

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**T.A.NO. 7 OF 2016 (W.P.NO. 1533 OF 2015)
(Subject:-Regularizing Permanent Service)**

DISTRICT: - LATUR

Sau. Chandrakala Kacharu Navghire,)
Age: 48 years, Occu. Service,)
R/o: Behind Grand Hotel, Wada of Nikam,)
Second Floor, Survey no. 657, Jai Bhawani)
Nagar, Latur, Tal. & Dist. Latur.)...**APPLICANT**

V E R S U S

- 1. The State of Maharashtra,**)
Through Principal Secretary,)
General Administration Department,)
Mantralaya, Mumbai.)
 - 2. Principal Secretary,**)
Forest Conservator,)
Maharashtra State, Nagpur.)
 - 3. Chief Director of Social Forestry,**)
Head Office, Central Building,)
Near Sasoon Hospital, Pune.)
 - 4. Deputy Director of Social Forestry,**)
Latur Division Latur,)
Taluka Ahmedpur, District Latur.)
 - 5. Joint Director, Forest Conservation,**)
Social Forestry, CIDCO, Aurangabad,)
Tal. & Dist. Aurangabad.)
 - 6. Plantation Officer, Social Forestry,**)
Range Latur,)
Taluka and District Latur.)..**RESPONDENTS**
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APPEARANCE : Shri Rafiq Shaikh, learned Advocate holding for Shri Nasim R. Shaikh, learned Advocate for the applicant.
: Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

CORAM : **Shri V.D. Dongre, Member (J)**
And
Shri Bijay Kumar, Member (A)

Reserved on : **16.03.2023.**

Pronounced on : **02.05.2023.**

ORDER

(Per: Shri V.D. Dongre, Member (J))

1. By invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985, this Transfer Application is filed seeking direction against the respondent Nos. 1 to 6 to implement Government Resolution dated 31.10.2013 (Exh. 'E') regularizing the services of the applicant by including her name in the seniority list.

2. The facts in brief of this case can be summarized as under:-

(i) The applicant was appointed on daily wages in Latur Division in the year 1989, by respondent No.2 i.e. the Principal Secretary, Forest Conservator, Maharashtra State,

Nagpur in it's Social Forestry Division which can be seen from letter dated 27.01.2014 (Exh. 'A') produced on record. Nature of job assigned to the applicant was of Watchman.

(ii) In view of above, the applicant worked under the employment of Respondent No.4 i.e. Deputy Director of Social Forestry, Latur Division Latur, Taluka Ahmedpur, District Latur and respondent No.6 i.e. Plantation Officer, Social Forestry, Range Latur , Tal. & Dist. Latur from 01.01.1993 till date at Range Latur, M.I.D.C. Thereby the applicant rendered continuous service of more than 21 years under the various Government Employment Schemes. Service record of the applicant is unblemished and exceptional.

(iii) Copy of chart (Exh. 'B') would show the services rendered by the applicant from 1993 to 1998. The name of the applicant also appears in the Seniority List (Exh. 'C') published on 05.10.1999.

(iv) The Government of Maharashtra through it's Revenue and Forest Department issued G.R. dated 31.01.1996 (Exh. 'D') that the labour/daily wager, who completed for more than 5 years of continuous service is to be regularized/absorbed on Regular Establishment.

(v) The Government of Maharashtra through its Rural Development and Water Conservation Department issued G.R. dated 31.10.2013 (Exh. 'E') notifying that all those daily wagers, who had completed 240 days working per year in total 5 years during the period of 01.11.1994 to 30.06.2004 whether continuously or intermittently to be entitled for regularization/absorption.

(vi) In view of above, the applicant repeatedly requested the respondent Nos. 4 and 6 to regularize her services, but in vain. Her name was not included in the requisite recommendation list.

(vii) The respondent No. 6 i.e. Plantation Officer, Social Forestry, Range Latur, Tal. & Dist. Latur on 30.06.2011 published seniority list (Exh. 'F') of daily wages workers qualified as per relevant G.R.s and their names were forwarded for regularization/absorption in Government service.

(viii) Thereafter, the respondent No.4 i.e. the Deputy Director of Social Forestry, Latur Division Latur also published list dated 06.10.2012 of eligible daily wage workers (Exh. 'G') entitled for regularization/absorption as permanent

workers. The name of the applicant did not figure in the list dated 06.10.2012 (Exh. 'G') . However, names of 7 other daily wage workers, who were junior to applicant, figured in the said list. Thereby discrimination was caused to the applicant.

(ix) Further list dated 16.12.2013 along with list of seniority (Exh. 'H' collectively) were published by respondent No.4 i.e. the Deputy Director of Social Forestry, Latur Division Latur who were made permanent, in which list one Smt. Dagdubai Keshav Kadam, who was junior in the seniority list to the applicant was selected. The applicant though was eligible for regularization/absorption in accordance with law was not considered.

(x) Hence, the applicant made representation to the respondent Nos. 1 to 6 seeking regularization/absorption of her services. But in vain. Therefore, the applicant filed Writ Petition No. 1955/2014 before the Hon'ble High Court of judicature at Bombay, Bench at Aurangabad, which came to be decided by order dated 18.06.2014 (Exh. 'I') with direction to decide the representation made by the applicant.

(xi) Thereafter, the respondent authorities erroneously rejected the lawful claim of the applicant by

order/communication dated 04.08.2014 (Exh. 'J') stating that the applicant did not fulfill the condition laid down in G.R. dated 19.10.1996 (Exh. 'D') and G.R. dated 31.10.2013 (Exh. 'E').

(xii) This decision of the respondent authorities and more particularly of respondent No.4 i.e. Deputy Director of Social Forestry, Latur Division Latur, Taluka Ahmedpur, District Latur is against the law laid down by the Hon'ble Supreme Court of India. Hence, this application.

3. The Transfer Application is resisted by filing affidavit in reply (page No. 102 to 114 of the P.B.) on behalf of the respondent Nos. 1 to 6 by one Priyanka Navnath Gangawane working as Divisional Forest Officer, Social Forestry Division, Latur District Latur. Thereby she denied adverse contentions raised in the Original Application and raised following specific pleadings.

(i) So far as applicability of G.R. dated 31.10.2013 (Exh. 'R-1') also referred and relied upon by the applicant is concerned, while completing 240 days working in a year, the period of working in Employment Guarantee Scheme, however, is required to be deducted.

(ii) It was found that the applicant never completed continuous service of 240 days in each year for at least 5 years during the relevant period from 01.11.1994 to 30.06.2004 on plan and non plan schemes under the Social Forestry Department. The applicant, therefore, did not fulfill the requisite criteria laid down in the relevant G.Rs. dated 16.10.2012 & 31.10.2013. In view of the same, the representation made by the applicant was rightly rejected by impugned order dated 04.08.2014 (Exh. 'J'). The Original Application therefore, is devoid of merits and is liable to be dismissed.

4. We have heard the arguments advanced by Shri Rafiq Shaikh, learned Advocate holding for Shri Nasim R. Shaikh, learned Advocate for the applicant on one hand and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents on other hand.

5. After having considered the rival pleadings, documents and submissions on record, we find that the matter revolves around the regularization as laid down in G.R. dated 31.10.2013 (Exh. 'E'/Exh. 'R-1') and more particularly clause Nos. 1,2 & 3 thereof, which are as follows:-

- “१. सामाजिक वनीकरण विभागातील दिनांक १/११/१९९४ ते दिनांक ३०/०६/२००४ पर्यंत सलग पध्दतीने किंवा तुटक-तुटकरित्या प्रतीवर्षी किमान २४० दिवस याप्रमाणे किमान ५ वर्षे काम केलेल्या रोजंदारी मजूरपैकी दिनांक १/६/२०१२ ला कामावर असण्यास पात्र ठरणाऱ्या कामगाराला मंत्रिमंडळाच्या निर्णयाने खालील अटी व शर्तीच्या अधीन राहून कामय करण्यात यावे.
- अ. त्यांना पूर्वीचे वेतन व तदनुषंगिक लाभ देय होणार नाही.
- आ. उपरोक्त ४५० रोजंदारी मजूराना वरिष्ठता व पात्रतेचे निकष लावून कायम करण्यात यावे.
- इ. उपरोक्त ४५० रोजंदारी मजूराना कायम करण्यात यावे तथापि कुठलाही आर्थिक लाभ देण्यापुर्वी कायम करावयाच्या ४५० मजूरानांची नावनिहाय व विभागनिहाय अंतिम यादी शासनास सादर करण्यात यावी.
२. पाच वर्षांच्या सलग सेवेच्या कालावधीची गणना करता सामाजिक वनीकरण विभागातील योजनांतर्गत/योजनेतर योजनेवर रोजंदारी मजूरानांनी प्रत्येक वर्षात कमीत कमी २४० दिवस काम केलेले असावे. याकरीता ५ वर्षांचा कालावधी मोजताना रोजगार हमी योजना किंवा रोजगार हमी देणाऱ्या तत्सम योजनेवर केलेल्या कामाचे दिवस वाचारात घेण्यात येऊ नये.
३. वनमजूराना गट-ड मध्ये नेमणूक करताना वयोमर्यादेची अट शिथिल करण्यात यावी, तथापि दिनांक १/६/२०१२ रोजी त्याचे वय सेवानिवृत्तीसाठी विहित वयोमर्यादेपेक्षा जास्त नसावे, तसेच गट-ड पदाकरीता आवश्यक असलेली विहित शैक्षणिक पात्रतेसंबंधीची अट देखील शिथिल करण्यात येत आहे.”

6. The applicant claims that the daily wage workers junior to her in the seniority list were declared eligible and were absorbed in terms of abovsaid G.R. dated 31.10.2013. She relied upon seniority list dated 05.10.1999 (Exh. 'C'), which shows that the name of the applicant is at Sr. No. 10.

7. The applicant states that daily wage workers junior to her were regularized/absorbed as per list (Exh. 'F, G & H'). The name of the applicant does not appear in these lists. Therefore, the applicant alleged some malafide and discriminatory treatment to the applicant by the respondents.

However, upon perusal of these lists, no any illegality is found in these lists showing any contravention of the G.R. dated 31.10.2013 (Exh. 'E').

8. The applicant on the basis of her representation dated 17.12.2013 (Exh. 'K') claimed that she has worked more than 240 days in a year during the period of 1993-1994, 1994-1995, 1995-1996, 1996-1997 and 1997-1998 for 365, 363, 362, 257 and 364 days respectively. In this background if document (Exh. 'B') issued by the Department is perused, it would show that the number of days worked by the applicant on plan and non plan scheme respectively are 90, 365, 363, 302 and 253 days for 1993-1994, 1994-1995, 1995-1996, 1996-1997 and 1997-1998. No any document issued by the respondents is placed on record by the applicant showing number of working days more than 240 days in a year during further period of 1998-1999, 1999-2000, 2000-2001, 2001-2002, 2002-2003, 2003-2004.

9. In this respect, the respondents have placed on record the document of chart (Exh. 'R-3' collectively) along with affidavit in reply showing number of days worked by the applicant on plan and non plan scheme during the period of 01.11.1994 to 30.06.2004. The said chart shows that the

applicant has worked for more than 240 days in a year for 04 years and not for 05 years as required. In view of this chart (Exh. 'R-3'), the chart (Exh. 'B') relied upon by the applicant does not tally in all respect. Otherwise also chart (Exh. 'B') referred and relied upon by the applicant does not establish the claim of regularization/absorption.

10. Hence, from any angle if the contentions of the applicant are examined, the applicant has failed to place on record requisite documentary evidence to establish her claim of regularization/absorption in term of G.R. dated 31.10.2013 (Exh. 'E').

11. In the result, we proceed to pass the following order:-

ORDER

- (A) The Transfer Application No. 7 of 2016 (W.P.No. 1535/2015) is dismissed being devoid of merit.
- (B) No order as to costs.

MEMBER (A)

MEMBER (J)