cases of some employees who were entitled to the benefit of para 53 of Umadevi, the employer concerned should consider their cases also, as a continuation of the one-time exercise. The one-time exercise will be concluded only when all the employees who are entitled to be considered in terms of para 53 of Umadevi are so considered.

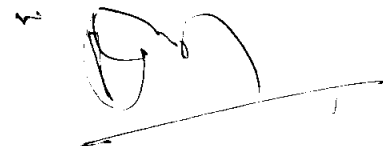
11. The object behind the said direction in para 53 of Umadevi is twofold. First is to ensure that those who have put in more than ten years of continuous service without the protection of any interim orders of courts or tribunals, before the date of decision in Umadevi was rendered, are considered for regularization in view of their long service. Second is to ensure that the departments/instrumentalities do not perpetuate the practice of employing persons on daily-wage/ad-hoc/casual basis for long periods and then periodically regularize them on the ground that they have served for more than ten years, thereby defeating the constitutional or statutory provisions relating to recruitment and appointment. The true effect of the



10.4.2006 (the date of decision in Umadevi) without the protection of any interim order of any court or tribunal, in vacant posts, possessing the requisite qualification, are entitled to be considered for regularization. The fact that the employer has not undertaken such exercise of regularization within six months of the decision in Umadevi or that such exercise was undertaken only in regard to a limited few, will not disentitle such employees, the right to be considered for regularization in terms of the above directions in Umadevi as a one-time measure.”

16. It is, therefore, very clear that all the aspects of the matter including the qualification, etc., there is no, “defect” in the Applicants. If the only suggested defect is about the initial appointment by the SDO, we must repeat that even that was not so much as is being made out to be by the Respondents. In that view of the matter, therefore, we are clearly of the view that just as we did in case of **Thakurdesai’s** case, here also this OA will have to be disposed of practically in terms of **Sachin Dawale’s** case.

17. For the foregoing, the Respondents are hereby directed to regularize the services of the Applicants and absorb them in their present posts within a period of six weeks from today and then let them continue in service as regular employees. It is, however, made clear that the



Applicants shall be entitled to the regular salary henceforth without any hitch as regular Government employees with allowances, etc., but no claim of back-wages, if any, would be entertained. Post regularization, the Applicants shall be entitled to continuity in service for all purposes except back-wages as mentioned just now. The Applicants who have retired shall be entitled to get regular pensionary and post retiral benefits, if not already given. As far as the Applicant No.11 is concerned, she shall be entitled to the family pension on the footing that her husband died while in the service of the State Government. The Original Application is allowed in these terms with no order as to costs.

Sd/-
(R.B. Malik)
Member-J
18.07.2016

Sd/-
(Rajiv Agarwal)
Vice-Chairman
18.07.2016

Mumbai
Date : 18.07.2016
Dictation taken by :
S.K. Wamanse.