

MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO.669/2011.

Shrikant Daulatrao Ganorkar,
Aged Major,
Occ- Service,
R/o Umred, Distt. Nagpur.

Applicant

Versus

- 1) The State of Maharashtra,
Through its Secretary,
Department of Technical Education,
Mantralaya, Mumbai-440 001.
- 2) The Joint Director,
Vocational Education and Training,
Regional Office, Civil Lines, Nagpur.
- 3) The Principal,
Industrial Training Institute,
Umred, Distt. Nagpur.

Respondents

Shri Ganesh Iyer, Adv. holding for Shri S. Ghate, Ld. Counsel for the applicant.

Smt. M.A. Barabde, learned P.O. for the respondents.

Coram:- Hon'ble Shri J.D. Kulkarni,
Member (Judicial)

Dated: - 2nd March 2017.

Order

Heard Shri Ganesh Iyer, Adv. holding for Shri S. Ghate, the learned counsel for the applicant and Smt. M.A. Barabde, the learned P.O. for the respondents.

2. The applicant, Shrikant Daulatrao Ganorkar is Wireman in Government Industrial Training Institute, Umred i.e. respondent No.3. He was appointed as Instructor on 13.1.1995. The applicant has filed O.A. No. 151/1996 for continuation in service. It is stated that the said O.A. was allowed and by virtue of order dated 26.4.1996, the applicant continued to work. The applicant was then appointed on *ad hoc* basis vide order dated 3.4.1998.

3. According to the applicant, the Govt. of Maharashtra has issued G.Rs dated 24.5.1992 and 31.5.1999. It has also issued instructions vide notification dated 13.6.1992 and directed that the services of the employees like the applicant shall be regularized. Accordingly, the services of the applicants were regularized as per order dated 31st May 1999. However, said regularization was with effect from the date of issuance of order dated 31.5.1999. According to the applicant, he is appointed vide order dated 13.11.1995 and has continuously worked as per the said order till the date of regularization and, therefore, his services should have been regularized from his initial date of appointment i.e. from 13.11.1995. The applicant has, therefore, claimed for a direction to respondent No.2 to grant him regular pay scale from his initial date of appointment and also monetary benefits so also the seniority.

4. The respondents have resisted the claim. It is stated that the applicant was initially appointed as Instructor (Electrical Wireman) in the pay scale of Rs. 1200-2040 on purely temporary and *ad hoc* basis for six months only i.e. from 13.11.1995 to 10.5.1996, subject to availability of duly selected candidate. He has filed O.A. No. 151/1996 and prayed for continuation of service. The said O.A. was decided by the Tribunal vide order dated 26.4.1996 and the temporary *ad hoc* service was continued. But it was temporary service. According to the respondents, applicant's services came to be terminated on 15.10.1997 and the applicant was not in service from 16.10.1997 to 14.4.1998. Thereafter he was again posted as Instructor (Main Amateur Rewinding) at Katol. There he worked on an *ad hoc* basis for five months i.e. from 15.4.1998 to 14.9.1998. The applicant then approached the Tribunal again by filing O.A. No. 430/1998 for seeking continuation of employment. On 11.9.1998, the Tribunal was pleased to pass the order and directed that the applicant, who was an *ad hoc* employee, be not replaced by any other *ad hoc* employee.

5. According to the respondents, vide G.R. dated 8.3.1999, services of 3761 *ad hoc* employees were regularized. The applicant was not entitled to such benefit. Thereafter the services of 1061 *ad hoc* employees were regularized as per order dated 19.3.1999

and as per G.R. dated 19.3.1999 and 25.5.1999, services of employees who were appointed before 31.12.1997 and who have worked continuously on regular basis, were regularized. The applicant's services were regularised as per appointment order dated 31.5.1999 and terms and conditions in the said order are binding on the applicant.

6. Shri Ganesh Iyer, Adv. holding for Shri S. Ghate, the learned counsel for the applicant submits that admittedly the applicant was appointed on 13.11.1995 and, therefore, his services should have been regularised with effect from the initial date of his appointment i.e. 13.11.1995. The learned P.O., however, submits that the terms and conditions vide which applicant's services are regularized i.e. the order dated 31.5.1999, is binding on the applicant. I have carefully gone through the order dated 31.5.1999 which is an order of appointment and regularization of the applicant. The very opening para of the said order (Annexure-B) shows that the said order was applicable from the date of issuance of order. The order has been issued on 31.5.1999 and, therefore, whatever order of regularization was issued is applicable from 31.5.1999. The said order has never been challenged by the applicant. I have also carefully gone through

the terms and conditions of the order dated 31.5.1999. In condition Nos. 2,3 and 14, it has been specifically mentioned as under:-

“२) अभाषित ज्ञयुतीचा फायदा कुठ्याहो योजनाथ / कारणासाठी देयात येणार नाही

३) कमक्षायांची सेवाजेठता त्तुत शासन आदेश जगमत झायाया दनांकापासून अंतगत्त वर्षजहाय जेठतेनुसार धरयात येईल.

१४. आपणास वरल्ल माणे अट व शत मंजूर असयास हे आदेश जगमत झायाया तारखेपासून ३० दवसाचे आंत नेमनुकया पदावर जू हावे.”

7. The sum and substance of the said condition as aforesaid clearly shows that the regularization was made applicable from the date of order i.e. 31.5.1999 and it was specifically mentioned that if the applicant agrees for terms and conditions then, only he shall join the post within 30 days. It is material to note that the applicant never challenged the order dated 31.5.1999. He has filed this O.A. in 2011. In other words, the applicant has accepted the terms and conditions of the order dated 31.5.1999 and therefore, now he cannot say that the said order be applied retrospectively.

8. The learned counsel for the applicant submits that in the earlier O.A No. 151/1996, the Tribunal was pleased to direct the respondents to continue him in service. The said order is self speaking and it reads as under:-

heard both sides. The petitioners are appointed on ad hoc basis on the posts of Instructors in I.T.I. under an order dated 4.11.1995 and 8.11.1995 respectively. They seek continuation in service. Such a prayer cannot be granted. However, it is directed that the petitioners shall not be replaced by another temporary or *ad hoc* employees if the posts held by them are to be filled in. With these directions, this application stands finally disposed of. No costs.+

9. From the aforesaid order, it is clear that the applicant's services were to be continued till due appointment was made. The applicant was never treated as regular employee. As already stated, regularization order clearly states that it will be applicable from the date of order i.e. 31.5.1999 and the previous service will not be considered for any other purpose. Considering all these aspects, I am satisfied that the respondents have rightly rejected the applicant's claim for regularization of his service w.e.f. 13.11.1995 vide communication dated 31.3.2011 and I do not find any illegality in it.

10. The learned counsel for the applicant has placed reliance on the judgment delivered by the High Court of Judicature at Bombay in a group of matters decided in W.P. Nos. 9091,8166,

9048,8295, 9042, 9040, 8149, 9039, 8674, 9049, 8272, 9038, 7779, 8119, 7549, 8120, 9043,9047, 8150, 9041, 7328, 9044, 1248,10929 of 2013 and 4645, 9974, 9975, 9976, 99,77 and 9978 of 2014 and 1506, 745 of 2016 with 8553 of 2012. I have carefully gone through the said judgment and I am satisfied that the said judgment is not applicable to present set of facts. Hence, the following order:

O.A. stands dismissed with no order as to costs.

(J.D.Kulkarni)
Member (J)

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