

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.599/2021

DISTRICT:- NANDURBAR

-
1. Bhima Dalpat Chavan,
Age : 51 years, Occ : Service as
Majority Forest Labor (D-Group),
R/o. At-Dudhkheda, Post-Aslod,
Tal. Shahada, Dist. Nandurbar.
 2. Shivaji Aarsha Pavra,
Age : 55 years, Occ : Service as
Majority Forest Labor (D-Group),
R/o. At Manmodya, Post-Chirkhan,
Tal. Shahada, Dist. Nandurbar.
 3. Premchand Teja Chavan,
Age : 49 years, Occ : Service as
Majority Forest Labor (D-Group),
R/o. At-Dudhkheda, Post-Aslod,
Tal. Shahada, Dist. Nandurbar.
 4. Chhabu Ukhadya Bhil,
Age : 51 years, Occ : Service as
Majority Forest Labor (D-Group),
R/o. At Post-Shahana,
Tal. Shahada, Dist. Nandurbar.
 5. Bharat Gubji Pavra,
Age : 56 years, Occ : Service as
Majority Forest Labor (D-Group),
R/o. At-Chandsaili, Post-Ghodlapala,
Tal. Shahada, Dist. Nandurbar.
 6. Chandrasing Padvi Bhil,
Age : 52 years, Occ : Service as
Majority Forest Labor (D-Group),
R/o. At-Kotbandhani, Post-Ranipur,
Tal. Shahada, Dist. Nandurbar.

7. Chandrasingh Shankar Pavra (Chaudhari),
 Age : 51 years, Occ : Service as
 Majority Forest Labor (D-Group),
 R/o. At-Leghapani, Post-Toranmal,
 Tal. Dhadgaon, Dist. Nandurbar. **..APPLICANT**

V E R S U S

- 1) The State of Maharashtra,
 The Revenue & Forest Department,
 Through its Principal Secretary,
 Mantralaya, Mumbai.
- 2) The Principal Chief Forest Conservator,
 (Chief of Forest Force), Vanbhavan,
 Ramgiri Road, in front of Police Gymkhana,
 Civil Lines, Nagpur-440001.
- 3) Chief Forest Conservator,
 Regional Office, Dhule,
 Ram Manohar Lohiya Marg,
 Lenin Chowk, Dhule.
- 4) Deputy Forest Conservator,
 Forest Department, Shahada,
 Vanbhavan, Dondaicha Road,
 Shahada, Dist. Nandurbar.
- 5) Range Forest Officer (Vankshetrapal),
 Shahada Regional Office,
 Tq. Shahada, Dist. Nandurbar. **..RESPONDENTS**

 APPEARANCE : Shri Yogesh H. Jadhav, Counsel for
 Applicant.

: Shri S.K.Shirse, Presenting Officer
 for respondent no.1.

: Shri Shailendra S. Kulkarni,
 Counsel holding for Shri S.P.Pandit,
 Counsel for respondent nos.2 to 5.

**CORAM : HON'BLE SHRI JUSTICE P.R.BORA,
 VICE CHAIRMAN**

DECIDED ON : 23-01-2023

ORAL ORDER

Heard Shri Yogesh H. Jadhav, learned Counsel for the applicant, Shri S.K.Shirse, learned Presenting Officer for respondent no.1 and Shri Shailendra S. Kulkarni, learned Counsel holding for Shri S.P.Pandit, learned Counsel for respondent nos.2 to 5.

2. Applicants have filed the present O.A. seeking the following reliefs:

“B) By issuing appropriate orders or directions, the respondent no.4 & 5 may kindly be directed to pay the arrears of difference in pay-fixation/arrears of salary on grade pay scale of (Rs.4440-7440+1300) which is due from the period of 01.06.2012 to 31.05.2018 alongwith interest thereon with all perk and allowances payable to him within 2 weeks from today.

C) By issuing appropriate orders or directions, the respondent no.4 to 5 may kindly be directed to decide the representation dated 28-12-2020 given by the applicants to the respondent no.2 & to take action over such representation as per guidelines given in the letter dated 19.11.2012 and 17.05.2018 by the respondent no.1 within 2 weeks from today.”

3. In nutshell, it is the case of the applicant that on the basis of the Government Resolution dated 16-10-2012 their services have been regularized w.e.f. 01-06-2012 but they have not been paid salary according to the pay scale, and therefore, they have prayed for arrears of difference in pay, Grade Pay etc. due from 01-06-2012 to 31-05-2018. Applicants have also claimed the interest upon the said amount.

4. The contentions raised in the Original Application and prayers made therein are resisted by the respondents by filing their affidavit in reply. In sum and substance, it is the defence of respondent nos.2 to 5 that all the applicants have been duly regularized vide orders issued on 31-05-2018 w.e.f. 01-06-2012; however, the period in which the applicants did not actually work i.e. from 01-06-2012 to 31-05-2018, the applicants cannot claim any wages or any difference of pay of the said period. Certain G.Rs. are placed on record by the applicants. The respondents have also placed on record the G.Rs. clarifying the scheme under which the services of the applicants were regularized.

5. I have duly considered the submissions made on behalf of the applicants as well as the respondents. I have also gone through the documents filed on record. The applicants are seeking arrears of difference in pay and Grade Pay etc. due to them from 01-06-2012 to 31-05-2018. It is the contention of the applicants that in the said period, though they were entitled to receive wages payable to the regular employees they were paid wages of daily wagers and are thus entitled for the arrears of difference in pay of the said period. The respondents have, however, asserted that the applicants were not paid any wages even as the daily wagers during the said period i.e. from 01-06-2012 to 31-05-2018. As such, according to the respondents, the question of paying difference of wages of the said period does not arise.

6. Learned Counsel for the applicants invited my attention to seniority list prepared by the respondents and sought to submit that inclusion of names of these applicants in the seniority list confirms that all these applicants were on duty on 01-06-2012. This contention, however, cannot be accepted for the reason that in the remarks column, against the name of each of the present

applicants, remark has been noted that the employee concerned has not worked after the year 2003.

7. Having regard to the stand taken by the respondents in their affidavit in reply, the primary burden was on the applicant to prove or bring on record any such convincing evidence showing that they did work during the period between 01-06-2012 to 31-05-2018. Applicants have failed in bringing on record any such evidence. In the circumstances, it is difficult to allow the prayers of the applicants. Even if it is accepted that the applicants have been regularized w.e.f. 01-06-2012, the said date has to be considered only for the purpose of computation of total service period of the applicants for the purposes of pension and other related benefits. It has also been clarified by the respondents that though the applicants might not have worked in the aforesaid period, they will be entitled for notional increments of the said period if they are held entitled to be regularized w.e.f. 01-06-2012 and if their names are included in the list of the eligible candidates.

8. I reiterate that for want of the necessary evidence from the side of the applicants showing that they had worked from the period 01-06-2012 to 31-05-2018 and

further that they were paid daily wages during the said period and not the regular salary, the O.A. fails and deserves to be dismissed. O.A. accordingly stands dismissed, however, without any order as to costs.

VICE CHAIRMAN

Place : Aurangabad

Date : 23.01.2023.