

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7539 OF 2003

Nalini Namdeo Bhamre
Residing at B.D.D. Chawl No.64, Room No. 26,
Worli, Mumbai – 400 018. ...Petitioner

Versus

SNEHA
NITIN
CHAVAN

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Date: 2026.10.14
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1. The Registrar, S.N.D.T. Women's University,
Nathibai Thackersey Road, Mumbai – 400 020.

2. The Joint Director, Higher Education (Grants),
Mahapalika Road, Near Rang Bhavan, Dhobi
Talao, Mumbai 400 001.

3. The State of Maharashtra, through its
Secretary, Higher and Technical Education
Department, Mantralaya, Mumbai – 400 032. ...Respondents

Mr. Swaraj Jadhav a/w Ms. Sanskruti Yagnik and Mr. Saikiran Mergu for
the Petitioner.

Mr. Satyadev Joshi a/w Ms. Disha Vardhan for Respondent No.1

CORAM : M.M. SATHAYE, J.
DATE : 12th OCTOBER, 2026

JUDGMENT. :

1. The Petitioner is challenging impugned order dated 10.03.2003 passed by the Presiding Officer, University and College Tribunal, Mumbai ('the said Tribunal' for short) in Appeal No. 90 of 2002. By the said impugned order, Petitioner's appeal under Section 59 of the Maharashtra Universities Act, 1994 ('the said Act' for short) challenging the letter dated 31.08.2002 (relieving the Petitioner from

services or the alleged termination) is dismissed.

2. The Petitioner filed the said appeal contending *inter alia* as under. That she was appointed as 'Junior Typist' in the year 1987 with Respondent No. 1 University. That in 1989, she was allotted work of 'Data Entry Operator' in Library Information Centre. That she belongs to OBC category. That pursuant to advertisement dated 29.09.1987, she applied for the post of typist and she was called for interview and was selected by duly constituted Selection Committee. That the first list prepared by the Selection Committee was scrapped and in the year 1989, the Petitioner and other candidates were again called for test and interview and fresh list was prepared by Selection Committee Executive Council's Resolution dated 23.06.1989 is relied for this purpose. That on 20.12.1989 she was allotted the work of 'Data Entry Operator' in Library Information Centre on temporary basis. That she was then relieved from the duties in May 1990. That she was reappointed on the same post for 6 months in May 1990, January 1991, July 1991 and so on. That there was no complaint about her service. That suddenly on 31.08.2002, with malicious intent, the Petitioner was issued a letter of termination stating that University Grants Commission (UGC) has ceased to support the National Information Centre, which was part of their 9th plan and therefore, the Petitioner is being relieved. That other candidates on the list selected by the Selection Committee has been made permanent. That she was appointed after being selected by the Selection Committee and has put in about 14 years of service and therefore, she could not be treated as temporary employee and relieved without following due process of law.

3. Respondent No. 1 filed reply before the Tribunal contending *inter alia* that the Petitioner was appointed on a purely temporary basis

from 1988 in leave vacancy. That every appointment letter shows that appointment is on a temporary basis. That even the advertisement in the local newspaper categorically notifies the post as temporary/permanent. That Petitioner was appointed as Data Entry Operator at the National Information Centre on a temporary basis. That it was a project funded by UGC. That the Petitioner has given undertaking while accepting the appointment and one of the conditions included is that she can be relieved on a day's notice. That since UGC has stopped funding the project vide letter of August 2002, and it stands discontinued, the services of Petitioner could not be continued or regularized. That allegation about discrimination and malicious intent is denied.

4. The Tribunal after appreciation of evidence on record, has dismissed the appeal. In these circumstances, the Petitioner filed this petition, which is admitted on 25.11.2005. It is important to note that no interim relief was granted in favour of the Petitioner.

5. It is not disputed that during the pendency of the petition, the Petitioner has crossed the age of superannuation.

6. Learned counsel for the Petitioner submitted that UGC stopping the finance for the project of Library Information Centre where the Petitioner was working cannot be the reason for terminating services. He submitted that the Petitioner is claiming continuous service from 1989 to 2002 which is more than 10 years even before the cutoff date of 10.04.2006 as per the judgment of the Supreme Court in **Secretary, State of Karnataka and Ors V/s. Umadevi (3) & Ors. (Infra)**. He submitted that the Petitioner's appointment was substantive appointment by following proper procedure and she was appointed

pursuant to interview by Selection Committee and therefore, unless there is a misconduct or closure of the department itself, Petitioner could not have been terminated. He submitted that Petitioner was never issued any memo and there were no complaints against the Petitioner. That 3 months' notice was not given. He submitted that illegality in not following procedure is not considered by the Tribunal. He submitted that considering the long service rendered by the Petitioner, she must be regularized. It is submitted that even today, Respondent No. 1/University on its website claims to be supported by UGC. He relied on Executive Council Resolution dated 23.06.1989 preparing a list, wherein the name of Petitioner appears. He relied on the following judgments in support of his case.

(i) State of Karnataka and Ors. V/s. M.L. Kesari and Ors. (2010) 9 SCC 247.

(ii) Narendra Kumar Tiwari and Ors. V/s. State of Jharkhand and Ors. (2018) 8 SCC 238.

(iii) Ram Bahadur Pandey and Anr. v/s. State of Uttarakhand and Ors. (2015) 2 SCC 142.

(iv) Maharashtra Shikshan Sanstha and Anr. V/s. Dilip Ganpatrao Lanjewar and Anr. (2017) 14 SCC 298.

(v) Somesh Thapliyal and Anr. V/s. Vice Chancellor, H.N.B. Garhwal University and Anr. (2021) 10 SCC 116.

(vi) Dr. Sushil Kumar Tripathi V/s. Jagadguru Ram Bhadracharya Handicapped University and Anr. (2022) 8 SCC

760.

(vii) Dr. R. Soranam and Ors. V/s. Manonmainam Sundaranar University and Anr. 2012 SCC OnLine Mad 3645.

(viii) Jaggo Vs. Union of India & Ors. 2024 SCC OnLine SC 3826.

7. On the other hand, learned counsel for Respondent No. 1/University submitted that the appointment of the Petitioner was purely on project basis which was a project funded by UGC, namely Library Information Centre. He submitted that therefore, the appointment which is even otherwise on purely temporary basis was only in respect of project and when the project itself has stopped receiving funds from UGC, the post cannot be continued. He submitted that the Petitioner cannot be considered as appointed against the sanctioned post of the University. He submitted that the various appointment letters are already considered by the Tribunal and its re-appreciation for coming to contrary conclusion is not permitted in writ jurisdiction where writ of certiorari, is prayed. He submitted that undisputedly the project has not been continued. He further submitted that the appeal was dismissed and this Court has also not granted any interim relief and for about 24 years in the past, there was no order in favour of the Petitioner. It is submitted that Petitioner has already reached the age of superannuation, therefore, there cannot be reinstatement. He submitted that the Petitioner has not worked for the Respondent No. 1/University for last so many years. He also submitted that the Petitioner has never applied for any regularization. He relied on following judgments of Hon'ble Supreme Court in support of his case.

(i) Syed Yakoob V/s. K.S. Radhakrishnan and Ors. 1964 AIR

477.

(ii) State of Himachal Pradesh, through the Secretary (Rural Development) V/s. Ashwani Kumar and Ors. 1996 SCC (1) 683.

(iii) State of Himachal Pradesh, through the Secretary Agriculture V/s. Nodha Ram and Ors. 1996 SCALE (1) 253.

(iv) Lal Mohammad and Ors. V/s. Indian Railway Construction Co. Ltd. And Ors. (Appeal (Civil) No. 6195-6198 of 2004 decided on 11.01.2007).

(v) Secretary, State of Karnataka and Ors V/s. Umadevi (3) and Ors (2006) 4 SCC 1.

(vi) University of Delhi v/s. Delhi University Contract Employees Union and Ors. (Civil Appeal No. 1007 of 2021 decided on 25.03.2021).

(vii) The State of Gujarat and Ors. V/s R.J. Pathan and Ors. (Civil Appeal No. 1951 of 2022 decided on 24.03.2022).

(viii) Divisional Manager, Division Wanprakalpa Office (West) Forest Development Corporation of Maharashtra Ltd. Nashik v/s. Chimna Arjun Jadhav 2001 (4) Mh. L.J. 97.

8. I have considered the rival submissions and perused the record.

9. The moot question here is whether the Petitioner's appointment was against any sanctioned post of Respondent No.1/University.

10. The Tribunal has considered various appointment orders. They are in two parts viz. before and after panel list prepared by selection committee under Executive Council's Resolution dated 23.06.1989. It can be summarized in nutshell as below.

Sr. No.	Appointment order dated	Appointed as (post)	Period of appointment	Remarks
Before panel list.				
1.	21.04.1988	Junior Typist	39 days	On purely temporary basis in Leave vacancy
2.	30.05.1988	Clerk-cum-Typist	6 months and 19 days	On project basis till the project is over
3.	19.12.1988	Clerk-cum-Typist	2 months and 12 days	in Leave vacancy
4.	01.03.1989	Jr. Clerk	9 months and 25 days	in Leave vacancy
After Panel List.				
5.	20.12.1989 w.e.f. 26.12.1989	Data Entry Operator	3 months and 5 days further extended by 2 months	Purely on temporary basis
6.	23.05.1990	Data Entry Operator w.e.f. 04.06.1990 (after 3 days break)	6 months	

11. Learned Tribunal on perusal of the documents on record has noted that 'Similar appointment memos were issued from time to time with similar short breaks.' Also it is noted by the Tribunal that the memo dated 16.11.1991 contains an remark that 'This is a project post

and she will not have any claim on permanent post on the basis of this appointment.' Further it is noted by the Tribunal that similar words appeared in the appointment memos dated 15.09.1992, 06.10.1992, 20.09.1993 and 11.03.1994.

12. Therefore, it is clear that the appointment of Petitioner was not against any clear vacancy of sanctioned post but it was necessarily an appointment either in leave vacancy or project basis or purely temporary basis. The project was of National / Library Information Centre funded by UGC, where the Petitioner worked as Data Entry Operator.

13. A sanctioned/cadre post is a post which is included in the regular strength and hierarchy of an organization. However, a project post is a specialized time-bound temporary post created specifically to execute a particular project, scheme or program for limited period. Such appointments are tenure based appointments and outside the scope of regular service hierarchy.

14. In the facts and circumstances as discussed by the Tribunal, it cannot be said that Petitioner's service was indispensable for day-to-day functioning of the Respondent/University or that the nature of Petitioner's work was necessary for basic operational functionality of the Respondent/University. In that view of the matter, since the Petitioner's appointment itself is not against any sanctioned post and was necessarily project-related, it has to be interpreted as tenure based or co-terminus with the project.

15. In **M.L. Kesari (Supra)**, the Court was considering a persons appointed on daily wages. In **Narendra Kumar Tiwari (Supra)**, the Court was considering persons appointed on daily wages and on contract

basis. In **Ram Bahadur Pandey (Supra)** the Court was considering appointment of Assistant Teacher in a school. In **Maharashtra Shikshan Sanstha (Supra)**, the Court was considering a case of person appointed as teacher. In **Somesh Thalpliyal (Supra)**, the Court was considering a case of person appointed as Assistant/Associate Professor. In **Dr. Sushil Kumar Tripathi (Supra)**, the Court was considering post of lecturer. In **R. Soranam (Supra)**, the Court was considering appointment of teacher where grant for teaching staff was provided by UGC. In **Jaggo v/s. UOI (Supra)**, the Court was considering persons appointed as '*safai kamgar*'. In none of the above cases, 'project based appointment' was under consideration and therefore the said judgments will not advance the case of the Petitioner. In the present case, the continuation of service is claimed from 1989 onwards (after panel list preparation) when the Petitioner was appointed as 'Data Entry Operator' for the National Information Centre (Library Information Centre), which was funded by UGC.

16. It is not disputed that the UGC by letter dated 20.08.2002 informed Respondent/ University that the National Information Centre is approved only upto 31.08.2002 i.e. upto end of 9th Plan period, and it will not be possible to assist (fund) further. Therefore, since the project which was funded externally has come to an end, the services must be considered as duly not required.

17. The argument is that Petitioner had no bargaining power and therefore terms in appointment order should not be given weightage. This is coupled with argument of long service before cut-off date. Such situation has already been considered by the 5 Judge's bench of the Hon'ble Supreme Court in **Umadevi (3) (supra)**. Useful reference can be made to paragraph No.45 thereof, which reads as under :

“45. While directing that appointments, temporary or casual, be regularised or made permanent, the courts are swayed by the fact that the person concerned has worked for some time and in some cases for a considerable length of time. It is not as if the person who accepts an engagement either temporary or casual in nature, is not aware of the nature of his employment. He accepts the employment with open eyes. It may be true that he is not in a position to bargain not at arm's length since he might have been searching for some employment so as to eke out his livelihood and accepts whatever he gets. But on that ground alone, it would not be appropriate to jettison the constitutional scheme of appointment and to take the view that a person who has temporarily or casually got employed should be directed to be continued permanently. By doing so, it will be creating another mode of public appointment which is not permissible. If the court were to void a contractual employment of this nature on the ground that the parties were not having equal bargaining power, that too would not enable the court to grant any relief to that employee. A total embargo on such casual or temporary employment is not possible, given the exigencies of administration and if imposed, would only mean that some people who at least get employment temporarily, contractually or casually, would not be getting even that employment when securing of such employment brings at least some succour to them. After all, innumerable citizens of our vast country are in search of employment and one is not compelled to accept a casual or temporary employment if one is not inclined to go in for such an employment. It is in that context

that one has to proceed on the basis that the employment was accepted fully knowing the nature of it and the consequences flowing from it. In other words, even while accepting the employment, the person concerned knows the nature of his employment. It is not an appointment to a post in the real sense of the term. The claim acquired by him in the post in which he is temporarily employed or the interest in that post cannot be considered to be of such a magnitude as to enable the giving up of the procedure established, for making regular appointments to available posts in the services of the State. The argument that since one has been working for some time in the post, it will not be just to discontinue him, even though he was aware of the nature of the employment when he first took it up, is not (*sic*) one that would enable the jettisoning of the procedure established by law for public employment and would have to fail when tested on the touchstone of constitutionality and equality of opportunity enshrined in Article 14 of the Constitution.”

(emphasis supplied)

18. For the above reason, long service before cut-off date will not help the Petitioner.

19. So far as the argument that other persons from the list have been made permanent and Petitioner has been discriminated, nothing is brought on record to show on which posts (sanctioned or project-based) the others were appointed permanently. Therefore, said argument will not advance the case of the Petitioner.

20. So far as the argument that ‘Petitioner's appointment was substantive appointment by following proper procedure’ is concerned, it

is material to note that Note 4 of Executive Council Resolution dated 23.06.1989 clearly shows that selected list was for both permanent and temporary posts. Therefore, nature of post where the Petitioner was appointed for specific periods, will not change.

21. In the aforesaid facts and circumstances, the view taken by the Tribunal is the most probable view. There is no perversity in the findings. Hence, there is no reason to interfere in extraordinary writ jurisdiction.

22. **Writ Petition is accordingly dismissed.** Rule is discharged. No order as to costs.

23. All concerned to act on duly authenticated or digitally signed QR verifiable copy of this order.

(M.M. SATHAYE, J.)