

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 345/2017 (D.B.)

- 1) Rajyastariya Vankamgar, Vanmajur,
Vanrakshak, Vanpal Karmachari Sanghathana,
Amravati A registered Trade Union registered
Under the provisions of Trade Union Act,
1926 having Registration No. NGP 5130 and
having its office at 8-B, Govind Nagar,
Behind Nagarjun Colony, University Camp,
Amravati-444602, through its Secretary
Shri Panjab S/o Anandrao Bhokre.
- 2) Punjabrao S/o Anandrao Bhokre,
Aged 53 years, Occ : Service,
R/o 10-B, Harikrupa Housing Society,
Jaitala, Nagpur
- 3) Avadhoot S/o Sudamrao Jambhulkar,
Aged 47 years, Occ : Service,
R/o, 8-B, Govind Nagar, Nagarjun Colony,
University Camp, Amravati,
Tahsil and District Amravati.

Applicants.

Versus

- 1) State of Maharashtra,
In the Ministry of Revenue & Forest,
Mantralaya, Mumbai-32
Through its Principal Secretary.
- 2) Additional Principal Chief
Conservator of Forest,
(Administration-Subordinate Cadre),
Maharashtra State, Van Bhawan, Ramgiri Road,
Civil Lines, Nagpur-440001.
- 3) Chief Conservator of Forest,
Near Government Press,
Zero Mile, Civil Lines, Nagpur-440001.

- 4) Chief Conservator of Forest,
Camp Amravati-444602
- 5) Chief Conservator of Forest,
Dr. Babasaheb Ambedkar Samajik
Nyay Bhawan, Palaswadi, Yeotmal.
- 6) Chief Conservator of Forest,
Dhule-Jamnagri Road,
Near SRP Camp, Dhule-424001

Respondents.

Shri Mrs.R.V.Kukday, Id. Advocate for the applicants.

Shri M. I. Khan, Id. P.O. for respondents.

**Coram :- Shri Shree Bhagwan, Vice-Chairman and
Shri Justice M.G. Giratkar, Member (J).**

Date of Reserving for Judgment : 05th April, 2022.

Date of Pronouncement of Judgment : 06th May, 2022

JUDGMENT

Per : Vice-Chairman.

(Delivered on this 06th day of May, 2022)

Heard Mrs. R.V. Kukde, learned counsel for the applicants
and Shri M.I. Khan, learned P.O. for the respondents.

2. That the applicant no. 1 is the Union of Forest Workers
working with the Forest Department since last many years. The
applicant nos. 2 & 3 are the members/representatives of the said union.
The applicant no. 1 is the union of forest workers working in the entire
Maharashtra. The applicants have approached this Hon'ble Tribunal on

behalf of these workers working at various places like Yavatmal Division, Akola Division, Amravati Division, Dhule Division etc. The applicant no.1 has approached this Hon'ble Tribunal with the present Original Application as **ANNEXURE - A-1**. It is submitted that the members of the applicant no. 1 union have authorized the Secretary of the Union and the applicant nos. 2 & 3 to file the present Original Application before this Hon'ble Tribunal and, therefore, the O.A. is maintainable.

3. It is submitted that the applicant no. 2 came to be appointed by the non-applicants w.e.f. 01/05/1990 and the applicant no.3 on 07/04/1998. Likewise the applicant nos. 2 & 3, various persons named in the list annexed herewith are also working with the Forest Department in temporary capacity from the dates mentioned in Column 8 of the said list. Perusal of this list will reveal to this Hon'ble Tribunal that many persons named in the said list are working with the Forest Department right from the year 1989. It is submitted that the Forest Department continued them in temporary capacity for years together which clearly shows that though the work is available with the Forest Department, the department is avoiding to regularize the services of such forest labours with an intention to avoid liability of the permanent workers. Since many of the forest workers completed 240 days service in a year, many temporary workers approached Courts of Law claiming

permanency in service and the matters were decided in their favour and accordingly they were absorbed in permanent capacity.

4. It is submitted that since the applicants and other similarly situated persons worked with the department for number of years, a legal right is created in their favour to claim permanency in service. Considering the demand of workers about the permanency, the State of Maharashtra issued Government Resolution dated 31/01/1996 whereby 10160 supernumerary posts were created for regularizing the temporary forest workers. By the said G.R. the forest workers who completed 5 years service till 01/11/1994 were decided to be given permanency in service. Accordingly, 8038 forest workers working in temporary capacity came to be made permanent forest workers and their appointment was also approved by the Government. The copy of this Government Resolution dated 31/01/1996 is filed herewith as **ANNEXURE - A2.**

5. It is submitted on 16/03/1998, the non-applicant no. 1 issued another Government Resolution in which it is stated that 10,160 supernumerary posts are created and 8038 persons are already absorbed in the said posts in permanent capacity as forest labourer in Group 'D' category. It is also stated that due to non-availability of their date of birth, 1619 labours were not absorbed and, therefore, by this G.R.

these 1619 labourers came to be absorbed in permanent post of forest labourer in Group 'D' category. It is thus submitted that by then as per these two G.R.s total 9657 forest labourers working temporarily came to be absorbed in permanent capacity in Group 'D' category. The applicants are filing herewith copy of this G.R. dated 16/03/1998 as **ANNEXURE – A3.**

6. It is submitted that by another G.R. dated 29/01/2000, 607 eligible forest labourers came to be absorbed in permanent capacity in Group 'D' category and in this manner, total 10264 persons came to be absorbed permanently as forest labourers in permanent capacity. All these persons were given all the facilities and benefits as per Maharashtra Civil Services Rules, 1981 by passing Government Resolution dated 20/04/2001. The copies of both these Resolutions dated 29/01/2000 and 20/04/2001 are filed herewith as **ANNEXURE – A4 & A5** respectively.

7. It is submitted that the applicant no.1 came to be appointed by the non-applicants from 01/05/1990 and he had completed 5 years of service on 01/11/1994 and, therefore, he is and was eligible for getting absorbed in permanent capacity as Group 'D' employee in view of the above referred Government Resolutions passed by State Government, however, he was not absorbed as per G.R. dated 31/01/1996. It is

submitted that the applicant no. 3 joined services of the non-applicants on 07/04/1998 and he had completed 5 years of service on 30/06/2004. It is thus clear that the applicant no. 1 was eligible and entitled for getting absorbed in permanent capacity w.e.f. 01/11/1994 in view of G.R. dated 31/01/1996, however, the benefits derived from G.R. dated 31/01/1996 was not extended to him for one reason or the other.

8. It is submitted that inspite of the fact that 10264 forest labourers working temporarily came to be absorbed in permanent capacity as Group 'D' employees in view of the above referred GRs, still many similarly situated forest labourers remained excluded and were not made permanent. It is submitted that to study the said issue, a committee came to be appointed under the Chairmanship of Additional Principal Chief Conservator of Forest, Maharashtra State, Nagpur and the said committee submitted report to the effect that there are 5089 forest labourers working in Forest Department, 451 in Social Forestry Department and 1006 in F.D.C.M. since last more than 5 years and that all these forest workers have completed more than 240 days service in last five years and, therefore, the said committee recommended case of these 6546 forest labourers for being made permanent. Considering the said issue sympathetically, the State Government issued another Government Resolution dated 16/10/2012 thereby making these 6546

forest labourers as permanent workers of the Forest Department w.e.f. 01/06/2012 on the conditions mentioned in the said Government Resolution. The copy of this G.R. dated 16/10/2012 is filed herewith as **ANNEXURE - A6.**

9. It is worth mentioning here that by this G.R. dated 16/10/2012, it is stipulated that whoever completes 5 years service within period from 01/11/1994 to 30/06/2004 will be entitled for continuation of services and absorption in permanent capacity in Group 'D' category. As stated earlier, the applicant no. 1 has completed his tenure and was eligible for permanent absorption as per G.R. dated 31/01/1996 whereas the applicant no. 2 completed his tenure of 5 years thereafter sometime in the year 2003 and thus made himself eligible for absorption in permanent capacity as G.R. dated 16/12/2012. It is submitted that in G.R. dated 16/12/2012, it is stated that whoever completes 5 years service on or before 30/06/2004 will be entitled for absorption and continuation of service, however, he will not be entitled for the benefits which the employees were entitled as per G.R. dated 31/01/1996. In G.R. dated 16/12/2012, it is stated that whoever is absorbed as permanent employee will not be entitled for arrears of salary as well as other facilities. However, it is stated that they will be entitled for pension as per G.R. dated 01/06/2012 and other benefits

under Maharashtra Civil Services Rules. In such scenario, 5089 temporary forest labourers came to be absorbed in permanent capacity as Group 'D' employees w.e.f. 01/06/2012. The applicants submit that the persons who are made permanent as per G.R. dated 31/01/1996 are given all the benefits, however, those benefits are not extended to these 5089 forest labourers who were absorbed w.e.f. 01/06/2012. It is thus submitted that the G.R. dated 16/12/2012 is discriminatory, ultra virus and contrary to provisions of Article 14 & 16 of the Constitution of India.

10. It is submitted that the persons who came to be absorbed in permanent service as per G.R. dated 31/01/1996 were doing the same job which the persons absorbed as per G.R. dated 16/12/2012 are doing. It is, therefore, submitted that there is no reason for the government to discriminate amongst equals and, therefore, the applicants are also entitled to the same benefits, facilities and privileges which the other employees got as per G.R. dated 31/01/1996. It is submitted that as the applicant no. 2 has completed 5 years service on or before 01/11/1994, he was eligible for absorption as per G.R. dated 31/01/1996, however, the said benefit was not extended to him for one reason or the other. Perusal of the list will reveal to this Hon'ble Tribunal that there are many persons who were eligible for being absorbed permanently w.e.f. 01/11/1994 as per G.R. dated 31/01/1996, however, they were not

absorbed. It is, therefore, submitted that all these persons are entitled to benefits as per G.R. dated 31/01/1996 and not 16/10/2012. All these persons are required to be given permanency w.e.f. 01/11/1994.

11. Perusal of the G.R. dated 16/10/2012 will reveal to this Hon'ble Tribunal that by the said G.R. the non-applicant no. 1 has decided that whoever absorbed as a permanent employee as per the said G.R. will not be entitled for arrears of his/her salary as well as other facility and monetary benefits. It is also stipulated that such persons will be entitled for pension as per G.R. dated 1/6/2012 and not the one given to employees as per G.R. dated 31/1/1996. It is submitted that even the applicable pension schemes are different in earlier G.R. dated 31/1/1996 and present G.R. dated 16/10/2012. It is in this manner, the non-applicant no.1 indulged in invidious discrimination amongst equal and, therefore, G.R. dated 16/10/2012 is contradictory and thus violative of Article 14 of the Constitution of India. The applicants are also entitled for the same benefits which are extended to forest labours absorbed according to earlier Govt. Resolutions dated 31/1/1996, 16/3/1998 and 29/01/2000. The applicants are entitled to same pension scheme and not the one as per G.R. dated 16/10/2012. **Government has right to formulate policy and according to the policy these applicants were absorbed from 01.06.2012. As per condition of G.R. dated 16.10.2012 department informed them and they had given undertaking to accept all the conditions of G.R. of 16.10.2012 before absorption and during this period i.e. 2012; the other schemes like Pension, Gratuity, G.P.F. etc were not existing for the Government employees. Hence above pleadings cannot be justified in absence of non-existence of these facilities.**

12. It is submitted that the applicant no.1 had completed his 5 years service on 01/11/1994 but he was not absorbed in permanent

capacity as per G.R. dated 31/01/1996. Therefore, the applicant no. 1 had given various representations to the Trade Union who agitated grievance of applicant no. 1 before the non-applicant no.1 and other non-applicants. It is submitted that inspite of the fact that applicant no.1 was entitled for all the benefits and facilities as per G.R. dated 31/01/1996, however, his services came to be absorbed in permanent capacity as per G.R. dated 16/10/2012 and, therefore, the applicant no. 1 is deprived of all the benefits and facilities which the other employees got as per G.R. dated 31/1/1996. It is submitted that due to this reason, the applicant no.1 made various representations to various authorities demanding benefits as per G.R. dated 31/01/1996. It is submitted that on 24/10/2011, the non-applicant no. 2 wrote to non-applicant no.1 and informed that though the forest labours were eligible for being absorbed as forest labour in permanent capacity, however, by mistake 472 forest labours were left and their services were not confirmed. In spite of this communication, nothing was done by the non-applicant no.1. The copy of this communication dated 24/10/2011 is filed herewith as **ANNEXURE – A7.**

13. It is submitted that when the non-applicant no.2 found that nothing is done by the non-applicant no. 1 on his earlier communication, the non-applicant no. 2 again wrote to non-applicant no. 1 on

19/07/2013 and along with the said communication attached a list of candidates who were confirmed as per Govt. Resolution dated 16/10/2012. It is submitted that this list is divided into two parts. In Part-A the non-applicant no. 2 has given the names of candidates who had completed 5 years service as per G.R. dated 31/01/1996 whereas in Part-B the names of candidates who completed 5 years service as per G.R. dated 16/10/2012 is given. The copy of this communication dated 19/07/2013 is filed herewith as **ANNEXURE -A8**.

14. As stated earlier, it is submitted that though the applicant no. 2 was eligible for regularization as per G.R. dated 31/01/1996, his name was not mentioned by the non-applicant no. 3 in his communication dated 19/07/2013. However, much prior to that the non-applicant no. 2 sent communication dated 06/10/2003 to the non-applicant no.1 and informed that there are 40 forest labours who were eligible for continuation as per G.R. dated 31/01/1996 out of which 23 forest labourers were required to be confirmed and thus the non-applicant no. 2 sent the list of their names along with all service details as well as the amount which was required to be paid to them towards arrears of salary and other benefits as per G.R. dated 31/01/1996. It is submitted that the name of applicant no. 2 is mentioned in the said list at Sr.No.3 and it is mentioned therein that the applicant no. 2 is educated upto B.Com and

that he completed 5 years service on or before 01/11/1994. The copy of this communication dated 06/10/2003 is filed herewith as **ANNEXURE - A9.**

15. It is submitted that on 23/06/2014, the non-applicant no. 2 wrote to non-applicant no. 1 and informed that the applicant no.1 union by its communication dated 17/12/2013 claimed permanency w.e.f. 30/6/2004 instead of 01/06/2012 in consonance with earlier Govt. Resolution dated 31/01/1996 whereby permanency was granted w.e.f. 01/11/1994. The non-applicant no.2, therefore, requested non-applicant no. 1 to consider the said request sympathetically. The copy of this communication dated 23/06/2014 is filed herewith as **ANNEXURE - A10.**

16. It is submitted that on various occasions, the non-applicant no.1 which is the Union of forest labourers made demand for arrears of salary and permanency w.e.f. 30/06/2004, however, their demand was ignored by the non-applicant no.1. Therefore, the applicant no.1 on 10/12/2014 wrote to the Hon'ble Minister for Forest, Maharashtra State and made demand for permanency w.e.f. 30/06/2004 instead of 01/06/2012 given as per G.R. dated 16/10/2012. The applicant no.1 pointed out that due to not granting permanency w.e.f. 30/6/2004, the members of the applicant no.1 Union have suffered loss of 8 years

service. They also highlighted that the Govt. has made it clear that no monetary benefits for these 8 years will be paid and, therefore, the members of the applicant no.1 Union have also suffered monetary loss. The union also highlighted that from 01/11/2005 the earlier pension scheme and GPF scheme was closed and the New Pension Scheme is made applicable which is also causing injustice to its members. The applicant no.1 Union, therefore, made demand that these grievances of the employees be considered sympathetically and the final decision in the matter be taken at earliest. The copy of this communication dated 10/12/2014 is filed herewith as **ANNEXURE - A11**.

17. It is submitted that on 07/08/2015, the Union wrote to Hon'ble Chief Minister, Maharashtra State, Mumbai and requested meeting for looking into their grievances. The Union highlighted the same grievances as mentioned above and claimed permanency w.e.f. 30/06/2004. The copy of this communication dated 07/08/2015 is filed herewith as **ANNEXURE - A12**. It is submitted that on 27/11/2015, non-applicant no.2 wrote to applicant no.3 and informed him that the communication addressed to Hon'ble Chief Minister is sent to his office and thus he stated that appropriate decision can be taken at the State level. He has also stated that on 8/4/2015, he has submitted his report to the State Government and also supplied the copy of the same to applicant

no.3. The copy of this communication dated 27/11/2015 along with report dated 08/04/2015 of the non-applicant no. 2 is filed herewith as **ANNEXURE - A13**. It is submitted that vide its communication dated 03/12/2015, the non-applicant no. 2 wrote to non-applicant no. 1 and submitted detailed report in respect of demands made by the applicant Union and requested the non-applicant no. 1 to convene a meeting for consideration of said demands. It is submitted that this report of the non-applicant no.2 is self explanatory. The copy of forwarding letter of the non-applicant no.2 dated 03/12/2015 along with his report is filed herewith as **ANNEXURE - A14**.

18. It is submitted that near about 33% of the area of Maharashtra State is covered with forest and the same is divided into various divisions which is also called Ranges. It is submitted that the non-applicant no. 1 has to carry out various works in the forest for which they require huge force of forest labours. It is submitted that around 20,000 forest labours are working in the forest in temporary capacity. It is submitted that these forest labours are working like this for years together with an anticipation of getting permanent service. It is submitted that since such forest labours completed 240 days of service and were not made permanent, in Kolhapur Social Forestry Circle, Division Sangli around 235 forest labours filed complaint before the

Industrial Court, Kolhapur and their complaints were allowed with direction to non-applicant no.1 to confirm their services. This order of the learned Industrial Court is maintained even by Hon'ble Supreme Court. Many of such forest labours approached courts of law and were made permanent as per direction issued by such courts. In the present case inspite of the fact that applicant no.2 has completed 5 years service on or before 1/11/1994, he was not made permanent as per G.R. dated 31/01/1996 and was made permanent as per G.R. dated 16/10/2012. Due to this, injustice is caused to applicant no. 2 and similarly situated other forest labours named in the list and they were deprived of their valuable right and monetary benefits. It is thus submitted that all such persons are entitled to be absorbed in permanent service as per G.R. dated 31/01/1996 and are also entitled for all the monetary and service benefits arising there from. Since the non-applicants are not looking into such grievance of the applicants, they are constrained to file present O.A. In respect of others, it is submitted that they are entitled for permanency w.e.f. the cut off date i.e. 30/06/2004 on which date they completed 5 years service. Such forest labours are also entitled to all monetary benefits as extended to employees who were made permanent as per G.R. dated 31/01/1996.

19. It is submitted that since no heed was paid by any of the non-applicants to applicants earlier representations, the applicants on 11/12/2015 again wrote to Hon'ble Minister (Forest) and requested to consider their demand of regularizing their services w.e.f. 30/06/2004. The applicant Union has also requested to apply old pension and GPF scheme to them. The applicants, therefore, requested the Hon'ble Minister to look into this problem immediately. Identical representation was again given by applicant Union to the Hon'ble Minister on 16/12/2015. The copy of these two representations dated 11/12/2015 and 16/12/2015 along with its enclosures are filed herewith as **ANNEXURE-A15&A16** respectively.

20. It is submitted that on 14/12/2015, the applicant no.1 Union wrote to Hon'ble Minister (Forest) and brought to his knowledge that 472 forest labours who were eligible for regularization as per G.R. dated 31/01/1996 were not absorbed and that they are absorbed in permanent service as per G.R. dated 01/06/2012. The applicant no.1 Union, therefore, intimated the Hon'ble Minister that due to this, injustice is caused to those 472 forest labours. It is also stated that by the applicant no.1 Union that on 12/1/2007 the non-applicant no.2 has forwarded proposal for regularizing these 472 forest labours w.e.f. 1/11/1994 as per G.R. dated 31/01/1996 and that decision to this effect

is already taken in the meeting dated 13/04/2007 with the Hon'ble Chief Minister. The applicant no.1 Union, therefore, pointed out that separate G.R. ought to have issued by the State Government in respect of these 472 forest labours, however, the Government absorbed all these forest labours as per G.R. dated 16/10/2012 w.e.f. 01/06/2012 and that due to this reason, they have suffered heavy monetary loss. It is also stated that the names of 738 forest labours were not included in G.R. dated 16/10/2012 and that the Government has approved to regularize their services. The applicant no.1 Union, therefore, requested the Hon'ble Minister for issuance of separate G.R. in respect of these 738 forest labours. The other demands were also mentioned in the said representation. The copy of this representation dated 14/12/2015 along with its enclosures is filed herewith as **ANNEXURE - A17**. Identical representations were given by applicant no.1 Union to Hon'ble Chief Minister also.

21. It is thus clear from what is stated above that though many of the enlisted forest labours were eligible for permanent absorption in Group 'D' service as per G.R. dated 31/01/1996, their names were excluded for one reason or the other. In spite of the fact that time and again requests are made to regularize their services as per G.R. dated 31/1/1996, their services were regularized as per G.R. dated 16/10/2012 causing huge loss and injustice to them. It is settled position

of law that Government and Government Agencies are not permitted to discriminate amongst equals. As many as 10264 forest labours were absorbed permanently as per G.R. dated 31/1/1996. The applicant no.2 along with many enlisted workmen are similarly situated persons and are entitled to absorption w.e.f. 1/11/1994 as per G.R. dated 31/1/1996. However, the non-applicants are not paying any heed to this request and, therefore, the applicants are constrained to approach this Hon'ble Tribunal with the present Original Application.

22. The applicants submit that as per G.R. dated 31/01/1996, many forest labours were made permanent w.e.f. 01/11/1994 and were paid back wages and arrears of salary and other monetary benefits accrued by the same. The old pension and GPF scheme is made applicable to them. However, contrary to this while regularizing services as per G.R. dated 16/10/2012, the regularization is granted w.e.f. 01/06/2012 instead of 30/06/2004. As per G.R. dated 16/10/2012, the forest labours who completed 5 years service as on 30/06/2004 were made permanent. If this is so, one fails to understand as to why the Government has not regularized their services w.e.f. 30/06/2004. No justification is given by the Government for regularizing services w.e.f. 01/06/2012. It is submitted that due to this reason, the applicants suffered adversely. Not only this, but by this G.R. dated 16/10/2012, no

monetary benefits are paid and new pension and GPF scheme is made applicable. The applicants submit that they are performing same duties which was performed by the forest labour who were regularized as per G.R. dated 31/01/1996. As such same treatment is to be extended to all the forest labours who were regularized as per G.R. dated 16/10/2012. The applicants, therefore, submit that G.R. dated 16/10/2012 so far as it relates to non-payment of monetary benefits and application of new pension cum GPF scheme is ultra-virus, discriminatory and contrary to Article 14 of the Constitution of India and, therefore, G.R. dated 16/10/2012 to this extent is liable to be quashed and set aside and the non-applicant no.1 be directed to grant the applicants and members of the applicant no.1 Union regularization/confirmation in service w.e.f. 30/06/2004 and to pay all those forest labours back wages, arrears of salary and other monetary benefits flowing from the same. The applicants are also entitled to old GPF and pension scheme and, therefore, necessary directions for application of the old pension and GPF scheme be issued against non-applicant no.1. The G.R. dated 31.01.1996 was issued at that relevant time when conditions were different and it was issued as per service conditions prevalent during that period.

23. The previous G.R. was issued on 31.01.1996 (A-6, Pg. No. 72). In this G.R. there was no mention that from which date concerned

applicants will be made permanent. When the effective date is not mentioned in the G.R., it is rational to believe that the G.R. gets implemented from the date of issue. The said G.R. was issued on 31.01.1996 (A-6, Pg. No. 72); as per G.R. para no. 8 on page no. 74 conditions has been mentioned which is reproduced below:-

“८. या वनमजुरांना सध्याचे वन मजूरी मध्ये समाविष्ट असलेले कोणतेही काम तसेच आवश्यकतेनुसार वन विभागात उपलब्ध असलेली गट 'ड' ची समकक्ष काम देण्यात यावीत.”

24. When this G.R. was issued that time Government employees by general condition of service; whether entitled for Gratuity, Pension, G.P.F. and other service related benefits. The impugned G.R. dated 16.10.2012 was issued subsequently and condition of regularization was same but it was made effective to be implemented from 01.06.2012. As per para no. 1 of G.R. 5089 daily wages van majoor were regularized from 01.06.2012 on certain conditions as mentioned in the G.R.. As per relief clause page no. 18, (viii)(1) which is reproduced below:-

“1. Quash and set aside the impugned Government Resolution dated 16.10.2012 so far as it relates to permanent absorption of applicants and members of applicant no. 1 Union w.e.f. 01.06.2012 and non payment of monetary benefits.”

25. If the said G.R. 16.10.2012 is quashed and set aside what will happen to the Van Majoor and needless to say that they will become

affected party, if this relief is granted they are neither party in the O.A. nor before the Tribunal. Hence, this relief cannot be granted.

26. When this G.R. was issued service conditions of Government employees were changed, Gratuity, Pension, G.P.F. etc. were not applicable to Government employees. Now since these benefits were not applicable to employees working at this relevant time, the same cannot be granted as per relief clause by way of order to certain category of employees only.

27. However, in this issue it is very pertinent to make it clear that the cardinal principal of both the G.Rs. which are almost core/heart of taking this decision and then regularization has been considered:-

(i) In G.R. dated 31.01.1996 it is very much clear in the first paragraph itself that those who had worked for 05 years in plan/non-plan work (excluding E.G.S.). It did not include working under E.G.S.. The applicant was supposed to work in plan/non plan work for last 05 years and for every year minimum 240 days. Then only he was to be made eligible for regularization.

(ii) Similarly, in G.R. dated 16.10.2012 in Government decision para no. 2, it is clearly mentioned that works done under E.G.S./ similar type of scheme will not be counted. It did not include working under E.G.S.. The applicant was

supposed to work in plan/non plan work for last 05 years and for every year minimum 240 days. Then only he was to be made eligible for regularization.

(iii) For these regularizations post were created supernumerary and not regular post that means after expiry of that van majoors the post will automatically get lapsed.

28. Subsequent to this G.R., respondents had given letter which is on record (pg. no. 151) as an example to those van majoors who were absorbed subsequent to the G.R. dated 16.10.2012. They gave affidavit (pg. no. 152) as an example agreed / accepted to the conditions of the G.R. only, then they were regularized, needless to say that all the van majoors had given affidavit that conditions of G.R. dated 16.10.2012 was acceptable to them and after that they were absorbed. Now they cannot make you-turn and say that they don't accept the condition of G.R.. The Id. P.O. has cited **Hon'ble Apex Court Judgment in the case of State of Tamil Nadu, through its secretary to Government, Commercial Taxes and Registration Department, Secretariat and Another Vs. A. Singamuthu, (2017) 4 SCC 133.** Where it is mentioned that entitlement of regularization is State prerogative and its policy of the Government to decide according to the Law. The second Judgment placed by Id. P.O. in **Hon'ble High Court Bombay, Bench at Aurangabad in Girjamata Labour Co-operative Society Ltd. Vs. State of Maharashtra & Ors.**

2017 (2) Mh.L.J. which had held that framing of policy by State is Executive Powers and it is needless to mention that policy making power cannot be withdrawn from Executives which comes from a democratically elected body. The ld. P.O. has cited other many Judgments which have clearly mentioned that framing of policy is the domain of Executive and Judicial interference is very much limited. In view of discussions in above para relief claiming in the O.A. cannot be granted and hence the order:-

ORDER

- 1. O.A. is dismissed.**
- 2. No order as to costs.**

(Justice M.G. Giratkar)
Member(J).

(Shree Bhagwan)
Vice-Chairman.

Dated :- 06/05/2022.

APS

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

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble V.C. and Member (J).

Judgment signed on : 06/05/2022.

Uploaded on : 06/05/2022