

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.1208 OF 2002

Dr. Anil s/o Shrinivasrao Joshi,
Age-41 years, Occu:Service,
R/o-7, Bharatnagar,
Near Jyotinagar, Aurangabad.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
(Through its Secretary
Medical Education & Drugs
Department) Maharashtra State,
Mantralaya, Mumbai,
- 2) The Director,
Medical Education and Research,
Maharashtra State, Mumbai,
- 3) The Dean,
Government Medical College,
Aurangabad.

...RESPONDENTS

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Petitioner -Dr. Mr. Anil s/o Shrinivasrao Joshi
Party-in-person present.
Mrs. M.A. Deshpande, A.G.P. for Respondents.

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**CORAM: S.V. GANGAPURWALA AND
A.I.S. CHEEMA, JJ.**

DATE : 31ST MARCH, 2015

ORAL ORDER :

1. Dr. Joshi, Party-in-person submits that he was appointed in the year 1991 as Lecturer in Government Medical College, Aurangabad. From 6th December 1999 till 5th December 2000 the Petitioner worked continuously. The services of the Petitioner were terminated on 6th December 2000. The Petitioner filed Original Application before the Tribunal. The said Original Application was disposed of. The Petitioner challenged the order passed by the Tribunal by filing Writ Petition No.433 of 2001.

2. This Court, in said Writ Petition No.433 of 2001 passed an interim order prohibiting the Respondents from appointing anyone on ad-hoc basis on the post of lecturer in Medicine. The Party-in-person contends that thereafter the Government

realized its mistake and again issued an appointment order to the Petitioner on 7th March 2001. The Petitioner is continuously working from 7th March 2001. However the Respondent is not treating the Petitioner as continuously in service from 1991. In fact the Respondents cannot consider the period, from illegal termination dated 6th December 2000 till new appointment dated 7th March 2001, as break in service. The Respondents are required to condone the said period and regularize the services of the Petitioner from 1991. According to the Party-in-person, the Tribunal failed to consider the relief claimed by the Petitioner in its correct perspective and disposed of the Original Application. The same is assailed in the present Petition.

3. The Petitioner - Party-in-person submits that the Respondents cannot deny the benefits to which the Petitioner is entitled from his initial

officiation in office i.e. since 1991.

4. The learned A.G.P. submits that the services of the Petitioner were terminated from 6th December 2000. The said order is in tact Vide Government Resolution dated 4th May 2009 a policy decision has been taken by the Government that services of all those who are appointed on ad-hoc basis and not selected through M.P.S.C. are regularized on and from the date of notification.

5. We have considered the submissions canvassed by the respective parties and also gone through the order passed by the Maharashtra Administrative Tribunal. The Petitioner had challenged the termination order dated 6th December 2000 before the Maharashtra Administrative Tribunal by filing Original Application No.1067 of 2000. The same was disposed of. The Petitioner challenged the said order by filing Writ Petition No.433 of 2001 before this

Court. However, unfortunately, the said Writ Petition has been withdrawn by the Petitioner, unconditionally. There is no order of any Court holding that termination order dated 6th December 2000 as illegal, or setting aside the said termination order, nor the Government has any time withdrawn the said termination order. The appointment order dated 7th March 2001 has been given afresh, that too on ad-hoc basis, for temporary period of 120 days. It appears that though the order was for the period of 120 days only, the Petitioner is continued in service.

6. In view of earlier litigation, it would not be possible to accept the contentions of the Petitioner.

7. The Tribunal has already observed that the Petitioner can approach the Respondents for regularization of service by granting leave due and admissible.

8. Even as per the Maharashtra Civil Services (Pension) Rules, 1982, more particularly Rules 4 and 48 of said Rules, Government has power to condone the interruption in service, so also grant relaxation. The Petitioner may approach the Government for said purpose. In case the Petitioner makes such a request/ application to the Government, the Authority concerned shall take decision on the same expeditiously, on its own merits.

9. The Writ Petition stands disposed of. No costs. Rule disposed of.

[A.I.S.CHEEMA, J.]

asb/MAR15

[S.V. GANGAPURWALA, J.]