

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL,**

**AURANGABAD BENCH, AURANGABAD.**

**TRANSFER APPLICATION NO. 01 /2011**

**IN**

**WRIT PETITION NO.2246/2009.**

1. Dr. Santosh Laxmanrao Munde,  
Aged about 33 years,  
Occ-Lecturer /Assistant Professor,  
Govt. Medical College, Latur.
2. Dr.Balaji Harischandra Kombade,  
Aged about 31 years,  
Occ-Lecturer /Assistant Professor,  
Govt. Medical College, Latur.
3. Dr.Suresh Arjunrao Chaware,  
Aged about 28 years,  
Occ-Lecturer /Assistant Professor,  
Govt. Medical College, Latur.
4. Dr. Ajay Govindrao Ovahal,  
Aged about 30 years,  
Occ-Lecturer /Assistant Professor,  
Govt. Medical College, Latur.
5. Dr.Anuj Shiram Ingole,  
Aged about 33 years,  
Occ-Lecturer /Assistant Professor,  
Govt. Medical College, Latur.

**Applicants.**

**-Versus-**

1. The State of Maharashtra,  
Through its Secretary,  
Department of Medical Education and Medicine Drugs,  
Mantralaya, Fort, Mumbai-400 032.
2. The Director of Medical Education & Research,  
(M.S.), Mumbai.

**Respondents.**

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Shri A.N. Irpatgire, Ld. Advocate for the applicants.  
Mrs. Deepali S. Deshpande, Ld. P.O. for the respondents.

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**Coram:- J.D. Kulkarni, Vice-Chairman (J) and  
P.N. Dixit, Member (A)**

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**JUDGMENT**

**(Per: Vice-Chairman (J))**

(Delivered on this 7<sup>th</sup> day of April, 2018.)

Heard Shri A.N. Irpatgire, the learned counsel for the applicants and Mrs. Deepali S. Deshpande, the learned P.O. for the respondents.

2. Writ Petition No. 2246/2009 was earlier filed before the Hon'ble High Court of Judicature at Bombay, Bench at Aurangabad and the same was received on transfer to this Tribunal for disposal, according to law. It was registered as T.A. No. 01/2011.

3. The applicants have been appointed as Lecturers / Assistant Professors in Government Medical College, Latur through

Local Divisional Selection Committee constituted under the chairmanship of Dean, Government Medical College, Latur. They were appointed in the category of 'B' in the pay scale of Rs. 8,000-13500. Even though the appointment order was for a temporary period, the applicants were appointed from time to time and were working as such continuously.

4. On 22.1.2009, the Government of Maharashtra has issued one G.R. in colourable exercise of powers as a special case and for extraneous considerations and thereby regularized the services of Lecturers / Assistant Professors. It is stated the said G.R. is in contravention of the provisions of the Recruitment Rules and is violative of Articles 14, 16 (1) and 16 (4) of the Constitution of India. The applicants have, therefore, prayed that the G.R. dated 22.1.2009 issued by respondent No.1 be declared as illegal, discriminatory and unconstitutional and the same be quashed and set aside.

5. The respondent Nos. 1 and 2 tried to justify the decision taken by the Government. As per G.R. dated 22.1.2009, candidates who have been appointed temporarily on or before 15.1.2007 and who have completed two years' service, are to be continued in service, provided they were in service on 15.1.2009.

Due to non availability of candidates through M.P.S.C., the G.R. was issued and the services of temporary Lecturers / Assistant Professors were regularized. There is arbitrariness in the said decision and the applicants have absolutely no reason and *locus standi* to challenge the G.R. The services of the applicants are not covered under the terms and conditions of the G.R. dated 22.1.2009 and, therefore, they cannot be benefitted by the said G.R. and as such have filed this Application.

6. The learned counsel for the applicants submits that the G.R. dated 22.1.2009 has been issued under colourable exercise of power and for extraneous considerations. However, such allegations are not only baseless, but are mere allegations. In fact, the applicants who are appointed on temporary basis should have thought hundred times prior to making such allegations against the appointing authority. There is nothing on record to show that the Resolution is violative of Articles 14, 16 (1) and 16 (4) of the Constitution of India.

7. Even though it is the case of the applicants that the G.R. dated 22.1.2009 deprives the applicants of in similarly situated position, there is no proof of such deprivation. We have perused

the decision taken vide G.R. dated 22.1.2009 and the said relevant decision is as under:-

“प्रस्तवानेत नमूद केल्यानुसार, महाराष्ट्र वैद्यकीय शिक्षण व संशोधन सेवा गट ब मधील रु. ८०००-१३५०० या वेतनश्रेणीतील, वैद्यकीय व दंत महाविद्यालयात, दि. ५.१.२००९ रोजी अखंडित / खंडित सेवेने कार्यरत असलेल्या म्हणजेच दि. १५.१.२००७ पर्यंत तात्पुरत्या नियुक्तीने सेवेत लागलेल्या आणि सदर शासननिर्णय निर्गमित होतेवेळी तात्पुरत्या नियुक्तीनेच सेवेत कार्यरत असलेल्या अधिव्याख्याता / दन्तशल्यचीकीत्सक यांच्या तात्पुरत्या सेवा नियमित करण्यास एक विशेष बाब म्हणून मंजूरी देण्यात येत आहे.”

8. vide above decision, the services of Group-B officers under Medical Education having pay scale of Rs.8,000-13,500 in Medical and Dental Colleges who were in service as on 5.1.2009, were regularized as a special case. It seems to be a policy decision taken by the Government of Maharashtra and there is absolutely no reason to interfere in the said policy decision taken by the Government.

9. The learned P.O. has invited our attention to the various orders of appointment in respect of the applicants. Copies of these orders are placed on record at page Nos. 22 to 26 and 29

to 34. All these orders clearly show that from time to time the applicants were appointed as Lecturers / Assistant Professors on temporary basis for a particular period, such as for 120 days on each occasion. The terms and conditions of appointment orders of the applicants clearly show that their services were terminable at any time without issuing any notice even prior to 120 days without any reason. The said appointment was purely temporary. Admittedly, the applicants are not regular employees of the Government and admittedly none of the applicants were working with the respondents as on 5.1.2009 and, therefore, in fact the applicants have no *locus standi* to challenge the G.R. dated 22.1.2009. The applicants were not eligible to be considered for regularization as a special case.

10. As already stated, the Government has issued a G.R. dated 22.1.2009 for regularizing the services of some Medical Officers (Lecturers / Assistant Professors) as a special case by way of policy decision and the Tribunal has no reason to interfere in the policy decision of the Government. We, therefore, do not find any merit in the claim of the applicants and hence, the following order.

**ORDER**

The Transfer Application is dismissed with no order as to costs.

(P.N. Dixit)  
Member (A)

(J.D. Kulkarni)  
Vice-Chairman (J)

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