

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 224 of 2015**

- 1) Dr. Vaishali d/o H. Badiye,  
aged about 33 years, Occ. Service,  
resident of Abhay Nagar, Manewada,  
Ring Road, Nagpur.
- 2) Adarsh s/o Mahadeorao Dhabarde,  
aged 33 years, Occ. Service  
resident of At. Kachangaon Post : Arvi (Chhoti),  
Tq. Hinganghat, Dist. Wardha.
- 3) Pradeep s/o Vitthal Hirapure,  
aged about 31 years, Occ. Service  
resident of at post Armori, Dist. Gadchiroli-441 208.
- 4) deleted.
- 5) Atul s/o Vijay Yadgire,  
aged 30 years, Occ. Service,  
resident of pramilatai deshmukh colony,  
at post Gudadhi, Akola.
- 6) Ku. Rita d/o L. Gupta,  
aged 24 years, Occ. Service,  
resident of Vrundawan colony, Camp Amravati.
- 7) Ku. Megha d/o L. Gupta,  
aged 26 years, Occ. Service,  
resident of Vrundawan Colony, Camp Amravati.

**Applicants.**

**Versus**

- 1) The State of Maharashtra  
through its Principal Secretary,  
Higher and Technical Education,  
Mantralaya, Mumbai-32.
- 2) Director,  
Higher and Technical Education,  
Directorate of Education, Pune

- 3) Director,  
Government Institute of Forensic Science,  
Ravindranath Tagore Road, Civil Lines,  
Nagpur.
- 4) Maharashtra Public Service Commission,  
through its Chairman,  
Bank of India Building, 3<sup>rd</sup> floor,  
M.G.Road, Hutatma Chowk,  
Mumbai- 400 001.

**Respondents**

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S/Shri Ramesh Darda, Tushar Darda, Vilas Dongre, Advocates for  
the applicants.

Shri A.M. Ghogre, P.O. for the respondents.

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**Coram** :- Hon'ble Shri B. Majumdar,  
Vice Chairman &  
Hon'ble Shri S.S.Hingne,  
Member (J).

**Dated** :- 29/03/2016.

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**ORDER** -

**Per : Member (J).**

Heard Shri R. Darda, Id. counsel for the  
applicants and Shri A.M. Ghogre, Id. P.O. for the respondents.

2. The O.A. is heard finally and decided at the  
admission stage with consent of Id. counsel for parties.

3. The applicant Lecturers of the Forensic  
Science Department filed the O.A. challenging the termination order  
dated 25-4-2015 (A-9,P-102 to 108), so also to quash the



advertisement issued by MPSC to fill up those posts. The applicants also claimed to regularize their services conferring permanency as Lecturers.

4. At the threshold the background of a case is that the Government of Maharashtra issued the G.R. dated 22-7-2011 (A-R-2,P-142) <sup>to start</sup> for Institute of Forensic Science <sup>at Nagpur.</sup> As a part of it, 65 posts of Lecturers were created and the same were to be filled up on contract basis according to the requirements i.e. for hours <sup>up basis 0-2</sup> paying honorarium etc. Accordingly, the Lecturers came to be appointed for each yearly education session on contractual basis. The applicants are some of them. Their services are terminated vide order dated 25-4-2015 (A-9,P-102 to108).

5. On requisition from the Government, the MPSC (R/4) has issued the advertisement on 29-7-2013 (A-10,P-109) to fill up the posts of the Lecturer. The applicants appeared the examination, but failed. The appointment orders were issued in favour of the successful candidates.

6. The appointments of the applicants were for each Session. Two applicants namely Vaishali Badhiye and Adarsh M. Dhabarde are given appointments for four academic session i.e. from October, 2011 to academic session of 2014-15. The rest of the applicants were given appointments for two years i.e. for the

academic session of 2013-14 and 2014-15. The services of all the applicants are terminated vide order dated 25-4-2015. They have filed this O.A. to quash the termination order dated 25-4-2015 and to quash the advertisement issued by the MPSC to fill the vacancies and to regularize the applicants and confer their permanency in service.

7. The entire edifice of the applicants' case stands on the pedestal that in other matters the Lecturers got such benefits. Heavy reliance is placed on the classical pronouncement by Their Lordships of Mumbai High Court in Sachin A. Dawale & Ors. Vs. State of Maharashtra in W.P. No.2046/2010 decided on 19-10-2013 which is followed by the Mumbai Bench of this Tribunal in deciding the bunch of the O.As. bearing no. 781/2013 & ors. in Smt. Panakaja M. Waghmare Vs. State of Maharashtra vide order dated 26-06-2015. The W.P. was filed by the Lecturers in Government Polytechnic. The O.A. was filed by Ad-hoc Assistant Professors (Lecturers) in the Higher Education Department. All the reliefs are granted to these petitioners which are claimed by the present applicants.

8. The learned counsel for the applicants vehemently urged that the applicants' stand is on the same footing and therefore all the benefits be extended to them also. As against this, the learned P.O. strenuously submitted that there is a vast

difference between two set of matters and therefore applicants do not deserve for such benefits.

9. Seemingly, both the set of cases appear to be identical, however the differences are also notable. In Sachin Dawale's case (*cited supra*), hundreds of Lecturers worked nearabout one and half decade, whereas in the instant case two employees worked for four sessions and rest employees only for two sessions.


10. The worst situation faced by the Education Department for want of hands was considered and therefore the Govt. has issued the G.Rs. from time to time i.e. 25-7-2002 (P-134), 2-8-2003 (P-138), 13-10-2003 (P-140) and 19-8-2003 (P-141) withdrawing the appointments from the purview of the MPSC and appoint the Lecturers on contract basis. The Committee was constituted to regulate and channelize the work of appointments, are salient features of cited cases.

11. This did not happen in the case in hand. The appointments were not taken out of purview of MPSC. The Committee was not constituted for the appointments. Only to meet the exigency to establish the Forensic Laboratory Department at Nagpur, the G.R. dated 22-7-2011 was issued and the stop gap arrangement was made.

*S/S*

12. In cited cases consequent to the G.R. dated 25-7-2002, the Committees for regulating the appointments of Lecturers were constituted at two different levels, i.e., at University level and College level. The former Committee was headed by Vice Chancellor with five Members including the expert in the subject and Govt. representative from technical courses etc. The latter Committee was also constituted identically. Even the direction was given to follow the reservation also. Whereas in the appointment of present applicants, the perusal of the G.R. dated 22-7-2011 (P-142) reveals that one Advisory Committee was appointed for establishment of the office at Nagpur. No directions as above were issued to regulate the appointments.

13. In the matters of Lecturers in Polytechnic, Their Lordships of the Mumbai High Court considered the worst situation being faced in the education department for want of hands which was continued for years together. So also Lecturers therein had worked for years together. Some of them crossed the age bar under the fond hope they continued for years together. In those peculiar facts, Their Lordships considered the case. Such are not the facts of the case in hand. Here the applicants even failed the examination conducted by the MPSC.



14. From the above discussion, it is crystal clear that there is a sea difference in the facts of these two cases. The learned counsel for the applicants urged that the applicants have worked for 2 to 4 years. However, other conditions and situations are not similar. Moreover, dilution of the principle reducing the period from one and half decade to 2-4 years can be further diluted and the Lecturers having one year appointment can also claim the said relief. The dilution of the principle by the judicial verdict to such extent ignoring the material and glaring differences, is not proper.

15. The learned counsel for the applicants urged that the view of Sachin Dawale's (cited supra) case is followed by the Mumbai Bench of this Tribunal. It reveals from the Judgment in the O.A. that the facts in Sachin Dawale's case and matter of Assistant Professors in the Mumbai Bench of this Tribunal are identical. The Tribunal has attached the Chart in the Judgment showing that the said Professors were also working for same period. Whereas, the tenure of the applicants before us is too short in all respect in comparison to said Lecturers in W.P. and Ad-hoc Professors in O.A.

16. As a next string to the bow, the learned counsel for the applicants ardently urged that the MPSC has appointed some Lecturers, however, the Lecturers for the subjects on which the applicants were working are vacant for want of candidates

and therefore the applicants be given continuation. The judicial forum cannot usurp the work of legislation or execution<sup>ve.</sup> Unless the extreme circumstances arise court should be loath to act as prayed. No case of such contingency is made out, which was very much in existence in cited cases.

17. The other aspects are worthy to note that the recruitment of the Lecturers and Ad-hoc Professors in cited cases was done giving advertisement, taking interviews by independent body so that there will be no back door entry. On the contrary in the case in hand, the appointments of the applicants are made every year by issuing the advertisement under the process of walk-in interview<sup>6</sup> which is obvious from the advertisements (P-122 to 125). No matter is placed on record to demonstrate that due procedure was followed in appointment of the applicants giving public advertisement and holding the tests and interviews. Nothing is putforth to demonstrate in what manner the interviews were held, who were interviewers etc.

18. In the reply of para-3 (P-128) it is stated that even the applicants failed to qualify in the short listing criteria conducted by the MPSC.

19. In the cited cases, more than 5000 posts of Lecturers were vacant. The MPSC could not cope up with recruitment and therefore to meet the exigency, the services of the petitioners

5/15/14



were not terminated and the benefits were extended and they were <sup>RM</sup> ~~in~~ continuous in employment till 15-10-2013. The services of the present applicants are already terminated.

20. The learned counsel for the applicants placed reliance on the order passed on 27<sup>th</sup> April, 2015 in W.P. No. 3452/2015 (P-183), wherein Their Lordships by ad-interim relief ordered that the petitioners who were working on ad-hoc basis should not be replaced by appointing other persons on ad-hoc basis till next date. In the W.P. No. 4046/2015 by order dated 27<sup>th</sup> April, 2015, Their Lordships stayed termination order dated 27-4-2015 by passing the interim order on the very day with a stipulation that pending the petition, time was sought however the termination order was passed. Ad-interim orders came to be passed in such particular situation.

21. The learned counsel for the applicant has placed the Chart (P-364) to juxtapose the matters of Lecturers in W.P. and Assistant Professors in O.A. and present applicants. It reveals from the chart that there is sea difference betwixt two set of cases and by no stretch of reasoning it can be said that the matters are identical.

22. Having regard to the material on record, by no stretch of reasoning it can be said that the applicant's case stands to the ordeal. To grant the reliefs as claimed, on the basis of fulfilling some scanty requirements will tantamount to ignore the observations

made by Their Lordships of the Apex Court of the land in Secretary, State of Karnataka & Ors. Vs. Umadevi & Ors., AIR 2006 SC 1806

(1). In any matter of appointment there should not be any compromise with merit. Least said is better about the appointment of Lecturers in education field who have to shape the pillars for the nation.

23. Moreover some candidates appeared the examination and are appointed. They are not before us. Their rights cannot be ignored. No vested right is created in favour of the applicants to debar the independent body like MPSC to make the recruitment on the post.

24. For the foregoing reasons in our considered opinion, the case propounded by the applicants is devoid of merit. They failed to make out a case to get identical relief. They cannot derive the benefit which are extended to the other Lecturers working in Polytechnic in W.P. and Assistant Professors working in Technical Education department in O.A. Consequently, the O.A. is rejected with no order as to costs.

sd/-

(S.S.Hingne),  
Member (J).

dnk.

sd/-

(B.Majumdar)  
Vice-Chairman.