

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR.

ORIGINAL APPLICATION NO.468/2003.

Dnyanesh Bhimraoji Wanve,
Aged about 30 years,
Occ- Nil,
R/o Sanmati Colony, Shegaon Road,
Amravati.

Applicant.

-Versus-

1. The Directorate of Vocational Education & Training,
3, Mahanarpalika Road, Mumbai.
2. The State of Maharashtra,
Through its Secretary,
Department of Technical Education,
Mantralaya, Mumbai-32.
3. The Dy. Director of Vocational
Education & Training,
Regional Office, Morshi Road,
Amravati.

Respondents.

Shri N.R. Saboo, the Ld. Advocate for the applicant.
Shri P.N. Warjekar, the Ld. P.O. for the respondents.

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

Dated:- 28th August, 2014.

Order

Per: Member (J)

By way of the present O.A., the applicant has challenged the process undertaken by the respondents to appoint Welder Instructor, ignoring the claim of the applicant to the said post.

2. Initially, the applicant was appointed as Welder Instructor vide order dated 19.12.1998 for a period of two months. This appointment was extended twice or thrice. Vide order dated 3.6.2000, he came to be appointed to the post of Junior Craftsman w.e.f. 21.6.2000 and was attached to repairs and maintenance squad, Amravati. It is the case of the applicant that on 26.6.1998, he was interviewed for the post of Craft Instructor. He also worked on the said post at Industrial Training Institute, Washim and Morshi. Therefore, he has a right to be appointed to the post of Craft Instructor. After the appointment as Junior Craftsman, the applicant continued to make a series of representations for his absorption / appointment to the post of Craft Instructor. During pendency of this O.A., the applicant received communication dated 31.10.2011 from the Dy. Director of Vocational Education & Training, Amravati (R.3) informing him that in terms of the G.R. dated 8.3.1999 and 19.3.1999, irregular appointments were regularized as one time measure, however, having regard to the present situation, now it is not possible to convert the appointment of Junior Craftsman into that of Craft Instructor.

3. The respondent Nos. 1 to 3 filed reply. It is explained that initial appointment of the applicant made on 29.12.1998 as Craft Instructor was purely on *ad hoc* basis. This was by way of stop gap arrangement, till regularly appointed candidates were

available and to avoid inconvenience and loss to the students undergoing training. Thereafter, the applicant came to be appointed as Junior Craftsman. In the Recruitment Rules, there is no promotional channel available in the cadre of Junior Craftsman. The person working in technical high school as Instructor, can only be promoted as Craft Instructor in 25% quota. The stand taken by the respondents and which is relevant to the controversy involved in this O.A. finds place in para 8 of their reply, which is reproduced below:

“It is pointed out that the respondent No.3’s office has given an advertisement as per the Recruitment Rules and Instructions received from the Government time to time. As there is no promotional channel available for the junior craftsman, the applicant is not eligible for promotion. The person working in Technical High Schools as an Instructor can only be promoted as a Craft Instructor in 25% quota. As per the I.T.I. Recruitment Rules, the 75% posts of Craft Instructor are filled in by selection and only 25% posts are filled n by promotion amongst the eligible and suitable candidates available in Technical High School as a Craft Instructor according to the norms laid down in this behalf.

4. Annexure A-2 dated 29.12.1998 is the order, appointing the applicant to the post of Craft Instructor w.e.f. 10.1.1999 on a fixed basic pay of Rs. 1400-2600 purely on temporary basis and just for two months. It is stated that similar orders were passed appointing the applicant to the post of Craft Instructor for further period, however, on

temporary and fixed tenure basis. This continued till the passing of the order dated 3.6.2000 (Annexure A-2). With effect from 21.6.2000, the applicant came to be appointed as Junior Craftsman, repairs and maintenance unit, Amravati on the pay of Rs. 4000-5000. The learned counsel for the applicant contended that this is an order of absorption, which does not appear to be so. The order clearly spells out that “या संस्थेत नेमणूक देण्यात येत आहे”. Throughout the order and at many places, the term used is “appointment” (नेमणूक). It is, therefore, crystal clear that for the first time and w.e.f. 21.6.2000, the applicant came to be appointed to the post of Junior Craftsman on regular basis. Except the fact that he made representations one after the other, nothing is placed on record to demonstrate as to how his claim that he be appointed to the post of Craft Instructor, is justified. What is spelt out from the impugned communication (Annexure A-6) dated 31.10.2011 that those Craft Instructors who were irregularly appointed during the period from 1995 to 1999, such appointments were regularized vide G.R. dated 8.3.1999 as one time measure. This being relevant is reproduced below:

“१९९५ ते १९९९ या दरम्यान नविन औ.प्र.संस्था सुरु करतांना तातडीची गरज म्हणून काही शिल्प निदेशकांची पदे भरण्यात आली होती. व दिनांक ०८.०३.१९९९ व १९.०३.१९९९ च्या शासन निर्णयान्वये या कर्मचा-यांच्या अनियमित नियुक्त्या एक वेळची बाब म्हणून नियमित करण्यात आल्या होत्या तथापि त्या वेळेस काही उमेदवारांच्या बाबतीत पद उपलब्ध नसल्यामुळे त्यांना खात्यातील इतर पदावर त्या वेळेच्या परिस्थितीनुसार नियुक्त्या देण्यात आल्या होत्या. अशा उमेदवारांमधून निदेशक पदावर नियुक्ती

देण्याची मागणी सातत्याने करण्यात येत आहे. याबाबत बैठकीत सविस्तर चर्चा होवून या प्रकरणास १९९९ ते २००८ हा कालावधी ९ वर्षांपेक्षा अधिक असल्यामुळे व आता त्या कर्मचा-यांची नियुक्ती विचारात घेतल्यास अनेक प्रशासकीय अडचणी निर्माण होत असल्यामुळे या प्रकरणांचा पुर्नविचार करण्यात येवू नये असे ठरले. त्याप्रमाणे संबंधीत कर्मचा-यांना संबंधीत उपसंचालकांचे स्तरावर पत्र देवून या बाबतीत या पुढे संचालक अथवा उपसंचालक कार्यालयाशी पाठपुरावा करण्यात येवू नये अशा सुचना निर्गमित करण्यात याव्यात“.

5. What emerges from the above is, during the year 1995-96, services of the Craft Instructors were urgently required. Therefore, purely on temporary and fixed tenure basis, appointments were made to the post of Craft Instructors. Considering availability of sanctioned posts and other factors and also G.Rs (dated 8.3.1999 and 19.3.1999), services of the irregularly appointed Craft Instructors were regularized. However, services of all the irregularly appointed Craft Instructors could not be regularized for want of sanctioned posts. Therefore, some of them could be appointed to the posts available like Craft Instructor, Store Keeper, Junior Clerk etc. This is evident from communication dated 7.2.2007 (Annexure A-14) and further communication dated 3.9.2007 (Annexure A-15).

6. Now the question that arises is whether the applicant having had served for a few months or about a year that too with interruption purely on temporary and fixed tenure basis, can as a matter of right claim regularization. Answer to this has to be in the negative. Incidentally, issue arises is whether case of the applicant

has been discriminated. Material placed on the record, reference to which has already been made by us, does not support the stand of the applicant that he has been singled out whereas other similarly situated persons have been favoured with the appointment as Craft Instructors. The impugned communication dated 31.10.2011 and other communication particularly a chart annexed to the communication dated 3.9.2007 (Annexure A-15) point out that all could not be absorbed to the posts of Craft Instructors owing to non availability of the posts in that cadre. Therefore, they were appointed to the posts like Jr. Craftsman, Store Keeper etc. With these appointments, nothing survived for the applicant as well as for other similarly situated persons to agitate. In the facts and circumstances of the case and by no stretch of imagination, it is open for the applicant to say that his claim to be appointed to the post of Craft Instructor ought to have been kept alive and he ought to have been appointed against the post which would be available or fall vacant in future. Again, at the cost of repetition, it is necessary to point out that the issue of regularization of the services of the applicant so also other similarly situated employees had attained finality when the applicant including others were absorbed / appointed on one or the other post. In such a situation, the applicant cannot claim the lien for his appointment to a particular post mainly on the ground that in the past, he had served on

such a post, although on purely temporary and fixed tenure basis and also despite the fact that such appointment was irregular.

7. In the result, we do not find any substance in this O.A. Accordingly the O.A. is dismissed with no order as to costs.

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

(B.Majumdar)
Vice-Chairman

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