

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

BENCH AT AURANGABAD

ORIGINAL APPLICATION NO.601 OF 2017

DIST. : AURANGABAD

Sarla wd/o Shrawan Kshirsagar,
Age: - 44 years, Occu.: - Household,
Resident of H. No. 770,
Chinchale Shivar, Survey No. 105/2,
MHADA Colony, Mhada-Satpur,
Nashik.

.. APPLICANT

V E R S U S

- 1) The State of Maharashtra,**
Through its Secretary,
Irrigation Department,
Mantralaya, Mumbai.
- 2) The Superintendent,**
Aadhar Samugri Sankalan, Niyojan
Va Jalvidnyan Mandal,
Nasik – 422 006.
- 3) The Executive Engineer,**
Water Resources Division,
Opp. CADA Office,
Near Gajanan Maharaj Temple,
Aurangabad.
- 4) The Deputy Engineer,**
Water Resources Sub-Division No. 1,
Plot No. 116, Garkheda Area,
Aurangabad.

.. RESPONDENTS

APPEARANCE :- Shri V.P. Golewar, learned Advocate for the
applicant.

: Shri M.P. Gude, learned Presenting Officer
for the respondents.

CORAM : **JUSTICE M.T. JOSHI, V.C.**
DATE : **28.11.2018**

ORAL ORDER

1. Heard Shri V.P. Golewar, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.
2. By filing the present Original Application the applicant is claiming following reliefs :-

“B) By appropriate order or directions, it be held and declared that the husband of the applicant namely Shrawan Sahadu Kshirsagar is eligible and entitled to be brought on Converted Regular Temporary Establishment (CRTE) as per the scheme framed by the Government of Maharashtra vide Governemnt Resolutions dated 24/11/2000, 24/4/2001 and other Government Resolutions and scheme framed in furtherance of recommendations of Kalelkar Committee report and extend the monetary benefits arising out of the same in favour of the applicant.

C) By issuing appropriate order or direction, the respondents may please be directed to bring the husband of the applicant namely Shrawan Sahadu Kshirsagar on Converted Regular Temporary Establishment (CRTE) after completion of continuous service of 5 years from his date

of appointment i.e. 1/7/1988 and extend the monetary benefits flowing from the same in favour of the applicant and further it be directed to complete the formalities of submitting necessary application to the competent authorities for getting family pension to the applicant in view of death of husband of the applicant.”

3. The application as well as affidavit in reply of the respondents would show that the deceased husband of the present applicant was working on daily wages with the respondents as a Khalashi. Since his services were discontinued, he filed a complaint (U.L.P.) No. 357/1991 before the Industrial Court, Aurangabad. Initially the Industrial Court has granted interim relief in favour of the deceased husband of the applicant directing the concerned respondents not to terminate his services. However, the said complaint came to be dismissed in default. In the meantime the Government has appointed a Kalelkar Committee to study and guide about the employees working on daily wages / work charged basis. It was directed that the daily wagers, who had completed 5 years service, shall be brought on Converted Regular Temporary Establishment (for short C.R.T.E.).

4. Accordingly, the State Government has framed a scheme and issued G.Rs. dtd. 24.11.2000 and 24.4.2001 (Annex. A. 4 collectively pages 56 & 58). It is an admitted fact that many other

similarly situated daily wagers accordingly were brought on C.R.T.E., but the deceased husband of the present applicant was not brought on C.R.T.E. Eventually he died on 31.3.2017. In the circumstances, the present applicant made a representation to the respondent no. 1. However vide communication dtd. 19.4.2017 (page 215) the concerned respondent rejected the said representation of the present applicant for the reasons that the complaint U.L.P. of the deceased husband of the applicant was dismissed in default by the Industrial Court. Similar stand is taken by the respondents in their affidavit in reply also.

5. Learned Advocate for the applicant points out that similarly situated employee as like deceased husband of the present applicant viz. Shri Indirakant Narayan Bhalerao has initially filed complaint U.L.P. before the Industrial Court which ultimately came to be dismissed on merit. Said Shri Bhalerao challenged the decision of Industrial Court before the Hon'ble Bombay High Court by filing W.P. no. 5471/2006. On merit the said writ petition came to be dismissed, however, Hon'ble High Court has directed that as and when the Government would take a decision regarding regularization of services of the daily wagers who have been working as such, the dismissal of the said writ petition would not come in the way of that petitioner therein for being

considered for employment as per his seniority in the category of daily wagers pursuant to any policy of regularization that the Government would adopt. All this history is found in the appointment order of said Shri Bhalerao dtd. 13.4.2015 (page 134). At page 135 the order of the Hon'ble High Court is quoted, which reads thus :-

“I have perused the impugned orders of the Labour Court as well as the Industrial court and I do not find any infirmity or illegality committed by the courts below for this court to interfere in its supervisory jurisdiction under article 227 of the constitution of India. The petition is accordingly dismissed, however, it is made clear that in the event, the Govt. takes a decision to regularize the services of the daily wagers who have been working as such, the dismissal of this petition would not come in the way of the petitioner for being consider for employment as per his seniority in the category of daily wagers pursuant to any policy of regularization that the Govt. would adopt. The interim relief stands vacated.”

6. Upon hearing both the sides, in my view, the directions issued by the Hon'ble High Court in the case of Shri Indirakant Narayan Bhalerao are very much applicable in the present case.

7. Learned Advocate additionally relies on the decision of Hon'ble High Court in **Writ Petition no. 1161/1998 with Civil Application No. 11172/2016 (The Superintending Engineer,**

Irrigation Project Investigation Circle, Aurangabad & Ors.

Digambar Sahebrao Inge) dtd. 29.8.2016. The copy of the said decision is taken on record and marked as document 'X' for the purpose of identification. He submits that in para 10 of the said judgment certain directions are given regarding the cases of daily wagers who had already passed away and, therefore, husband of the present applicant, though passed away in the meantime, the present applicant would be entitled for family pension. In my view, the ratio laid down by Hon'ble High Court in the case of **The Superintending Engineer, Irrigation Project Investigation Circle, Aurangabad & Ors.** (supra)_on which the learned Advocate for the applicant has placed reliance is applicable in the present case.

8. Therefore, the present O.A. will have to be allowed. Hence, I pass the following order :-

ORDER

- (i) The present Original Application is hereby allowed without any order as to costs.
- (ii) The res. nos. 1 & 2 shall consider the case of deceased husband of the present applicant for regularization in the service on the line of G.Rs. dtd. 24.11.2000 and 24.4.2001 (Annex. A. 4 collectively pages 56 & 58) (supra) and in case it is found that the deceased was

entitled for regularization on the line of decision in the case of **Shri Indirakant Narayan Bhalerao** (supra), the decision regarding issuing notionally C.R.T.E. appointment order shall be passed and thereafter the case of the present applicant for grant of family pension shall be considered.

- (iii) This exercise shall be done within a period of 4 months from the date of this order.

PLACE : AURANGABAD
DATE : 28.11.2018

VICE CHAIRMAN

ARJ-O.A.NO. 601-2017 JUS. M.T. JOSHI (BENEFIT OF G.R. - FAMILY PENSION)