

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR.

ORIGINAL APPLICATION NO.296/2004.

Ms. Sageeta Chandrakant Tiwari,
Aged about 35 years,
Occ-Clinical Psychologist,
R/o 579-A, Tekadi Line,
Sitabuldi, Nagpur.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Principal Secretary,
Public Health Department,
Mantralaya, Mumbai-32.
2. The Director General of Health Services,
St. Georges Hospital Compound,
Fort, Mumbai-400 001.

Respondents.

Shri Shashikant Borkar, the Ld. Advocate for the applicant.
Shri P.N. Warjekar, Ld. P.O. for the respondents.

**Coram:- B. Majumdar, Vice-Chairman and
Justice M.N. Gilani, Member (J).**

Dated:- 21st July, 2014.

Order

Per: Member (J)

A short question that arises in this O.A. is whether the applicant is entitled to continue in service on the post of female Clinical Psychologist, Central Prison, Nagpur.

2. On 20.5.2000, the respondent No.2 appointed the applicant as Clinical Psychologist for a period of one year till duly selected candidate from M.P.S.C. is available, whichever is earlier. Her temporary appointment was renewed from time to time and was lastly renewed on 25.9.2003. This time, her appointment was till she completes the age of 35 years i.e. till 2.3.2004. After 2.3.2004, the applicant went out of job and, therefore, she has filed this O.A. This Tribunal, on 26.6.2004, by way of interim order directed the respondents to

accommodate the applicant in the post vacant until further orders. Since then, the applicant continues to be in the employment of the respondent No.2, of course, on *ad hoc* basis.

3. No reply on behalf of the respondent is filed.

4. Heard Shri Shashikant Borkar, the learned counsel appearing for the applicant and Shri P.N. Warjekar, the learned P.O. for the respondents.

5. At the outset, it is necessary to clarify that as an *ad hoc* appointee, the applicant has no right to seek protection in service. Whatever interim relief granted by this Tribunal, was mainly under the premise that *ad hoc* appointee should not be replaced by any other *ad hoc* appointee. This view was taken in case of **Shobha M. Bhave (Dr.) and others V/s State of Maharashtra and another 2004 (1) Mh. L.J. 97.**

6. Now the matter is no longer *res integra*, particularly, in view of the decision rendered by the larger bench of this Tribunal in case of Dr. R.A. Gaikwad and others V/s State of Maharashtra and others (O.A.No.240/2009) decided on 30th March 2010 at the Principal Bench, Mumbai. Four points were formulated for consideration of the larger bench. One of them and which is relevant and decisive here was, "Can an *ad hoc* employee claim the benefit of continuity and not to be replaced by another *ad hoc* employee or a temporary employee, but should such an *ad hoc* employee be replaced by a regularly selected candidate?"

7. After undertaking marathon exercise of referring to catena of decisions rendered by the Supreme Court, the larger bench of this Tribunal observed thus:

“As far as second question of law is concerned, we answer the said question in the negative for the following reasons:

- (i) The above question is based on whether **Piara Singh's** case has been overruled or not. In that context, it would be relevant to quote paragraph 31 of the **Gangadhar Pillai V/s M/s Siemens Ltd., (2007) 1 SCC 533** wherein the Hon'ble Supreme Court has observed as under:

“31. The learned senior counsel placed strong reliance upon a decision of this Court in (**Chief Conservator of Forests and another V/s Jagannath Maruti Kondhere and others (1996) 2 SCC 293**), wherein this Court was considering the question of appointment of a person in the Social Forestry Service. The Bench inter alia noticing the decision of this Court in **State of Haryana V/s Piara Singh (1992) 4 SCC 118**, opined that they are entitled to regularization of services. Piara Singh has since been overruled by a Constitutin Bench of this Court in Secretary, State of Karnataka V/s Umadevi (2006) 4 SCC-1.

It is, therefore, very clear and explicit that **Piara Singh** case has been overruled, hence there is no question of an ad hoc employee continuing, till a regularly selected candidate is made available”.

8. Aforestated being the legal position, we do not find any substance in this O.A. Protection sought by the applicant, that she is not liable to be replaced by any other ad hoc appointee or till regularly selected candidate is available, cannot be granted. It shall be within the exclusive domain of the respondents and having regard to the administrative exigency either to continue the applicant on ad hoc basis or discontinue her.

9. The O.A. is dismissed with no order as to costs.
Interim relief granted by this Tribunal stands vacated.

(Justice M.N.Gilani)
Member (J)

(B. Majumdar)
Vice-Chairman