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

**BENCH AT AURANGABAD**

**WRIT PETITION NO.5461 OF 2015**

Smt. Bayanabai Khanderao Dake  
Age 49 years, Occu. Nil,  
R/o 1-7-232, Sahyognagar, Nanded,  
Workshop – Ashoknagar, Nanded,  
District Nanded.

... PETITIONER

**VERSUS**

1. The State of Maharashtra  
Through its Secretary, Medical  
Education and Research Department,  
Mantralaya, Mumbai
2. The Director,  
Directorate of Medical Education and  
Research, Office at Govt. Dental  
College and Hospital, 4<sup>th</sup> Floor,  
Premises St. Georges, Fort, Mumbai
3. The Dean,  
Dr. Shankarrao Chavan Govt. Medical  
College and Shri Guru Govindsingh  
Memorial Hospital, Nanded,  
District Nanded.

... RESPONDENTS

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Shri V.B. Wagh, Advocate for petitioner  
Shri S.G. Karlekar, A.G.P. for State  
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**CORAM: PRADEEP NANDRAJOG, CJ &  
R.G. AVACHAT, J.**

**DATE: 23rd September, 2019**

**PER COURT :**

1. Rule. Rule made returnable forthwith and heard finally with the consent of learned counsel for the parties.
2. A batch of Original Application filed by Badlies, i.e. leave casual vacancy persons has been disposed by the Maharashtra Administrative Tribunal vide impugned decision dated 18/6/2004. As a result of the decision, name of the petitioner has been struck off from operated seniority list maintained by the Medical Department of the first respondent. The reason is, the view taken by the Tribunal that all Badlies who have crossed the age of 48 years should not be given appointment as a Badlie Workmen.
3. The impugned decision notes the fact that in the medical establishment of the State, keeping in view strength of workmen on permanent basis, some would always be on one kind of leave or the other;

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requiring a substitute i.e. the Badlies. The decision notes that on an average each month between 25 to 30 Class IV employees remain on leave in Medical Colleges/ Hospitals. The Department was maintaining a list of workmen available to function as a Badlies for the duration an employee was on leave. The problem noted by the Tribunal was to the pick and choose manner resorted to while giving employment to a Badlie. A chosen few were given appointments as Badlies frequently. Finding an equitable solution, the Tribunal held that a list would be maintained and from the said list a Badlie would be given appointment and for the next casual leave vacancy, the next Badlie would be given employment and this way the list would be operated from top to bottom and in a cycle manner thereafter.

4. The petitioner has no quarrel with the same and indeed cannot have any, for the reason it operates to the benefit of the petitioner.

5. The Tribunal held that a Badlie who had crossed the age of 48 years as on 31.12.2003 would be struck off the list of Badlies.

6. Wherefrom the age of 48 years has been culled out by the Tribunal remains unanswered.

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7. Indeed, learned A.G.P. for the respondents states that there is no basis for the same.

8. Highlighting that Badlies are entitled to later on being appointed on regular basis we dispose of the petition quashing the directions issued in the impugned order, limited to the extent it limits the age of the Badlies Workmen to 48 years as on 31.12.2003, meaning thereby, the Badlies Workmen would be entitled to remain on the list of Badlies Workmen.

9. The age of superannuation of Workmen being 60 years in the State of Maharashtra, this would be the year which emerges from a logical point of view. The logic being, if a regular employee ceases employment on attaining the age of 60 years, can also be applied to the Badlies, i.e. entitling them to work only till the age of 60 years.

10. Rule made absolute in above terms. No costs.

(R.G. AVACHAT, J.)

CHIEF JUSTICE

fmp