

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

WRIT PETITION NO. 5868 OF 2018

Asvamegh Mahadevrao Kathale & Ors. Petitioners

Versus

The State of Maharashtra & Ors. Respondents

..
Shri. Chandrakant R. Thorat, Advocate for the petitioners
Shri. S. B. Pulkundwar, AGP for respondent/State
..

**CORAM : S. V. GANGAPURWALA
AND
A. M. DHAVAL, JJ.**

DATE : 9TH APRIL, 2019

ORAL ORDER:

1. Shri. Thorat, learned counsel for the petitioner submits that, the Tribunal has erroneously rejected the Original Application of the petitioner on the ground of jurisdiction. The petitioners were government employees. They were issued with the appointment orders for 11 months. Though the appointment was for 11 months the scheme was in force and is continued. The petitioners could not have been relieved. The association of the similarly situated persons had moved this Court by filing Writ Petition No. 5060 of 2015. This court under order dt. 24.08.2016 allowed the Writ Petition and the communication directing appointment on contract basis through

outsourcing was set aside and the members of the petitioners therein were directed to be continued in service till they attain the age of superannuation or until continuation of the scheme whichever is earlier. The learned counsel submits that the petitioners cannot be treated differently. As the scheme is in force, the petitioners are entitled to be continued in service. The petitioners are not continued in service after lapse of 11 months. The same is illegal. The respondents be directed to continue the petitioners in service.

2. Shri. Pulkundwar, learned Assistant Government Pleader for respondent/State submits that, the appointment was on honorarium for 11 months and on lapse of 11 months, they are not continued in service since July-2013. The learned Assistant Government Pleader further submits that, in the year 2013 the selection process was conducted. The petitioners participated in the selection process but the petitioners could not be selected as they got less marks.

3. We have considered the submissions.

4. The petitioners in the present present writ petition cannot claim parity with the members of the petitioner-association in Writ

Petition No. 5060 of 2015. The members of the petitioners Union in the said writ petition had completed almost five years of service and were in service. In the present case, the petitioners are not in service since July/August-2013 and they have been relieved. The petitioners had also participated in the subsequent selection process conducted in 2013, however, petitioners are not selected on merits.

5. Considering the aforesaid and the fact that the petitioners cannot be said to be similarly situated with the petitioners in Writ Petition No. 5060 of 2015, we do not find that the case of the petitioners deserves consideration on merits.

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

[A. M. DHAVALA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

Punde