

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 849/2014**

Dr. Arun Bajiraoji Nadange,  
Aged about 54 years,  
R/o Plot No. 9, New Gujarathi Colony,  
Bhandara.

-----**Applicant.**

**Versus**

1. The State of Maharashtra,  
Through its Secretary,  
Public Health Department ,  
Mantralaya Mumbai.
2. The Director of Health Services,  
Saint George Hospital Compound,  
Dental College Building,  
Mumbai.
3. The Deputy Director of Health Services,  
Nagpur Division, Nagpur.
4. The Civil Surgeon,  
General Hospital,  
Bhandara. -----

**Respondents-**

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1. Shri P.C. Marpakwar, Advocate for the applicant.
  2. Shri A.P. Sadavarte, Presenting Officer for the Respondents.

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**CORAM :** B. Majumdar : Vice Chairman  
and

S.S. Hingne: Member ( J )

**DATE :** 9<sup>th</sup> February, 2016

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**ORDER****PER VICE-CHAIRMAN**

The applicant , a Medical Officer , Group-B, has filed this O.A. as he is aggrieved that the period of his ad-hoc service from 11/5/1990 to 8/7/2008 after his selection through MPSC has not been regularized.

2. On 27/10/1989, the MPSC selected him for the post of Medical Officer, Class-II and recommended his appointment to the Govt. The applicant, however, on 11/5/1990 was appointed on an ad-hoc basis in the pay scale of Rs. 2200-4000 for a period of 4 months. The order also stated that his services will be terminated when a regularly selected Medical Officer is appointed. The applicant's services were terminated on 3/8/1990. The applicant approached the Labour Court by filing Complaint No. 348/1990. On 7/12/1990 the Labour Court, by way of interim relief, rejected the order of termination. The applicant was reinstated retrospectively from 4/8/1990. The Respondents filed revision application No. 39/1991 before the Industrial



Court. On 14/2/1991 the Industrial Court rejected the revision application. On 26/11/1993 the applicant was transferred from Bhandara to Chamorshi, Distt. Gadchiroli. The applicant approached the Industrial Court and the Court on 3/12/1993 granted status quo. The applicant therefore stayed at Bhandara. On 9/10/1996 he was placed under suspension. The applicant filed a complaint before the Industrial Court. On 23/10/1996 the Court granted status quo and according to the respondents, the order of suspension was not given effect to. On 29/3/2000 the applicant was served with a charge sheet in a corruption case. On 22/11/2002 the Tribunal by way of interim relief in O.A. no. 551/2000 filed by the applicant, directed the respondents to pay salary to the applicant from 1/4/1996. On 25/3/2003 the Labour Court decided the complaint no. 348/1990 in favour of the applicant and reinstated him with backwages. The respondents filed revision application before the Industrial Court which came to be dismissed in default on 29/4/2003. The applicant on 21/12/2004 was acquitted in the criminal case under the



Prevention of Corruption Act by the Special Judge, Bhandara .  
The appeal against acquittal was rejected on 5/3/2005. On 14/5/2007, the applicant's service was terminated on the basis of registration of an offence of theft case against unknown persons. On 26/3/2008, the Govt. exonerated him in the DE for which a charge sheet was served on him on 29/3/2000. On 9/7/2008, the applicant was granted regular appointment as per his selection by the MPSC in 1989. On 15/7/2011 the Tribunal vide its common order in O.As. No. 551/2000, 277/2006 and 78/2008 directed the State as follows :-

- “( 1 ) Decide the appeal filed by the applicant dated 7/6/2007 and 8/6/2007 challenging the order of termination dated 14/5/2007.
- ( 2 ) Take a decision on the representation made by the applicant about the nature of service rendered from the year 1990 till the date of his termination i.e. 14/5/2007 within three months of issue of this order.
- ( 3 ) As the relief claimed by the applicant for increments, is dependent on the decision in the appeal and the decision on the State

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Government touching the status of the applicant we direct that the same shall be subject to the decision of the State Government.

- (4) We hope and trust that the State Government will decide the Appeal filed by the Applicant so also the Representation as expeditiously as possible and preferably within a period of three months.
- (5) We grant liberty to the applicant to move the Appellate Authority for grant of personal hearing. There shall be no order as to costs."

3. It may be noted here that in respect of O.A. no. 551/2000 in which the applicant had challenged the order of his suspension, the Tribunal had held that as the respondents in their reply had stated that the order of suspension had never come into effect, the applicant's challenge to the said order had become infructuous.

4. Thereafter in compliance with the above order of the Tribunal the Govt. in Public Health Department on

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30/10/2014 issued an order vide which the order of termination dtd. 14/5/2007 was cancelled and the applicant's service from 11/5/1990 to 8/7/2008 was held to be of temporary nature and not be counted towards his regular service. The applicant has challenged this order in the O.A.

5. The applicant submits as follows :-

- (a) The applicant's appointment as per the order dtd. 11/5/1990 was on the basis of recommendation of the MPSC. Hence his service from that date onwards is required to be taken as regular service.
- (b) With setting aside of the termination order dtd. 14/5/2007, his service from 11/5/1990 to 8/7/2008 and thereafter had become a continuous one.
- (c) No reasons have been assigned for not considering the above period as regular service particularly when it has been held that no charge is proved against him.



6. The respondents in their reply submit as follows :-

- ( a ) After the applicant's termination of services on 3/8/1990, he continued in service at Bhandara due only to the orders of the Labour Court and Industrial Court.
- ( b ) He was placed under suspension on 9/10/1996. On 23/10/1996, the Industrial Court granted status quo. Hence he was continued in service though under suspension.
- ( c ) Vide the Industrial Court's order dtd. 20/7/1998, he was not entitled to the subsistence allowance, being an ad-hoc employee and not a Govt. employee.
- ( d ) The applicant being in ad-hoc service and under suspension is not entitled to regular salary.
- ( e ) The applicant's termination on 14/5/2007 was due to an offence involving theft of costly instruments. The Court granted him acquittal and the order of termination was cancelled on 30/10/2014. Hence the applicant's service from 11/5/1990 to 8/7/2008, i.e., till

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the issue of an order of regular appointment as per the recommendation of the MPSC, being temporary, cannot be added to his regular service.

7. We have heard Shri P.C. Marpakwar, Id. Counsel for the applicant and Shri A.P. Sadavarte, Id. P.O. for the Respondents. We have also gone through the documents made available to us.
8. The Id. Counsel for the applicant submitted that the applicant was in continuous service since 11/5/1990. As per the impugned order of 30/10/2014, the applicant's appointment as per his selection by the MPSC was delayed due to the pending court cases. The applicant was ultimately acquitted/exonerated of all the charges in the court cases and in the DE conducted against him. Thus the very basis of delaying his appointment had become unsustainable. The applicant was working against a permanent post for which the MPSC had selected him. The Id. Counsel specifically relied on


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the provisions of Rule 44 of the Pension Rules which clearly stipulate that on reinstatement a govt. servant's past services are required to be treated as qualifying service.

9. The Id. P.O. reiterated the submissions of the respondents. He stated that the applicant himself had approached the respondents for an appointment and hence he was granted appointment on an ad-hoc basis. He was subsequently found to be involved in serious irregularities and criminal charges were also framed against him. As long as the charges against him were not decided, he could not be granted regular appointment. This was done only when he was finally cleared of all these charges. According to him, Rule 44 does not apply in the applicant's case as his services were ad hoc and not regular.

10. We find that the applicant's prayer is that he should be considered to be in regular appointment from 11/5/1990 as his selection in 1989 was through the MPSC. From the impugned order dtd. 30/10/2014, we find that the



applicant had not granted regular appointment till 19/7/2008 due only to the reason that there were court cases pending after his ad hoc appointment in 1989. This is reflected in the following contents of the order :-

“ प्रलंबित न्यायालयीन प्रकरणे अंतिमतः निकाली काढल्यामुळे डॉ ए. बी. नडांगे यांना महाराष्ट्र लोकसेवा आयोगाच्या दि. २७.१०.१९८९ रोजीच्या शिफारशीस अनुसरून शासन निर्णय क्र.मवैअ १२०७ १६३ प्र.क्र.१३८ सेवा-३ दि. ९.७.२००८ च्या आदेशान्वये नियमित सेवेत नियुक्ती देण्यात आली आहे.

५. उपरोक्त घटनाक्रम विचारात घेता डॉ ए.बी. नडांगे यांच्या औद्योगिक न्यायालय भंडारा व विशेष न्यायालय भंडारा येथे प्रलंबित असलेल्या न्यायप्रविष्ट प्रकरणांमुळे त्यांना महाराष्ट्र लोकसेवा आयोगाच्या शिफारशीनुसार नियमित नियुक्ती देणे शक्य झालेले नाही, ही वस्तुस्थिती आहे.”

11. It is therefore relevant for us to examine as to the extent to which the court cases in which the applicant was involved after his ad hoc appointment on 11/5/1990 had an impact on the respondents' decision not to grant him regular appointment on the basis of his selection by MPSC. The

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following is the chronological order of the events involving these court cases :-

- a) 3/8/1990 : The applicant's services are terminated. He approaches the Labour Court.
- b) 7/12/1990 : The Labour Court by interim order directs to withdraw the order of termination. The applicant is consequently reinstated from 4/8/1990.
- c) 14/2/1991 : The Industrial Court rejects revision application against the above order.
- d) 26/11/1993 : The order of the applicant's transfer from Bhandara to Chamorshi. He approaches the Industrial Court.
- e) 3/12/1993 : The Industrial Court grants status quo. The applicant stays at Bhandara.
- f) 9/10/1996 : The applicant is placed under suspension. He files a complaint before the Industrial Court.

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- g) 23/10/1996 : The Industrial Court grants status quo. The applicant continues to work at Bhandara.
- h) 1996 : a Criminal case under the Prevention of Corruption Act registers against the applicant in the Court of Special Judge, Bhandara.
- i) 2000 : The applicant files O.A. no. 551/2000, *inter alia*, challenging the order of suspension dtd. 9/10/1996.
- j) 25/3/2003: The Labour Court decides the applicant's complaint No.348/1990 and reinstates him.
- k) 21/12/2004 : The Special Judge, Bhadara, acquits the applicant in the criminal case.
- l) 15/7/2011 : The Tribunal decides O.A. No.551/2000 by a common order including in O.As. no. 277/06 and 78/08. It holds that the applicant's challenge to the order of suspension has become infructuous as the Id. Counsel for the applicant had submitted that the prayer has become redundant as before the order of

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suspension was served on the applicant, he had approached the Industrial Court and the Industrial Court having granted status quo, the suspension had never come into effect.

12. From the above it is clearly seen that as per the orders of the different courts, the applicant was acquitted of criminal charges and the order of termination was set aside. As regards his suspension, the same had never come into effect.

13. Now, with regard to the disciplinary action to which the applicant was subjected on his appointment in 1990, the sequence of events is as follows :-

- a) 29/3/2000 : A Charge sheet in a corruption case was served against the applicant and a DE was conducted against him.
- b) 14/5/2007 : The applicant was terminated on the basis of registration of a theft case against unknown persons.

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c) 26/3/2008 : An order of exonerating him in the DE was issued.

d) 30/10/2014 : This order is impugned in the O.A. Vide this order, the order of termination was cancelled.

14. Thus even in the case of departmental action instituted against the applicant, we find that he has been exonerated and no punishment was imposed on him.

15. In the light of the above developments, we find that the applicant has been cleared of all court cases as well as departmental disciplinary action concerning his termination on various grounds as also there is an admission of the respondents that the order of suspension of the applicant had never come to be implemented. For these reasons we find no merit or substance in the averment of the respondents that as per the order of the Industrial Court granting status quo dtd. 20/7/1998 in the ULPA no. 1016/1996 vide which the applicant had challenged the order of his suspension the



applicant remained in service though he was placed under suspension. We therefore find no justification for the respondents to deny the applicant the benefits of regular appointment from 11/5/1990. Put differently, there could have been a case for treating applicant's service prior to 9/7/2008 as temporary/ad hoc had the decisions in the court cases as well as in the DE instituted against the applicant

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16. Hence the O.A. stands disposed of in terms of the following directions :-

- a) Para 5(2) of the impugned order dtd. 30/10/2014, whereby it is stated that the applicant's service for the period from 11/5/1990 to 8/7/2008 is deemed to be temporary and cannot be included in his regular service, is quashed and set aside.
- b) The respondents are directed to treat the above period of his service as regular service for all purposes.

c) The respondents will issue an order in this regard within 8 weeks of receipt of this order.

d) No order as to costs.

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**( S.S. Hingne )**  
**Member ( J )**

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**( B. Majumdar )**  
**Vice-Chairman.**