

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.3515 OF 2015

Smt. Rohini d/o. Vasantrao Pande ..Petitioner

Vs.

The State of Maharashtra and ors. ..Respondents

Mr.U.R.Awate, Advocate h/f. Mr.S.B.Talekar, Advocate
for petitioner

Mr.S.B.Joshi, AGP for respondent nos.1 to 3

**CORAM : S.V. GANGAPURWALA AND
R.G. AVACHAT, JJ.**

DATE : NOVEMBER 28, 2018

PER COURT

The petitioner seeks regularisation in the service, as Stenographer (Lower Grade).

2. Mr.Awate, learned Counsel for the petitioner, submits that the petitioner was initially appointed in the year 1990 as Stenographer (Lower Grade) in Government Medical College, Nanded. She was selected on the basis of her educational qualification and

performance in the interview. The appointment was for temporary period of 29 days. With technical breaks, she was continued in service. The petitioner was terminated from service in the year 1996. In the meanwhile, she had approached the Maharashtra Administrative Tribunal seeking regularisation in service by filing T.A. No.2490 of 1991, which came to be dismissed on 14.03.2002, observing that the petitioner's service has come to an end in view of the fact that the regular selected candidate is available. However, the Tribunal directed that if the said post is to be filled up in future on ad-hoc basis, the petitioner may be considered. The petitioner was again appointed to the said post in the year 2005 on ad-hoc basis. Thereafter, the petitioner again approached the Tribunal by filing Original Application No.117 of 2011 seeking regularisation of her service. The said Original Application came to be dismissed by the Tribunal vide order dated 02.09.2011. Relying on the

judgment in the case of **Secretary, State of Karnataka and ors. Vs. Umadevi and ors., (2006)4 SCC 1** and more particularly, paragraph 53 thereof, learned Counsel for the petitioner submits that if the appointment of the petitioner is irregular, on completion of 10 years, she is entitled to be regularised on duly sanctioned post. The learned Counsel, therefore, prays that the petitioner be regularised in service by setting aside the order of termination.

3. Mr.Joshi, learned AGP for respondent nos.1 to 3, submits that the petitioner was appointed in the year 2005 on ad-hoc basis, pursuant to the order of the Tribunal dated 14.03.2002 in T.A. No.2490 of 1991. The petitioner was also not qualified to be appointed as she was overage.

4. We have considered the submissions advanced by learned Counsel for the parties.

5. The petitioner's appointment cannot be considered from 1993. The petitioner was already

terminated in the year 1996. She sought regularisation and also assailed her termination, initially, by filing Writ Petition before the Tribunal. The Tribunal in T.A. No.2490 of 1991 in W.P. No.47 of 1991 on 14.03.2002 passed the following order :-

"
. . . .

4. In the circumstances, we find that applicant's services having come to an end in view of the fact that a regular selectee is available. The applicant being an ad-hoc appointee cannot claim any relief. However, if any posts are to be filled up in future on ad-hoc basis and if the applicant fulfills the necessary conditions for seeking appointment to said ad-hoc post the applicant's case may be considered in accordance with her seniority, qualification and suitability at Nanded. The petition is disposed of."

Pursuant to the above order, the petitioner was appointed on the said post on ad-hoc basis in the

year 2005. In the year 2005, she was not eligible to participate in the regular selection process being overage. After a regular selected candidate was transferred in the place of the petitioner, the services of the petitioner were discontinued. The order of the Tribunal dated 14.03.2002, reproduced supra, clarifies that the petitioner may be appointed on ad-hoc basis only. The petitioner being an ad-hoc appointee, cannot claim relief of regularisation in service. Even the Tribunal, in earlier order dated 03.03.1993 passed in T.A. No.2490 of 1991, has observed thus :-

"

In view of the above position, the respondents are at liberty to appoint the applicant afresh as lower grade stenographer as an ad-hoc arrangement, which will not confer any right to employment and other benefits including regularisation etc., the services of the applicant to stand terminated as

soon as duly selected candidate is available even without notice. "

6. While appointing the petitioner on ad-hoc basis pursuant to the order of the Tribunal, the petitioner was given a clear understanding. As observed supra, the petitioner was not eligible to be appointed on regular basis being overage in 2005. Therefore, she had not participated in the regular selection process.

7. Considering the above, as the appointment order of the petitioner was on ad-hoc basis under the order of the Tribunal, she cannot be granted the relief of regularisation in service.

8. It is stated in the affidavit filed by the respondent that one post of Stenographer (Lower Grade) is vacant. In the circumstances, if the petitioner is otherwise eligible, she may be appointed on the said post on ad-hoc basis, within

six weeks from today, till a regular selected candidate is available or appointed.

9. The Writ Petition is accordingly disposed of. No costs.

[R.G. AVACHAT, J.]

[S.V. GANGAPURWALA, J.]

kbp