

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 263 of 2019 (S.B.)

Narayan Sambhaji Sitaphale,
Aged Kumbhar Galli, Pusad, Tah. Pusad,
Distt. Yavatmal.

Applicant.

Versus

1. The State of Maharashtra,
through its Secretary,
Department of Revenue and Forest,
Mantralaya, Mumbai-32.
2. Principal Chief Conservator of Forest (Administration),
"Van Bhawan" Ramgiri Road, Civil Lines,
Nagpur-440 001.
3. Chief Conservator of Forest (Regional),
Office of Ambedkar Bhavan,
Yavatmal-445 001.

Respondents.

N.R. and K.N. Saboo, Advocates for the applicant.

Shri A.P. Potnis, learned P.O. for the respondents.

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated :- 03/01/2023.

JUDGMENT

Heard Shri N.R. Saboo, learned counsel for the applicant
and Shri A.P. Potnis, learned P.O. for the respondents.

2. The case of the applicant in short is as under –

The applicant is working as a Vanmazoor. He was engaged by the Forest Department in the year 1991 on daily wages. The services of the applicant were terminated by the respondents, therefore, he approached to the Labour Court by filing complaint ULP No.77/1996. The Labour Court allowed the said complaint on 23/04/2021 and directed the respondents to continue the service of the applicant and pay full backwages. The termination was quashed and set aside. The applicant was reinstated with continuity of service and full backwages.

3. Thereafter, before the G.R. 16/10/2012, the Forest Department has submitted list for absorption of Vanmazoor. In the said list, the name of the applicant appears, but after the G.R. dated 16/10/2012 another list was submitted and in the said list the applicant was shown working on EGS. The applicant is not absorbed in the regular service on the ground that the applicant was working on the EGS. Hence, the applicant approached to this Tribunal with the following prayer –

“(i) to issue direction to respondents to regularize the services of the applicant as permanent employee as per G.R. dated 16/10/2012 and grant all consequential relief including deemed date as permanent Vanmazoor as well as difference of salary claim and other monetary claims.

(ii) to direct the respondents to consider representation dated 30/10/2018 submitted by applicant forthwith with further direction to regularize the services of the applicant from the date of entitlement with deemed date and to release all consequential monetary claim as well as other reliefs.”

4. The O.A. is strongly opposed by the respondents. It is submitted that the applicant was working on EGS. As per conditions in the G.R. dated 16/10/2012 Vanmazoors who were working on EGS are not eligible for absorption in regular service, therefore, the applicant was not regularised. Hence, the O.A. is liable to be dismissed.

5. Heard Shri N.R. Saboo, learned counsel for applicant. He has pointed out the Judgment of Labour Court in complaint ULP No.77/1996, decided on 23/04/2001. The operative part of the order is reproduced below -

“ Complaint is allowed.

It is declared that the respondents have engaged in unfair labour practice. Respondents are directed not to indulge in unfair labour practice.

Respondents are further directed to reinstate the complainant on the same post with continuity of service and full backwages.”

6. The learned counsel for applicant has pointed out the findings of the Labour Court in para-9 of the Judgment and submitted that the defence taken by the respondents was found false. It was held by the Labour Court that the applicant was not working on EGS, but he was working as a Vanmazoor. The learned counsel for applicant has submitted that the applicant is wrongly shown working on EGS and therefore he is not regularised.

7. Heard Shri A.P. Potnis, learned P.O. for the respondents. He has strongly opposed the O.A. and submitted that as per the G.R. dated 16/10/2012, the conditions are there that if Vanmazoors were working on EGS, then they are not eligible for absorption. The material portion in the G.R. dated 16/10/2012 clause no.1 and 2 are reproduced below –

“1) वन विभागातील दि.1.11.1994 ते दि.30.06.2004 पर्यंत सलग पध्दतीने किंवा तुटक तुटक रित्या प्रतिवर्षी किमान 240 दिवस याप्रमाणे किमान पाच वर्ष काम केलेल्या 5089 रोजंदारी कामगारांपैकी दि.01.06.2012 ला कामावर असण्यास पात्र ठरणा-या कामगारांना मंत्रीमंडळाच्या निर्णयाप्रमाणे खालील अटी व शर्तीच्या अधिन राहून कायम करण्यात यावे.

- i. त्यांना पूर्वीचे वेतन व तद्अनुषंगीक लाभ देय होणार नाही.
- ii. त्यांना दि.01.06.2012 रोजी प्रचलित सेवानिवृत्ती वेतन व महाराष्ट्र नागरी सेवेच्या तरतुदी लागू राहतील.
- iii. उपरोक्त 5089 रोजंदारी कामगारांना वरीष्ठता व पात्रतेचे निकष लावून कायम करण्यात यावे.
- iv. उपरोक्त 5089 रोजंदारी कामगारांना कायम करण्यांत यावे तथापी कुठलाही आर्थिक लाभ देण्यापूर्वी कायम करावयाचे सदर 5089 कामगारांची नावनिहाय व विभागनिहाय अंतिम यादी शासनास सादर करण्यात यावी.

2) पाच वर्षांच्या सलग सेवेच्या कालावधीची गणना करताना वन विभागातील योजनाअंतर्गत / योजनेत्तर योजनेवर रोजंदारी मजुरांनी प्रत्येक वर्षात 240 दिवस काम केलेले असावे. याकरिता 5 वर्षांचा कालावधी मोजतांना रोजगार हमी योजना किंवा रोजगार हमी देणा-या तत्सम योजनेवर केलेल्या कामाचे दिवस विचारांत घेण्यात येवू नयेत.”

8. As per the G.R. dated 16/10/2012, Vanmazoors who were working on EGS are not eligible for absorption in regular service. The Judgment of Labour Court in Complaint ULP No.77/1996 is not challenged before the Appellate Court. As per the submission of learned counsel for applicant, the Judgment of Labour Court is now final. The findings recorded by the Labour Court are binding on the respondents.

9. In para-9 of the Judgment, the Labour Court has recorded its finding that defence taken by the respondents stating that the applicant was working on EGS was found false. The Labour Court has recorded its finding that the applicant was not working on EGS, but he was working on regular establishment of Forest Department as a Vanmazoor. As per the G.R. dated 16/10/2012, Vanmazoors who were working on EGS are not eligible. The applicant was not working on EGS as per the findings recorded by the Labour Court in Complaint ULP No.77/1996, hence the respondents should have regularised the services of the applicant as per the G.R. dated 16/10/2012. Hence, the following order –

ORDER

(i) The O.A. is allowed.

(ii) The respondents are directed to absorb the applicant in regular service as per the G.R. dated 16/10/2012 and pay all the consequential benefits.

(iii) No order as to costs.

Dated :- 03/01/2023.

dnk.

(Justice M.G. Giratkar)
Vice Chairman.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 03/01/2023.