

(2010) 01 GAU CK 0010
In the Gauhati High Court
Case No : Writ Petition (C) No. 252 of 2009

Jayanti Deb

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 22-01-2010

Acts Referred:

Border Security Force Special Relief Fund Rules — Rule 4
Constitution of India, 1950 — Article 12, 14, 21, 226

Citation : (2010) 3 GLR 636 : (2010) 2 GLT 356

Hon'ble Judges : U.B. Saha, J

Bench : Single Bench

Advocate : A.K. Bhowmik and R. Dutta, for the Appellant; A. Lodh, for the Respondent

Judgement

U.B. Saha, J.—The petitioner is an unfortunate lady who is now out of service after having served for more than eighteen years continuously. Aggrieved by, she has approached this Court by filing this writ petition under Article 226 of the Constitution for quashing/setting aside the letter dated 31.12.2007 whereby and whereunder she has been informed not to work as Aya with effect from 1.1.2008, (Annexure-14) and letter dated 13.3.2008 (Annexure-17) thereby informing the petitioner that she cannot be appointed to the post of Aya to which she was appointed as the said post of Aya is meant for widow or dependant of a BSF employee who was a martyr and also to take her back in service in the same status. Both the letters have been issued by the respondent No. 4, the Commandant, Tripura Frontier Hospital, Border Security Force 6th Battalion, Ambassa, Dhalai District.

2. Considering the nature of the case and as agreed to by the learned Counsel for the parties, the instant writ petition is taken up for hearing and disposal at the admission stage.

3. Heard Mr. A.K. Bhowmik, learned senior counsel assisted by Mr. R. Dutta, learned Counsel for the petitioner and Mr. A. Lodh, learned Assistant SG

appearing for the respondents.

4. A brief narration of facts necessary for appreciating the contentions raised by the petitioner may be set out.

The petitioner passed the Madhyamik examination in the year 1987 and was an unemployed who submitted application along with other to the Commandant, 71 Bn. BSF, Ambassa on 16.3.1989 for appointment to the vacant post of Aya. She appeared in the interview and got selection and by an order dated 10.5.1989 she was appointed to the post of Aya in BSF in the pay scale of Rs. 400-10-550. The petitioner joined the said service on 10.5.1989 at Battalion Head Quarter at Ambassa under the respondents and was serving as such till 2004. Thereafter, she was provided on contract job for a period of one year on a consolidated salary of Rs. 4,500 per month. It is to be noted here that in her pay scale also, the petitioner was drawing Rs. 4,500 per month and she drew @ Rs. 4,500 per month on contract service for the years 2005, 2006 and 2007 and her service had come to an end on 31st December, 2007. Thereafter, although the Board of officers recommended that the petitioner might be further appointed for a period from 1.1.2008 to 31.12.2008 on contract and renewal basis, yet the petitioner was served the aforesaid letter dated 31.12.2007 issued by the respondent No. 4 directing her not to attend duties any further on the ground that the petitioner is not entitled to continue in the post of Aya since 1.1.2008. The petitioner filed a representation to the respondent No. 4 on 15.1.2008 (Annexure-15) to allow her to perform her duties in the post of Aya in the unit of 6th Bn. BSF and she was informed that she cannot be appointed to the post of Aya as the said post is meant for widow or dependant of a BSF employee who was a martyr vide Annexure-17. She again filed another representation on 24.1.2009 to the Director General, BSF, New Delhi, the respondent No. 2 herein, to reappoint her in the post of Aya in the Unit of BSF, but she was not given any reply by the said respondent in disposal of her representation. Therefore, the petitioner has filed the instant writ petition with certain prayers as aforementioned.

5. In reply to the writ petition, it is submitted by the respondents that the petitioner was engaged purely on temporary basis out of BSF Special Relief Fund and the post which was held by the petitioner was not permanent in nature, rather a contractual one. The Special Relief Fund (SRF) of the BSF is purely a private fund and out of this fund, appointments are being made strictly on contractual basis in the Hospital, Canteen, Education (BSF) School, etc., only to the wards/ widows of the deceased BSF personnel as per the eligibility. It is further stated by the respondents that the said Special Relief Fund are run and maintained mainly out of the subscriptions made by the serving BSF personnel. The said fund is managed by a governing body, managed by BSF personnel without any statutory authority. None of the persons hold any civil posts under SRF. As such it does not fall within the ambit of the definition of "state" or "other authority" under Article 12 of the Constitution of India. It is also submitted by the respondents that the appointment of the petitioner was purely on temporary

basis in the consolidated pay scale of Rs. 500-15-650 which was being disbursed out of a BSF Specific Relief Fund without any statutory sanction by the respondents. Therefore, the application of the petitioner for her permanent absorption would not be considered as there is no such scope for regularization of her service under any provision or scheme of the BSF Special Relief Fund. It is further stated that the petitioner's service was renewed on her prayer for extending her contractual service which does not confer any right upon the petitioner to hold the post permanently. And her service was terminated according to the terms of the contract with the said organization. The respondents further stated that the annual meeting of the governing Body of the BSF SRF held at its Force Head Quarters issued the standard operative policy and procedure on Private Fund vide letter dated 3.10.2007 under which it has been decided that all temporary posts governed under BSF Private Fund will be filled up by widows of deceased BSF personnel and in compliance of the said decision taken by the Governing Body of the relevant BSF SRF, the service of the petitioner has been terminated. It is also stated that the petitioner is not even related to any deceased BSF personnel so that she can be retained in her service. The petitioner has been provided with all benefits as per the terms of her contract and she is not entitled to any further benefits. According to the respondents, the representation of the petitioner dated 15.1.2008 has also duly been considered and found that the petitioner's service did not fall within the policy and criteria/guideline framed by the Governing Body and she was communicated to that effect vide letter dated 13.3.2008 (Annexure 17 to the writ petition). Therefore, the respondents have not violated any kind of rights of the petitioner. Hence, the writ petition is neither bona fide nor in the interest of natural justice which deserves to be rejected being devoid of merit.

6. Mr. A.K. Bhowmik, learned senior counsel for the petitioner submits that the petitioner was selected for the post of Aya through a selection process conducted by the respondents. She appeared in the interview and got selection. Accordingly, the respondents appointed her to the post of Aya, which she joined on 10.5.1989 and the respondents were utmost satisfied with her service as Aya. As such, she was allowed to continue for more than eighteen years though on temporary basis and she was paid Rs. 4,500 per month. Mr. Bhowmik further submits that the petitioner was also appointed in the pay scale of Rs. 400-10-550 per month on temporary basis and after serving for more than fifteen years, when she expected that her service might be regularized, she was provided on contract basis. Initially the petitioner could not understand the consequence of the fresh appointment when she was, asked to sign application on 18.2.2005 and thereafter in January 2006 and lastly in January 2007 for continuation of her service as Aya up to 31.12.2007. Thereafter, the petitioner came to know that her service was continued from 2005 on year to year basis as Aya on contract service. According to the learned senior counsel, such action of the respondent is illegal, arbitrary, unilateral and liable to be quashed. Drawing attention to Annexures 13 and 14 to the writ petition, learned senior counsel also

submits that the Board of officers after being satisfied with the service of the petitioner recommended that the services of the petitioner might be further extended, for further, period. But subsequently she was not allowed to continue after the old contract period. Therefore, it would be proper for the court to direct the respondents to take the petitioner back in service in the same status, if the respondents are going to fill up the said post of Aya by other person. Finally, Mr. Bhowmik submits that by now the petitioner has become overaged to apply for any Government job and the respondents authorities changed the nature and status of her initial appointment to the post of Aya and converted her as an Aya on purely temporary contract basis on year to year basis with an oblique motive to terminate her even from the contractual service after completion of the said period which the respondents authorities did by issuing the instant letter dated 31.12.2007 Annexure 14 to the writ petition. On perusal of the aforesaid two letters, it would be evident that the respondents authorities had taken such an ulterior motive to provide the benefit to some other persons in place of the petitioner. Thus both the letters are violative of Articles 14 and 21 of the Constitution of India as the actions of the respondents authorities had taken away the right to a public employment of the petitioner. As a result, the right to livelihood of the petitioner is also affected. He also contends that the impugned letters visit with civil consequence of jeopardizing not only her livelihood, but also her career and livelihood of dependents. In support of his aforesaid contention, he has placed reliance on the case of D.K. Yadav Vs. J.M.A. Industries Ltd., and the case of Olga Tellis and Others Vs. Bombay Municipal Corporation and Others, He further contends that the last salary of the petitioner under the first service was Rs. 4,500 which she drew even after she was appointed on contract service. The respondents without issuing any show-cause notice upon the petitioner and also without issuing any formal termination order asked the petitioner on 31.12.2007 not to come for duty on and from 1.1.2008 as she was informed that her service came to an end on and from 31.12.2007 which itself is a violation of principle of natural justice. Thus the impugned letters being unfair, unreasonable, arbitrary and unilateral are liable to be quashed and cancelled and the respondents authorities should be directed to allow the petitioner to continue in service in the same status what she was enjoying prior to the issuance of the aforesaid letters and also to regularize her service to the post of Aya.

7. Mr. A. Lodh, learned Assistant SG appearing for the respondents submits that the instant writ petition is not maintainable only on the ground that the Unit Hospital of the BSF is not a "State" under Article 12 of the Constitution of India and the petitioner is also not holding any civil post under the respondents Border Security Force. In support of his aforesaid contention, he relied upon decisions of the Apex Court in the case of Sabhajit Tewary Vs. Union of India (UOI) and Others, and Chander Mohan Khanna Vs. The National Council of Educational Research and Training and other[OVERRULED], and Tekraj Vasandi alias K.L. Basandhi Vs. Union of India (UOI) and Others, and in the case of Lt. Governor of

Delhi and Ors. v. V.K. Sodhi and Ors. AIR 2007 SCW 5268. He also contended that a Society registered under the Society Registration Act is a master of its affairs and not servant to the Government and even if the Government provides any financial assistant to the said Society and the working of the Society is to the extent controlled by the Government, then also the same cannot be treated as a State under Article 12 of the Constitution in view of the aforesaid judgment. She was engaged purely on temporary basis out of BSF Special Relief Fund which is run by the BSF personnel privately, on condition that her service will be terminated even without any notice. He also contends that on 10.5.1989, the petitioner accepted her appointment on a consolidated salary of Rs. 4,500 per month out of BSF special relief fund on purely temporarily basis on certain terms and conditions that this post will not be having any pension benefit, etc. Learned Assistant SG further contends that the salary of the petitioner was paid from the BSF special relief fund which is purely a private fund and as per revised Instructions/policy of the BSF Special Relief Fund, fresh widows/wards of BSF candidates would be given opportunity for appointment on temporary contractual basis. Therefore, in no point of time, the question of petitioner's regularization of service arose as she was appointed on purely temporary basis. As such, she does not have any right to claim for continuance in service after completion of contractual period and her contractual engagement/appointment was automatically ended with effect from 31.12.2007, no show-cause notice or any specific termination order is called for, and it was within her knowledge that her service would be automatically ended after the contractual period. He further submits that the salary of the petitioner was paid from the special relief fund of the BSF Frontier Head Quarter and the frontier hospital is managed by private body with the private fund. On that count also, the present petition is not maintainable. In support of his aforesaid contention, he relied on a judgment of Madhya Pradesh High Court in the case of Narayan Singh v. Central Education Committee for BSF, Schools and Ors. in WP No. 1288 of 1994 which was upheld by a Division Bench of the said High Court in LPA 60 of 1995. He also contended that the service of the petitioner on the basis of the first appointment letter has lost its force after the subsequent engagement/appointment letter was issued. Therefore, even if the impugned letters are quashed by this Court, then also the petitioner's service cannot be regularized as sought for.

8. Having heard the learned Counsel for the parties, this Court has given anxious thought to the submission of the learned Counsel for the parties as well as the record available before this Court. On going through the records, it transpires that the initial appointment letter of the petitioner, Annexure 2 to the writ petition, was on temporary basis in the pay scale of Rs. 400-10-550 (consolidated) out of the Special Belief Fund of BSF (private fund) and the petitioner accepted the same though it is the admitted position that she continued in the said capacity for about more than fifteen years and discharged her duties satisfactorily. All on a sudden the terms and conditions of the service of the petitioner have been changed and she was appointed on year to year basis

on consolidated salary of Rs. 4,500 per month out of Special Relief Fund but purely temporarily on contractual basis.

9. There is no doubt that an employee is bound by the terms and conditions of his service and he or she cannot claim something more beyond the terms and conditions of his/her service contract including the regularization of his/her service as sought for in the instant case. But at the same time, it cannot be ignored by the court of law that the petitioner was allowed to work as Aya in the Frontier Hospital for about more than eighteen years and all on a sudden, she was made to accept subsequent contractual appointment on year to year basis.

10. Before examining the relevant submission of the learned Counsel for the parties on merit, it would be proper for this Court to consider the question of maintainability of the writ petition as raised by Mr. Lodh, learned Assistant SG. Mr. Lodh has also placed a copy of the Border Security Force Special Relief Fund Rules, the relevant portion of which is reproduced herein below:

3. Source of Income. - The fund shall be raised by:

- (a) contribution from the National Defence Fund;
- (b) government grants, if such grant become necessary in future.
- (c) contribution from non-official sources which the Governing Body may accept;
- (d) contribution from members of the Force or from any of the Force Fund.

4. Objects of the Fund. - The objects of the fund shall be:

- (1) Rehabilitation of widows and orphans, schemes for which may be in the nature of establishment and running of widow Homes, providing suitable employment opportunities, sanctioning stipends for educational and vocational training, providing housing facilities and assistance in developing agriculture as a means of livelihood;
- (2) Sanction for grants for education establishment of BSF Schools and matters connected with education in the Force;
- (3) Meeting legal cost of suits on behalf of widows, disabled personnel and their dependents;
- (4) To provide refundable advance to Unit Welfare Centers to enable expansion in their programmes of providing work for the families;
- (5) To provide assistance to families of BSF personnel in education, vocational training, medical relief or any welfare measure which would benefit the women and children of the members of the BSF;
- (6) to Establish creches for children in the Units;
- (7) Setting up of hospitals for women and children at selected places and to give financial assistance in case of prolonged hospitalization;

(8) To give assistance by way of loans at an interest of 2% and grants for house building and purchasing ready built houses and housing plans and improvement and renovation of existing houses owned by beneficiaries for the same purpose from public institutions by giving guarantees where necessary. Till such time as the beneficiary has not acquired a house, the fund may hire a suitable house for such beneficiary to pay the rent of a house hired by the beneficiary.

(9) To set up agricultural colonies for beneficiaries and purchase or acquire land for the same purpose;

(10) To give reasonable grants for performing obligatory social functions;

(11) To undertake any other welfare measures which the Governing Body approves.

(5) Relief to be given: All types of relief mentioned in Rule 4 may be given to a beneficiary.

11. From the above, it is clear that the Government grant is available as a source of income if such grants becomes necessary for development of the BSF Special Relief Fund. Not only that, the administration of fund is also within the control of Governing Body and an Executive Committee in which the Director General, Border Security Force is the Ex-officio President and a representative of the Prime Minister's Scett. and some other officers of BSF will be the members. The Assistant Director (Administration), BSF will act as the Secretary of the Fund, meaning thereby over this Fund, the Union of India has some control. Not only that, the respondents are discharging the public duty relating to development of health through Tripura Frontier Hospital which is managed by the Governing body and/or an Executive Committee which is actually the duty of the "State" as right to health is a fundamental right of the citizen. Therefore, it cannot be said that the BSF Special Relief Fund is totally under the control of the private body. If the said fund is run by the private body, the same shall not come within the meaning of "State" as defined in Article 12 of the Constitution of India.

12. This Court has gone through the decisions of the Apex Court in *Sabhajit Tewary* (supra), *Chander Mohan Khanna* (supra), *Tekraj Vasandi alias K.L. Basandhi* (supra), and in the case of *Lt. Governor of Delhi and Ors.* (supra) and also a decision by a Constitution Bench of the Apex Court in the case of *Pradeep Kumar Biswas and Others Vs. Indian Institute of Chemical Biology and Others*, wherein their Lordships discussed the earlier decisions including the decisions in the case of *Rajasthan State Electricity Board, Jaipur Vs. Mohan Lal and Others*, , *Ajay Hasia and Others Vs. Khalid Mujib Sehravardi and Others*, and *Sabhajit Tewary* (supra), *Chander Mohan Khanna* (supra) and *Tekraj Vasandi* (supra), etc. While discussing the case of *Sabhajit Tewary*, their lordship in para 61 of the judgment in *Pradeep Kumar Biswas* (supra) held that should *Sabhajit Tewary* still stand as an authority even on the facts merely because it has stood for 25 years? We think not. Parallels may be drawn even on the facts leading to an untenable interpretation of Article 12 and a consequential denial of the benefits

of fundamental rights to individuals who would otherwise be entitled to them and there is nothing in our Constitution which prevents us from departing from a previous decision if we are convinced of its error and its baneful effect on the general interests of the public. Since on a re-examination of the question we have come to the conclusion that the decision was plainly erroneous, it is our duty to say so and not perpetuate our mistake. As the Apex Court in Pradeep Kumar Biswas's case (supra) had specifically over-ruled Sabhajit Tewary (supra), the said case cannot be treated as precedent by this Court for decision of the instant case. The Apex Court in the case of Pradeep Kumar Biswas while affirming the views of the earlier Constitution Bench in Rajasthan SEB (supra) over-ruled the observation in Chander Mohan Khanna (supra). Therefore, the said case also in no way helps the respondents herein. The fact of the case of Tekraj Vasandi (supra) is totally different and distinguishable from the case in hand. Therefore, the said case also in no way helps the case of the respondents. More so, the fact of the case of B.K. Sodhi (supra) is totally different than the case in hand. In view of the decision in Pradeep Kumar Biswas (supra), it can be easily said that an institution like the Tripura Frontier hospital managed by the Governing body and/or Executive Committee with the contribution of the National Defence Fund, Government grants and discharging the public duty entrusted on the Government like promoting the health and interest of the people is obviously a State. The aforesaid views of this Court gets support from the Subsequent decision of the Apex Court in the case of State of U.P. and Another Vs. Radhey Shyam Rai, wherein the Apex Court also considered the decision in Pradeep Kumar Biswas (supra) and noted in Para 18 that for the purpose of determining the question as to whether a society registered under the Societies Registration Act would be "State" within the meaning of Article 12 of the Constitution of India or not, the history of its constitution plays an important role. (P.K. Ramachandra Iyer). The functions which are being performed by the Sansthan were used to be performed by the Government directly. "The main purpose and object for which the training institutes were established at different places in the State of Uttar Pradesh admittedly was to provide scientific ways of sugarcane cultivation and management, so as to improve the production of cane with a view to achieve better production of sugar. Such a function indisputably is a State function. The State established the "Sansthan" so as to take over its own functions. It even transferred the entire management relating to imparting of training in various institutes in its favour. All the assets held by it for the aforementioned purpose including the infrastructural facilities stood transferred in favour of the "Sansthan." This Court has also gone through the order of the learned Single Judge of the Madhya Pradesh High Court which was upheld by the Division Bench of the said High Court wherein it is specifically stated that it is neither given grant in aid by the State Government nor it is getting any assistance from the Central or State Governments. And it is also not clear from the said order whether in the Central Education Committee, Government nominees were members or not and whether the said committee was guided by the Rules and Regulations as well as order(s) issued by the Government of India.

Therefore, according to this Court, the said decision would not help this Court to decide the dispute in question as well as the case of the respondents. Therefore, according to this Court, the Frontier Hospital, Ambassa is run by the Governing body or the Executive Committee as a "State" within the meaning of Article 12 of the Constitution and, thus, present writ petition is maintainable.

13. Now let us see whether the initial appointment letter of the petitioner is in force in view of the subsequent appointment on year to year basis on consolidated salary of Rs. 4,500 out of BSF Special Relief Fund even though the earlier appointment letter was not made cancelled nor was the service of the petitioner terminated after continuation for a long period of about eighteen years. It is a settled law that even for continuation of a long period on the basis of a specific appointment letter, it does not change the nature of the appointment. It is also settled that when in the appointment letter some terms are envisaged, then an employee has no right to ask the employer to provide some benefit out of the terms. Contractual appointment/engagement does not create any right for regularization of service as the person concerned entered into service knowing future consequence of his service. But at the same time, the employer also should not take benefit of hardship as well as ignorance of the employee concerned. In the instant case, though the petitioner was engaged in the year 1989 on a particular scale, and without terminating her service by a specific order, she was provided purely temporary contractual job on year to year basis on her prayers. Therefore, it can be easily said that her earlier appointment was deemed to have been terminated. Now question is whether the petitioner can claim for extension of her service even after the contractual period. It is also settled position that the service of an employee comes to an end after completion of the contractual period of service. Therefore, it can be said that the petitioner has no right to continue in service on the strength of the appointment letter issued in favour of her.

14. After her termination, she made a representation on 24.1.2009 to the Director General, BSF, Force Head Quarter, CGO Complex, New Delhi, the respondent No. 2 herein, which has admittedly not been disposed of by the said authority.

15. Now let us see whether the case of D.K. Yadav (supra) has any application in the instant case. There is no doubt that the Apex Court in the case of D.K. Yadav (supra) while considering the case of the petitioner of that case stated, inter alia, that the procedure prescribed for depriving a person of livelihood must meet the challenge of Article 14 and such law would be liable to be tested on the anvil of Article 14 and the procedure prescribed by statutory rule or rules or orders affecting the civil rights or requirement of Article 14. Not only that, fair play in action requires that the procedure adopted must be just, fair and reasonable. The manner of exercise of the power and its impact on the rights of the person affected would be in conformity with the principles of natural justice. Article 21 clubs life with liberty, dignity of person with means of livelihood without which

the glorious content of dignity of person would be reduced to animal existence. But in that case, the nature of employment was not a contractual one. Rather, in that case, the appellant being workman absented himself from duty continuously for more than eight days without leave or prior information or intimation or previous permission from the management automatically abandon his service and lost his lien on his appointment as per Clause 13 of certified standing order which was challenged by the said appellant of that case before the labour court and ultimately the labour court upheld the termination of the appellant's service as legal and valid, against which an appeal by special leave was preferred before the Apex Court and the Apex Court considering the fact of that case held that before automatic termination under certified Standing Order, the appellant was not provided any opportunity and the duty to give reasonable opportunity to be heard will be implied from the nature of the function to be performed by the authority which has the power to take punitive or damaging action. Even executive authorities which takes administrative action involved in deprivation of or restriction on inherent fundamental rights of citizens must take care to see that justice is not only done, but manifestly appears to be done. They have a duty to proceed in a way, which is free from even the appearance of arbitrariness, unreasonable or unfairness. The rule of procedure laid down by law comes as much within the purview of Article 14 of the Constitution as any rule of substantive law. Therefore, the said case has no direct bearing in the case in hand. The case of *Olga Tellis (supra)*, as relied by Mr. Bhowmik, learned senior counsel for the petitioner, has also no application as the fact of that case is totally different than the case in hand. More so, that was a case filed by a journalist and two pavement dwellers for protecting the lives and properties of lakhs of persons who live on pavement and in slums in the city of Bombay in relating to employment. There is no doubt that right to life includes right to livelihood, but the livelihood also can be taken away with the sanction of law. In the instant case, the petitioner herself prayed for appointment to serve as Aya for a period of one year in breaking the service of initial appointment on which the petitioner was provided fresh appointment purely temporarily on contractual service year to year basis. Therefore, the said case has no application. But it cannot be overlooked that in the instant case, the procedure adopted by the respondents to terminate the petitioner is to some extent unfair and unjust. The termination from service of the petitioner after more than eighteen years affected the livelihood of the petitioner. However, the petitioner has no right to the post of Aya as her service was wholly guided by the terms and conditions of the Service. More so, in view of the decision of the Apex Court in the case of *Secy., Secretary, State of Karnataka and Others Vs. Umadevi and Others*, wherein the Apex Court noted that if it is a contractual appointment, the appointment comes to an end at the end of contract, if it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued. Similarly, a temporary employee could not claim to be made permanent on the expiry of his term of appointment. Not only that, in the aforesaid case, the Apex Court also noted that once a person accepts the

employment with open eyes though he is not in a position to bargain not at arm's length- since he might have been searching for some employment so as to eke out his livelihood and accepts whatever he gets. But on that ground alone, it would not be appropriate to jettison the constitutional scheme of appointment and to take the view that a person who has temporarily or casually got employed should be directed to be continued permanently. But at the same time, the Apex Court in that case taking note of the cases of (1) State of Mysore and Another Vs. S.V. Narayanappa, (2) R.N. Nanjundappa Vs. T. Thimmiah and Another, (3) B.N. Nagarajan and Others Vs. State of Karnataka and Others, held that where the employees are continued to work for ten years or more as a duly qualified, persons in duly sanctioned vacant post without intervention of the order of the courts or tribunals, the regularization of their services may have to be considered on merits in the light of the principles settled by the Apex Court in the cases referred to above. In the instant case, it is the admitted position that the present petitioner worked for a period of about more than eighteen years and she also entered into service on proper selection after facing interview. Therefore, though she may not be entitled to be regularized or get permanency in the service in strict sense of law, but can expect that the authority should act with some humane touch as she was forced to accept the subsequent contractual job having no other alternative. It appears from the record that she made a representation to the authority on 24.1.2009 which has not yet been considered and disposed of the authority concerned. This Court is of opinion that the respondent-authority should consider the same and dispose of within a period of two months from the date of receipt of a copy of this judgment, if the same was not disposed of earlier, with humane touch as she served to the satisfaction of the employer (sic) the prime time of her life for the welfare of the frontier hospital.

16. With the aforesaid observation and direction, the writ petition is disposed of.