

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 476 OF 2016  
(Subject:-Termination /Reinstatement)**

**DISTRICT: - HINGOLI**

**Smt. Ashvini Purushottam Ganage,** )  
Age: 28 years, Occu. At present Nil, )  
R/o. Shivshankar Nagar Chikhali Road, )  
Buldhana, Ta. and Dist. Buldhana. )...**APPLICANT**

**V E R S U S**

- 1. The State of Maharashtra,** )  
Through its Secretary, )  
Higher and Technical Education Dept., )  
Mantralaya, Mumbai-32. )
- 2. The Director of Technical Education,**)  
Maharashtra State, )  
Near Kama Hospital, Mumbai. )
- 3. Government Polytechnic, Hingoli.** )  
P-9 M.I.D.C. Limbala, Hingoli )  
Through its Principal. )..**RESPONDENTS**

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**APPEARANCE** : Shri A.V. Patil (Indrale), learned  
Advocate for the applicant.  
: Shri S.K. Shirse, learned Presenting  
Officer for the respondents.

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**CORAM** : **Shri V.D. Dongre, Member (J)**  
**And**  
**Shri Bijay Kumar, Member (A)**

**Reserved on** : **10.02.2023.**

**Pronounced on** : **20.04.2023.**  
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**ORDER****(Per: Shri V.D. Dongre, Member (J))**

1. By invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985, this Original Application is filed seeking regularization of her services on the post of Lecturer as pleaded by her in her representation dated 27.04.2015 (Annexure 'A-C') made to the respondent No.1.

2. The facts in brief giving rise to this Original Application can be summarized as follows:-

(i) The respondent No.2 i.e. the Director of Technical Education, Maharashtra State issued an advertisement for filling up various posts of Lecturers available with Government Polytechnic Institutions run by the respondents on contract basis. Pursuant to the said advertisement, the applicant applied for the post of Lecturer in Mechanical Engineering subject. The applicant was appointed by appointment letter dated 03.01.2012 and posted as Lecturer in Mechanical Engineering subject in the respondent No.3 Institution from OBC category. Thereby she was appointed on contract basis for the period of 11 months against the permanent and vacant post. Subsequently the applicant was

continued in service for further period of 11 months after giving technical break by order dated 18.02.2023 and 13.01.2014 ( part of Annexure 'A' collectively). The period of appointment as per 3<sup>rd</sup> appointment letter dated 13.01.2014 was from 15.01.2014 to 12.12.2014 or till regular candidate is available whichever is earlier.

(ii) It is submitted that during 3<sup>rd</sup> appointment period, in the year 2014 the applicant was pregnant and was not keeping well. In view of that during that year, she was on leave on medical grounds. Accordingly she sent various leave applications (Annexure 'B' collectively) seeking leave for the absence period of 06.08.2014 to 06.09.2014, 07.09.2014 to 07.11.2014 and 08.11.2014 to 12.12.2014.

(iii) It is further submitted that after recovery from shock of unfortunate death of her child, she made application dated 27.04.2015 (Annexure 'C') to the respondent No.1 pointing out that she could not attend the duty for some period due to the illness and pregnancy and therefore, requested for allowing her to resume the service and regularize her in service like other Lecturers, who were regularized having been completed three years of continuous service with technical break.

(iv) It is her contention that she has also completed three years continuous service and that the issue regarding regularization of Lecturers appointed on contract basis has been considered and dealt with by the Hon'ble High Court of Bombay, Bench at Nagpur in **W.P.No. 2046/2010** in the matter of **Sachin Ambadas Dawale & Ors. Vs. The State of Maharashtra & Ors.** decided by order dated 19.10.2023 (part of Annexure 'D' collectively) and thereby Lecturers, who were working on contract basis for more than three years in Government Polytechnic Institutions were regularized.

(v) The abovesaid order of the Hon'ble High Court is confirmed by the Hon'ble Supreme Court of India as Petition (s) for Special Leave to Appeal (C) No (s). 39014/2023 filed by the State of Maharashtra is rejected vide order dated 06.01.2015 (part of Annexure 'D' collectively). The respondent No.3 consequently issued G.R. dated 14.01.2015 (Annexure 'E') thereby regularizing the services of 62 contract Lecturers working in Government Polytechnic Institutions, who completed three years service on contract basis with technical break.

(vi) Moreover, the respondents have regularized the services of Lecturers appointed on contract basis like the applicant from time to time. In that regard by common order dated 12.12.2014 continued the services of Lecturers working on contract basis till 12.11.2015 (Annexure 'F'). In such circumstances as above, it is the contention of the applicant that the respondents have failed to consider her application seeking regularization of her services as per representation dated 27.04.2015 (Annexure 'C') though the applicant is entitled for regularization of her services. Hence, this application.

3. The application is resisted by filing affidavit in reply on behalf of respondent Nos. 1 to 3 (page No. 90 to 115) by Shri Vijay Laxman Bhangre working as Assistant Director (Non Technical) in the office of Joint Director, Technical Education, Regional Office, Aurangabad. Thereby the adverse contentions raised in the Original Application are denied.

(i) Further thereby contractual appointment orders given to the applicant in the year 2012, 2013 and 2014 are admitted. However, the claim of regularization of the applicant is denied stating that in the communication dated 31.08.2016 (Exh. 'R-1') addressed by the respondent No.3 i.e.

the Principal Government Polytechnic, Hingoli where the applicant was posted to the respondent No.2 i.e. the Director of Technical Education, Maharashtra State, thereby placing on record the information in tabular form about leave availed by the applicant from time to time and also unauthorized absence. As per the said table, the applicant remained absent from duties of teaching during the month of December 2013, April 2014 and May 2014 and August 2014 till her date of termination i.e. on 12.12.2014. She was continuously absent. Her unauthorized absence is for more than 8 months.

(ii) It is admitted that the services of applicant were terminated by order dated 12.12.2014 (Annexure 'F') by the respondent No.3 i.e. the Principal Government Polytechnic, Hingoli as the contractual period came to an end.

(iii) It is further submitted that after her termination on 12.12.2014, the applicant never approached the respondents for further contractual appointment. Instead she directly filed this Original Application seeking the benefit of regularization of contractual services.

(iv) As stated earlier, the applicant has remained absent from duties for considerable period during her contractual

appointment and has not completed three years of services with technical break as contemplated and therefore, the ratio laid down in the decision of the Hon'ble High Court of Judicature at Bombay, Bench at Nagpur in W.P.No. 2046/2010 in the matter of **Sachin Ambadas Dawale & Ors. Vs. The State of Maharashtra & Anr.** decided on 19.10.2023 is not applicable.

(v) It is further submitted that similarly situated persons like applicant filed **W.P.No. 4893/2015** in the matter of **Vishal Satyanarayan Kasat Vs. The State of Maharashtra & Ors.** and **W.P. No. 4902/2015** in the matter of **Komalkant Anilrao Patil Vs. The State of Maharashtra & Ors.** The Hon'ble High Court of Judicature at Bombay Bench at Nagpur by separate orders dated 15.10.2015 and 19.10.2015 respectively (Exhibit 'R-2' collectively) dismissed the said Writ Petitions observing as follows:-

***“ On hearing the learned Counsel for the parties, it appears that the relief sought by the petitioner in the instant petition cannot be granted. The services of the Lecturers working in Polytechnic Colleges are protected only if certain conditions are satisfied. The first condition is that the***

***Lecturer should have been selected by duly constituted Selection Committee and he/she should have worked as a Lecturer for a period of at least three years. The second condition is that the Lecturer should be in service at the time of seeking the relief of protection of their services. Both the conditions are not satisfied in the case of the petitioner, inasmuch as the petitioner has not completed three years of service with the respondent-College and the petitioners was not in service as on the date of filing of the Petition.***” In such circumstances, the petitioner has not completed three years of service with Respondent-college and the petitioner was not in service as on the date of filing of the petition. Therefore contention of the applicant to continue and regularize the contractual service is wrong, therefore denied.”

In view of the same, there is no merit in the application and is liable to be dismissed.

4. We have heard at length the arguments advanced by Shri A.V. Patil (Indrale), learned Advocate for the applicant on one hand and Shri S.K. Shirse, learned Presenting Officer for the respondent authorities on other hand.

5. After having considered the rival pleadings, documents and submissions, it is evident that the applicant is claiming the benefit of regularization contending that other Lecturers, who were working as Lecturers in various Government Polytechnics were regularized by issuing G.R. dated 14.01.2015 (Annexure 'E') based on the decision of the Hon'ble High Court of Judicature at Bombay Bench at Nagpur in **W.P.No. 2046/2010** in the matter of **Sachin Ambadas Dawale & Ors. Vs. The State of Maharashtra & Ors.** decided by order dated 19.10.2023 (part of Annexure 'D' collectively).

6. On the other hand, the respondents while denying the claim of regularization of the applicant relied upon the two decisions of the Hon'ble High Court of Judicature at Bombay Bench at Nagpur dated 15.10.2015 and 19.10.2015 respectively (Exhibit 'R-2' collectively) in **W.P.No. 4893/2015** in the matter of **Vishal Satyanarayan Kasat Vs. The State of Maharashtra & Ors.** and **W.P. No. 4902/2015** in the matter of **Komalkant Anilrao Patil Vs. The State of Maharashtra & Ors.** which is reproduced again for the sake of convenience.

***“ On hearing the learned Counsel for the parties, it appears that the relief sought by the petitioner in the instant petition cannot be granted. The services of the Lecturers working in Polytechnic Colleges are protected only if certain conditions are satisfied. The first condition is that the Lecturer should have been selected by duly constituted Selection Committee and he/she should have worked as a Lecturer for a period of at least three years. The second condition is that the Lecturer should be in service at the time of seeking the relief of protection of their services. Both the conditions are not satisfied in the case of the petitioner, inasmuch as the petitioner has not completed three years of service with the respondent-College and the petitioners was not in service as on the date of filing of the Petition.”*** In such circumstances, the petitioner has not completed three years of service with Respondent-college and the petitioner was not in service as on the date of filing of the petition. Therefore contention of the applicant to continue and regularize the contractual service is wrong, therefore denied.”

7. In G.R. dated 14.02.2015 (Annexure ‘E’) the directions given in decision dated 19.10.2013 (part of Annexure ‘D’

collectively) in the matter of **Sachin Ambadas Dawale & Ors. Vs. The State of Maharashtra & Ors.** were as follows:-

*“ The respondent are directed to regularize the services of such of the petitioners and confer permanency on such petitioners who have completed three years service with technical breaks. The respondent shall absorb the petitioners within a period of six weeks. Needless to state that the petitioners who are in continuous employment till 15.10.2013 shall be continued in service as regular employees.*

*However, in the facts and circumstances of the case, we direct that the petitioners shall be entitled to regular salary from 1<sup>st</sup> November, 2013 and would not be entitled to claim any monetary benefits for the past services rendered by them inspite of their regularization. Needless to state that since the petitioners services are regularized, they shall be entitled to the continuity in service for all other purposes except monetary purpose from the date of their first appointment.*

*सदर आदेशाविरुद्ध शासनाच्या वतीने मा. सर्वोच्च न्यायालय, नवी दिल्ली येथे विशेष अनुमती याचिका क्र. SLP (Civil) – ३९०१४/२०१३ दि. ३०.११.२०१३ रोजी दाखल करण्यात आली होती.”*

8. In the background as above, if the facts of the present case are considered, it is evident that contractual services of the applicant were terminated by order dated 12.12.2014

(Annexure 'F') by the respondent No.2. It is true that the applicant was given contractual appointment with technical break by appointment orders dated 03.01.2012, 18.02.2013 and 13.01.2014 (Annexure 'A' collectively).

9. Nothing is placed on record to show that after termination of her services, the applicant made any representation seeking regularization of her services. She filed this Original Application directly on or about 13.06.2016. If the applicant is to be given benefit of regularization on the basis of completion of three years contractual service with technical break, the applicant had to establish that she has worked such for three years on contractual basis.

10. Perusal of communication dated 31.08.2016 (Exh. 'R-1') addressed by the respondent No.3 to respondent No.2 would reveal that during three years contractual period, the applicant was absent unauthorizedly for the period of more than 8 months. Admittedly, the applicant was not in service as on the date of filing of the Original Application. In such circumstances, in our considered opinion, the applicant is not entitled to claim the benefit of regularization as per direction

of regularization given in the case of **Sachin Ambadas Dawale's case** (cited supra) and similar to that of G.R. dated 14.01.2015 (Annexure 'E') issued by the respondent No.1 appointing 62 contractual Lecturers on the ground of completion of three years services. In such circumstances, in our considered opinion, the application is devoid of merits and is liable to be dismissed. Hence following order:-

**ORDER**

- (A) The Original Application stands dismissed.
- (B) No order as to costs.

**MEMBER (A)**

**MEMBER (J)**

**Place:-Aurangabad**

**Date : 20.04.2023**

SAS O.A. 476/2016