

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 776 of 2015 (SB)

- 1) Dr. Dhiraj S/o Pundlikrao Bhende,
Aged about 30 years, Occ. Service (Dental Surgeon),
R/o Mandawkar Complex, Main Road, Samudrapur,
Dist. Wardha.
- 2) Dr. Nilesh Nichat,
Aged about Major, Occ. Service (Dental Surgeon),
R/o at Arvi Rural Hospital, Tq. and Dist. Wardha.
- 3) Dr. Namita D/o Ashokrao Belekar,
Aged about Major, Occ. Service (Dental Surgeon),
r/o at Selu Rural Hospital, Tq. Selu, Dist. Wardha.
- 4) Dr. Pravinkumar S/o Digamberrao Ingle,
Aged about Major, Occ. Service (Dental Surgeon),
R/o C/o Suresh Chokde, Chokde House, Sane Guruji
Nagar, Wardha, Tq. & Dist. Wardha.
- 5) Dr. Mangesh Gujar,
Aged about Major, Occ. Service (Dental Surgeon),
R/o at Karanja Ghadge Rural Hospital, Tq. Karanja Ghade,
Dist. Wardha.
- 6) Dr. Sayali Ujwalkumar Bokare,
Aged Major, Occ. Service (Dental Surgeon),
R/o Mul Rural Hospital, Dist. Chandrapur.
- 7) Varsha D/o Rameshwar Suryavashi,
Aged about Major, Occ. Service (Dental Surgeon),
R/o at Rural Hospital, Akot, Tq. Akot, Dist. Akola.
- 8) Dr. Shirish V. Ingle,
Aged about Major, Occ. Service (Dental Surgeon),
R/o Sangludkar Nagar, Daryapur, Tq. Daryapur,
Dist. Amravati.

- 9) Dr. Prakash Gajanan Bandiwar,
Aged about Major, Occ. Service (Dental Surgeon),
R/o at Post Gadchiroli, Tq. & Dist. Gadchiroli.
- 10) Dr. Saroj Balkrishna Bhagat,
Aged about Major, Occ. Service (Dental Surgeon),
R/o at Post Gadchiroli, Tq. & Dist. Gadchiroli.
- 11) Dr. Nitin Garibaji Janbandhu,
Aged about Major, Occ. Service (Dental Surgeon),
R/o at post Kurkheda, Tq. Khurkheda, Dist. Gadchiroli.
- 12) Dr. Shyam S/o Mohan Dapurkar,
Aged about Major, Occ. Service (Dental Surgeon),
R/o at post Ramtek, Tq. Ramtek, Dist. Nagpur.
- 13) Dr. Kishore S/o Kiran Wani,
Aged about Major, Occ. Service (Dental Surgeon),
R/o at Post Umred, Tq. Umred, Dist. Nagpur.
- 14) Dr. Satish S/o Nivrutti Sonune,
Aged about Major, Occ. Service (Dental Surgeon),
R/o Bibi, Tq. Lonar, Dist. Buldhana.
- 15) Dr. Sanjay S/o Digamber Chate,
Aged about Major, Occ. Service (Dental Surgeon),
at post Sindkhedraja, Tq. Sindkhedraj, Dist. Buldhana.
- 16) Dr. Prashant Prakash Mehatre,
Aged about Major, Occ. Service (Dental Surgeon),
R/o at post Chikhali, Tq. Chikhali, Dist. Buldhana.

Applicants.

Versus

- 1) State of Maharashtra,
through its Secretary,
Public Health Department,
Mantralaya, Mumbai-32.
- 2) The Director,
Public Health Department,
Arogya Bhawan, St. George Hospital Compound,
Fort, Mumbai-400 001.

Respondents

Shri S.N. Gaikwad, Advocate for the applicants.

Shri A.M. Khadatkar, learned P.O. for the respondents.

WITH

ORIGINAL APPLICATION No. 777 of 2015 (SB)

- 1) Dr. Nagesh T. Sheware,
Aged about 33 years, Occ. Service (Dental Surgeon),
R/o Sheetalmata Mandir, 37 Manota Gruha Nirman Society,
Katol Road, Nagpur, Tq. and Dist. Nagpur.
- 2) Dr. Roopchand D. Bhendarkar,
Aged about Major, Occ. Service (Dental Surgeon),
r/o at post Devri, Tq. Devri, Dist. Gondia.
- 3) Dr. Narendra Pandharinath Bhandarkar,
Aged about Major, Occ. Service (Dental Surgeon),
r/o at Arjuni Morgaon, Tq. Arjuni Morgaon, Dist. Gondia.
- 4) Dr. Rajkumar A. Mundle,
Aged about Major, Occ. Service (Dental Surgeon),
R/o at post Pauni, Tq. Pauni, Dist. Bhandara.
- 5) Dr. Mamta D/o Sudhakar Lanjewar,
Aged about Major, Occ. Service (Dental Surgeon),
R/o at Post Sakoli, Tq. Sakoli, Dist. Bhandara.
- 6) Dr. Lata D/o Baliram Bhagat,
Aged about Major, Occ. Service (Dental Surgeon),
R/o at Post Mohadi, Tq. Mohadi, Dist. Bhandara.
- 7) Dr. Kshitij S/o Digamber Lohite,
Aged about Major, Occ. Service (Dental Surgeon),
R/o at Post Wani, Tq. Dindori, Dist. Nasik.
- 8) Dr. Vishal S/o Tryambak Thakur,
Aged about Major, Occ. Service (Dental Surgeon),
R/o at post Manmad, Tq. Nandgaon, Dist. Nasik.

- 9) Dr. Kavita D/o Shivaji Kadam,
Aged about Major, Occ. Service (Dental Surgeon),
R/o at post Abhona, Dist. Nasik.
- 10) Dr. Priyanka D/o Baliram Thakare,
Aged about Major, Occ. Service (Dental Surgeon),
R/o at Post Trembakeshwar, Tq. & Dist. Nasik.
- 11) Dr. Sachin S/o Sudam Jirge,
Aged about Major, Occ. Service (Dental Surgeon),
R/o at post Solankur, Tq. Radhanagari, Dist. Kolhapur.
- 12) Dr. Jaywant S/o Ishwara Sangaonkar,
Aged about Major, Occ. Service (Dental Surgeon),
R/o at post Malkapur, Tq. Shahuwadi, Dist. Kolhapur.
- 13) Dr. Yuvraj S/o Mohan Mangsule,
Aged about Major, Occ. Service (Dental Surgeon),
r/o at Post Hatkangale, Dist. Kolhapur.
- 14) Dr. Ulka Rakesh Chougula,
Aged about Major, Occ. Service (Dental Surgeon),
R/o Changad, Dist. Kolhapur.
- 15) Dr. Rahul S/o Marotirao Dawane,
Aged about Major, Occ. Service (Dental Surgeon),
r/o at post Pachod, Dist. Aurangabad.
- 16) Dr. Amol Kakad,
Aged about Major, Occ. Service (Dental Surgeon),
r/o at post Gangapur, Tq. Gangapur, Dist. Aurangabad.
- 17) Dr. Nitin Sarwade,
Aged about Major, Occ. Service (Dental Surgeon),
r/o at Post Pishor, Dist. Aurangabad.
- 18) Dr. Mayadevi Narwade,
Aged about Major, Occ. Service (Dental Surgeon),
r/o at post Khultabad, Dist. Aurangabad.
- 19) Dr. Sachin S/o Uttamrao Pawar,
Aged about Major, Occ. Service (Dental Surgeon),
r/o at post Gangakhed, Dist. Parbhani.

20) Dr. Mohd. Firoz Ikbad Mhd. Gaus,
Aged about Major, Occ. Service (Dental Surgeon),
r/o at post Selu, Dist. Parbhani.

21) Dr. Bharat S/o Munjaji Lad,
Aged about Major, Occ. Service (Dental Surgeon),
r/o at post Manwat, Dist. Parbhani.

22) Dr. Sayad Abdul Ubed Abdul Khalil,
Aged about Major, Occ. Service (Dental Surgeon),
r/o at post Bhokardan, Dist. Jalna.

23) Dr. Prakash Bhoje,
Aged about Major, Occ. Service (Dental Surgeon),
r/o at post Manor, Tq. Palghar, Dist. Palghar.

24) Dr. Manoj S/o Mahan Mahind,
Aged about Major, Occ. Service (Dental Surgeon),
R/o at post Sirala, Dist. Sangali.

25) Dr. Krushandev S/o Maroti Bamane,
Aged about Major, Occ. Service (Dental Surgeon),
R/o at post Palus, Dist. Sangali.

Applicants.

Versus

1) State of Maharashtra,
through its Secretary,
Public Health Department,
Mantralaya, Mumbai-32.

2) The Director,
Public Health Department,
Arogya Bhawan, St. George Hospital Compound,
Fort, Mumbai-400 001.

Respondents

Shri S.N. Gaikwad, Advocate for the applicants.

Shri A.M. Khadatkhar, learned P.O. for the respondents.

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

COMMON JUDGMENT

(Delivered on this 17th day of September,2018)

Heard Shri S.N. Gaikwad, learned counsel for the applicants and Shri A.M. Khadatkar, learned P.O. for the respondents.

2. In all these O.As. the applicants are Dental Surgeons in Rural Hospital, Sub District Hospital and District Hospital under the control of District Civil Surgeon. It is stated that they were appointed to implement and provide facilities to the urban and rural and tribal areas. They were appointed under due recruitment process i.e. an advertisement was issued by the Civil Surgeon, interviews were conducted by the Committee constituted by the State Government. In the year 2007 and 2008 the applicants were for the first time appointed as Dental Surgeon on contract basis. The initial appointment was for 11 months which is continued till today with technical breaks of 1 to 4 days and now they have acquired experience of 3 to 7 years.

3. It is stated that on 31/07/2015 the MPSC advertised 189 posts to be filled in on regular basis and this was done with intention to deny regularisation to the applicants though the applicants are very much qualified for being continuity. Vide G.R. dated 22/01/2009 the services of some Medical Officers for

Government Dental College were regularised, but no order was passed in respect of the applicants. The applicants are therefore claiming that the respondent no.1, i.e., the Secretary of Public Health Services be directed to regularise the services of the applicants and to confirm permanency benefits to them. It is also further claim that the respondent no.1 be directed to grant benefit of continuity in service to the applicants from their initial date of appointments.

4. The respondent nos.1 and 2 filed their reply-affidavit separately in both the O.As. However the some and substance of the defence is same. It is stated that the applicants were appointed as Dental Surgeon purely on contractual basis for the period of 11 months and the Appointing Authority was the Chief Executive Officer, Zilla Parishad. The appointment was purely temporary and fixed for 11 months on contractual basis until regular employees will be available and therefore the applicants cannot claim the benefit of regularisation.

5. The learned P.O. submits that the similar cases of Dental Surgeons have been dismissed by this Tribunal in O.A.No. 84/2016 in case of **Dr. Umakant Padmakar Ramteke Vs. State of Maharashtra and Ors.** The said Judgment has been delivered

by this Tribunal Bench at Nagpur on 19/12/2017. The Tribunal was pleased to observe in para nos. 10 to 12 onwards as under :-

“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.***"

6. The learned P.O. submits that the cases of the applicants are covered by the aforesaid Judgment.

7. I have perused the respective orders of appointment of the applicants. It is particular to note that the applicants were appointed with a specific purpose to provide medical facilities to rural and urban area. The appointment orders of the applicants were for 11 months initially and it was purely on temporary basis. It was specifically stated that their services can come to an end at the efflux of time or any time without even giving notices. Now the Government wants to appoint the Medical Officers on regular basis. Considering the terms and conditions of the appointment orders of the respective applicants, it will be clear that their appointments were purely on contractual basis and the applicants are having no right to claim regularisation since they have accepted the terms and conditions of appointment and therefore I am satisfied that the cases of the applicants are covered by the

Judgment delivered by this Tribunal in O.A.No.84/2016 as already stated. Hence, I do not find any force in the O.As. and hence the following order :-

ORDER

The O.As. stands dismissed with no order as to costs.

Dated :- 17/09/2018.

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

dnk.