

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD.

923 WRIT PETITION NO.7220 OF 2016

ABHIJIT SHANKARRAO KURE PATIL. ..PETITIONER

VERSUS

**THE STATE OF MAHARASHTRA
AND OTHERS. ..RESPONDENTS.**

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**Advocate for Petitioner : Mr.Gunale V.D.
AGP for Respondents/State: Mrs.M.A. Deshpande.**

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CORAM : S.S. SHINDE & SANGITRAO S. PATIL, JJ.

Dated: August 08, 2016.

PER COURT :-

Heard the learned Counsel for the petitioner and the learned AGP appearing for the respondents - State. The learned Counsel for the petitioner submits that the petitioner filed On-line application for the post of lecturer in Government Polytechnic on contractual basis. It is further submitted that the petitioner was appointed by issuing appointment order on 22nd October, 2007 and he was posted in Government Polytechnic, Sakoli, District Bhandara on contractual basis for two years. He further submits that the petitioner was given technical break and thereafter, vide order dated 25th

November, 2009 again the petitioner was appointed as a lecturer on contractual basis for two years at Government Polytechnic, Aurangabad. It is submitted that since the father of the petitioner was ill, on 1st June, 2011 he submitted an application for leave to respondent No.3 and proceeded on leave from 3rd June, 2011. He came to respondent No.3 on 2nd September, 2011 for resuming duties. He resumed the duties on 2nd September, 2011 and again proceeded on leave from 3rd September, 2011 till 13th September, 2011 by filing an application. It is submitted that after completion of the said period, though the petitioner approached respondent No.3 with a request to allow him to resume the duties, respondent No.3 orally told the petitioner that reappointment order was to be issued by respondent No.2 and therefore, he cannot be allowed to resume the duties. It is the submission of the learned Counsel for the petitioner that the petitioner's appointment was up to 24th November, 2011 and therefore, respondent No.3 should have allowed the

petitioner to join the duties. He submits that being aggrieved by the refusal of respondent No.3 to allow the petitioner to join the duties, he filed Original Application before the Maharashtra Administrative Tribunal. However, the Maharashtra Administrative Tribunal, for unsustainable reasons, rejected the same. The learned Counsel for the petitioner submits that since the petitioner has completed more than three years service, though with technical breaks, he deserves to be continued in service and his service deserves to be regularized. In support of the aforesaid contention, the learned Counsel for the petitioner invites our attention to the judgment dated 19th October, 2013 delivered by the Division Bench of this Court at Nagpur Bench in case of **Sachin Ambadas Dawale and others Vs. The State of Maharashtra and another (Writ Petition No.2046 of 2010 – Nagpur Bench)** and submits that in the facts of that case also since the petitioner therein, who was working as a lecturer, had completed the service of three years, in Government Polytechnic, the Court

directed regularization of services of the said petitioner. He, therefore, submits that in the present case also the same relief deserves to be granted.

2. On the other hand, the learned AGP appearing for respondents – State submits that the petitioner was appointed on contractual basis in two different colleges. Even, if the petitioner's case is taken as it is, his period was supposed to expire on 24th November, 2011 and therefore, no relief could have been granted to the petitioner by the Maharashtra Administrative Tribunal.

3. We have considered the submissions of the learned Counsel for the petitioner and the learned AGP appearing for the respondents – State. With their able assistance, perused the pleadings in the petition, grounds taken therein and the order passed by the Maharashtra Administrative Tribunal. Upon considering the case in its entirety, it is not in dispute that

the petitioner was appointed in the month of October, 2007 for two years as a lecturer in Government Polytechnic, Sakoli, Tq. Sakoli, Dist. Bhandara. The said period expired and thereafter, after one month, the petitioner was appointed for two years. The said period came to an end on 24th November, 2011. Therefore, when the said period came to an end, in all probabilities, no relief could have been granted in favour of the petitioner.

4. In that view of the matter, we are not inclined to entertain this petition and the petition deserves to be rejected.

However, in case, the respondents wish to continue the petitioner on contract basis on the available vacancy, in accordance with the procedure, the rejection of this petition cannot be construed as an impediment for such action. However, certainly we are not convinced that the case is made out by the petitioner either for regularization or continuation of the petitioner

as a lecturer beyond the period stipulated in the appointment order.

5. For the reasons aforesaid, we decline to interfere in the impugned order passed by the Maharashtra Administrative Tribunal. Hence, petition stands rejected.

(SANGITRAO S. PATIL, J.) (S.S. SHINDE, J.)