

MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO. 17/2015

- 1) **Prafulla Ajabrao Kachre,**
Aged about 32 yrs, Occ : Service,
Resident of Kolhatkar Colony,
Amravati.
- 2) **Sandeep Keshavrao Tirmare,**
Aged about 36 yrs, Occ : Service,
Resident of Balaji Chowk, At &
Post Kurha, Tah. Tiwasa, Distt.
Amravati.
- 3) **Kailash Sopan Choudhari,**
Aged about 39 yrs, Occ : Service,
Resident of At & Post PardiTakmor,
Tah. & Distt. Washim.
- 4) **Pravin Shrikrushna Lunge,**
Aged about 32 yrs, Occ : Service,
Resident of New Sonkhas Jamroad,
Mangrulpir, Dist. Washim.
- 5) **Ashish Manohar Kaware,**
Aged about 32 yrs, Occ : Service,
Resident of Takarkheda Kaware,
Post. Chandikapur, Tah. Daryapur,
Distt. Amravati.
- 6) **Gajanan Nivurttinath Zopate,**
Aged about 37 yrs., Occ. Service,
Resident of Mangrul Chavala,
Tah., Nandgaon Khande,
Distt. Amravati.
- 7) **Prashant Devidas Gourkar,**
Aged about 30 yrs, Occ : Service,
Resident of Sainath Layout,
Juna Umarsara, Yavatmal.

- 8) **Ku. Archana Rambhau Khaire,**
Aged about 40 yrs, Occ : Service,
Resident of C/o B.P. Gandodhar,
Lalit Colony, Dastur Nagar,
Amravati.
- 9) **Praveen Dhnaneshwar Thakre,**
Aged about 36 yrs, Occ : Service,
Resident of Khandala Khurd,
Tahsil Nandgaon Khande,
Distt. Amravati.
- 10) **Rahul Sudhakar Rao Choudhari,**
Aged about 32 yrs, Occ : Service,
Resident of Narayan Nagar, Hurkut,
Plot, At & Post : Chandurbazar,
Distt. Amravati.
- 11) **Mahendra Ramdasji Ingole,**
Aged about 34 yrs, Occ : Service,
At & Post Satefal, Tah : Chandur Rly.
Distt. Amravati.
- 12) **Rajkumar Navalikishor Thakur,**
Aged about 36 yrs., Occ : Service.
Resident of Pathrot, Tah :
Achalpur, Distt. Amravati.
- 13) **Prashant Chandrakumar Bhojar,'**
Aged about 32 yrs, Occ : Service,
Resident of Bhumi Abhilekh Society,'
Kolhe Layout, Yavatmal, Distt.,
Yavatmal.
- 14) **Sagar Prakashrao Pusadkar,**
Aged about 27 yrs, Occ : Service,
Resident of Vidharbha Mill, In front of
Power House, Navin Chawl, Aalpur.
- 15) **Anil Bapurao Dafle,**
Aged about 27 yrs, Occ : Service,
Resident of Vaidya Nagar, Arni Road,
Near S.T. Division Office, Yavatmal.

- 16) Shrikant Vijayrao Gawande,**
Aged about 40 yrs, Occ : Service,
Resident of Plot No. 46, Balaji,
Nagar, Vistar, Post : Parvati Nagar,
Nagpur.
- 17) Samir Bhuvan Mhaiskar,**
Aged about 36 yrs, Occ : Service,
Resident of Mangaldham Colony,
Chatri Talav Road, Amravati.
- 18) Shrin Haribhau Bhavre,**
Aged about 40 yrs, Occ : Service,
Resident of 14, Mahabali Nagar,
Wadgaon Road, Yavatmal.
- 19) Sumedha Madhav Gajbhiye,**
Aged about 37 yrs, Occ : Service,
Resident of New Binaki Mangalwari,
Smt. Indira Gandhi Nagar, Nagpur.
- 20) Kunal Tukaram Jadhav,**
Aged about 26 yrs, Occ : Service,
Resident of At & Post : Loni,
Tah : Arni, Distt. Yavatmal.
- 21) Pankaj Shamrao Dange,**
Aged about 38 yrs, Occ : Service,
Resident of Shivaji Nagar, Behind
Panchayat Samiti, Bhadravati,
Distt. Chandrapur.
- 22) Vijay Prakashrao Mohokar,**
Aged about 33 yrs, Occ : Service,
Resident of Saroj Colony,
Sut Girni Road, Amravati.
- 23) Kamlesh Vishnupant Choukade,**
Aged about 33 yrs, Occ : Service,
Resident of Shriram Colony, Near
Aakoli Railway Station, Amravati.

- 24) Pravin Devidasrao Dongre,**
Aged about 34 yrs, Occ : Service,
Resident of Meher Nagar (Janta
Nagar) Arvi, Tah : Arvi, Distt. Wardha.
- 25) Ku. Hima Vilas Bawankule,**
Aged about 35 yrs, Occ : Service,
Resident of C/o Eknath Sakharam
Hatwar, Brahmpuri,
Dist. Chandrapur.
- 26) Shital Parmeshwar Bhopse,**
Aged about 35 yrs, Occ : Service,
Resident of Jawahar Nagar, Gokul,
Colony, Akola, Distt. Akola.
- 27) Abhay Prahladrao Gorde,**
Aged about 34 yrs, Occ : Service,
Resident of Flat No. 303, Amba,
Residency, Sai Nagar, Amravati.
- 28) Niraj Yogen Bobde,**
Aged about 31 yrs, Occ : Service,
Resident of Ingle Layout, New S.T.,
Colony, Sindhi Meghe, Wardha.
- 29) Ganesh Rameshwarrao Thawkar,**
Aged about 32 yrs, Occ : Service,
Resident of At : Kampur, Post Pathrot,
Tah : Aalpur, Distt. Amravati.
- 30) Ku. Anita Sitaram Raut,**
Aged about 37 yrs, Occ : Service,
Resident of At & Post : Shahpur,
Tah., Mangrulpir, Distt. Washim.
- 31) Dinesh Prabhakarrrao Dehankar,**
Aged about 35 yrs, Occ : Service,
Resident of Sinchan Nagar, Gram,
Sevak Colony, Lohara, Yavatmal.

- 32) Ku. Vaishali Manohar Yewale,**
Aged about 37 yrs, Occ : Service,
Resident of C/o Sawlaramji Mule,
Akhre Gujrati Pura, Balapur,
Distt. Akola.
- 33) Mangesh Mahadeorao Zatale,**
Aged about 31 yrs, Occ : Service,
Resident of Khetan Jagar, Koulkhed,
Akola.
- 34) Sandip Bhimrao Harne,**
Aged about 38 yrs, Occ : Service,
Resident of Kapil Vastu Nagar,
Akola.
- 35) Suresh Ramdas Sontakke,**
Aged about 39 yrs, Occ : Service,
Resident of Gurudev Nagar,
Mothi Umri, Akola.
- 36) Abhijit Prahlad Tathe,**
Aged about 31 yrs, Occ : Service,
Resident of New Tapadiya Nagar,
Kharap Road, Akola.
- 37) Vinod Marotrao Tekade,**
Aged about 35 yrs, Occ : Service,
Resident of Lakadi Wall Colony,
Risod Road, Lakhada, Washim.
- 38) Rajesh Shriram Ghate,**
Aged about 35 yrs, Occ : Service,
Resident of Wadi, Krushi Nagar,
Post : G.S.College, Khamgaon,
Distt. Buldhana.
- 39) Tarachand Mahadeorao Tadas,**
Aged about 37 yrs, Occ : Service,
Resident of At & Post : Mozri,
Tah : Tiwasa, Dist. Amravati.

- 40) Avi Kondiba Bhagat,**
Aged about 36 yrs, Occ : Service,
Resident of Near Nayar School,
Itawa Ward, Pusad, Distt. Yavatmal.

Applicants.

Versus

- 1) The State of Maharashtra,
through its Principal Secretary,
Higher & Technical Education Department,
Mantralaya, Mumbai-32.
- 2) Director of Technical Education
State of Maharashtra, 3, Municipal
Corporation Road, Post Box No.1967,
Near cama Hospital, Mumbai-1.
- 3) Recruitment Controlling Committee
(Padbharti Saniyantran Samiti)
Directorate of Vocational Education & Training,
Maharashtra State, 3, Mahapalika Marg, near Cama
Hospital, Mumbai-400 001.
- 4) Joint Director of Vocational Education & Training,
Amravati Region, Amravati.

Respondents.

Shri R.L. Khapre, Advocate for the applicants.

Shri P.N. Warjurjar, P.O. for the respondents.

WITH

ORIGINAL APPLICATION NO. 18/2015

- 1) Kishor Ashokrao Shirbhate,
Aged about 37 years, Occ. Service,
Resident of at & Post Ghatladki,
Tq. Chandur, Distt. Amravati.
- 2) Sarendra Rameshrao Charde,
Aged about 30 years, Occ. Service,
Resident of at & Post Manikwada (Dhanaj),
Tq. Nerparsopant, Distt. Yavatmal.
- 3) Prafulla Ramesh Shirbhate,
Aged about 32 years, Occ. Service
Resident of in front of Rahul Oil Mill Radhanagar,
Amravati.
- 4) Sanjay Shankarrao Chopde,
Aged about 37 years, Occ. Service
Resident of at and post Kata,
Tq. & Distt. Washim.

Applicants.

Versus

- 1) The State of Maharashtra,
through its Principal Secretary,
Higher & Technical Education Department,
Mantralaya, Mumbai-32.
- 2) Director of Technical Education
State of Maharashtra, 3, Municipal
Corporation Road, Post Box No.1967,
Near cama Hospital, Mumbai-1.
- 3) Recruitment Controlling Committee
(Padbharti Saniyantran Samiti)
Directorate of Vocational Education & Training,
Maharashtra State, 3, Mahapalika Marg, near Cama
Hospital, Mumbai-400 001.
- 4) Joint Director of Vocational Education & Training,
Amravati Region, Amravati.

Respondents.

Shri R.L. Khapre, Advocate for the applicants.

Shri P.N. Warjurjar, P.O. for the respondents.

WITH
ORIGINAL APPLICATION NO. 164/2015

- 1) Pravin Manohar Rane,
Aged about 35 years, Occ. Service,
R/o Dutta Colony, Malkapur Road,
Tq. Nandura, Dist. Buldhana.
- 2) Swapneel Viay Wawge,
Aged about 33 years, Occ. Service
R/o at post Dahigaon (Matoda),
Tq. Nandura, Dist. Buldhana.
- 3) Prashant Janardhan Ghate,
Aged about 41 years, Occ. Service,
R/o Ward no.2, Malkapur Road,
Nandura, Tq. Nandura, Dist. Buldhana.
- 4) Ganesh Ganpatrao Futane,
Aged about 27 years, Occ. Service,
R/o at Malkhed, Post Dhanodi,
Tq. Warud, Dist. Amravati.
- 5) Ku. Jyoti Pralhadrao Wakode,
Aged about 38 years, Occ. Service,
R/o C/o Shrikrushna Tayade, Shankar Nagar,
Takarkheda Naka, Anjangaon Surji,
Dist. Amravati.
- 6) Shashikant Prabhakar Harne,
Aged about 39 years, Occ. Service,
R/o Plot No.43, Gorle Layout, Gopal Nagar,
Nagpur-22.

Applicants.

Versus

- 1) The State of Maharashtra,
through its Principal Secretary,
Higher & Technical Education Department,
Mantralaya, Mumbai-32.

- 2) Director of Technical Education
State of Maharashtra, 3, Municipal
Corporation Road, Post Box No.1967,
Near cama Hospital, Mumbai-1.
- 3) Recruitment Controlling Committee
(Padbharti Saniyantran Samiti)
Directorate of Vocational Education & Training,
Maharashtra State, 3, Mahapalika Marg, near Cama
Hospital, Mumbai-400 001.
- 4) Joint Director of Vocational Education & Training,
Amravati Region, Amravati.

Respondents.

Shri R.L. Khapre, Advocate for the applicants.

Shri P.N. Warjurjar, P.O. for the respondents.

WITH

ORIGINAL APPLICATION NO. 107/2016

- 1) Umesh Shankarrao Surjuse,
Aged about 38 years, Occ. Nil,
R/o C/o Nishikant Surjuse, Quarter No. D-10,
Near Ambazari Police Station, Ravi Nagar,
Nagpur.
- 2) Satish Mahadeorao Kakde,
Aged about 38 years, Occ. Nil,
R/o at post Khandelwal Layout, Narkhed,
Tq. Narkhed, Dist. Nagpur.

Applicants.

Versus

- 1) The State of Maharashtra,
through its Principal Secretary,
Higher & Technical Education Department,
Now Skilled Development & Entrepreneurship Department,
Mantralaya, Mumbai-32.

- 2) Director of Vocational Education & Training,
State of Maharashtra, 3, Municipal
Corporation Road, Post Box No.10036,
Near cama Hospital, Mumbai-1.
- 3) Recruitment Controlling Committee
(Padbharti Saniyantran Samiti)
Directorate of Vocational Education & Training,
Maharashtra State, 3, Mahapalika Marg, near Cama
Hospital, Mumbai-400 001.
- 4) Joint Director of Vocational Education & Training,
Nagpur Region, Nagpur.

Respondents.

Shri R.L. Khapre, Advocate for the applicants.

Shri P.N. Warjurjar, P.O. for the respondents.

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

Dated :- 05/04/2017.

COMMON ORDER -

The O.A.17/2015 has been filed by Prafulla Ajabrao Kachre and 39 other persons. In the said O.A. the C.A.No.201/2016 has been filed for grant of regular pay scale during the pendency of the O.A. and for early hearing of the matter. The O.A.No. 18/2015 has been filed by one Kishor Ashokrao Shirbhate & 3 ors and in the said O.A. the C.A.No.202/2016 has been filed for grant of regular pay scale during the pendency of the O.A. and for early hearing. The O.A.No.164 of 2015 has been filed by one Pravin Manohar Rane & 5

ors., whereas the O.A.No.107/2016 has been filed by Umesh Shankarrao Surjuse & one other. All the applications are being disposed of by this common order.

2. The relief claimed in all the O.As. is almost similar. The respondents have filed separate reply-affidavit in all the O.As., the defence taken is similar.

3. The applicants are the Craft Instructors appointed in various Government Industrial Training Institutes (I.T.Is.). They were appointed on temporary basis. The respondent nos. 1&2 have constituted a selection committee for undertaking selection process. The said selection committee was comprised of highly qualified officials working in Higher and Technical Education Department so also other officials concerning the relevant subjects and representatives of backward classes.

4. According to the applicants, after constituting the highly qualified selection committee, the respondent nos. 1&2 had issued an advertisement on 01/10/2010 and called the applications from eligible candidates for filling the posts in Government I.T.Is., on temporary basis and as per due selection procedure, the applicants came to be appointed as Craft Instructors in the vacant posts by following due rules for recruitment.

5. According to the applicants, the Hon'ble High Court of Judicature at Bombay, Bench at Nagpur in Writ Petition No.2046/2010, in the case of **Sachin Ambadas Dawale & Ors. Vs. State of Maharashtra & Ors.**, delivered on 19/10/2013, issued directions to the respondents for regularising the similarly situated contractual Lecturers like the applicants in service. It is stated that recently on 27/06/2014 the Lecturers in Government Medical Colleges who were appointed on Ad-hoc basis and who are similarly situated like that of applicants have been regularised by the Government.

6. According to the applicants they have been appointed on Ad-hoc basis following due selection process against the clear vacant posts and are continuously working since last 3-4 years and they are entitled to extension of benefit regularisation and permanency as per the directions issued by the Hon'ble High Court in cases of similarly situated Lecturers. The Government did not consider their request and therefore the applicants have been constrained to file these O.As.

The applicants are claiming following reliefs :-

(i) To hold and declare that the action on the part of the respondents, depriving the applicants from extension of benefits of regularization against the post of Craft Instructors, from the date of initial appointment is illegal.

(ii) To direct the respondents to extend the benefit of regularization of the applicants on their respective posts of Craft

Instructor from the date of their initial appointment and grant them all consequential benefits, in the interest of justice.

8(ii-a) In the alternative it is submitted that respondents be kindly be directed to pay all arrears of salary payable to the regular teachers by treating the teachers as being appointed from their initial date of appointment and fixing their salary as regular teachers on completion of each of teachers completion of 3 years service from the date of their initial appointment.

(ii-b) In the alternative the respondents may kindly be directed to pay arrears of salary as indicated in prayer Clause (i) to (ii-a) supra from the date of present application.

7. As already stated the respondents have filed separate affidavits in all these O.As. However the defence taken is similar. In O.A.No.17/2015 the respondents have filed their affidavit (P-119 to 126). The same has been sworn in by Subhash Sahebrao Zape, Inspector Vocational Education & Training, Regional Office, Amravati. In O.A.No. 18/2015 the affidavit-reply (P-104 to 110) which has been filed by respondent no.4 and the same has been sworn in by Subhash Sahebrao Zape, Inspector Vocational Education & Training, Regional Office, Amravati. In O.A.No. 107/2016 the affidavit-reply (P-108 to 123) is also filed by respondent nos. 1 to 4 and the same has been sworn in by one Suresh Raghunath Kukde, Assistant Director, Vocational Education & Training, Regional Office, Nagpur, where as in O.A.No. 164/2015 the affidavit-reply (P-142 to 146) is filed by

respondent no.4 and the same has been sworn in by Subhash Sahebrao Zape, Inspector Vocational Education & Training, Regional Office, Amravati.

8. The respondents did not dispute that the selection committee was constituted as per various G.Rs. for selection of the employees on contract basis as per the advertisement dated 01/10/2010. It is stated that the advertisement was purely for filling of contractual posts on contract basis. The respondents have opted as per the guidelines issued in the G.R. dated 23/08/2010. The appointments were initially for two years only. One of the conditions of the G.R. was that the services of the applicants were to be continued further for two years, if their earlier work was found satisfactory. But the maximum period was limited to four years only. Since the applicants however have been appointed on contract basis, they are not entitled to be regularized.

9. The respondents submitted that the applicants have accepted the conditions in the advertisement as well as appointment order and they were appointed on contractual basis and not on regular basis and all the conditions were accepted by the applicants. It is further stated that adherence to the rule of equity in the public employment is a basic features of Constitution and since the rule of

law is the core of our Constitution, a court would certainly be disabled from passing an order upholding a violation of Article 14 in ordering the overlooking of need to comply with the requirements of Article 14 read with Article 16 of the Constitution. The temporary employees cannot not claim to be made permanent on expiry of term of their appointments. Thus according to the respondents the applicants are not entitled to claim absorption in regular service and they are bound by terms and conditions of the appointment order since they have accepted the terms and conditions.

10. The learned counsel for the applicants submits that cases of the applicants are covered by the Judgment in Writ Petition No.2046/2010, in the case of **Sachin Ambadas Dawale & Ors. Vs. State of Maharashtra & Ors**, delivered on 19/10/2013 by the Hon'ble High Court of Bombay and its Bench at Nagpur. The learned counsel for the applicants submits that the cases of the applicants are covered by the said Judgment and in the said Judgment also the Lecturers were appointed on contractual basis. The learned counsel for the applicants invited my attention to the various observations made in the said Judgment by the Hon'ble High Court. The learned counsel for the applicants submits that the State cannot deny its duty of being an idle employer and therefore it cannot exploit the services of the employees.

11. The learned counsel for the applicants has invited my attention in the observations made by the Hon'ble High Court in para nos.14 and 15 of the Judgment in Writ Petition no.2046/2010 (it is also reported in 2014 (2) Mh.L.J.,36) which reads as under :-

“10. We have considered the submissions on behalf of the petitioners and the respondents. It is undisputed that the appointments of the petitioners are as per the policy incorporated in the Government resolution dated 25th of July, 2002 in which it is laid down that the appointments will be on contractual basis and till the availability of the candidates appointed through regular selection process. However, it is important to consider that the petitioners are appointed after following the procedure of issuance of advertisement and conducting interviews by a duly constituted Selection Committee. The Selection Committee constituted as per the Government resolution dated 2nd August, 2003 26 wp2046.10 comprises of highly experienced and technical persons like :

- (i) Joint Director, Technical Education Department,*
- (ii) representative of women,*
- (iii) Principal of the concerned institution,*
- (iv) representative of backward class, and*
- (v) two Experts of concerned subject.*

In view of the above facts, it cannot be said that the appointments of the petitioners are back door or illegal. It cannot be said that the petitioners are appointed arbitrarily or haphazardly or clandestinely without issuing advertisement and without giving an opportunity to all the eligible candidates to participate in the selection process. From the record it clearly appears to be an undisputed position that in response to the advertisement several candidates had participated in the selection process and it is the petitioners who were found eligible and suitable for the posts and as such were selected and appointed. It is not the case of the respondents that any illegalities took place during the selection process.

11. We have discussed earlier, that after the tenure of two years of the appointment of the petitioners came to an end, the respondent - Government issued the resolution dated 26th October, 2005 and

continued the Lecturers for the further period of two years. It is to be noted that the Government of Maharashtra has stated in the affidavit filed before this Court that it had decided to continue the services of the contractual employees after giving four to five days' break until the candidates selected through MPSC are available and that the Government of Maharashtra had decided to grant 30 days' leave to these employees and had increased monthly package of these employees. These factors show that the posts, in which these employees are appointed on contractual basis, are permanent and full time posts and the services of these employees were required by the Government of Maharashtra to discharge its "constitutional obligation" of imparting education.

12. The contention of the State Government as to whether the posts should be filled on a regular basis or contractual basis is a policy matter and cannot be within the domain of the judicial review of this Court is without 28 wp2046.10 substance. The State Government is a "Model Employer" and is obliged to follow the Constitutional Scheme. It is not in dispute that after their selection, the petitioners have worked for a period between 3 years to 10 years. In this respect we may gainfully refer to the following observations of the Hon'ble Apex Court in case of Radha Dubey V/s. Govt. of NCT of Delhi and Ors. in the order dated 16th August, 2010 in Special Leave to Appeal (Civil) No.CC10388/2010 :-

"We are prima facie of the view that appointment of a person on contract basis for an uninterrupted period of ten years amounts to exploitation. The State, as a model employer in a welfare State, is not expected to take advantage of its position and impose wholly unequitable and unreasonable condition of employment on the prospective employees, who do not have the choice but to accept the appointment on terms and conditions offered by the employer.

This practice seems to be contrary to the ratio of the judgments of this Court in Central Inland Water Transport Corporation Ltd. and another versus Brojo Nath Ganguly and another [AIR 1986 SC 1571] and Delhi Transport Corporation versus D.T.C. Mazdoor Congress [AIR 1991 SC 101]."

It is to be noted that having observed this, the Hon'ble Apex court in the peculiar facts of the case had directed the respondents to take the petitioners back in service by an interim order. The facts of the present case are almost identical. The Government has extracted the work from the petitioners for years 29 wp2046.10 together after they were found eligible and suitable in the selection process, conducted by the Selection Committees, which are constituted in pursuance to the Government Resolution.

13. Insofar as the contention of the respondents that the petitioners were aware that their appointment was for a limited period on contract basis and as such they are not entitled to claim regularization is concerned, the said submission is also without substance. It is not in dispute that during this period i.e. up to 2010 the appointments which were made, were made only through the process by which the petitioners were selected. It is not as if during the said period MPSC was also conducting the selection process simultaneously. It is not therefore as if the petitioners had choice to participate in the selection process through MPSC as well as through the Committees constituted under the said Government Resolution. The petitioners had no choice but to participate in the selection process conducted through the Committees constituted under the said Government Resolution. The Hon'ble Apex Court in case of Central Inland 30 wp2046.10 Water Transport Corporation Ltd. V/s. Brojo Nath Ganguly (AIR 1986 SC 1571) has observed as follows :-

".....[Article 14](#) of the Constitution guarantees to all persons equality before the law and the equal protection of the laws. The principle deducible from the above discussions on this part of the case in consonance with right and reason, intended to secure social and economic justice and conforms to the mandate of the great equality clause in [Article 14](#). This principle is that the Courts will not enforce and will, when called upon to do so, strike down an unfair and unreasonable contract, or an unfair and unreasonable clause in a contract, entered into between parties who are not equal in bargaining power..... it will apply to situations in which the weaker party is in a position in which he can obtain goods or services or means of livelihood only upon the terms imposed by the stronger party or go without them."

It can, thus, be clearly seen that the Apex Court in the said case has held that [Article 14](#) requires that the State action should be right and reasoned and intended to secure social and economic justice and to conform to the mandate of equality clause enshrined in [Article 14](#) of the Constitution. It has been equally held that when an unfair or unreasonable condition is imposed by the State, the Court can very well strike it down. The Constitution Bench of the Apex Court in case of Delhi Transport Corporation V/s. D.T.C. Mazdoor 31 wp2046.10 Congress and others reported in AIR 1991 SC 101(1) has approved the principle laid down in the case of Central Inland Water Transport Corporation Ltd. V/s. Brojo Nath Ganguly (supra). In that view of the matter, we are unable to accept the contention of the State, on account of whose inaction, the appointments could not be made for a period of more than a decade. The petitioners had no choice but to participate in the

selection process as per the said Government Resolution to get the employment.

14. In the facts of the present case, the Government did not hold selection through MPSC for a period of more than 10 years and selected the Lecturers only through the selection process as provided under the said Government Resolution and the petitioners were duly selected through that process. The respondent - State has extracted the work from the petitioners for years together. Now, by efflux of time and on account of the respondent - State not holding the selection process for years together, many of the petitioners have become over-aged and would not be in a position to participate in the selection 32 wp2046.10 process through MPSC. It could be clearly seen that the issue before the Apex Court in case of Secretary, State of Karnataka & Ors. V/s. Umadevi & Ors. (supra) was pertaining to the appointments which were made clandestinely and without advertisement and the persons were appointed without following due selection process. The facts of the present case are totally different. In the present case the petitioners have been appointed after the posts were advertised, they were selected in a selection process by Committee of Experts duly constituted as per the said Government Resolution. In that view of the matter, the law laid down by the Apex Court in the case of Secretary, State of Karnataka & Ors. V/s. Umadevi & Ors. (supra) would not be applicable to the facts of the present case.

15. The submission of the Government of Maharashtra that whether the posts should be filled in on regular basis or contractual basis is a matter of policy and falls within the domain of the Government of Maharashtra (employer), does not appeal to us. It being an admitted position that the posts, in which 33 wp2046.10 these employees have been appointed and continued for a considerable length of time, on contractual basis, are regular and full time posts; the appointments in these posts cannot be at the whims and fancies of the Government of Maharashtra. The State cannot adopt a policy of hire and fire or use and throw.”

12. The learned counsel for the applicants further placed reliance on the various G.Rs. on the basis of which the recruitment process have been conducted. He referred the G.R. dated 19/10/2007 (A-9,P-66) in O.A.No.17/2015. Thereafter he also referred to G.R. dated 27/06/2008 (A-10,P-76) in O.A.No.17/2015 and

G.R. dated 23/08/2010 (A-11,P-82). I have carefully gone through these G.Rs. which deal with the procedure for conducting recruitment process which includes appointment of the Committee for oral interview, written test etc. It also deals with the conditions of the employment which were advertised by the Government. The learned counsel for the applicants submits that the Government has conducted the entire recruitment process in view of the G.Rs. issued from time to time, which are already referred and therefore it cannot be said that the applicants entered the service by back door. The learned counsel for the applicants therefore submits that the observations made by the Hon'ble High Court in Writ Petition No.2046/2010 which are already reproduced earlier are applicable to the cases of applicants also and the State cannot adopt a policy of use and throw of the applicants.

13. The learned counsel Shri R.L.Khapre has also placed the reliance on the Judgment delivered by the Hon'ble Apex Court in the case of **2017 (1) ABR 599 Municipal Corporation of Gr. Mumbai Vs. Kachara Vahtuk Shramik Sangh, Mumbai.** In the said case the Hon'ble Bombay High Court has held that merely because there existed a contract, it did not preclude Industrial Tribunal from lifting the veil and taking into consideration totality of circumstances. It was held that the award declaring concerned workers as permanent workers of

Corporation and directing to give them benefits at par with other permanent workers was held to be valid. The learned counsel for the applicants thereafter placed reliance on the Judgment reported in **AIR 1986 SC 1571 in Central Inland Water Transport Corporation Ltd. & Ano. Vs. Brojo Nath Ganguly & Ano.**, wherein contract posting the public policy has been considered by the Hon'ble Apex Court. According to the Id. Counsel, the respondents / state cannot act high handed and it is incumbent on the state to regularise the services of the applicants though they are appointed on contract basis. The learned counsel for the applicants thereafter placed reliance on **(2017) 1 SCC, 148 in State of Punjab & Ors. Vs. Jagjit Singh & Ors.**, wherein it was held that principle of 'equal pay for equal work' expounded through various decisions of Supreme Court constitutes law declared by Supreme Court, which is binding on all courts in India. It was further observed that it is also applicable to temporary employees performing the said duties and responsibilities as regular employees. It is fallacious to determine artificial parameters to deny fruits of labour. More so, in a welfare State any Act of paying less wages as compared to others similarly situated, constitutes act of exploitative enslavement emerging out of domineering position of the State. The Hon'ble Apex Court further held that temporary employees possessing requisite qualifications and appointed against posts which

were also available in regular cadre, performing similar duties and responsibilities as being discharged by regular employees holding same/ corresponding posts, were entitled to claim wages at par with minimum pay scale of regular employees holding the same posts.

14. The learned counsel for the applicants submits that the applicants were appointed on contractual basis and were performing same duties as regular employees and therefore they should have been paid regular pay scale and not a meagre amount on contractual appointment. The learned counsel for the applicants further placed reliance on the Judgment delivered by this Tribunal in O.A.Nos.467/2015,524/15,585/15,589/15,606/15,632/15,633/15, 636/15,638/15,648/15,667/15,742/15,766/15,767/15,768/15,786/15, 791/15,808/15,809/15,822/15,904/15,960/15 & 1054/15 and submitted that in the similar circumstances Tribunal was pleased to observe that the similarly situated employees were entitled to be regularised in view of the Judgment in Writ Petition No. 2046/2010. The learned counsel for the applicants submits that the Judgment delivered by the Hon'ble High Court has been confirmed by the Hon'ble Apex Court and further submits that in **C.A.No.319/2015 (arising out of SLP (C) No.32707 of 2013) in the case Arjun Singh & Ors. Vs. State of Himachal Pradesh & Ors.**, delivered by the Hon'ble Apex Court, the Hon'ble Apex Court has gone further ahead and on 13/01/2015 had granted

regularisation of the appointments from the initial date of appointment and not only that the period of two years as on probation was also regularised and the State was directed to provide consequential benefits including regular pay scale, increments, arrears of pay, seniority to which the petitioners were entitled under the law.

15. The learned counsel for the applicants also placed reliance on the Judgement delivered by Hon'ble High Court of Delhi in **LPA No. 223/2015 in Army Welfare Education Society & Ano. Vs. Manju Nautiyal & Ano.,** along with the LPA Nos. 225,227,314, 347, 348,353,355 & 356 of 2015.

16. I have gone through the various Judgments on which the learned counsel for the applicants has placed reliance. I have also gone through the facts of the present case. The main bone of contention of the applicants is that even though applicants have been appointed on contractual basis, they were appointed on regular posts and they have worked there for number of years. The appointments were as per due procedure established by various circulars issued by the Government and in any case the due procedure has been followed and therefore the State being an idle employer cannot exploit the services of the temporary employees. The cases of the respective applicants are based on the Judgment delivered by the Hon'ble high

Court in the case of **Sachin Ambadas Dawale & Ors. Vs. State of Maharashtra & Ors, reported in 2014 (2) Mh.L.J.,36** as stated supra.

17. I have carefully gone through the Judgment delivered by the Hon'ble High Court in case of Sachin's as already stated. In the said case as per notification the appointments were to be made on contract basis for a period of two years or until the candidates nominated by the MPSC were available. The selection committee was constituted as per G.R. dated 02/08/2003 and in view of the advertisement the petitioners therein were appointed on contractual basis. It is to be noted that the petitioners in those cases, though initially appointed for a period of two years have in fact worked for more than 3-10 years also. The grievance of the petitioners was that though they have been appointed on the establishment of the respondents for 3 to 10 years, they are not given the benefit of permanency. From the facts however it seems that the Lecturers who were appointed on contractual basis in that case submitted a charter of their demands to the Govt. of Maharashtra, which was considered by the Govt. of Maharashtra and it was directed that those Lecturers will be continued in services on the contractual basis after giving a technical break of 4-5 days, until the candidates regularly selected by the MPSC were available. Thirty days leave was also sanctioned for

those contractual employees by the Govt. of Maharashtra G.R. dated 18/02/2006. Not only that but the monthly salary of the contractual employees was increased from Rs.8000-12000 and in case of Lecturers, from Rs.12000-16000, in case of Associate Professors and from 16400-20000 in case of Professors. Further in due course the Directorate of Technical Education had submitted the proposal on 11/08/2008 for grant of pregnancy leave and casual leave to the contractual employees but the said proposal was rejected. Vide communication dated 10/11/2009, the Govt. of Maharashtra permitted the Directorate of Technical Education to continue the services of all the Lecturers appointed on contractual basis after giving a technical break of 4-5 days and in these circumstances that the petitioners were working with the respondents in Government Polytechnic Institutions on contractual basis.

18. Perusal of the fact of the cases before this Tribunal in the present cases it will be clear that the present cases are totally different. In the present cases the applicants have responded to the advertisement which was purely for appointment on contractual basis for particular period and therefore the terms of the advertisement as well as the term of the appointment play a vital role.

19. The title of the advertisement dated 01/10/2010 (A-2,P-36) issued by the respondents in O.A.No.17/2015 reads as under :-

"I pkyuky; kP; k vf/ki R; k[kkyhy 6 i kns'kd dk; kzy; krxr ; skk& k vksiz
I LFke/khy f'k(kdh; i ns#i ; s15]000@& Bkd orukoj da=kvh i/nrhusHkj.; kl kBh
fuOMI ph o i fr{kk ; knh r; kj dj.; kdfjrk fofgr uel; kr vtZekxfo.; kr ; r
vkgr- **

20. The aforesaid conditions therefore make it crystal clear that the appointments were on contractual basis and the fixed emoluments will be Rs.15000/- p.m. The special instructions as regards to appointment on contractual basis are at page no.37 of the advertisement and condition no.18 is material which reads as under :-

"%18½ fuOM >ky; k menokjkl 2 o"kkdfjrk fu; D rh ns; kr ; bzy- rnurj
menokjkl; k I ok rRdkG I ektr dj.; kr ; rhy- dkskr; kgh i fjfLFkrhr i qfuz D rh
fnyh tk.kkj ukgh- **

21. The applicants have placed on record the appointment orders of various applicants since all the appointment orders are similar, one of the appointment orders is taken for consideration which is at P.B. of P-38 & 39 in respect of the applicant Praful Ajabraoji Kachare , dated 10/08/2011. The said appointment order and the terms and conditions therein are reproduced as follows:-

4- vki yh fuoM #-15000& Bkd ekfI d orukoj da-kVh i/nrhus dj.; kr vkysyh vl Y; kus fu; fer oruJskrhry i nkojhy deþk&; kl ns vl yysdkskrgh ykHk vFkok I oyrh vki .kkl vuKs Bj.kkj ukghr-

5- izkl dh; dkj.kkLro vki yh fu; Þrh@i frfu; Þrh ; k dk; kÿ; kP; k vf/ki R; k[kkyhy dkskR; kgh I LFkr@ dk; kÿ; kr dj.; kr ; bÿ-

6- 'kkl ukus'kkl dh; deþk&; kd kBh oGkoGh fofgr dsyseh I æ.kd vgrk /kij.k dj.ksvki .kkl cakudkj d jkghy- I nj vgrk /kij.k dfjr ul Y; kl fu; ÞrhP; k fnukadki kl u 6 efgU; kpsvkr I nj vgrk /kij.k dj.k cakudkj d jkghy-

7- 'kkl ukus'kkl fd; deþk&; kd kBh fofgr dsyseh 'kkykar i æ.ki = ijh{k mPpLrj ejkBh o mPpLrj@fuEuLrj fgnh fo'k; kl g mRrh.kz gksks cakudkj d vl u I nj fo'k; kl g 'kkykar i æ.ki = ijh{k mRrh.kz ul Y; kl fu; ÞrhP; k fnukadki kl u 6 efgU; kP; k vkr I nj ijh{k mRrh.kz gksks cakudkj d jkghy-

8- vki Y; k i nkdfjrk fofgr dj.; kr vkysysfu; e o vVh vki .kkl cakudkj d jkgrhy- rl p R; kr Hkfo"; kr dkgh cny >kY; kl I nj cny vki .kkl ylxwjkgrhy-

9- vki Y; k i nkdfjrk vko'; d vl yyscakdi =@gehi =@tekurukek nsksvki .kkl cakudkj d jkghy-

10- I or #twgks; kdfjrk vki .kkl i okl HkRrk rl p brj dkskrkgh HkRrk vuKs jkg.kkj ukgh-

11- fu; ÞrhI mHkkr vki .k I knj dsyseh i æ.ki =] vuHko i æ.ki =sHkfo"; kr [ksh vFkok pudhph vk<Guu vkY; kl vki Y; k I ok dkskrgh i wdl wuk u nsk rkrdkG I ektr dj; kr ; rhy-

12- vki .kkl I nj inkoj #tw>kY; kurj Hkfo"; kr tj vki Y; k i nkpj jkthukek ?ko; kpk vl sy rj , d efgU; kph i wdl wuk ½ukshl ½ nsksvko'; d vkgs vU; Fkk I nj inkps , d efgU; kpsBkd orukbrdh jDde 'kkl ukl tek dj.kscakudkj d jkghy-

13- vki Y; k i nkdfjrk 'kkl ukus fofgr dsyseh i f'k{k.k dk; Bde I ek/kkudkj dfjR; k i wkZ dj.ksvki .kkl cakudkj d jkghy- vU; Fkk fu; ekud kj ; kK; rh dk; Bkgh dj.; kr ; bÿ-

14- 'kkl u]l pkyuky;] i knf'kd dk; kÿ; o I LFk Lrjkoj oGkoGh fuxIer >kysys 'kkl u fu.kz @ifji =d@dk; kÿ; hu vkns k ; kpsi kyu dj.ksvki .kkl cakudkj d jkghy-

15- vki .k I or #tw >kY; kurj , d efgU; kP; k dkyko/khe/; s I {ke oSkdh; vf/kdk&; kdMuu 'kffj d LokLFk i æ.ki = R; kpi æ.kisorZkud o i wZpkjh=; i MrkG.kh @ri kl .kh ckcrP; k ueuuk i = o brj vko'; d rs dkxni = I knj dj.; kph tckcnkj vki yh jkghy- vU; Fkk vki yh I ok I ektr dsyh tkbÿ- I nj use.kud gh vki yh i wZpkjh=; o orZkud ; kK; k I ek/kkudkj d rikl .kh vgokykoj voyæuu jkghy- I nj vgoky vk{k ki kgZ vl Y; kl dkskrgh i wdl wuk u nsk ukcdjhruu dk<u Vld.; kr ; bÿ-

½ftYgk 'kY; fpdfRI d I keU; #X.kky;] vejkorh ; kps 'kffjhd LokLFk i æ.ki = dz I k#v@d{k- oSkdh; @769@20] fn-16@05@2011] i ksyI vk; Þr] vejkorh ; kps plfj=; i MrkG.kh i æ.ki = dz fo'kl@pki @453@2011] fn-29@06@2011 vUo; si klr½

16- vki .k T; k tkrh i dxkpsvkgkr R; k tkrh i dxkps tkr oškrk i æk.ki = I knj dj.ksczkudkj d vkgš I knj dšysul Y; kl] gsfu; Þrh vknsk fuxZer >kY; kP; k fnukadki kl u rhu efgll; kP; k vkar ¼l {ke i kf/kdk&; kp½ I knj dj.ksczkudkj d jkghy- foghr emrhr tkroškrk i æk.ki = I knj u dš; kl dkskrhgh I cc fopkjkr u ?krk vki yh fu; Þrh jnn dšyh tkb½y-

¼tkr oškrk i æk.ki = tk-dz I h&Mhbd h@206@l h0gh, u@16] fn-20@04@1995 vll0; si klr½

rjh ojhy vVh o 'krhZ vki .kkd ekU; vl Y; kl I nj fu; Þrh vkns kP; k fnukadki kl u 15 fnol kps vkar I nj i nkoj gtj Ogkos 15 fnol kRksvkar gtj u >kY; kl vki ysfu; Þrhpsvknsk vki kvki jnn gkrhy- rI p i nLFkki ur cny dj.; kckcr dkskR; kgh i/nrhpk ncko vk.kY; kl vki .kkd fu; Þrhdfjrk rRdkG v i k= Bjfo.; kr ; ou ifr{kk ; knhojhy menokjkl fu; Þrh ns; kr ; b½y-

Lok{kjh&
¼, l -, e-gLr½
I gl pkyd]
0; ol k; f'k{k.k o if'k{k.k i kns'kd dk; k½y;]
vejkorh-

22. The plain reading of the aforesaid terms and the conditions of the appointment order makes it crystal clear that the appointment was on contract basis on fixed lump sum pay of Rs.15000/- p.m. It was on purely temporary basis for one year only and it was clearly stated that it will not be extended further. It was specifically mentioned that the contractual employees will not be entitled to claim permanency or any other benefits admissible to the permanent employees.

23. The learned P.O. Shri P.N. Warjurkar submitted that the applicants have accepted the terms and conditions of the employment which was purely on contract basis and having acceptance the terms and conditions, the applicants cannot claim regularisation. The learned P.O. has placed reliance on the Judgment reported in (2011)

2 SCC, 429 in the case of **State of Rajasthan & Ors. Vs. Daya Lal &**

Ors. In the said case the Hon'ble High Court has held that :-

"The following are well-settled principles relating to regularisation and parity in pay:

(i) High Courts, in exercising power under [Article 226](#) of the Constitution will not issue directions for regularization, absorption or permanent continuance, unless the employees claiming regularization had been appointed in pursuance of a regular recruitment in accordance with relevant rules in an open competitive process, against sanctioned vacant posts. The equality clause contained in Articles 14 and 16 should be scrupulously followed and courts should not issue a direction for regularization of services of an employee which would be violative of the constitutional scheme. While something that is irregular for want of compliance with one of the elements in the process of selection which does not go to the root of the process, can be regularized, back door entries, appointments contrary to the constitutional scheme and/or appointment of ineligible candidates cannot be regularized.

(ii) Mere continuation of service by an temporary or ad hoc or daily-wage employee, under cover of some interim orders of the court, would not confer upon him any right to be absorbed into service, as such service would be 'litigious employment'. Even temporary, ad hoc or daily- wage service for a long number of years, let alone service for one or two years, will not entitle such employee to claim regularization, if he is not working against a sanctioned post. Sympathy and sentiment cannot be grounds for passing any order of regularization in the absence of a legal right.

(iii) Even where a scheme is formulated for regularization with a cut off date (that is a scheme providing that persons who had put in a specified number of years of service and continuing in employment as on the cut off date), it is not possible to others who were appointed subsequent to the cut off date, to claim or contend that the scheme should be applied to them by extending the cut off date or seek a direction for framing of fresh schemes providing for successive cut off dates.

(iv) Part-time employees are not entitled to seek regularization as they are not working against any sanctioned posts. There cannot be a direction for absorption, regularization or permanent continuance of part time temporary employees.

(v) Part time temporary employees in a government run institutions cannot claim parity in salary with regular employees of the government on the principle of equal pay for equal work. Nor can employees in private employment, even if serving full time, seek parity in salary with government employees. The right to claim a particular salary against the State must arise under a contract or under a statute”.

24. The learned P.O. has also placed reliance on the Judgment reported in **[2016 (6) Mh.L.J.,346]** in case of **Shirshal Rajendra Potdukhe & Ors. Vs. State of Maharashtra & Ors.**, wherein the Hon'ble High Court has observed that merely because the employees have worked on casual and temporary basis for certain number of years does not entitle them to be regularized in service. It was further observed that there cannot be a total embargo on casual or temporary employment. In exigency of administration it would be necessary to make appointments temporarily, contractually or casually. In the said case the appointments of the petitioners was under scheme and the petitioner has secured employment for a period of 11 months under said scheme with clear knowledge that their employment would come to an end after period of 11 months. They never challenged their appointments. It was held that merely because employees have worked on casual and temporary employment for certain number of years, they would not be entitled for regularization.

25. The learned P.O. has also finally placed reliance the Judgment (2016) 2 SCC (L&S) 384 in case of **State of Maharashtra**

& Ors. Vs. Anita & Ano. In the said case 471 posts of Legal Advisors, Law Officers and Law Instructors were filled on contractual basis in pursuant to G.R. Nos. 21/08/2006, 15/09/2006. The intention of Government to fill up said posts on contractual basis and it was manifested from Clause (3) of the Resolution dated 21/08/2006 and Clauses A,B&C of Resolution dated 15/09/2006. Moreover the respondents at time of appointment entered into agreement in accordance with Appendix 'B' attached to the Government Resolution dated 15/09/2006 in terms of which appointment was purely contractual, creating no right, interest or benefit of permanent service in respondents' favour. It was held that having accepted contractual appointment, respondents are estopped from challenging terms of their appointment. It was further held that when Government had taken policy decision to fill up posts on contractual basis, Tribunal and High Court ought not to have interfered with it to hold that the appointments were permanent in nature. The Hon'ble Apex Court in the said case has observed as under :-

"11. In the Government Resolution dated 21.08.2006 while creating 471 posts in various cadres including Legal Advisors, Law Officers and Law Instructors in clause (3) of the said Resolution, it was made clear that the posts created ought to be filled up on contractual basis. Clause (3) reads as under:-

"The said posts instead of being filled in the regular manner should be kept vacant and should be filled on the contract basis as per the terms and conditions prescribed by the

government or having prepared the Recruitment Rules should be filled as per the provisions therein.”

12. Subsequently, the said Resolution was modified by Government Resolution dated 15.09.2006. In the said Resolution, the column specifying “Pay Scale” was substituted with column “Combined Permissible Monthly Pay + Telephone & Travel Expenses”. However, there was no change in the decision of the government on filling up the posts on contractual basis. The Government Resolution dated 15.09.2006 stipulates the terms and conditions of the contractual appointments. Clauses 'A', 'B', 'C' and 'D' read as under:-

“A) The appointment of the said posts would be completely on contractual basis. These officers/employees would not be counted as government employees.

B) The said appointments should be made on contract basis firstly for 11 months. After 11 months the term of the agreement could be increased from time to time if necessary. Whereas, the appointing authority would take the precaution while extending the terms in this manner that, at one time this term should not be more than 11 months. The appointment in this way could be made maximum three times. Thereafter, if the competent authority is of the opinion that the reappointment of such candidate is necessary then such candidate would have to again face the selection process.

C) The appointing authority concerned at the time of the appointment would execute an agreement with the candidate concerned in the prescribed format. The prescribed format of the agreement is given in Appendix 'B'. It would be the responsibility of the office concerned to preserve all the documents of the agreement.

D) Except for the combined pay and permissible telephone and travel expenses (more than the above mentioned limit) any other allowances would not be admissible for the officers/employees being appointed on contract basis.”

13. The intention of the State Government to fill up the posts of Legal Advisors, Law Officers and Law Instructors on contractual basis is manifest from the above clauses in

Government Resolutions dated 21.08.2006 and 15.09.2006. While creating 471 posts vide Resolution dated 21.08.2006, the Government made it clear that the posts should be filled up on contractual basis as per terms and conditions prescribed by the Government. As per clause 'B' of the Government Resolution dated 15.09.2006, the initial contractual period of appointment is eleven months and there is a provision for extension of contract for further eleven months. Clause 'B' makes it clear that the appointment could be made maximum three times and extension of contract beyond the third term is not allowed. If the competent authority is of the opinion that the reappointment of such candidates is necessary then such candidates would again have to face the selection process.

14. It is relevant to note that the respondents at the time of appointment have accepted an agreement in accordance with Appendix 'B' attached to Government Resolution dated 15.09.2006. The terms of the agreement specifically lay down that the appointment is purely contractual and that the respondents will not be entitled to claim any rights, interest and benefits whatsoever of the permanent service in the government. We may usefully refer to the relevant clauses in the format of the agreement which read as under:-

"1. The First Party hereby agrees to appoint Shri/Smt. _____ (Party No. II) as a _____ on contract basis for a period of 11 months commencing from _____ to _____ (mention date) on consolidated remuneration of Rs. _____ (Rupees _____ only) per month, and said remuneration will be payable at the end of each calendar month according to British Calendar. It is agreed that IInd party shall not be entitled for separate T.A. and D.A. during the contract period....

2.

3.

4.

5. Assignment of 11 months contract is renewable for a further two terms of 11 months (i.e. total 3 terms), subject to the

satisfaction of Competent Authority, and on its recommendations.

6. The Party No. II will not be entitled to claim any rights, interest, benefits whatsoever of the permanent service in the Government.”

15. The above terms of the agreement further reiterate the stand of the State that the appointments were purely contractual and that the respondents shall not be entitled to claim any right or interest of permanent service in the government. The appointments of respondents were made initially for eleven months but were renewed twice and after serving the maximum contractual period, the services of the respondents came to an end and the Government initiated a fresh process of selection. The conditions of respondents’ engagement are governed by the terms of agreement. After having accepted contractual appointment, the respondents are estopped from challenging the terms of their appointment. Furthermore, respondents are not precluded from applying for the said posts afresh subject to the satisfaction of other eligibility criteria.

16. The High Court did not keep in view the various clauses in the Government Resolutions dated 21.08.2006 and 15.09.2006 and also the terms of the agreement entered into by the respondents with the government. Creation of posts was only for administrative purposes for sanction of the amount towards expenditure incurred but merely because the posts were created, they cannot be held to be permanent in nature. When the government has taken a policy decision to fill up 471 posts of Legal Advisors, Law Officers and Law Instructors on contractual basis, the tribunal and the High Court ought not to have interfered with the policy decision to hold that the appointments are permanent in nature.

17. In the result, the impugned judgment of the High Court is set aside and these appeals are allowed. Consequently, all other appeals are also allowed. No costs.

26. On conspectus of discussion in the forgoing paras, it will thus be crystal clear that the present applicants responded to the

advertisement issued by the Govt. which clearly indicated that the posts were to be filled up on contractual basis for a specific period. It was specifically stated that the applicants will be entitled to a fixed honorarium / salary and it was also specifically stated that in no case the employees appointed on contract basis will be entitled to claim regularisation in services. The applicants have accepted the terms and conditions of the advertisement as well as the appointment order. They have never challenged their appointment orders nor challenged policy of the Government to appoint the employees on contractual basis and therefore in such circumstances they cannot claim permanency in the services so also regularisation of their services.

27. On conspectus of discussion in foregoing paras, I therefore pass the following order :-

28. The O.A.Nos.17/2015, 18/2015, 164/2015 & 107/2016 stand dismissed with no order as to costs. Since the O.As. have been heard on merits expeditiously, the respective C.As. also stand disposed of accordingly with no order as to costs. The claim for regularisation is rejected.

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