

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 485/2016**

Narayan S/o Vitthal Bawane,  
Aged about 46 yrs., Occ. Nil,  
R/o Shivaji Chowk, Gond Plot,  
Wardha, Tah. & District-Wardha.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Department of Revenue & Forest,  
Mantralaya, Mumbai-32.
- 2) The District Collector,  
Wardha, Tah. & Dist. Wardha.
- 3) The Sub-Divisional Officer,  
Wardha, Tah. & Dist. Wardha.
- 4) The Tahsildar, Wardha,  
Tah. & Dist. Wardha.

**Respondents**

---

**Shri S.N.Gaikwad, the Id. Advocate for the applicant.**

**Shri V.A.Kulkarni, the Id. P.O. for the respondents.**

---

**Coram :- Hon'ble Shri A.D. Karanjkar, Member (J).**

**Dated :- 23/10/2018.**

---

**ORDER**

Heard Shri Manwatkar holding for Shri S.N.Gaikwad, the Id. counsel for the applicant and Shri V.A.Kulkarni, the Id. P.O. for the Respondents.

2. In this O.A., the applicant is claiming relief of regularization of his service and direction to set aside his termination w.e.f. 01/06/2016. The facts in brief as under:-

Shri Moti Tabiya opted for voluntary retirement, the post became vacant, therefore, on 02/05/2009 the respondent No. 4 appointed the applicant for cleaning the premises of Tahsil office, Wardha. It is submitted that the post of the Sweeper was lying vacant after retirement of Shri Moti Tabiya and as the applicant was continuously working on the said post from 2-5-2009, therefore, he requested the respondents to regularize him in the service as Sweeper. The respondents didn't consider the various applications made by the applicant time-to-time. Later on, the respondent no. 4 orally terminated the service of the applicant from 01/06/2016. It is submission of the applicant that as his service was continuous w.e.f. 02/05/2009, the post was vacant, therefore, directions be issued to the respondents to reinstate him in service with relief of regularization.

3. The application is opposed by the respondents vide reply at Pg. No. 20, the application is mainly attacked on the ground that as there was no Sweeper for cleaning the premises of Tahsil office, Wardha, the respondent No. 4 sought permission to employ the person on daily wages to do the cleaning job. Accordingly, the applicant was appointed on daily wages for cleaning the premises of Tahsil office, Wardha. It is

contended that the Collector, Wardha was the appointing authority didn't appoint the applicant in the service after following the recruitment procedure laid down by law, therefore, as the applicant was daily wages employee has no right to claim the relief of regularization in service. The second contention of the respondents is that many time wife of the applicant was performing the duty to clean the premises and she received the wages from January, 2012 to May, 2015 and this is sufficient to show that the applicant was not in continuous service, as claimed by him. It is submitted the applicant is not in service, therefore, the applicant has no right to claim the post, consequently the application is liable to be dismissed.

4. I have heard submissions on behalf of the applicant and on behalf of the of the respondents. Annexure-A-2 filed by the applicant at P.B., Pg. No. 11 is the letter written by respondent No. 4 to the respondent No. 2. The respondent No. 4 forwarded application of the applicant for regularization to the respondent No.2 and requested to regularize the applicant in service on the post of Sweeper. Annexure-A-3 filed by the applicant at P.B., Pg. No. 12 shows that the applicant was not entitled to regular pay-scale admissible to the post of Sweeper, but he was receiving the wages @ 143 per day. The respondent No. 4 was paying wages at the @ 143 per day to the applicant, no wages were paid for the holidays. During the course of the arguments, it is submitted that

the procedure is laid down for appointing a person in the Government Employment and one cannot by-pass the procedure. The Collector was the appointing authority, he never appointed the applicant after following the recruitment Rules laid down by the Government, but the applicant was working as per the directions of respondent No. 4 and that too as daily rated employee.

5. After reading the O.A. it appears that it is case of the applicant that the applicant is not in service w.e.f. 01/06/2016. Secondly, the respondents have filed (Annexure-R-1) at P.B., Pg. No. 24, this shows that Smt. Maya Narayan Bawne w/o the applicant worked in the office of respondent No. 4 since January, 2012 upto the May, 2015 as daily rated employee, therefore, the case of the applicant that his service was orally terminated w.e.f. 01/06/2016 has no merit. In this background as the applicant was not appointed by the Collector, Wardha after following the recruitment Rules, consequently the applicant has no right to claim reinstatement in service and regularization in service. In view of this discussion I don't find any substance in this application, therefore I hold that the applicant is not entitled for any relief. Hence the following order :-

**ORDER**

The application stands dismissed with no order as to costs.

**Dated :-23/10/2018.**  
aps.

**(A.D. Karanjkar)**  
**Member (J).**