

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL,**

**NAGPUR BENCH, NAGPUR**

**ORIGINAL APPLICATION NO.84/2016.**

**(S.B.)**

Dr. Umakant Padmakar Ramteke,  
Aged about 38 years,  
Occ-Service as Dental Surgeon,  
R/o Civil Lines, Near S.D.O., Bungalow,  
Bramhapuri, Distt. Chandrapur.

**Applicant.**

**-Versus-**

1. The State of Maharashtra,  
Through its Secretary,  
Department of Public Health,  
Mantralaya, Mumbai-32.
2. The Director,  
Public Health Department,  
Arogya Bhavan, St. Georgesq Hospital Compound,  
Fort, Mumbai-400 001.

**Respondents**

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Shri S.N. Gaikwad, the learned counsel for the applicant.  
Shri S.A. Sainis, the learned P.O. for the respondents.

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

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**JUDGMENT**

(Delivered on this 19<sup>th</sup> day of December 2017).

The applicant Dr. Umakant Padmakar Ramteke has claimed for a direction to respondent No.1 i.e. Secretary, Department of Public Health, Mantralaya, Mumbai to regularize his services and to confer upon him permanency benefit w.e.f. 23.17.2111. He is also

claiming benefit of continuity in service from the date of his first appointment as regular employee and consequential monetary benefit as a regular employee from the first date of his appointment i.e. 23.7.2011.

2. In response to the advertisement (Annexure A-1), the applicant responded and was appointed as Dental Surgeon vide order dated 23.7.2011. The said order was for eight months on contract basis on a specific remuneration. The period of appointment was from 23.7.2011 to 31.3.2012 i.e. for eight months. The services of the applicant had come to an end on 31.3.2012 as it was purely on temporary basis with clear understanding that the applicant will have no right to claim regular appointment.

3. The applicant was thereafter re-appointed on the post of Dental Surgeon vide another appointment order dated 6.4.2015 for a period of eleven months.

4. The respondents have issued fresh advertisement on 31.7.2015 whereby applications were called for 189 posts of Dental Surgeon, Group-B, Class-II. The applicant apprehends that, though he is qualified and experienced to be appointed as Dental Surgeon, the respondents may select other candidates through M.P.S.C. in place of the applicant. Earlier also, 26 persons were appointed in the similar manner. It is stated that earlier on 22.1.2009, the Government had

issued a G.R. and regularized the services of those who were appointed on contractual basis.

5. Respondents Nos. 1 and 2 have resisted the application and submitted that the applicant was appointed on temporary basis with a clear understanding that his services will not be regularized and he has no right to claim regularization. The respondents have also placed reliance of certain judgments of the Hon<sup>ble</sup> High Court and the Hon<sup>ble</sup> Apex Court.

6. Heard Shri S.N. Gaikwad, the learned counsel for the applicant, Shri S.A. Sainis, the learned P.O. for the respondents. The only material question to be considered in this case is as to whether the applicant has a right to claim regularization ?

7. The first appointment order of the applicant has been placed on record at Annexure A-2 which is dated 23.7.2011, which clearly shows that the applicant was appointed for eight months on temporary basis for a period from 23.7.2011 to 31.3.2012. This appointment was on contract basis with specific remuneration and it was clearly mentioned in the appointment order that the appointment will come to an end automatically after the contract period is over and the applicant will have no right to claim regularization or permanency on the post. Accepting this condition, the applicant joined as Dental Surgeon.

8. Thereafter vide order dated 6.4.2015, the applicant was again appointed after a technical break for a period of eleven months. This appointment was also on contract basis for a specific period and with a clear understanding that it will be purely temporary and that the applicant will not be entitled to claim regularization. Having accepted these conditions, the applicant cannot claim regularization only because on earlier occasions, services of temporary employees were regularized by the Government as per G.R. dated 22.1.2009.

9. The G.R. dated 22.1.2009 is placed on record at Annexure A-5 at Page 20 and 21 (both inclusive). Vide the said G.R., temporary Dental Surgeons were regularized as a special case and this G.R. has nothing to do with the services of the applicant. The applicant cannot insist that his services may also be regularized in view of the said G.R. That was one time policy decision taken under special circumstances by the Governmental and this Tribunal cannot direct the respondent authorities to take such a decision again so as to accommodate the applicant.

10. The respondents have issued an advertisement No.87/2015 through M.P.S.C., whereby they have called applications to fill in 189 posts of Dental Surgeons on regular basis. The respondent authorities have every right to appoint regular employees

i.e. Dental Surgeons and merely because such an advertisement has been issued, the applicant cannot say that such an advertisement is illegal. The applicant, if competent, may participate in such a recruitment process.

11. The learned P.O. has placed reliance on the judgment reported in **(2016) 2 SCC (L & S) 384 equivalent to (2016) 8 SCC 293 in case of State of Maharashtra and others V/s Anita and another**. In the said case, the Legal Advisors, Law Officers and Law Instructors were appointed on contractual basis pursuant to the G.R. and the appointment was purely on contractual basis, creating no right, interest or benefit of permanent service in applicant's favour. The Hon'ble Apex Court has held that, having accepted contractual appointment, the respondents are estopped from challenging terms of their appointment. Further, it was held that if the Government had taken a policy decision to fill up the posts on contractual basis, the Tribunals and the High Court ought not to have interfered with it to hold that the appointments were permanent in nature.

12. In the present case also, the applicant accepted initial appointment with clear understanding that the appointment was purely on contractual basis for a specified period and that he will be entitled to specific remuneration for such contract. He also accepted the fact that he was not entitled for continuity in service nor he will

have any right to claim permanent post and, therefore, in such circumstances, the applicant's claim for regularization cannot be accepted. Similar view has been taken by the Hon'ble High Court, Bombay in case of **Shirshal Rajendra Potdukhe and others V/s State of Maharashtra and others, reported in 2016 (6) Mh.L.J. 346.**

13. In view of discussion in foregoing paras, I do not find any merits in this O.A. Hence, the following order:-

**ORDER**

The O.A. is dismissed with no order as to costs.

Dt. 19.12.2017.

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