

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR.

ORIGINAL APPLICATION NO.614/2014.

Dr. Vaibhav Deorao Kamble,
Aged about 31 years,
Occ-Lecturer, Govt. Dental College & Hospital,
R/o Plot No.504, Professor Colony,
Hanuman Nagar, Nagpur.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Medical Education & Drugs,
Mantralaya, Mumbai-32.
2. The Director of Medical Education & Research,
St. Georges Hospital Compound, Mumbai.
3. The Dean,
Govt. Dental College & Hospital,
Nagpur.

Respondents.

ORIGINAL APPLICATION NO.616/2014.

Dr. Shashikant Dilip Magarkar,
Aged about 27 years,
Occ-Lecturer, Govt. Dental College & Hospital,
R/o Plot No.115, %Godavari+,
Reshimbagh, Nagpur.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Medical Education & Drugs,
Mantralaya, Mumbai-32.

2. The Director of Medical Education & Research,
St. Georges Hospital Compound, Mumbai.
3. The Dean,
Govt. Dental College & Hospital,
Nagpur.

Respondents.

Shri Rohit Joshi, the Ld. Advocate for the applicant.
Shri A. M. Ghogre, Ld. P.O. for the respondents.
Shri Deol Pathak, Ld. Counsel for the Intervener.

**Coram:- B. Majumdar, Vice-Chairman and
Justice M.N. Gilani, Member (J).**

Dated:- 10th September , 2014.

Order

Per: Member (J)

In both these O.As, interim relief is sought mainly on the ground that their services cannot be substituted by another *ad hoc* appointees including bonded candidates.

2. Dr. Kambale (in O.A. No.614/2014) was for the first time appointed as Assistant Professor (Prosthodontics) on the establishment of the respondent No.3. Lastly, vide order dated 22.5.2014, he has been appointed on fixed tenure of 120 days which shall expire on 12.9.2014. This appointment is on *ad hoc* basis.

3. Dr. Shashikant Dilip Magarkar (in O.A. No.616/2014) was appointed on 4.5.2013 as Assistant Professor (Oral Maxillofacial Surgery) on *ad hoc* basis.. This

arrangement continued further and lastly he came to be appointed on 22.5.2014 on fixed tenure of 120 days which shall expire on 15.9.2014.

4. Shri Rohit Joshi, learned counsel appearing for the applicants contended that, the respondents are acting under wrong motion that they are under obligation to give employment to the bonded candidates and, therefore, they apprehend that they will be replaced by such bonded candidates. The Full Bench of this Tribunal in O.A. No.2240/2009 and other connected matters decided on 30.3.2010 held that, the *ad hoc* employee cannot claim continuation till a regularly selected candidate is made available. It was observed that the decision in case of **State of Haryana V/s Pyara Singh 1992 (4) SCC 118** was overruled by a Constitution Bench decision of the Supreme Court in case of **Secretary, State of Karnataka V/s Uma Devi, (2006) 4 SCC 1.**

5. The learned counsel for the applicant relied upon a decision in case of **Hargurpratsingh V/s State of Punjab and others (2007) 13 SCC 292.** In that case, the High Court of Punjab and Haryana in the similar set of facts, declined

to grant relief to the petitioners. The Supreme Court was of the view that it is better to retain the *ad hoc* employee who have gained experience rather than to appoint a person afresh on ad hoc basis. The petitioners were granted relief in the nature of continuation in service till regular incumbents a appointed.

6. By relying upon the same, by way of interim relief, we direct that the services of the applicants being substituted by any bonded or ad hoc appointees. However, we make it clear that by granting this interim relief, we do not mean that the respondents are under obligation to extend the tenure of the applicants for any further period, except in the circumstances stated above.

(Justice M.N.Gilani)
Member (J)

(B.Majumdar)
Vice-Chairman

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