

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

**ORIGINAL APPLICATION NO.1095 OF 2016
(Subject : Service Benefits and Monetary Benefits)**

1. Shri Balwant Shamrao Killedar,)
Working as Temporary Forest Labourer, Class-IV))
In the office of the Deputy Conservator of Forest,)
Van Vardhan, Tarabai Park, Kolhapur.)
R/o. at Chimgaon, Post Murgud, Tal. Kagal,)
Dist. Kolhapur.)

2. Shri Shamrao Dadu Bhoite,)
Retired as Temporary Forest Labourer,)
Having office at "Van-Vardhan", Bldg., in the)
Office of the Chief Conservator of Forest and)
Deputy Conservator of Forest, Tarabai Park,)
Opp. Main Post Office, Tarabai Park, Kolhapur,)
R/at. Palkarwadi, Post Kasba Walwa,)
Tal. Radhanagari, Dist. Kolhapur.) **Applicants**

Versus

1. The State of Maharashtra,)
Through Principal Secretary (Forest),)
Revenue & Forest Department, having office at)
Mantralaya, Mumbai 400 032.)

2. The Chief Conservator of Forest (T),)
Kolhapur, having office at Van Vardhan,)
Opp. Main Post Office, Tarabai Park,)
Kolhapur -3.) **Respondents**

Shri B.A. Bandiwadekar, learned Advocate for the Applicants.

Smt. K.S. Gaikwad, the learned Presenting Officer for the Respondents.

CORAM : **SHRI P.N. DIXIT, VICE-CHAIRMAN(A)**
SHRI A.D. KARANJKAR, MEMBER(J)

RESERVED ON : **12.06.2019**

PRONOUNCED ON : **14.06.2019**

PER : **SHRI A.D. KARANJKAR, MEMBER(J)**

J U D G M E N T

1. Heard Shri B.A. Bandiwadekar, learned Advocate for the Applicants and Smt. K.S. Gaikwad, the learned Presenting Officer for the Respondents.

2. The substantial issue involved in this case is whether the State can deny the benefits awarded to its employees by issuing Government Resolution, by issuing another Government Resolution.

3. The facts in brief are as under :-

The Applicant No.1 was appointed as Van Mazur on 01.05.1988 and the Applicant No.2 was appointed as Van Mazur on 05.06.1987. The Government of Maharashtra i.e. Respondent No.1 issued the Government Resolution dated 31.01.1996. By this Government Resolution decision was taken by the Government to regularize the services of the Labourers who had completed five years continuous service with minimum 240 days in each year or on before cut off date which was 01.11.1994. It is the grievance of the Applicants that as both of them were in service since 1-5-1988 and 5-6-1987 respectively, they were also in service on the day on which Government Resolution (G.R.) dated 31.01.1996 was issued, consequently both the Applicants were entitled to the benefit conferred by the G.R.

4. It seems that as the benefits conferred by the G.R. issued in 1996 were not given to the Applicants, thereafter both the Applicants lodged complaint (ULP) No.311/2000 in the Industrial Court. This case was pending till 2012. Thereafter, the Government issued G.R. dated 16.10.2012 and decided to regularize the services of Van Mazur who could not be regularized as per the provisions of previous G.R. In pursuance of this G.R. dated 16.10.2012, both the Applicants were called upon to withdraw their complaint which was pending in the Industrial Court and execute bond with certain conditions and as it was done the services of the Applicants were regularized.

5. It is submission of the Applicants that the practice adopted by the Respondents particularly Respondent No.1 is violative of the principles under Article 14 of the Constitution of India and consequently directions be issued to the Respondents to regularize the services of the Applicants in terms of G.R. dated 31.01.1996.

6. We have perused the documents, Exhibit-P, Page 68, it is the letter written by the Deputy Conservator of Forest, Kolhapur to Chief Conservator of Forest, Kolhapur. In this letter it is specifically mentioned that the Controlling Authority Karvir did not forward information regarding Applicants, consequently, both the Applicants could not be regularized as per the G.R. dated 31.01.1996. The Deputy Conservator of Forest, Kolhapur also calculated tentative amount to be paid to the Applicants in case of they were regularized as per G.R. dated 31.01.1996. In Exhibit-L, letter written by the Additional Principal Conservator of Forest, Maharashtra State it is mentioned that the concerned Labourers were fulfilling the requirements for their regularization in terms of G.R. dated 31.01.1996 and therefore, proposal be prepared for forwarding to the Government for approval.

7. In addition, affidavit was filed by the Respondent No.1 Shri Vikas Kharage, Secretary (Forest), Revenue and Forest Department, Mantralaya, Mumbai. In paragraph No.3 of this affidavit it is mentioned as under :-

"3. I Say & submit that, it is true & correct that the Applicants are eligible as per the G.R. dated 31.01.1996."

8. But in this affidavit further stand is taken that as Shri Ramchandra Ganapati Dhamane another Forest Mazur did not withdraw his complaint., he was successful in the Industrial Court. Writ Petition filed by the Government was dismissed and SLP filed by the Government before the Apex Court was also dismissed, therefore, he was given the benefits.

9. It is further contended that the Government of Maharashtra issued G.R. dated 16.10.2012 and in terms of G.R., the applicants have withdrawn their complaint which was pending in the Industrial Court. The applicants executed a bond and therefore the applicants are estopped from claiming the benefits as per the G.R. dated 31.01.1996.

10. After considering the entire material, it is crystal clear that even the Respondents authorities have accepted that both the applicants were entitled for the benefits of G.R. dated 31.01.1996 as they were fulfilling material requirements in that G.R. In this situation, it is necessary to examine whether the State is empowered to raise the defence of estoppel, as the applicants have executed bond when their services were regularized in the year 2012.

11. The legal position is that the State shall not deny to any citizen equality before the law or equal protection of law. The first part of Article 14 of the Constitution of India commands the State not to deny to any person equality before law and the 2nd part of the said Article commands that the State shall give equal protection of law. So far as Government Resolutions are concerned that they are also regarded as source of law and once such Government Resolutions are issued the G.R.s are binding even on the State so long as they remain enforce. The State has no authority to make any discrimination while implementing its own G.R. The State cannot follow the practice of giving benefits of the G.R. to some employees and refuse to give benefits to the other set of the employees and if it is done than this will be discrimination, which will be unreasonable as contemplated under Article 14 of the Constitution of India.

12. It must be remembered that Labour Laws are brought into force by the State only with an object to curb exploitation of the labourers by their employers. In the present case, it seems that Respondent No.1 acted against its own policy to safe guard and protect the interests of the labourers who were weaker section of the society. When it is demonstrated by the applicants that both the applicants were entitled to be regularized in services as per G.R. dated

31.01.1996, there was no alternative, but it was constitutional duty of the State to recognize the claim of the applicants and give them all the benefits of the said G.R.

13. In the present case, instead of following the constitutional duty, Respondent No.1 adopted the novel way to save money. Respondent No.1 issued subsequent G.R. dated 16.10.2012 and forced the applicants to give up their legitimate claim of regularization as per G.R. dt/31-1-1996 and difference in Salary. Certainly, it must be said that this procedure adopted by the Respondent No.1 is contrary to the spirit of Article 14 of the Constitution of India. Therefore, it amounts to unfair labour practice and victimisation. So far as dispute of the Respondent No.1 with Shri R.G. Dhamane is concerned it may be remembered that Shri R.G. Dhamane had lodged complaint with the Hon'ble Lokayukt, Maharashtra State. Hon'ble Lokayukt, Maharashtra State decided the matter on 01.03.2013, the order is at Exhibit-O, page 61. On page 4 of the order it is specifically observed that the present applicants were also entitled for the benefits of G.R. dated 31.01.1996. It is stand of the Respondent that as the relief is not granted to the applicants by any judicial forum and as they withdrew their complaint and executed bond, therefore, they are not entitled for the relief.

14. In our opinion, it was statutory obligation on the Respondents to comply their own G.R. and to give benefit of the G.R. to the applicants, but it was not done, therefore we are compelled to say that the Respondent N.1 is guilty of serious unfair labour practice.

15. Learned Advocate for the applicant has placed reliance on the judgment of Hon'ble Apex Court in case of **The State of Karnataka and Others Versus C. Lalitha, Civil Appeal No.919 of 2002, 2006 Supreme Court Cases (L&S) 447, decided on 31.01.2006**, (page 447). In this case it is held by the Hon'ble Apex Court that all persons similarly situated should be treated similarly irrespective of the fact that only one person approached the Court. In our opinion in this

background and circumstances, the applicants are entitled for the relief claimed.
In the result, we pass the following order :-

ORDER

- (1) The Original Application stands allowed.
- (2) The respondents are directed to regularize the services of the Applicants in terms of G.R. dated 31.01.1996 with effect from 01.11.1994.
- (3) Respondents are further directed to pay the arrears and wages to the Applicants.
- (4) This order shall be complied within 3 months from the date of this order.
- (5) No order as to costs.

Sd/-

(A.D. Karanjkar)
Member(J)

*prk

sd/-

(P.N. Dixit)
Vice-Chairman(A)