

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**O.A.NO. 71/2013 WITH O.A. NO. 72/2013 WITH O.A.
NO.73/2013**

1. ORIGINAL APPLICATION NO. 71 OF 2013

DISTRICT: - JALNA.

ShriBhagwan S/o BaburaoWagh,

Age:50 years, Occ: Service,

R/o : At Malegaon, Post BawanePangari,

Tq. And District Jalna.

.. APPLICANT.

V E R S U S

1. The State of Maharashtra
(Copy to be served on the office of
C.P.O., MAT at Aurangabad).

2. The Deputy Conservator of Forests,
Aurangabad Forests Division,
Vanbhavan, In Front of S.S.C. Board,
Osmanpura, Aurangabad.

3. The Range Forest Officer,
Jalna (P), North,
Tq. and District Jalna.

.. RESPONDENTS.

W I T H

2. ORIGINAL APPLICATION NO. 72 OF 2013

DISTRICT: - JALNA.

Shri Nana S/o GulabJadhav,

Age : 47 years, Occ: Service,

R/o : At Malegaon, Post BawanePangari,

Tq.And District Jalna.

.. APPLICANT.

V E R S U S

1. The State of Maharashtra
(Copy to be served on the office of
C.P.O., MAT at Aurangabad).

2. The Deputy Conservator of Forests,
Aurangabad Forests Division,
Vanbhavan, In Front of S.S.C. Board,
Osmanpura, Aurangabad.

3. The Range Forest Officer,
Jalna (P), North,
Tq. and District Jalna.

.. RESPONDENTS.

W I T H**3. ORIGINAL APPLICATION NO. 73 OF 2013****DISTRICT: - JALNA.****ShriLatabaiW/o Lukas Pakhare,**

Age : 42 years, Occ: Service,

R/o :Deolgaonraja Road,

Rajiv Gandhi Road, Jalna

Tq. and District Jalna.

.. APPLICANT.

V E R S U S

1. The State of Maharashtra
(Copy to be served on the office of

C.P.O., MAT at Aurangabad).

2. The Deputy Conservator of Forests,
Aurangabad Forests Division,
Vanbhavan, In Front of S.S.C. Board,
Osmanpura, Aurangabad.
3. The Range Forest Officer,
Jalna (P), North,
Tq. and District Jalna. .. RESPONDENTS.

APPEARANCE : ShriAvishkar S. Shelke – learned
Advocate for the Applicants in all these
three matters.

: Shri S.K. Shirase – learned Presenting
Officer for the respondents in all these
three matters.

**CORAM : HON'BLE SHRI RAJIV AGARWAR,
VICE CHAIRMAN (A).
AND
: HON'BLE SHRI J.D. KULKARNI,
MEMBER (J)**

PER : Hon'bleShriRajiv Agarwal, V.C. (A)

J U D G M E N T

[Delivered on this 16th day of December, 2016]

1. Heard ShriAvishkar S. Shelke, learned Advocate for the
Applicants in all these three matters and Shri S.K. Shirase,

learned Presenting Officer (P.O.) for the respondents in all these three matters.

2. These Original Applications were heard together and they are being disposed of by a common order as the issues to be decided are identical.

3. Learned Advocate for the Applicant in O.A. No. 71/2013 argued that the Applicant was appointed as Daily Wage Worker in Forest Department on 1.8.1992. The Respondent No. 1 decided to regularize the services of those daily workers who had worked for 5 years during the period from 1.11.1994 to 30.6.2004 and issued Government Resolution dated 16.10.2012. Committees were appointed under the Chairmanship of Chief Conservator / Deputy Conservator of Forests to prepare final seniority lists of those daily wage workers who fulfilled the criteria of eligibility for regularization as per Government Resolution dated 16.10.2012. The Respondent No. 2 headed a Committee for Aurangabad Forest Division, which published the seniority list on 25.10.2012. Name of the Applicant was at Sr. No. 192. Accordingly, by order dated 31.10.2012, the

Applicant was appointed in Group 'D' post w.e.f. 1.6.2012. However, by order dated 27.11.2012, the Respondent No. 3 informed that the Applicant's services were terminated by the order of the Respondent No. 2 dated 16.11.2012. Learned Advocate for the Applicant argued that order dated 16.11.2012 was passed by the Respondent No. 2, without giving any notice to the Applicant. This order is issued in complete violation of the principles of natural justice and is bad in law. Also the letter of the Respondent No. 3 dated 27.11.2012 states that for the period between 1.11.1989 and 30.6.2004, the Applicant did not work for 240 days per year for 5 years. This is not in accordance with provision of G.R. dated 16.10.2012, where a daily wage worker was required to work for 5 years during the period from 1.11.1994 to 30.11.2004. On that ground also the impugned order of the Respondent No. 2 dated 16.11.2012 terminating the services of the Applicant is bad in law.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that the Applicant's name was included in the list of eligible daily wage workers inadvertently. As per

Government Resolution dated 16.10.2012, a daily wage worker was required to work for 240 days per year for five years during the period from 1.10.1994 to 30.6.2004. As per the official records, the Applicant had worked as given below.

Sr.No.	Period	No. of days Applicant worked
1.	1.11.1994 to 31.10.1995	105
2.	1.11.1995 to 31.10.1996	223
3.	1.11.1996 to 31.10.1997	195
4.	1.11.1997 to 31.10.1998	166
5.	1.11.1998 to 31.10.1999	095
6.	1.11.1999 to 31.10.2000	290
7.	1.11.2000 to 31.10.2001	086

6. Learned Presenting Officer argued that the Applicant was clearly not eligible to be regularized. He cannot be allowed to take advantage of the mistake of the Respondents. The Applicant was given appointment on temporary basis on a supernumerary post and his services could be terminated without any notice. Learned Presenting Officer (P.O.) argued that by considering period from 1.11.1989 to 30.6.2004 instead of 1.1.1994 to 30.6.2004, no prejudice was caused to the Applicant.

7. We find that the Respondents have filed affidavit in reply on 30.8.2013. In para No. 12 of the affidavit, the details of services rendered by the Applicant have been furnished. It is seen that only in the year 1999-2000 (1.11.1999 to 31.10.2000), the Applicant had worked for 290 days, which is in excess of 240 days. In all other years, he had worked for less than 240 days. These facts are not denied by the Applicant by filing affidavit in rejoinder. His contention in para 7 (1) of O.A. that he worked for 240 days for 5 years is denied in the affidavit in reply dated 30.8.2013 filed by the Respondents. The Government Resolution dated 16.10.2012 reads :

“(१) वनविभागातीलदि. १.११.१९९४ ते ३०.६.२००४ पर्यंतसलग पध्दतीनेकिंवातुटकतुटकरित्याप्रतिवर्षीकिमान २४० दिवस या प्रमाणेकिमान ५ वर्षेकामकेलेल्या ५०८९ रोजंदारीकामगारांपैकी दि. १.६.२०१२ लाकामावरअसण्यास पात्र ठरणा-या कामगारांनामंत्रीमंडळाच्यानिर्णयाप्रमाणे खालीलअटी व शर्तीच्याअधिनराहुनकार्यमकरण्यात यावे.”

8. The Applicant has not worked for 240 days for five years during that period. He was clearly ineligible for regularization. It is true that the Respondents had not given

a notice to the Applicant before terminating his services. However, no useful purpose will be served, if the Respondents are directed now to give notice to the Applicant, as the Applicant has placed no material on record to show that he was eligible to be regularized. Extending period for determining eligibility i.e. from 1.11.1989 to 30.6.2004 instead of 1.1.1994 to 30.6.2004 as per Government Resolution dated 16.10.2012, has obviously not caused any prejudice to the Applicant.

9. Facts are more or less similar in other two OAs. The Applicants in those OAs also did not work for 240 days per year for 5 years during 1.1.1994 to 30.6.2004. They were clearly not eligible for regularization of their services in terms of Government Resolution dated 16.10.2012.

10. Having regard to the aforesaid facts and circumstances of the case, we are not inclined to interfere with the impugned orders in these OAs. As a result, these Original Applications are dismissed with no order as to costs.

MEMBER (J)

VICE CHAIRMAN (A)