

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 81/2022 (S.B.)

Dr. Vaibhav Deorao Kamble,
Aged about 38 years, Assistant Professor,
Government Dental College and Hospital, Nagpur,
Resident of Flat No.102, Nandita Apartment, 80-81,
Samajbhushan Society, Manish Nagar,
Somalwada, Nagpur-440015.

Applicant.

Versus

- 1) The State of Maharashtra
through its Secretary,
Department of Medical Education and Drug,
9th Floor, G.T. Hospital Campus, New Mantralaya,
Lokmany Tilak Road, Mumbai, Mumbai-400 001.

- 2) Director of Medical Education and Research,
Government Dental College and Hospital Building,
Saint George Hospital Compound, Near CST,
Mumbai 400 001.

- 3) The Dean,
Government Dental College and Hospital,
Nagpur 440 009.

Respondents

Shri R.V.Shiralkar, Ld. Counsel for the applicant.
Shri H.K.Pande, Ld. P.O. for the respondents.

Coram:- Hon'ble Shri M.A.Lovekar, Member (J).
Dated:- 24st August 2023.

JUDGMENT

Judgment is reserved on 06th July, 2023.

Judgment is pronounced on 24st August, 2023.

Heard Shri R.V.Shiralkar, learned counsel for the applicant and Shri H.K.Pande, learned P.O. for the respondents.

2. Case of the applicant is as follows. As per G.R. dated 10.08.2001 (Annexure A-1) respondent no.3 gave an advertisement dated 05.04.2013 (Annexure A-2). In response to said advertisement the applicant applied for the post of Lecturer/Assistant Professor (Prosthodontics). After following due procedure he was appointed for 120 days by order dated 04.05.2013. By orders dated 10.09.2014 and 23.02.2015 (Annexures A-3 & A-4, respectively) his services were directed to be protected by this Tribunal. Respondent no.3 failed to comply with this direction. By subsequent order dated 18.01.2016 (Annexure A-5) this Tribunal directed that services of the applicant will

be continued till appointment of regular candidate. Details of appointment orders given to the applicant (Annexure A-6, collectively) are as follows-

Date of Appointment Order	Period
01.08.2009	01.08.2009 to 28.11.2009
21.01.2010	28.11.2009 to 11.03.2010
Applicant services was relieved on 11.03.2010, thereafter applicant again joined service on 04.05.2013	
04.05.2013	20.05.2013 to 16.09.2013
17.09.2013	18.09.2013 to 15.01.2014
17.01.2014	17.01.2014 to 16.05.2014
22.05.2014	19.05.2014 to 15.09.2014
10.09.2014	This Hon'ble Tribunal protected services of the applicant by way of interim order passed by this Tribunal in O.A.No.614/2014
19.01.2015	O.A.No.614/2014 admitted
23.02.2015	Applicant again moved an application for continuation of service and thereby this Hon'ble Tribunal has granted and continue the interim order.
	Respondent no.3 has again refused to continue to the applicant after that order
18.01.2016	Applicant moved two civil application

	bearing 455/2014 and 465/2015 continuation of service and this Hon'ble Tribunal has granted the same.
02.02.2016	08.02.2016 to 06.06.2016
17.06.2016	08.06.2016 to 05.10.2016
28.10.2016	07.10.2016 to 03.02.2017
30.01.2017	06.02.2017 to 05.06.2017
09.06.2017	07.06.2017 to 04.10.2017
10.10.2017	06.10.2017 to 02.02.2018
09.02.2018	05.02.2018 to 04.06.2018
30.05.2018	06.06.2018 to 03.10.2018
15.10.2018	05.10.2018 to 01.02.2019
04.02.2019	04.02.2019 to 03.06.2019
12.06.2019	05.06.2019 to 02.10.2019
15.10.2019	04.10.2019 to 31.01.2020
05.02.2020	03.02.2020 to 01.06.2020
21.05.2020	03.06.2020 to 30.09.2020
20.10.2020	03.10.2020 to 30.01.2021
18.02.2021	02.02.2021 to 01.06.2021
21.06.2021	03.06.2021 to 30.09.2021
26.10.2021	04.10.2021 to 01.02.2022

By G.R. dated 22.01.2009 (Annexure A-7) following decision

was taken-

शासन निर्णय:-

प्रस्तावनेत नमूद केल्यानुसार, महाराष्ट्र वैद्यकीय शिक्षण व संशोधन सेवा गट ब मधील रु.८०००- १३५०० या वेतनश्रेणीतील, वैद्यकीय व दंत महाविद्यालयांत, दिनांक १५/१/२००९ रोजी अखंडित / खंडित सेवेने कार्यरत असलेल्या, म्हणजेच दिनांक १५/१/२००७ पर्यंत तात्पुरत्या नियुक्तीनेच सेवेत लागलेल्या आणि सदर शासननिर्णय निर्गमित होतेवेळी नियुक्तीनेच संथेत कार्यरत असलेल्या अधिव्याख्याता / दंतशल्यचिकित्सक यांच्या तात्पुरत्या सेवा नियमित करण्यास एक विशेष बाब म्हणून मंजूरी देण्यात येत आहे.

By G.R. dated 15.06.2017 (Annexure A-8) following decision

was taken-

शासन निर्णय

राज्यातील शासकीय वैद्यकीय महाविद्यालयातील दंतशात्र विभागातील व शासकीय दंत महाविद्यालयातील व रुग्णालयातील अध्यापकीय संवर्गातील सहायक प्राध्यापक व दंतशल्यचिकित्सक या तात्पुरत्या नियुक्तीने कार्यरत असलेल्या खालील संवर्गातील उमेदवारांच्या तात्पुरत्या सेवा या आदेशाच्या दिनांकापासून अत्यंत अपवादात्मक परिस्थितीतील एक विशेष बाब म्हणून नियमित करण्यास शासनाची मंजूरी प्रदान करण्यात येत आहे. सदर उमेदवारांना पूर्वलक्षी सेवेचे आर्थिक व सेवाविषयक लाभ अनुज्ञेय असणार नाही.

अ.क्र.	पदनाम	पात्र उमेदवारांची संख्या
१.	सहायक प्राध्यापक	०८

२.	दंतशल्यचिकित्सक	०९
३.	एकूण	१७

Like these nine persons services of the applicant also should have been regularised. On 14.02.2020 this Tribunal passed the following order in O.A.No.614/2014 (Annexure A-11)-

In view of this, the respondent nos.1 & 2 are directed to take decision on the representation of the applicant within three months from the date of this order and regularise him in service, if he is fulfilling the material requirements in the G.R. dated 15/6/2017.

By communication dated 23.08.2021 (Annexure A-12) respondent no.1 informed respondent no.2 as follows-

दि.१५.६.२०१७ रोजीच्या शासन निर्णयान्वये शासकीय दंत / वैद्यकीय महाविद्यालयातील ९ दंतशल्यचिकित्सक आणि ८ सहायक प्राध्यापकांची तात्पुरती सेवा विशिष्ट अटी व शर्तीच्या अधिन राहून नियमित करण्यात आली होती. सदर धोरणात्मक निर्णय मा. मंत्रिमंडळाच्या मान्यतेने घेण्यात आली होती. मा. मंत्रिमंडळानी मान्यता प्रदान केलेल्या टिप्पणीतील नियम ४(३) नुसार तात्पुरती नियुक्तीने कार्यरत अध्यापकांच्या सेवा नियमित करताना त्यांना त्या त्या पदावर काम केल्याचा अनुभव असणे आवश्यक होते. त्यामुळे किमान २ वर्षांचा अनुभव धारण करणाऱ्या अध्यापकांचा विचार करण्यात आला होता. यासाठी सदर अध्यापक

१.८.२०१४ पूर्वी नियुक्त झालेले तसेच दि.२२.१०.२०१६ पर्यंत कार्यरत असणे आवश्यक होते. दि.१.८.२०१४ तत्पूर्वी विभागीय निवडमंडळ पुरस्कृत उमेदवार म्हणून तात्पुरती नियुक्ती झालेल्या उमेदवारांना प्रस्तावात समावेश करण्यात आला होता. तसेच नियम ४(७) नुसार कोणत्याही प्रशासकीय कारणास्तव अध्यापकांची तात्पुरती सेवा खंडीत करण्यात आली असेल अथवा एक तात्पुरती नियुक्ती संपल्यानंतर अनुज्ञेय असलेली दुसरी तात्पुरती नियुक्ती देण्यात आली नसेल व संधी मिळताच उमेदवार पुन्हा तात्पुरत्या नियुक्तीने कायम झाला असेल, अशा प्रकरणी प्रशासकीय कारणास्तव झालेला कमाल ३ महिन्यांपर्यंतचा खंड क्षमा करण्याची तरतूद आहे. परंतु डॉ. कांबळे दि.१६.९.२०१४ ते दि.१.२.२०१६ (१६ महिने) या कालावधीत कायम नसल्याने सेवा नियमित होणाऱ्या अध्यापकांमध्ये त्यांचा समावेश केलेला नाही.

उपरोक्त शासन निर्णयानुसार उमेदवारांच्या सेवा नियमित करणे ही बाब अप्रस्तुत व अव्यवहार्य ठरणारे असल्याने शासनाच्या हिताचा विचार करून काही विशिष्ट निकष तसेच अटी व शर्तीची पूर्तता करणा-या अध्यापकांच्या तात्पुरत्या सेवा नियमित करण्यात आली आहे. सबब, सदर शासनाच्या धोरणात्मक निर्णयाचा लाभ घेण्यासाठी डॉ.कांबळे हे अर्हता पुर्ण करत नव्हते त्यामुळे त्यांची सेवा नियमित करण्यात आलेली नाही.

३. शासकीय दंतवैद्यकीय महाविद्यालयांतील रिक्त पदांचा विचार करून एक वेळची विशेष बाब म्हणजेच दि.१५.६.२०१७ रोजीचा विभागाचा धोरणात्मक निर्णयानुसार अध्यापकांच्या सेवा नियमित करण्यात आल्या होत्या. त्यामुळे सद्यपरिस्थितीनुसार डॉ. कांबळे यांची सेवा नियमित करणे यथोचित ठरत नाही.

Services of the applicant ought to have been regularised in view of Judgement of the Hon'ble Bombay High Court (***Sachin Ambadas Dawale Vs. State of Maharashtra & Another 2014(2) Mh.L.J.36***), Judgments at Annexures A-16 to A-18 & Circular at Annexure A-19. As per G.R. dated 11.01.2019 (Annexure A-20) technical breaks in the service of the applicant deserved to be condoned. Hence, this O.A. for following reliefs-

- II. *by appropriate direction to direct respondent no.1 to regularize the services of the applicant;*
- III. *to grant the statutory and monetary benefits from the date of initial appointment to the applicant;*
- IV. *that the impugned order dated 06.09.2021 may kindly be quashed and set aside;*

3. Stand of respondent no.1 is as follows-

(1) As per Recruitment Rules, the post of Assistant Professor, Dentistry in Government Medical College is to be filled by Maharashtra Public Service Commission. If the post is vacant it is filled by the eligible bonded candidates or non-bonded candidate on temporary basis, till the vacancy is filled through recommendation of Maharashtra Public Service Commission. In these circumstances the first preference should be given to bonded candidates who are Post Graduate students. If such students are not available

the vacant post is filled by eligible non-bonded candidates till vacancy is permanently filled.

(2) If the bonded candidate is not available, then non-bonded candidate will be appointed on temporary basis as per Government Resolution dated 10.08.2001 [Annexed as Exhibit A-1 with Original Application]. This type of appointment is a stop gap arrangement and purely on temporary basis. In the appointment order of the applicant, it is made very clear that this appointment is on temporary basis and appointed as non-bonded candidate as per the provisions of above said Government Resolution.

(3) The applicant is well aware that his appointment is only for 120 days and it could not be regularized. Further applicant is also aware that such temporarily appointed candidate is not entitled for permanency in the Government Service.

(4) According to Government Resolution of this department dated 15.06.2017, the temporary services of 9 Dental surgeons and 8 Assistant Professors in Government Dental / Medical College were regularized subject to specific terms and conditions.

(5) This policy decision was taken after the approval of Hon'ble State Cabinet. As per this policy decision, only those candidates who have at least 2 years of experience were considered. As per this criterion, it was necessary that, the candidate should be appointed before 01.08.2014 and working till 22.10.2016. The candidates who were

temporarily appointed earlier to 01.08.2014 with recommendation of Divisional Selection Board were also included in the proposal and in case of temporary termination of services of a candidate due to any administrative reason, provision is made to waive the break period up to a maximum of 3 months. [A copy of said Cabinet note is annexed hereto and marked as Exhibit R-1].

(6) The applicant has the break of 16 months i.e. (from 16.09.2014 to 01.02.2016). Thus, the applicant does not fulfill the criteria decided by Hon'ble State Cabinet.

(7) The applicant was not in service from dt.16.09.2014 to dt.01.02.2016. This period was more than 3 months. Due to this break in service applicant does not fulfill the conditions mentioned in policy decision taken for regularization. Therefore temporary service of applicant could not be regularized. Accordingly this decision was communicated to applicant vide letter dated 23.08.2021.

(8) At present, the service of the Applicant is not protected by any Tribunal or Court and all the Original Applications have been disposed of.

(9) The order of Hon'ble High Court in Sachin Dawale's case is not applicable to each and every case. It is pertinent to note here that the explanation regarding Sachin Dawale's case is given by Hon'ble High Court. Bombay vide order dated 27.03.2019 in Writ Petition No. 12597/2017 [Copy of Hon'ble High Court order is annexed and marked as Exhibit R-2].

4. In rejoinder the applicant has raised following grounds-
- (1) *The break in services of the applicant from 16/09/2014 to 01/02/2016 was during the period when the Original Application No. 614/2014 was pending and when the interim order of not to substitute the services of the applicant by another set of ad-hoc employee was in force i.e. order dtd. 10/09/2014) filed on page no. 30 of the present Original Application. During this period the post on which the applicant was working was kept vacant intentionally.*
- (2) *It is matter of record that, vide Govt. Resolution dtd. 15/06/2017, services of the eight Assistant Professors in Govt. Dental College were regularized. A policy decision which was taken to regularize the services of this candidate is annexed herewith and marked as Annexure- A-21. Bare perusal of the condition which shows that the applicant was in service on 22/10/2016 and was working prior to 01/08/2014, even though the applicant was fulfilling the condition of regularization his proposal was not forwarded by the respondent no.3 to the respondent no.1.*
- (3) *The technical break given to the applicant from 16/09/2014 to 01/02/2016 is attributable to the respondent.*
5. The applicant has relied on the following observations in the case of Sachin (Supra).

In view of the above facts, it cannot be said that the appointments of the petitioners are back door or illegal. It cannot be said that the petitioners are appointed arbitrarily or haphazardly or clandestinely without issuing advertisement and without giving an opportunity to all the eligible candidates to participate in the selection process. From the record it clearly appears to be an undisputed position that in response to the advertisement several candidates had participated in the selection process and it is the petitioners who were found eligible and suitable for the posts and as such were selected and appointed. It is not the case of the respondents that any illegalities took place during the selection process.

We have discussed earlier, that after the tenure of two years of the appointment of the petitioners came to an end, the respondent - Government issued the resolution dated 26th October, 2005 and continued the Lecturers for the further period of two years. It is to be noted that the Government of Maharashtra has stated in the affidavit filed before this Court that it had decided to continue the services of the contractual employees after giving four to five days' break until the candidates selected through MPSC are available and that the Government of Maharashtra had decided to grant 30 days' leave to these employees and had increased monthly package of these employees. These factors show that the posts, in which these employees are appointed on contractual basis, are permanent and full

time posts and the services of these employees were required by the Government of Maharashtra to discharge its "constitutional obligation" of imparting education.

Insofar as the contention of the respondents that the petitioners were aware that their appointment was for a limited period on contract basis and as such they are not entitled to claim regularization is concerned, the said submission is also without substance. It is not in dispute that during this period i.e. up to 2010 the appointments which were made, were made only through the process by which the petitioners were selected. It is not as if during the said period MPSC was also conducting the selection process simultaneously. It is not therefore as if the petitioners had choice to participate in the selection process through MPSC as well as through the Committees constituted under the said Government Resolution. The petitioners had no choice but to participate in the selection process conducted through the Committees constituted under the said Government Resolution.

The submission of the Government of Maharashtra that whether the posts should be filled in on regular basis or contractual basis is a matter of policy and falls within the domain of the Government of Maharashtra (employer), does not appeal to us. It being an admitted position that the posts, in which these employees have been appointed and continued for a considerable length of time, on contractual basis, are regular and full time posts;

the appointments in these posts cannot be at the whims and fancies of the Government of Maharashtra. The State cannot adopt a policy of hire and fire or use and throw.

Thus, it cannot be said that the petitioners have got the employment through back door entry. It cannot be said that the candidates qualified for the posts were deprived of the opportunity to compete for the selection for the posts in which the petitioners are working.

6. The applicant has further relied on the Judgment of this Tribunal dated 04.09.2019 in a batch of Original Applications. In these cases the G.R. was issued on 25.07.2002, modified on 02.08.2003 and 03.10.2003 and advertisement was issued on 15.09.2003. The applicants were appointed as Lecturer, their tenure was extended from time to time and this Tribunal, by relying *inter alia* on Sachin (Supra), held that services of the applicants were required to be regularised.

7. The applicant has further relied on the Judgment of this Tribunal in O.A.No.626/2016. In this case the applicant was found entitled to parity with those Medical Officers who were held entitled to get increments.

8. It is the contention of the applicant that his services, too, ought to have been regularised with those to whom benefit of G.R. dated 15.06.2017 was extended, by applying principle of parity referred to in Circular of Government of Maharashtra dated 28.02.2017 which is

based on what is held in State of Uttar Pradesh and Others Vs. Arvind Kumar Shrivastava 2015 (1) SCC 347.

9. The applicant has further relied on G.R. dated 11.01.2019 (Annexure A-20) by which technical breaks in the service of 24 Associate Professors working in Aryurvedic Colleges were condoned.

10. The applicant has further relied on the Judgment of the Hon'ble Bombay High Court dated 13.08.2015 in W.P.No.1250/2002. In this case, on facts, it was held-

It is, thus, clear that the petitioner would be entitled to continuity of service, of course, only as ad hoc Dental Surgeon alike others for the above entire period since during the pendency of this writ petition, the respondents failed to appoint him, despite interim order made by this Court.

11. The applicant has further relied on the Judgment of this Tribunal dated 18.08.2022 delivered in a batch of Original Applications. In this Judgment it is observed-

23. In view of the rival submissions as above, if the facts of the present cases are considered, it is seen that the applicants in all these Original Applications have been working on ad-hoc and temporary basis from the different dates, which are reflected in the Table reproduced while

narrating the facts of the cases and all the applicants have worked in the range of 2 years to 7 years as on the date of filing the respective O.As. and by now for about 6 to 11 years. The State Government has already regularized the services of the Assistant Professors by the G.R. dated 08.06.2017 (Annexure A-9 (ii) of O.A. No. 379/2018), who have completed two years of service on ad-hoc basis. The present applicants are getting initially entry level pay scale of Rs.15600-39100 (Grade Pay of Rs.5400). They have participated in the selection process as laid down by the respondents vide G.R. dated 01.07.2010 (Annexure A-1 in O.A. No. 379/2018), which is based on the G.R. dated 10.08.2001 (Annexure A-5 in O.A. No. 379/2018). The selection committee is at the level of Government Medical College and Hospital under the Chairmanship of respective Deans, which can be said to be District Level or more than one District Level. They all were selected through advertisements. There is nothing on record to infer those were not widely published advertisements. It is a fact that their services were to be continued till regular recruitment, which can be done only after enacting the Recruitment Rules. However, no Recruitment Rules are framed for the post of Medical Officers in DMER. For that lapse the applicants cannot be held responsible and cannot be made to suffer. None of the citations referred to by both the parties mention that only as a special case under exceptional circumstances, the services of such Medical

Officers can be regularized as mentioned in G.Rs. dated 08.06.2017 (Annexure A-9(ii) in O.A. No. 379/2018) and 15.06.2017 (Annexure A-9(iii) in O.A. No. 379/2018). Contentions in that regard raised on behalf of respondents that only as a special case under exceptional circumstances, such regularization is not acceptable considering the ratio laid down in the citations relied on behalf of the applicants.

24. In view of above facts and circumstances, in my considered opinion the claim of regularization made by all these applicants by filing the present Original Applications is well covered the citation relied upon by the learned Advocate for the applicants and more particularly in the citation of Sheo Narain Nagar (cited supra), as the present applicants have completed more than two years ad-hoc services. Moreover, the State Government has already regularized the service of such similarly situated persons. Moreover, similarly such relief from the date of appointment is granted by the State Government by way of G.Rs. dated 08.06.2017 (Annexure A-9(ii) in O.A. No. 379/2018) and 15.06.2017(Annexure A-9(iii) in O.A. No. 379/2018). In view of the same, I hold that the applicants in all these Original Applications are entitled for the relief of regularization as prayed for by them from their respective dates of initial appointments with consequential benefits of annual increments and other benefits for all other purposes.

12. The respondents, on the other hand, have relied on the Judgment of the Hon'ble Bombay High Court dated 23.07.2019 (***Shri Mahesh Madhukar Wagh Vs. State of Maharashtra and connected Writ Petitions***) in this case it is observed-

14] It could thus be seen that the Hon'ble Supreme Court has clearly held that theory of legitimate expectation cannot be successfully advanced by temporary, contractual or casual employees. It cannot be held that the State had held out any promise while engaging these persons either to continue them or to make them permanent. It has been equally held that there is no fundamental right in those who have been employed on daily wages or temporary or contractual basis to claim that they have a right to be absorbed in service. It has been held that a regular appointment could be made only by making appointments consistent with the requirement of Articles 14 and 16 of the Constitution. The employees appointed on contractual 'or temporary basis cannot claim to be treated equally with those who are regularly employed. It has been held in an unequivocal terms that a mandamus could not be issued in favour of employees, directing Government to make them permanent since the employees, not selected through regular selection process, cannot have a legal right to be permanently absorbed.

15] In the present case, advertisement clearly states that the applications are invited for the posts which are purely

temporary posts and also specifying the period therein. They also specify that, in the event regularly selected candidates are available through the mode of Section 76, the appointments of the temporary candidates would be liable to be terminated, so also there is a specific stipulation in the appointment orders to that effect. We therefore find that if the stand, as taken by the Petitioners, is accepted, then we would be endorsing an argument which runs contrary to the mandate of Articles 14 and 16. The advertisement clearly states that the appointments would be only for a specific period. Had it been made known to the candidates that the appointments, that would be made for temporary period, in normal course, would be continued in eternity, many otherwise eligible candidates who have not applied, could have very well applied for the said posts. We are therefore of the considered view that if the arguments, as are advanced by the Petitioners, are to be accepted, we will have to hold contrary to the principle of law laid down by the Hon'ble Apex Court in the case of Umadevi (supra).

16] In ordinary course, we would not have given such an elaborate reasoning. However, it has been noticed that decision of Division Bench of this Court in the case of Sachin Ambadas Dawale (supra), to which one of us (Gavai, J.) is a party, is being widely misquoted. Since we got an opportunity to explain as to in what circumstances the Judgment in the case of Sachin Ambadas Dawale (supra) was rendered, we thought it fit to give our elaborate

reasons explaining as to under what circumstances Sachin Ambadas Dawale (supra) was rendered and why the present Petition is liable to be dismissed.

13. The respondents have further relied on the Judgment of this Tribunal dated 17.03.2023 in which reliance was inter alia placed on Mahesh Madhukar Wagh (Supra). In this case reliance was also placed on the Judgment of full Bench of this Tribunal delivered on 30.03.2010 in O.A.No.240/2009.

14. The respondents have further relied on the Judgment of the Hon'ble Bombay Court dated 03.07.2023 in W.P.No.6071/2010. In this case it is observed-

5. On hearing the learned counsel for the parties, it appears that the Tribunal was not justified in granting the relief in favour of the respondents solely on the basis of the orders passed in some other original applications. Probably, the order passed by the Full Bench of the tribunal on 30/03/2010, was not brought to the notice of the tribunal when the tribunal decided the matter in the original applications filed by the respondents on 31/03/2010. The tribunal, therefore, wrongly relied on the decisions that were rendered by the Bench of Two Presiding Officers of the Tribunal, without considering the decision rendered by a Bench comprising of the Three Presiding Officers of the tribunal. The appointment orders of the respondents are

placed on record. The appointment orders clearly show that the respondents were appointed on ad hoc basis only for a certain period or till a candidate selected by the Maharashtra Public Service Commission was appointed by the petitioners on the post of the medical officer, whichever was earlier. The appointment orders of the respondents clearly show that they were not even appointed for a period of four months and their appointments could have come to an end if a duly selected candidate was appointed by the recommendations of the Maharashtra Public Service Commission on the post they were holding. Merely because the respondents continued to serve as medical officers, the tribunal could not have directed the petitioners to condone the break in the services of the respondents and grant them annual increments. Had the services of the respondents regularised from the date on which they were appointed, they may have been entitled to claim the increments after the end of each year of service. However, it appears that the services of the respondents were not regularised till their services were terminated. The appointments of the respondents were on temporary and ad hoc basis and they were therefore not entitled to claim yearly increments, solely because they were permitted to continue from time to time as a medical officer on ad hoc basis. It is well settled that only regular employees would be entitled to increments and the other benefits to which they are entitled to. We find that the tribunal has committed a serious error in allowing

the original applications and directing the petitioners to release the increments in favour of the respondents.

15. In the instant case the advertisement stated-

1. संचालनालय वैद्यकीय शिक्षण व संशोधन, मुंबई यांच्या दि. ३०/१/१३ च्या परिपत्रकाअन्वये या संस्थेतील विविध विषयांतील सहाय्यक प्राध्यापक (अधिव्याख्याता) ची रिक्त पदे तात्पुरत्या स्वरूपात १२० दिवसांसाठी विभागीय निवड मंडळाद्वारे बंधपत्रित उमेदवारांकडून भरण्यास पृथक अर्ज मागविण्यात येत आहे.
2. उपरोक्त पदे तात्पुरत्या स्वरूपात भरावयाचे असल्याने, उमेदवारांच्या पदासाठी कोणताही हक्क राहणार नाही. अबंधपत्रित उमेदवारांचे अर्थ विचारात घेतले जाणार नाही.

The appointment orders stated-

डॉ. वैभव कांबळे सहाय्यक प्राध्यापक यांना पुढिल अटीवर तात्पुरत्या स्वरूपात नियुक्ती देण्यात येत आहे.

१. त्यांना रु. १५६००-३९१००/- व ग्रेड पे रु. ६०००/- या वेतनश्रेणीत ता स्व. नियुक्ती देण्यात येत आहे.
२. या तात्पुरत्या नियुक्तीमुळे ते कायम नियुक्तीसाठी हक्कदार होऊ शकणार नाही. कायम नियुक्तीसाठी त्यांना महाराष्ट्र लोक सेवा आयोगामार्फतच यावे लागेल.
३. त्यांचा खंडीत कालावधी नियमित करण्यात येणार नाही.
४. त्यांना नोकरी सोडताना शासनास एक महिन्याची पूर्व सूचना देणे आवश्यक आहे. न दिल्यास त्या एक महिन्याचे वेतन इतर भत्त्यासह तसेच बंधपत्राची रक्कम वसूल करण्यात येईल.

५. त्यांना महाराष्ट्र राज्य दंत परिषद डेंटल ॲक्ट १९४८ अन्वये नोंदणी करणे आवश्यक आहे.
६. आदेशाच्या दिनांकापासून ७ दिवसांच्या आत संबंधीत संस्थेत रुजू व्हावे, रुजू न झाल्यास आपण सदरहू नियुक्तीस इच्छुक नाही असे समजण्यात येईल. तसेच रुजू आल्याचे कार्यभार हस्तांतरण प्रमाणपत्र या कार्यालयास ६ प्रतित पुढिल कार्यवाही करिता सादर करावे.
७. प्रस्तुत अस्थायी नियुक्ती आदेशात नमुद केलेल्या कालावधीनंतर आपोआप संपुष्टात येईल.
८. महाराष्ट्र लोकसेवा आयोग पुरस्कृत उमेदवार उपलब्ध झाल्यावर त्याची हि तात्पुरती नियुक्ती कोणतीही पूर्व सूचना न देता व नोटीस न देता समाप्त केली जाईल. शिवाय या तात्पुरत्या नियुक्तीमुळे त्यांना सदर पदावर कायम नियुक्तीसाठी कोणताही हक्क सांगता येणार नाही व कोणतेही फायदे मिळणार नाहीत.
९. त्यांना बिना परवाना परदेश गमन करता येणार नाही.
१०. रुजू होते वेळी न्यायालयात जाणार नाही याबाबतचे शपथपत्र भरून यावे लागेल (सहपत्र सोबत जोडले आहे)
११. तसेच संदर्भ क्र. नुसार नव्याने निर्माण झालेल्या पदाना मुदतवाढ मिळेल या अटीच्या अधिन राहून नियुक्ती देण्यात येत आहे. मुदतवाढ मिळाल्यानंतर वेतन अदा करण्यात येईल.
१२. खासगी व्यवसाय करणे प्रतिबंधीत आहे. नियमाचे उल्लंघन केल्यास प्रशासकीय कार्यवाही करण्यात येईल.

Considering contents of the advertisement and letters of appointment ratio in Mahesh Madhukar Wagh (Supra) clearly applies.

Hence, the O.A. is liable to be dismissed. The O.A. is dismissed with no order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 24/08/2023
rsm.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Raksha Shashikant Mankawde
Court Name : Court of Hon'ble Member (J).
Judgment signed on : 24/08/2023.
and pronounced on : 24/08/2023.