

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO.308 OF 2014

DIST. :PARBHANI

1. **Shri Ambadas S/o Namdeorao Paikrao,**
Age: 50 years, Occu. : Labour,
r/o Salva, Tq. Kalamnuri, Dist. Parbhani.
2. **Shri Udhav S/o Tukaram Ambhore,**
Age: 48 years, Occu. : Labour,
r/o Akoli, Tq. Jintur, Dist. Parbhani.
3. **Shri Ganesh S/o Vithal Chavan,**
Age: 51 years, Occu. : Labour,
r/o Jintur, Tq. Jintur, Dist. Parbhani.
4. **Shri Prakash S/o Ashruba Tupsamudre,**
Age: 46 years, Occu. : Labour,
r/o Yelad, Post. Nalad, Tq. Selu, Dist. Parbhani.
5. **Shri Eknath S/o Shyamrao Suryawanshi,**
Age: 49 years, Occu. : Labour,
r/o Mantha, Tq. Mantha, Dist. Jalna.
6. **Shri Vasant S/o Devidas Nikalje,**
Age: 46 years, Occu. : Labour,
r/o Charthana, Tq. Jintur, Dist. Parbhani.
7. **Shri Dnyanoba S/o Arjun Taru,**
Age: 49 years, Occu. : Labour,
r/o Belkheda, Tq. Jintur, Dist. Parbhani.
8. **Shri Balu S/o ManikGhansawad,**
Age: 43 years, Occu. : Labour,
r/o Akoli, Tq. Jintur, Dist. Parbhani.
9. **Shri Shesharao S/o DhondibaKharat,**
Age: 51 years, Occu. : Labour,
r/o Mantha, Tq. Mantha, Dist. Jalna.

.. APPLICANTS

V E R S U S

- 1) **The State of Maharashtra,**
Through Principal Secretary,
Mantralaya, Mumbai-32.
- 2) **The Executive Engineer,**
Public Works Department,
Division, Parbhani.
- 3) **The Deputy Engineer,**
Public Works Department,
Sub-Division Pathri,
Tq. Pathri, Dist. Parbhani.
- 4) **The Deputy Engineer,**
Public Works Department,
Sub Division Pathri,
Tq. Jintur, Dist. Parbhani.

.. RESPONDENTS

APPEARANCE : Shri Kiran Nagarkar, learned Advocate holding for Shri R.S. Shejule, learned Advocate for the applicant.

: Shri D.R. Patil, learned Presenting Officer for the respondents.

**CORAM : JUSTICE M.T. JOSHI, VICE CHAIRMAN
AND
ATUL RAJ CHADHA, MEMBER (A)**

DATE : 14.3.2019

JUDGMENT

[Per :Justice M.T. Joshi, V.C.]

1. Heard Shri Kiran Nagarkar, learned Advocate holding for Shri R.S. Shejule, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. The present original application has been filed by the applicants for the following reliefs :-

“C) *To quash and set aside the impugned letter/order dated 20.07.2011 & 23.08.2011 issued by respondent No. 2 thereby rejected the claim of the petitioners for regularization of their services with respondent authority in view of the facts and circumstances and in the interest of justice.*

D) *To hold and declare that as per Government Resolution dated 24.04.2001 the petitioners are entitled for Regular Service with full back wages and continuity in their service and all other consequential benefits.”*

3. The case of the present applicants in short is that some of them worked with the respondent Public Works Department either from 1977 and some of them from 1982-83 as daily wage laborers. In view of Government Resolution dated 24.4.2001 (Exh. G page 108) the Government has decided to regularize the services of such daily wage laborers. However, the respondents, instead of regularizing the services of the present applicants as per the said G.R., decided to discontinue them w.e.f. 1.6.1995. Applicants, therefore, filed writ petition No. 2201/1995 before the Hon'ble High Court of Judicature at Bombay, Bench at Aurangabad. Interim relief was granted by the Hon'ble High Court in the said writ petition. The said writ petition no. 2201/1995 came to be transferred to this Tribunal and this

Tribunal renumbered it as Transfer Application no. 18/2001. Thereafter the said T.A./W.P. came to be dismissed by this Tribunal vide order dtd. 21.4.2010.

4. The present applicants have challenged the order of the Tribunal dtd. 21.4.2010 passed in T.A. no. 18/2001 (W.P. no. 2201/1995) before the Hon'ble High Court of Judicature at Bombay, Aurangabad Bench by filing writ petition nos. 7723/2010 and 7729/2010. The said writ petitions were disposed of by Hon'ble High Court vide orders dtd. 21.3.2011 and 27.4.2011 respectively. By the said orders direction was issued to the concerned respondents to decide the proposal regarding regularization of services of the applicants within a period of four months from the date of receipt of that orders. After filing contempt petition by the applicants, the said proposals were decided by the concerned respondents and claim of the present applicants was rejected. Therefore, now the present fresh Original Application is filed by the applicants claiming the reliefs as mentioned hereinabove.

5. The affidavit in reply of res. nos. 1 to 4 as well as oral submissions of the learned Presenting Officer would show that the G.R. dated 24.4.2001 (Exh. G page 108) as referred hereinabove is not applicable to the present applicants as one of the criteria of

regularization is that the daily wagers should have completed five years of service prior to 1998. As none of the applicants are covered by the said clause, the benefit of said G.R. dated 24.4.2001 cannot be granted to them. It was further pointed out that this very fact is highlighted by this Tribunal in the judgment dated 21.4.2010 in T.A. no. 18/2001 (W.P. no. 2201/1995) and, therefore, the said T.A./W.P. filed by the applicants came to be dismissed.

In the writ petition nos. 7723/2010 and 7729/2010 filed against the order of the Tribunal dtd. 21.4.2010 in T.A. 18/2001 (W.P. no. 2201/1995) the present applicants only sought directions for deciding the proposal pending before the respondents and, therefore, with a direction to the respondents to decide the proposal of the applicants, the said writ petitions were disposed of by the Hon'ble High Court vide orders dtd. 21.3.2011 and 27.4.2011 respectively. Fact, however, remains that the criteria prescribed by the G.R. dtd. 24.4.2001 is not satisfied in the case of the present applicants.

6. Upon hearing both the sides, in our view, there is no merit in the present O.A. and, therefore, the same is liable to be dismissed for following reasons :-

(i) Condition no. 1 of G.R. dtd. 24.4.2001 (page 108) would show that the daily wage laborers who had completed five years continuous service latest by 31.12.1998 would be regularized with certain conditions.

(ii) The present applicants claim that some of them were working either from 1977 and some of from 1982-83. They relied on the copies of service book from Exh. B onwards. However, none of service books would show that the present applicants have served continuously for five years prior to 31.12.1998.

(iii) This Tribunal had an occasion to consider this very fact while deciding earlier matter of the present applicants on 21.4.2010 i.e. T.A. no. 18/2001 (W.P. no. 2201/1995) (Exh. R. 1 page 146). In para 4 of the said judgment (page 150) we find all facts recorded by the then Division Bench of this Tribunal, which runs as under :-

“4. -- -- -- --
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Although it is admitted by the respondents that some of the applicants were working on daily wages with the respondents for some time the detailed account is given in para 4 of the Civil Application, which indicates that except applicants at Sr. Nos. no. 1, 4, 7 and 9 other five applicants were never serving as Daily Wagers. Sr. no. 9 has served only for 65 working days in the year 1984. Sr. no. 7 has served in the years 1978 to 1981 for 14, 194, 07, 07 working days. Sr. no. 4 has served only in the years 1979 & 1981 for 151 and 39 working days. Applicant no. 1 has served for all the years between 1978 to 1985 except 1979 and 1982 but he has served for 26, 26, 116, 110, 42 and 09 working days in the respective years. It is

thus evident that none of the applicants have served for 240 days in any calendar year. (This table gives account of working days of Applicant Nos. 1 to 7 & 10, 11 respectively).

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7. In view of the facts mentioned hereinabove, the present Original Application cannot be allowed. In the circumstances, we pass the following order :-

ORDER

Original Application no. 308/2014 is hereby dismissed without any order as to costs.

**(ATUL RAJ CHADHA)
MEMBER (A)**

**(M.T. JOSHI)
VICE CHAIRMAN**

**Place : Aurangabad
Date : 14.3.2019**