

**CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI**

ORIGINAL APPLICATION No.210/649/2019

Dated this Tuesday, the 17th day of December, 2019

**CORAM: R.VIJAYKUMAR, MEMBER (A)
R.N.SINGH, MEMBER (J)**

Mr. Avinash Bhanudas More, Age 37 years,
Working as Consultant (Depot Manager) GMSD, Mumbai
R/at Prasad B Wing, Room No.15, Vishnu Prasad CHS
Oswal Complex Mental Hospital Road,
Thane (W) 400 601. - Applicant
(By Advocate Shri Vicky Nagrani)

VERSUS

1. Union of India, Through the Secretary,
Ministry of Health and Family Welfare, C Wing No.6,
R.K.Puram, New Delhi – 66.
2. The Directorate General of Health Service,
Medical Store Organization, West Block No.1, Wing No.66,
R.K.Puram, New Delhi 66.
3. The Director-CDTL, Government Medical Store Department,
Ministry of Health and Welfare, Post Box No.4514,
Mumbai Central, Mumbai 8. - Respondents
(By Advocate Shri A.A.Garge)

ORAL ORDER

Per : R.Vijaykumar, Member (A)

Heard Shri Vicky Nagrani, learned counsel for the applicant
and Shri A.A.Garge, learned counsel for the respondents.

2. This application has been filed on 23.09.2019 under Section
19 of the Administrative Tribunals Act, 1985 seeking the following
reliefs:

“8.a. This Hon'ble Tribunal may graciously be pleased to
call for the records of the case from the Respondents and
after examining the same set aside the advertisement to the
extent of post held by the Applicant Depot Manager
(Consultant) at Mumbai with all consequential benefits.

8.b. This Hon'ble Tribunal may further be pleased to direct

the Respondents not to replace the services of the Applicant by any person who is not a regularly selected permanent employee with all consequential benefits.

8.c. This Hon'ble Court may further be pleased to hold and declare that the Applicant is entitled for same work same pay and accordingly direct the Respondents to grant Same Work Same Pay from the date of initial appointment of the Applicant as per the law laid down in the case of Jagdit Singh & Ors along with interest of 18% P.a. with all consequential benefits.

8.d. Costs of the application be provided for.

8.e. Any order and further order as this Hon'ble Tribunal deems fit in the nature and circumstances of the case be passed."

3. The applicant was initially appointed after walk-in-interview conducted on 21.03.2016 (Annexure A-3) to the post of Consultant (Depot Manager) purely on contractual basis on monthly remuneration basis. He has continued in this post since that time and was to asked to appear in a fresh walk-in-interview by virtue of notification issued in Annexure A-1. The applicant had appeared in the interview but has objected to being replaced by another contractual employee.

4. The learned counsel for the applicant has argued by reliance on the judgment of the Hon'ble High Court of Bombay in Writ Petition No.6681 of 2018 decided on 22.04.2019 in **Ms. K.J.Dabhi & Ors. Vs. Union of India & Anr.**, which had considered a similar case of a petitioner who was serving as on contractual basis and whose services were sought to be terminated and replaced by another set of contractual employees. The Hon'ble High Court had recorded the following view by allowing the application :

"3. By now it is settled position of law that one set of ad hoc employees cannot be replaced by another set of ad hoc

employees. They can only be replaced by candidates who are selected through regular selection process. In that view of the matter, we dispose of this petition directing the respondents that present petitioners who are working on contractual basis shall not be replaced by another set of contractual employees.

4. However, we make it clear that the order shall not be construed that the petitioners cannot be replaced by the employees who are selected through regular selection process.

5. We also direct that such of the employees who have already been replaced prior to our interim order shall also be continued till they are replaced by regularly selected candidates.”

5. The learned counsel for the respondents has filed reply opposing the grant of relief and has argued accordingly today.

6. In the circumstances, we consider that the judgment of the Hon'ble High Court of Bombay is binding on the Tribunal and since the facts are identical. Accordingly, the OA is allowed with a direction to the respondents that the applicant cannot be replaced any another set of contractual/adhoc employees. No costs.

(R.N.Singh)
Member (Judicial)

(R. Vijaykumar)
Member (Administrative)

kmg*

JD
19/12/19

