

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.912 OF 2019

Union of India and others	..Petitioners
Versus	
Bhupendrakumar Panchabhai Solanki	..Respondent

Mr. S. S. Deshmukh, Advocate for the Petitioners - UOI.

**CORAM : B. R. GAVAI &
N. J. JAMADAR, JJ.
DATE : 29th JANUARY, 2019**

P.C.

1] The Petitioner – Union of India has approached this Court being aggrieved by the order passed by the learned Central Administrative Tribunal in Original Application No.567 of 2014 filed by the Respondent, vide which the Original Application has been allowed and the services of the Respondent have been regularized from the date of the judgment i.e. 8th December 2017.

2] The Respondent/employee, who possesses the necessary qualification was appointed in ITI/Respondent No.6 which at the relevant time was within the jurisdiction of the erstwhile State of Goa, Daman and Diu. The appointment of the Petitioner is dated 21st July 1989. The initial appointment of the Petitioner was on contract of 89 days, which was renewed from time to time. The

Respondent No.6 had sought for list of eligible candidates from the Employment Exchange. The Petitioner was duly qualified. The name of the Petitioner was sent to the Respondent No.6 by the Employment Exchange. The Applicant appeared before the interview committee on 13th November 1995. The Applicant was selected on the regular post of instructor.

3] Thereafter the Petitioners issued advertisement dated 26th July 2014, for filling up the post of instructor in fitting. Since the Respondent/employee was working with the Respondent No.6 for almost 25 years, he challenged the said advertisement and also prayed for regularization. The learned Tribunal by an interim order dated 8th October 2014, directed the Petitioners to permit the Petitioner to participate in selection process by relaxing age condition. In the selection process, the Petitioner was at Sr. No.8.

4] When the Original Application came for final hearing, the learned Tribunal allowed the Original Application by directing that the Applicant's services shall be regularized from the date of the judgment. It further directed that the services rendered by the Applicant from 1994 till the date of regularization shall be counted

for purposes of qualifying service in accordance with Rules 13 and 14 of the CCS (Pension) Rules 1972. Being aggrieved thereby, the present Petition.

5] Mr. S. S. Deshmukh, learned counsel appearing on behalf of the Petitioners submits that the Respondent/Applicant having participated in the selection process, now could not have sought direction to regularize his services. He further submits that Respondent was much below in the merit list. He therefore submits that the impugned order is not sustainable.

6] Perusal of the record would reveal that immediately after the advertisement was issued, the Respondent/Applicant has challenged the same by filing Original Application and also seeking a prayer for regularization in view of his uninterrupted services of more than 25 years. The learned Tribunal by an interim order permitted participation of the Petitioner in the selection process, however, the same was subject to the result of Original Application. It is not as if that the Petitioner suo-moto participated in the selection process and after having failed in the selection process has challenged the said selection process. This cannot be a case of

taking chances as laid down by the Hon'ble Apex Court in the case of **Madan Lal & Ors. Vs. State of Jammu and Kashmir & Ors**¹.

7] The learned Tribunal while allowing the Original Application has referred to the judgment of the Hon'ble Apex Court in the case of **Jivan Lal Vs. Pravin Krishna, Principal Secretary and Others**² for granting relief in favour of the Petitioner. The learned Tribunal found that the Original Applicant has devoted his entire career and rendered his services for more than 20 years. Even the Constitution Bench in the case of **Secretary, State of Karnataka and others Vs. Umdevi and others**³ has observed that as one time measure, the employer can consider the regularization of the services, who have put more than 10 years service. Here the Original Applicant had rendered much more than 20 years services. In that view of the matter, it cannot be said that the view taken by the learned Tribunal is either perverse or impossible to warrant interference. The Writ Petition is accordingly rejected.

[N. J. JAMADAR, J.]

[B. R. GAVAI, J.]

1 (1995) 3 SCC 486.

2 (2016) 15 SCC 747.

3 (2006) 4 SCC 1.