

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

BENCH AT NAGPUR

ORIGINAL APPLICATION NO. 160 OF 2009

DIST. : AMRAVATI

Digambar s/o Krushnarao Dube,
Aged about 45 years, Occ. Service,
R/o Chandur Railway,
District Amravati.

-- . **APPLICANT**

VERSUS

1. The State of Maharashtra,
Through Vocational Education,
Mantralaya, Mumbai - 32.
2. The Director (Training),
Directorate of Vocational
Education and Training,
Mahapalika Marg 3,
Mumbai - 1 M.S.
3. The Joint Director,
Vocational Education and
Training, Regional Office,
Amravati Division,
Morshi Road, Amravati.

-- . **RESPONDENTS**

APPEARANCE : Shri S.G. Ramteke, learned Counsel for
the applicant.
: Shri A.M. Ghogre, learned Presenting
Officer for respondents.

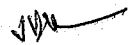
**CORAM : HON'BLE SHRI J. D. KULKARNI,
MEMBER (J)**

DATE :- 7th NOVEMBER, 2016

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J U D G M E N T

1. The applicant has claimed for a direction to the respondents to regularize his service in the post of Craft Instructor in accordance with the Govt. decision and Govt. Resolutions in the field.
2. According to the applicant, he was selected for the post of Craft Instructor, but since the post of Craft Instructor was not available, he was appointed as a Storekeeper vide order dated 6.7.1999 (Annex A.3 paper book page 15). On 9.8.2002, the Govt. of Maharashtra has taken a decision to regularize the candidates selected as Instructor. However, since the sufficient posts of Instructors were not available, it was decided that they shall be accommodated in the available post and their services will be regularized in the post of Instructor as soon as posts became available.
3. From the facts on record it is clear that vide letter dated 29.12.1994 (Annex. A. 4 paper book page 17) the applicant was called for interview for the post of Instructor शिल्प निदेशक (पत्रे कारागीर). The applicant was working as a Instructor with the respondents from the year 1995. The applicant worked as a Instructor initially for 29 days from 18.5.1995 to 15.6.1995, for 29



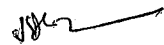
days from 19.6.1995 to 17.7.1995, for 29 days from 19.7.1995 to 16.8.1995 and from 2 months from 18.8.1995 to 17.10.1995 and thereafter from 18.10.1995 till the date of filing of this matter (paper book page 18). From the certificate dated 17.6.1995 issued by the Deputy Director of I.T.I., Amravati (paper book page 19), it seems that, the applicant has worked on temporary basis during 6.10.1987 till 29.6.1989 from time to time, subject to some technical breaks (paper book page 19).

4. As already stated the Govt. has taken a decision to regularize the services of the temporary Craft Instructors. However, since the posts of Craft Instructors were not available, the applicant was appointed as a Storekeeper vide order dated 16.7.1999 and the copy of the said order is placed on record at Annex. A.3 paper book page 15.

5. The applicant requested from time to time to regularize his services as a Craft Instructor and, in fact, a proposal was also sent by the Assistant Director to the Deputy Director, Amravati as per letter dated 7.2.2007 (Annex. A.7 paper book page 26). It seems that the same was under consideration as per letter dated 3.9.2007 (Annex. A.8 paper book page 27). The applicant's representations in this regard are also not considered favourably and, therefore, the applicant has filed this O.A.

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6. The res. no. 3 has filed affidavit in reply and admitted that fact that the applicant was initially appointed as a Craft Instructor and that he is not absorbed in that post. It is also admitted that the applicant was to be absorbed as a Craft Instructor, but was posted on the post of Storekeeper since there was no vacancy available to absorb the applicant as a Craft Instructor. It is, however, stated that the employees are making demand for their absorption in the post of Craft Instructor, but from 1999 to 2008 nine years' period has lapsed. If they are accommodated on the post of Craft Instructor more administrative difficulties and problems are likely to be created and, therefore, they cannot be absorbed in the service as Craft Instructors. The respondent no. 3 contended that this matter be dismissed.
7. Heard Shri Shri S.G. Ramteke, learned Counsel for the applicant and Shri A.M. Ghogre, learned Presenting Officer for respondents. I have also perused the affidavit, affidavit in reply so also various documents placed on record.
8. The material point to be considered in this O.A. is whether the applicant is entitled for absorption as a Craft Instructor ?
9. From the facts already discussed it will be crystal clear that there is no doubt that the Govt. has taken a decision to absorb the



Craft Instructors and accordingly the employees were absorbed. It seems from the record that, during absorption process it was noticed that the posts of Craft Instructors were not available and, therefore, it was decided to absorb them in whatever posts available at that point of time.

10. From the record, it seems that, the applicant was working on temporary basis as a Craft Instructor right from 1987 and this fact is proved from the documents placed on record at paper book pages 18 & 19, which are certificates as regards the work, which was being done by the applicant.

11. The learned Advocate for the applicant has placed a reliance on the Circular dated 9.8.2002 issued by the Director of I.T.I. (paper book page 21). The relevant para of the said Circular is as under :-

“तसेच यापूर्वी च्या कर्मचा-यांची/निदेशकांची मुळ निवड ही निदेशक म्हणुन झालेली आहे पण त्यांना विविध कारणामुळे अन्य पदावर सामावुन घेण्यात आलेले आहे, अशाही सर्व कर्मचा-यांना त्यांच्या मुळ निवड झालेल्या पदावर समावून घ्यावे, अशा रितीने अतिरिक्त निदेशकांचे समकक्ष वा अन्य व्यवसायात समायोजन झाल्यानंतरच ठरलेल्या व आवश्यक असलेल्या निदेशकांच्या रिक्त जागा

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२/३ रिक्त जागांच्या मर्यादित कंत्राटी पध्दतीने भरण्याची कार्यवाही करण्यात यावी व याबाबतीत संबंधितांना आवश्यक असलेले पुर्नप्रशिक्षण देण्याचा कार्यक्रम आपल्या स्तरावर तयार करून अंमलात आणावा व त्या कार्यक्रमासाठी संचालनालयाची परत परवानगी घेण्याची आवश्यकता नाही. तरी त्वरित वरीलप्रमाणे कार्यवाही करून या कार्यवाहीचा अहवाल या संचालनालयास सादर करावा.”

12. Plain reading of the aforesaid decision clearly shows that it was decided that the temporary Craft Instructors, who cannot be accommodated on the post of Craft Instructors, shall be accommodated in whatever posts available and even if they are absorbed on lower posts, their claim for Craft Instructors shall be considered as and when the posts were available.

13. From the letter dated 7.1.2003 (Annex. A.6 paper book page 23) it seems that the Deputy Director, ITI, Amravati has recommended the cases of the applicant and other similarly situated employees for appointment on the post of Craft Instructors. Subsequently a proposal was moved to the competent authority as per letter 7.2.2007 and even an information was called as per letter dated 3.9.2007 (Annex.A.8). From the

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affidavit in reply, it seems that, there is no dispute that the applicant was to be given posting as a Craft Instructor, the said post was not available.

14. The applicant has placed on record additional submission in the form of affidavit at paper book page 42 and in para 2 thereof the applicant has submitted as under :-

“2. That, the Government now sanctioned new posts of the Craft Instructor. As per the said proposal now there are 3 post Vacant for the said post. The Said letter issued by Non-Applicant no. 3 is Annexed to this Additional submission as **Annexure A-10**, showing the said post is still vacant and no person is likely to be posted in the said post. In view of this fact and as per the Government Resolution referred in the original Application, Applicant may be absorbed in the post of Instructor, in accordance with the law. Also it is submitted by the Non-Applicant no. 3 in their reply that they will accommodate the Applicant, as and when the post became available for the said post. It is undisputed that the Applicant is a senior most in the seniority list, which is filed on record alongwith Original Application. Hence, to bring this fact that the posts of the Instructor are Vacant, this Additional

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submission in support of the C.A. No. 267/10 for final disposal of the Present Original Application. Hence this Additional Submission in support of the Original Application.”

No reply is given by the respondents to this affidavit filed on behalf of the applicant.

15. The learned P.O. has placed reliance on the application submitted by the applicant on 7.9.1998 copy of the same is placed on record at Annex. R.1 along with additional submission, whereby the applicant accepted the fact that, he was appointed on the post of Craft Instructor and his posting came to an end since a regular employee was appointed in his place. This letter, however, cannot help the respondents for a simple reason that it was given long back i. e. in the year 1998. Admittedly, the applicant's services have been regularized and as per the policy decision taken by the Govt., he was again appointed as a Craft Instructor. As a time gap arrangement, the applicant seems to have accepted the posting as a Storekeeper but, that does not mean that applicant has given up his claim for appointment as a Craft Instructor. In fact, it is the duty of the respondents to absorb the applicant as a Craft Instructor as soon as post is available. The respondents cannot blame that the applicant has not approached

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them for last 7 to 8 years or that he was appointed as a Storekeeper on his own request.

16. In view of above discussion, the O.A. deserves to be allowed.

Hence, I pass the following order :-

ORDER

- (i) The O.A. stands allowed.
- (ii) The respondents are directed to regularize the services of the applicant in the post of Craft Instructor as per his turn and seniority.
- (iii) The necessary decision in this regard be taken by the respondents within a period of 2 months from the date of this order.

There shall be no order as to costs.

sd/-
MEMBER (J)