

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.639 OF 2015

DISTRICT : PUNE

1. Smt. Charushila W. Gaikwad.)
Aged 42 years, Occu. : Service)
2. Mr. Ranbir R. Chavan, Adult,)
Occu.: Service, both residing at)
Irrigation Colony, Yawat, Tal.: Daund)
Dist : Pune 411 001.)...**Applicants**

Versus

1. The State of Maharashtra.)
Through the Principal Secretary,)
Irrigation Department,)
Mantralaya, Mumbai - 400 032.)
2. The Superintendent Engineer.)
Pune Irrigation Division, Pune.)
3. The Executive Engineer.)
Khadakwasla Irrigation Sub-Division))
Sinchan Bhavan, Mangalwar Peth,)
Pune 411 001.)
4. The Sub-Divisional Engineer.)
Yawat Irrigation Sub-Division, Yawat))
Taluka Daund, Dist : Pune.)...**Respondents**

Shri Ganesh Bhujbal, Advocate for Applicants.

Ms. N.G. Gohad, Presenting Officer for Respondents.



CORAM : RAJIV AGARWAL (VICE-CHAIRMAN)
R.B. MALIK (MEMBER-JUDICIAL)

DATE : 10.08.2016

PER : R.B. MALIK (MEMBER-JUDICIAL)

JUDGMENT

1. The two Applicants herein seek regularization of their services from the current daily wage earner / work charge establishment as Typists as far as the first Applicant is concerned and in Class-IV as far as the second Applicant is concerned. Alternatively, they seek a direction to the 1st Respondent – Principal Secretary, Irrigation Department to consider the proposal submitted by the 3rd Respondent – Executive Engineer, Khadakwasla Executive Sub-Division, dated 7.1.2010 in respect of the Applicants. In fact, this OA will have to be decided exactly on the same line as this very Bench did in **OA Nos.128/2012 and 129/2012 (Mahadev V. Tambe Vs. The State of Maharashtra and 2 others and one another OA, dated 3rd December, 2014)**, the Applicants of which OAs were colleagues and exactly similarly placed as the present Applicants. That order will be referred to as **Mahadev Tambe's** case hereinafter.



2. Just like the Applicants in **Mahadev Tambe** (supra), the present Applicants also came to be appointed through on different dates i.e. on 29th June, 1996 (Applicant No.1) as Mazdoor, but she was made to work as a Typist on account of her qualification, etc. The second Applicant joined on 1st March, 1994 as a Sweeper again as daily wage earner. Both the Applicants have since continued with technical breaks, and therefore, they continued to be on what can be described as Daily Wage Basis for more than two decades. The facts of this matter as already mentioned above are exactly like **Mahadev Tambe's** case. A passage from Para 6 (running Page 64 of the Paper Book (P.B) would be opposite.

“In case of both the Applicants, the Respondent No.1 addressed a communication to the Respondent No.2 with a copy having been endorsed to the Respondent No.3, wherein it was mentioned that in the matter of these two Applicants and three others, the proposal to regularize them on temporary establishment was under active consideration and for the final decision, certain record was necessary which the Respondent No.3 was directed to furnish.”

3. In the above background, the Applicants seek regularization or the alternative relief as already mentioned at the outset. In an extremely lengthy Affidavit-in-reply, the claim has been denied and although the Respondents



have accepted and implemented **Mahadev Tambe's** order of this Tribunal, they have still controverted each and every aspect of the matter. In Para 3, however, they have referred to Kalelkar report whereunder a person working on daily wages and work charge establishment was brought on converted regular temporary establishment and those posts were treated as super-numeratory posts.

4. In **Mahadev Tambe's** OA, we referred to earlier decisions of this Tribunal in Para 6 as well as a Judgment of the Hon'ble High Court in **Writ Petition No.1225/1998 (The Executive Engineer, Pune Irrigation Division Vs. Shri Prakash J. Gawade and others, dated 8.10.2013)**. In Para 7 thereof, we discussed as to how the Rule in **A. Umarani Vs. Registrar, Cooperative Societies & Ors. (2004) 7 SCC 112** and **The State of Karnataka and others Vs. Umadevi and others, AIR 2006 SC 1806** would not hit that particular matter, and therefore, this matter also. We then made orders granting the alternative relief. The third Respondent's letter was exactly the same dated 7.1.2010.

5. It is an admitted position that as a sequel to contempt proceedings adopted by the Applicants in **Mahadev Tambe's** case, the Respondents have implemented that particular order, and therefore, on parity



of reasoning and the principle of similarly placed persons, the same relief will have to be extended to the present Applicants as well. In as much as the matter remained pending with the Respondents all these years, there will be no impediment including that of limitation, etc. As a matter of fact, in that we granted eight weeks time for compliance. But the situation has so eased post **Mahadev Tambe** that in our opinion four weeks time would be sufficient.

6. The upshot, therefore, is that this OA must succeed. The Respondent No.1 is hereby directed to consider the proposal submitted by the Respondent No.3 by the letter of 7.11.2010 read along with the other communication referred to in Para 9 of **Mahadev Tambe's** OA within a period of four weeks from today. This Original Application is allowed in these terms with no order as to costs.

Sd/-

(R.B. Malik)
Member-J
10.08.2016

Sd/-

(Rajiv Agarwal)
Vice-Chairman
10.08.2016

Mumbai

Date : 10.08.2016

Dictation taken by :

S.K. Wamanse.

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