

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO. 8060 OF 2011

The State of Maharashtra
& another

Petitioners

Versus

Devidas Gangaram Kale

Respondent

Mrs. M.A. Deshpande, AGP for the petitioners.
Mr. D.G. Nagode, Advocate for the Respondent.

**WITH
WRIT PETITION NO. 8061 OF 2011**

The State of Maharashtra
& another

Petitioners

Versus

Jyoti Rajabhau Deshpande

Respondent

Mrs. M.A. Deshpande, AGP for the petitioners.
Mr. D.G. Nagode, Advocate for the Respondent.

**CORAM: PRADEEP NANDRAJOG, CJ &
R.G. AVACHAT, J.**

DATE: 25.09.2019

PER COURT :

1] Impugned order dated 10.08.2009 has allowed Original Applications No. 561/1998 and 562/1998 filed by Devidas Gangaram Kale and Jyoti Rajabhau Deshpande directing that the the applicants be appointed in the Class IV category on a regular and permanent basis. The Tribunal has noted that both were appointed to Class IV post after inviting applications from the Employment Exchange and on being selected by Selection Committee, were employed only for 29 days and with artificial brakes they were made to work as Class IV employees without any benefit available to regular employees.

2] It is the case of the State that such a direction could not have been issued by the Tribunal.

3] Suffice it to state that in the decision reported as (2006) 4 SCC 1 Secretary, State of Karnataka & Ors v. Umadevi & Ors., the Supreme Court drew a distinction between illegal and irregular appointments; holding that irregular appointments were capable of being regularised if the selection was after inviting applications from eligible candidates and the applicants undergoing selection process.

3] In the instant case, the Tribunal has noted all the features showing that the appointments were irregular and not illegal.

4] That apart, learned AGP for the State submits that though no formal orders have been issued regularising the services of the respondents, their service books have been opened, both have been placed in the applicable pay scale, increments are being granted to both and as and when the pay scales are revised, the two have been placed in the replacement scale. Even their pension papers have been prepared.

5] Thus, it is apparent that the State has regularised the services of the respondents. Both the petitions are accordingly dismissed.

(R.G. AVACHAT, J.)

CHIEF JUSTICE