

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

**ORIGINAL APPLICATION NO.623 OF 2016 WITH
ORIGINAL APPLICATION NO.624 OF 2016**

O.A.No.623 of 2016

Smt. Vaishali Vasant More)
Staff Nurse, In Civil Surgeon,)
District Hospital, Dist. Ratnagiri,)
R/o. Godwin Stock, Post Nachne,)
H.No.1037, Tal & Dist. Ratnagiri.) **....APPLICANT**

VERSUS

1. The State of Maharashtra,)
Through the Principal Secretary,)
Public Health Department,)
Mantralaya, Mumbai)
2. The Director, Public Health Service,)
St. Georges Hospital Compound,)
Near C.S.T. Station, Mumbai.)
3. The Joint Director of Health Services,)
Pune -1, Central Building, Pune No.1.)
4. The Civil Surgeon, District Hospital,)
Ratnagiri, Dist. Ratnagiri.)
5. The Deputy Director of Health Services,))
Mumbai Circle, Thane Mental Hospital)
Compound, Thane 400 604)
6. The Deputy Director of Health Services,)
District Kolhapur, Central Building,)
Near Police H.Q. Kasba Baroda Road,)
Kolhapur 416 002) **..RESPONDENTS**

WITH**O.A.No.624 of 2016**

Mrs. Sayali Hirakant Salvi,)
 @ Varsha Yeshwant Zore,)
 As Staff Nurse, District Civil Hospital,)
 District Ratnagiri,)
 R/o. Omkar Swarnp Apartment,)
 Flat No.2, Joshi Paland, Ratnagiri,)
 Tal & Dist. Ratnagiri 415 612)

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 Compound, Thane 400 604)
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 District Kolhapur, Central Building,)
 Near Police H.Q. Kasba Baroda Road,)
 Kolhapur 416 002)

..RESPONDENTS

Shri V.P Potbhare, learned Advocate for the Applicant.
Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.

CORAM : JUSTICE MRS. MRIDULA BHATKAR, CHAIRPERSON
SHRI P.N. DIXIT, VICE-CHAIRMAN

DATE : 10.02.2021

PER : SHRI P.N. DIXIT, VICE-CHAIRMAN

ORDER

1. Heard Shri V.P Potbhare, learned Advocate for the applicant and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.

2. Both the Original Applications are taken together for consideration.

3. The Applicant in O.A.No.624/2016 was sponsored by Employment Exchange, Raigad /Ratnagiri. Accordingly, she was given appointment on 26.07.1996 on a temporary basis. Following the directions of the Hon'ble Labour Court, Kolhapur, the services of the applicants were not terminated. Meanwhile, the Deputy Director of Health Services conducted examination and the applicant was selected through regular Selection Committee and given appointment on 14.09.2007.

4. Prior to the same, the applicant submitted her resignation as temporary employee on 13.09.2007. The same was accepted. On 15.10.2013, the applicant submitted a representation that her services from 1996 as temporary employee may be considered for seniority. Her representation has not been decided so far. The applicant approached this Tribunal in June 2016 with a prayer that her services from 1996 should be counted and she should be given Time Bound Promotion w.e.f. 1995.

5. We examined the available records and found that her services from 1995 till her regular appointment in the year 2007 have not been so far regularized.

6. Shri Satish Hanmantrao Bagar, Chief Administrative Officer, office of Deputy Director, Health Services, Kolhapur has filed affidavit on behalf of Respondents no.1 to 6. The Respondent has opposed the prayer mentioning that in view of the judgment of Hon'ble Supreme Court in case of **Secretary, State of Karnataka & Ors. Versus Umadevi and Other, reported in (2006) 4 SCC 1**, it is made clear that the adhoc and temporary employees cannot seek any directions for regularization, absorption or making them permanent, especially while they were appointed without any proper selection or advertisement amongst the candidates and no recruitment rules were followed, and such appointments were

contrary to the Constitutional Scheme, especially Articles 14 and 16 of the Constitution of India. The affidavit further mentions that the Applicant was appointed for 30 days temporarily as an adhoc employee and she was continued from 26.07.1996 till 14.09.2007 as per the orders of the Hon'ble Labour Court.

7. In O.A.No.623/2016 the applicant has not been sponsored by the authorized agency. She has also made similar prayers as in O.A.No.624/2016 i.e. for regularization of her service and giving the benefit of Time Bound Promotion w.e.f. from the year 1995.

8. Unless the services from 1995 till 2007 of both the Applicants are regularized, it would not be appropriate to give the benefit of Time Bound Promotion scheme to the applicants.

9. We, therefore, direct the Respondents to consider the representation made by the applicant from time to time from the year 2013 onwards and take a suitable decision.

10. The Applicants to make further fresh representations to the Respondents within a period of 1 month from today. Once their representations are received the Respondents may consider the same in accordance with the law within a period of 12 weeks thereafter. The decision should be communicated to the Applicants within 2 weeks thereafter.

11. With the above directions, both the Original Applications are disposed off with no order as to costs.

Sd/-
(P.N. Dixit)
Vice-Chairman

Sd/-
(Mridula Bhatkar J.)
Chairperson

prk