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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.12109/2015

Rekha D/o Govindrao Hiwale

..Petitioner..

Versus

The State of Maharashtra & others.

...Respondents..

WRIT PETITION NO.12110/2015

Sunita D/o Baburao Khapale

..Petitioner..

Versus

The State of Maharashtra & others.

...Respondents..

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Shri H.I. Pathan, Advocate for petitioners.

Shri V.S. Badak, AGP for respondent no.1.

Shri M.N. Nawandar, Advocate for respondent nos.2 to 4.

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**CORAM: S.V. GANGAPURWALA &
K.L. WADANE, JJ.**

DATE: 19.10.2016

ORDER :

1] Learned counsel for the petitioners submits that the petitioners in both these writ petitions are appointed as Helpers by the respondent no.4. Since 2009, the

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petitioners are continuously working with the respondent no.4 though the appointment orders are given for six months every time. However, there is no break in service and the petitioners are continuously discharging their duties as full time Helpers. The learned counsel submits that last such order was issued on 13.7.2015. However, vide order dated 3.11.2015, the petitioners services were terminated. The learned counsel submits that for almost six years, the petitioners had put in their service with the respondent no.4 continuously without any break. Without conducting any departmental enquiry, nor issuing any notice, the petitioners are directly terminated. The same is illegal and against the principles of natural justice. The learned counsel submits that in fact the petitioners were required to be confirmed in service as regular and permanent employees. The respondents had indulged in unfair labour practices by continuing on contractual basis for almost 6 to 7 years. The order impugned is illegal. No acts of mis-deed are attributable to the present petitioners.

2] Learned counsel for the respondent nos.2 to 4 states that the petitioners were appointed purely on contractual

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basis for a period of six months on consolidated salary. Departmental enquiry is contemplated against permanent employees. These petitioners were only on contractual basis. So that no stigma should be attributed to the petitioners, simpliciter order of termination is issued, though discreet enquiry is conducted by the respondent no.4 and he had found mis-deeds as against the petitioners.

3] We have considered the submissions canvassed by the learned counsel for the parties.

4] The petitioners were appointed as contractual employees. There is no order regularizing the services of the petitioners. The last appointment order is issued on 13.7.2015. The said appointment order categorically and specifically states that the appointment of the petitioners as Helpers is on consolidated emolument and on contractual basis at the rate of Rs.3900/- per month. The same is for a period not exceeding six months from the date of joining. In such an eventuality, the petitioners cannot be considered to be permanent employees or regular employees wherein the rigors of following the procedure for departmental enquiry is

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required to be adhered to. The respondents had conducted discreet enquiry and had found the petitioners to be unfit to be continued.

5] The petitioners certainly did not have any right to the post. Even if the contention of the petitioners is considered, the petitioners would not have any right of employment with the respondent no.4 beyond six months from the date of issuance of the appointment order. Said period has also lapsed long back.

6] Considering the above, the contentions of the petitioners cannot be accepted. The writ petitions as such are dismissed. No costs.

(K.L. WADANE, J.)

(S.V. GANGAPURWALA, J.)