

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 557 of 2013**

- 1) Smt. Uma Shekhar Nair,  
Aged about 52 years, Occ. Service,  
R/o 53, Marahte Layout,  
Datta Nagar, Nagpur.
  
- 2) Anthony Saiman Zevior,  
Aged about 53 years, Occ. Service  
R/o Railway Quarter, Mount Road,  
Sadar, Nagpur (Dead)
  
- 2-A) Smt. Stella W/o late Anthony Xavier,  
Aged about 55 years, Occ. Service.
  
- 2-B) Ashley S/o late Anthony Xavier,  
Aged about 22 years, Occ. Student.
  
- 2-C) Ashvin S/o late Anthony Xavier,  
Aged about 20 years, Occ. Student.
  
- All L.Rs. are R/o Railway Quarter, Mount Road,  
Sadar, Nagpur.
  
- 3) Shrikant Anant Gadkari,  
Aged about 52 years, Occ. Service,  
R/o 6, Narkeshari Layout,  
Ujwal Nagar, Wardha Road, Nagpur.
  
- 4) Vishnu Nagorao Mohurle,  
Aged about 53 years, Occ. Service,  
R/o Somalwada, Zenda Chowk,  
Wardha Road, Nagpur.
  
- 5) Raju Bhaiyaji Kukade,  
Aged about 49 years, Occ. Service,  
R/o 54/B Tapowan Complex,  
Somalwada, Nagpur.

- 6) Dnyaneshwar Namdeorao Asare,  
Aged about 50 years, Occ. Service  
R/o Sharda Nagar, Hudkeshwar Road,  
Nagpur.
- 7) Vinod Pandurang Munshi,  
Aged about 57 years, Occ. Service,  
R/o B-1/4, Sawitri Vihar, Somalwada,  
Wardha Road, Nagpur.
- 8) Chandrakantsingh Narayansingh Chandel,  
Aged about 54 years, Occ. Service,  
R/o 201, Mohini Complex, KDK College Road,  
Nandanwan, Nagpur.
- 9) Suresh Keshav Gawande,  
Aged about 56 years, Occ. Service,  
R/o Chindwada Road, Chavani, Telipura,  
Nagpur.
- 10) Prakash Nilkantharao Urkude,  
Aged about 57 years, Occ. Service,  
R/o Devtale Sada, Unpadhey Road, Mahal,  
Nagpur.
- 11) Vilas Madhukarrao Vishwekar,  
Aged about 53 years, Occ. Service,  
R/o Laxmi Nagar, Nagpur.
- 12) Ashok Krishnarao Jagtap,  
Aged about 51 years, Occ. Service,  
R/o 73, Shiv Shakti Nagar,  
Manewada Ring Road, Nagpur.
- 13) Vilas Kedarnath Mate,  
Aged about 48 years, Occ. Service,  
R/o 46, near Sai Mandir,  
Ayodhaya Nagar, Nagpur. (Dead)
- 13-A) Smt. Sunita W/o late Vilas Mate,  
Aged about 50 years, Occ. Household.

13-B) Shweta D/o late Vilas Mate,  
Aged about 25 years, Occ. Student.

13-C) Anirudhya S/o late Vilas Mate,  
Aged about 21 years, Occ. Student.

All L.Rs. are R/o 46, near Sai Mandir, Ayodhya Nagar,  
Nagpur.

14) Ramesh Shivnath Raut,  
Aged about 54 years, Occ. Service,  
R/o Anand Nagar, Sakkardara Chowk,  
Nagpur.

15) Rajendra Pandharinath Larokar,  
Aged about 49 years, Occ. Service,  
R/o 1852, Larokar Mohalla, Pardi,  
Bhandara Road, Nagpur.

16) Ajay Narendra Bhusari,  
Aged about 55 years, Occ. Service,  
R/o 140, Nilkanth Nagar, Hudkeshwar Road,  
Nagpur.

**Applicants.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Public Works Department,  
Mantralaya, Mumbai-32.
- 2) The Superintending Engineer,  
Public works Circle,  
Old Secretariat Building,  
Civil Lines, Nagpur.
- 3) The Executive Engineer,  
Public Works Division No.1,  
Sadar, Nagpur.

**Respondents**

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**Shri J.R. Kidilay, Advocate for the applicant.**

**Shri A.M. Ghogre, Id. P.O. for the respondents.**

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**Coram :- Hon'ble Shri J.D. Kulkarni,  
Vice-Chairman (J).**

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### **JUDGEMENT**

**(Delivered on this 16<sup>th</sup> day of October,2017)**

Heard Shri J.R. Kidilay, Id. Counsel for the applicant and  
Shri A.M. Ghogre, Id. P.O. for the respondents.

2. The applicants in this case are claiming a declaration that the action on the part of respondents in depriving the applicants for extension of benefits of regularization against the post of Clerk from the date of completion of five years continuous service from the date of their initial appointments is illegal. They are also claiming direction to the respondents to extend the benefit of regularization to the applicants as Clerk from the date of completion of their five years service from the date of their appointment on daily wages as was extended to some class of employees as per the G.R. dated 24/3/2009.

3. The applicants came to be appointed on daily wages and on the date of their appointment they were qualified to be appointed against the post of Junior Clerk. They were also holding requisite qualification, typing knowledge etc. required for the post of Jr. Clerk. The respondents were therefore extracting the work of Jr. Clerk from applicants from the date of their initial postings.

4. As per Clause-28 of the Kalekar Settlement Committee, the daily wages post held by the employees get converted into regular posts temporarily in the establishment till the retirement or completion of services of said employees.

5. Since the applicants were holding educational qualification and requisite typing knowledge and other required qualification for the post of Jr. Clerk and had worked continuously for five years on daily wages, the applicants were required to be brought on CRTE against the post of Jr. Clerk. However the applicants continued to work as Majoor.

6. Since there were number of employees, like applicants, the respondent no.1 appointed a Committee called 'Shivaji Naik Committee' and as per the report of said Committee, the respondent no.1 issued a G.R. dated 29/9/2003. The applicants were brought in

the cadre of Jr. Clerk but from the date of issuance of the G.R. and not on the date of completion of five years from initial appointment.

7. According to applicants in 1987 some juniors of the applicants were terminated and they filed complaint before Labour Court. They succeed in the Labour Court, but said Judgment was reversed by the Industrial Court, against which the employees filed writ petition before the Hon'ble High Court. In the High Court, the respondent no.1 settled the dispute by issuing G.R. taking policy to absorb these employees on completion of five years complete service. In fact the applicants should have been absorbed as per said policy dated 29/9/2003 but they have been granted benefit of G.R. dated 24/3/2009 from the date of issuance of the G.R. and hence this O.A.

8. The respondent nos. 2&3 have filed reply-in-affidavit and submitted that the cause of action for filing this O.A. arising in 2009 but the application is filed in 2013 and therefore it is barred by limitation. It is admitted that the applicants were appointed earlier on the post of Labourers on daily wages from 1977 to 1982 and they were brought on converted temporary regular establishment (CRTE) after completion of five years regular service. The posts held by the applicants were supernumerary and it would be automatically abolished after termination or superannuation of the concerned employees. The applicants however accepted the proposal of CRTE

and as per the G.R. dated 29/9/2003 they were designated as Clerk. The applicants accepted the said re-designed posts without protest. Even the salary of the Clerk and Pay Scale applicable to the post of Clerk has been extended to the applicants from 29/9/2003 i.e. from the date of G.R. as the said G.R. was prospective and not retrospective.

9. As regards the employees who were absorbed as per G.R. dated 24/3/2009 is concerned, it is stated that the 74 employees were covered by the Judgment delivered in W.P. No. 2232/1992 and as per compromise in the High Court the G.R. dated 24/3/2009 was issued and the applicants are not at all concerned with the said G.R.

10. On going to the arguments put forth by the learned counsel for the applicants as well as learned P.O. the only question that can be considered is to see as to whether the cases of the applicants are covered by the G.R. dated 29/9/2003 or 24/3/2009 ?

11. The G.R. 29/9/2003 whereby the applicants have been appointed or absorbed as Clerk is dated 29/9/2003 and it is at P.B. page no.41. Vide said G.R. the Govt. accepted the fact that an employee shall be paid as per worked being done by him “*കുറേയ്ക്കു ക്കു ഗുണകരം*” . By virtue of said G.R. the temporary employees such as the applicants were to be absorbed as per their status and work

being done by them. In all 5033 employees were to be given benefits of various terms and conditions and it was specifically stated that the G.R. will be applicable from the date of issuance of the G.R., i.e., 29/9/2003. In view of the said G.R., the appointment orders in respect of the applicants and others have been issued and some of the appointment orders placed on record in respect of the applicants are at P.B. page nos. 47 to 61 (both inclusive) collectively at Annex-A-7. All these orders clearly shows that the employees, i.e., the applicants were appointed and were considered for pay as per their work and post w.e.f. 29/9/2003. It was specifically mentioned that the terms and conditions of such absorption, getting the benefits of G.R. dated 29/9/2003, shall be applicable w.e.f. the date of issuance of the G.R. i.e. 29/9/2003. Thus the applicants have accepted the terms and conditions of the benefit which they got as per G.R. dated 29/9/2003 and are being paid accordingly as pay of Clerk though they were holding the post of Majoor for five years prior to their appointment and I find no ambiguity in such appointments. The applicants have not challenged their appointments as per the G.R. dated 29/9/2003 and therefore it may not lie in their mouth that they were not granted benefit properly.

12. So far as other employees who approached the Labour Court, Industrial Court and lastly to the Hon'ble High Court is



concerned, it is material to note that these employees were demanding continuation of the services from the date of appointment for which they approached the Labour Court. The Labour Court accepted their claim, but in the appeal the Industrial Court rejected it. Thereafter they filed W.P. bearing no.2232/1992 before the Hon'ble High Court and in the said litigation there was compromise before the Hon'ble High Court. The compromise was as per the joint pursis for disposal of the petition filed by the petitioner and respondents therein. The same is placed on record at P.B. page nos.69 to 71 (both inclusive). The said petition was disposed of in view of the compromise pursis by the Hon'ble High Court on 17/6/2003. The copy of the said order is at P.B. page no.73.

13. It seems that in view of the compromise done before the Hon'ble High Court, the respondent no.1 issued G.R. dated 24/3/2009 and the said G.R. is at P.B. page nos. 84 to 87 (both inclusive). It seems that the employees who were the petitioners in the W.P.No.2232/1992 were granted benefit of the G.R. dated 24/3/2009. In fact none of the applicants were party to said litigation and therefore the cases of the applicants cannot be governed by G.R. dated 24/3/2009. The applicants have no locus standi to claim benefit of the G.R. dated 24/3/2009 since they have accepted the appointments as

per the G.R. dated 24/3/2009. I therefore do not find any merits in the O.A. Hence, the following order :-

**ORDER**

The O.A. stands dismissed with no order as to costs.

**(J.D. Kulkarni)**  
**Vice-Chairman (J).**

dnk.