

DR. KISHORE

v.

THE STATE OF MAHARASHTRA AND ORS.

OCTOBER 7, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

Service Law :

Ad hoc appointment as Medical Officer Class III in State of Maharashtra—Writ petition by ad hoc employee for regularisation—Meanwhile person selected by Public Service Commission posted by transfer in place of the petitioner—Held, as soon as the duly selected candidate is posted whether directly or by transfer, necessarily the petitioner has to give place to such a candidate.

CIVIL APPELLATE JURISDICTION : Special Leave Petition (C)
Nos. 16583-84 of 1996.

From the Judgment and Order dated 12.4.96 of the Maharashtra Administrative Tribunal, Nagpur in O.A. No. 400/95 and C.P. No. 18 of 1994.

P.N. Gupta for the Petitioner.

The following Order of the Court was delivered :

The petitioner was appointed on temporary basis *de hors* the rules as Medical Officer in Class III post on February 28, 1990 for a period of three months and it was extended from time to time. Apprehending termination of his service, he filed Writ Petition No. 2661/90 in the High Court of Bombay at Nagpur. The High Court had transferred the matter to the Administrative Tribunal. In T.A. No. 3559/92, the Tribunal by order dated September 15, 1993 directed that the petitioner may be allowed to continue until the duly selected candidates by the Selection Board or Maharashtra Public Service Commission were available and appointed; his continuance in service was only on *ad hoc* basis without confirmation of any right including the requirement of notice before terminating the service; at best, he would be entitled to be considered along with other candidates and as soon as the duly selected candidate is appointed, his service was liable to

A be terminated even without notice. By proceedings dated January 4, 1994 one Dr. S.S. Solanki, Medical Officer, Class III who was selected by the Public Service Commission was posted by transfer at his request in place of the petitioner. The petitioner has challenged the order of termination in OA No. 400/95 and the Tribunal in the impugned order dated April 12, 1996 dismissed the petition. Thus, these special leave petitions.

B
C
D It is contended by learned counsel for the petitioner that since vacancies are existing the appointment of Dr. Solanki by transfer could not be used as a means to terminate the service of the petitioner. We fail to appreciate the contention. It is fairly agreed by the learned counsel that the petitioner has no right to the post and as soon as a duly selected candidate is posts in his place, he has to given to the duly selected candidate. But his contention is that since Dr. Solanki was selected earlier to the order passed by the Tribunal and had been appointed on his transfer, it cannot be used a means to terminate the services of the petitioner. His contention absolutely has no force. As soon as the duly selected candidate is posted, whether directly by transfer, necessarily the petitioner has to give place to such a candidate. The petitions, therefore, do not merit interference.

The special leave petitions are accordingly dismissed.

E R.P.

Petitions dismissed.