

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,
BENCH AT AURANGABAD.

O.A.NO. 930/2001 WITH O.A.NO. 933/2001 WITH
O.A.NO. 934/2001 WITH O.A. NO. 587/2011

01. ORIGINAL APPLICATION NO. 930 OF 2001

DISTRICT : - JALNA

Shri Vishnu Ramrao Mahadik,
Aged 32 years, Occu. Service,
R/o. at Mhatrewadi Post Shelgaon,
Tq. Badnapur, Dist. Jalna.

.. APPLICANT.

VERSUS

1. The State of Maharashtra
2. Director of Social Forestry,
Maharashtra State,
Pune.
3. The Deputy Director of Social Forestry
Aurangabad Region,
Aurangabad.
4. The Plantation Officer
Social Forestry Range
Jalna.

.. RESPONDENTS.

(Respondent Nos. 1 to 4 to be served through the Chief
Presenting Officer, Maharashtra Administrative Tribunal,
Mumbai Bench at Aurangabad.)

WITH

02. ORIGINAL APPLICATION NO. 933 OF 2001

DISTRICT : - JALNA

Shri Baban Namdeo Rajgire,
Aged 43 years, Occu. Service,
R/o. at post Georai Bazar,
Tq. Badnapur, Dist. Jalna.

.. APPLICANT.

V E R S U S

1. The State of Maharashtra
2. The Director of Social Forestry,
Maharashtra State,
Pune.
3. The Deputy Director of Social Forestry
Aurangabad Region,
Aurangabad.
4. The Plantation Officer
Social Forestry Range
Jalna.

.. RESPONDENTS.

(Respondent Nos. 1 to 4 to be served through the Chief
Presenting Officer, Maharashtra Administrative Tribunal,
Mumbai Bench at Aurangabad.)

W I T H

03. ORIGINAL APPLICATION NO. 934 OF 2001

DISTRICT : - JALNA

Shri Shankar Chokhaji Horsil,
Aged 35 years, Occu. Service,
R/o. Bazar Gevrai,
Tq. Badnapur, Dist. Jalna.

.. APPLICANT.

V E R S U S

1. The State of Maharashtra
2. The Director of Social Forestry,
Maharashtra State,

Pune.

3. The Deputy Director of Social Forestry
Aurangabad Region,
Aurangabad.
4. The Plantation Officer
Social Forestry Range
Jalna.

.. RESPONDENTS.

(Respondent Nos. 1 to 4 to be served through the Chief Presenting Officer, Maharashtra Administrative Tribunal, Mumbai Bench at Aurangabad.)

W I T H

04. ORIGINAL APPLICATION NO. 587 OF 2011

DISTRICT : - JALNA

1. Shri Vitthalrao Dinkarrao Gade,
Aged 46 years, Occu. Service,
At post Babulgao,
Tq. Bhokardan, Dist. Jalna.
2. Shri Baburao Khandu Saude
Age : 54 years, Occu.: Service,
At post Dev Akola,
Tq. Jafrabad, Dist. Jalna.
3. Shri Ramkisan Vinayak Pongle
Age : 40 years, Occu.: Service,
At Sathephal, Post Akoladev,
Tq. Jafrabad, Dist. Jalna.
4. Shri Datta Anna Hardas
Age : 42 years, Occu.: Service,
Tq. Devalgaon Raja,
Dist. Buldhana.

5. Shri Kautik Kondiba Gade
Age : 48 years, Occu.: Service,
At Post Varud Khurd,
Tq. Jafrabad, Dist. Jalna.
6. Shri Pandurang Amarsingh Shinde
Age : 52 years, Occu.: Service,
At post Choral, Tq. Bhokardan,
Dist. Jalna.
7. Shri Pandurang Soma Devdutt
Age : 20 years, Occu.: Service,
R/o. Vasant Nagar Tanda,
(Tapovan), Tq. Bhokardan,
Dist. Jalna.
8. Shri Phulsingh Mansaram
Chandawade, Age. 50 years,
R/o. Pipalgaon (Chairmanki),
Post. Tq. Bhokardan, Jevkheda,
Tq. Bhokardan, Dist. Jalna. .. APPLICANTS.

V E R S U S

1. The State of Maharashtra
2. The Director of Social Forestry,
Maharashtra State,
Pune.
3. The Deputy Director of Social Forestry
Aurangabad Region,
Aurangabad.
4. The Plantation Officer
Social Forestry Range
Bhokardan.
5. The Plantation Officer
Social Forestry Range
Jafrabad. .. RESPONDENTS.

Shri Vivek Bhavthankar, learned Advocate for respondent Nos. 3 & 4 in O.A. Nos. 930, 933 & 934 all of 2001 and for respondent Nos. 3 to 5 in O.A. No. 587/2011.

2. All these Original Applications are heard together and are being disposed of by this common order, as the issues to be decided are identical.

3. This Tribunal by judgment dated 8.6.2010 in O.A. Nos. 930 to 938 of 2001 have dismissed O.A. Nos. 931, 932, 935, 936, 937 & 938/2001, as the Applicants therein were held to have failed to fulfill the requirement of Government Resolution dated 19.10.1996. O.A. Nos. 930/2001, 933/2001 and 934/2001 were allowed. The State Government filed Writ Petition Nos. 728/2011, 729/2011 and 733/2011 challenging the judgment dated 8.6.2010 in the Aurangabad Bench of Hon'ble Bombay High Court. By judgment dated 9.7.2015, the parties were relegated to this Tribunal, and Hon'ble High Court quashed the order dated 8.6.2010. O.A. No. 587/2011 is also heard together with these Original Applications.

4. Learned Advocate for the Applicants argued that the Applicants were working as ad hoc and temporary Forest Labourer from various dates. The Applicant in O.A. No. 930/2001 was working since 7.4.1984. Government of Maharashtra took a policy decision to absorb temporary Forest Labourer in regular service, subject to certain conditions and issued Government Resolution dated 19.10.1996. Labourers who worked for five years and rendered service of not less than 240 days in each of these 5 years were held entitled to be absorbed as Group 'D' employees in the posts created for this purpose. Service of 240 days in a year was required to be in a 'Plan' or 'Non-Plan' Scheme of the Government and those who worked on EGS or similar scheme were expressly excluded from the benefit of Government Resolution dated 19.10.1996. The Applicant's claim for regularization was based on the seniority list prepared by Plantation Officer, Social Forestry Division, Jalna (West), which showed that the Applicant had worked for more than 240 days being 1989-90, 1990-91, 1991-92, 1992-93, 1993-94 & 1994-95. In the affidavit in reply filed on 10.10.2003 on behalf of the

respondents, it was denied that the Applicant was eligible to get his services regularized under Government Resolution dated 19.10.1996. This Tribunal by judgment dated 8.6.2010 held that the Applicant was eligible for regularization, which order was quashed & set aside by Hon'ble High Court by judgment dated 9.7.2015. In paragraph 6 of the judgment the Hon'ble High Court has observed as follows: -

“6. Considering the fact that the documents which are filed before this Court were not before the Tribunal for considering the same, it would be relevant to relegate the parties to the Tribunal as in Writ jurisdiction, it would not be appropriate to enter into said question of facts.”

5. The respondents have filed additional affidavit dated 22.2.2016 and annexed details of work done by the Applicant in O.A. No. 930/2001 and the Applicants in other O.As. The Applicant in O.A. No. 930/2001 had worked in EGS Scheme from 1.4.1990 to 30.10.1994 and has not worked even for a single day in a Plan or Non-plan Scheme of the Department of Social Forestry.

Government Resolution dated 19.10.1996 has the following condition in this regard, viz :

“१) पाच वर्षांच्या सलग सेवेचा कालावधीची गणना करतांना सामाजिक वनीकरण विभागातील योजना अंतर्गत /योजनेत्तर योजनेवर रोजंदारी मजुरांनी प्रत्येक वर्षात कमीत कमी २४० दिवस काम केलेले असावे, या करीता पाच वर्षांचा कालावधी मोजताना रोजगार हमी योजना किंवा रोजगार हमी देणा-या तत्सम योजनेवर केलेल्या कामाचे दिवस विचारात घेण्याव येवू नयेत.”

6. The Applicant did not fulfill the condition that on 1.11.1994, he had worked for 5 years continuously and rendered 240 days service in a Plan/Non-Plan Scheme of the Department of Social Forestry in each of the five years. He is clearly ineligible to be absorbed in a regular class IV post as per Government Resolution dated 19.10.1996.

7. The facts in other OAs are similar. None of the Applicants worked for five years on 1.11.1994 in Plan/Non-Plan Scheme of Department of Social Forestry for 240 days in a year for past 5 years. The work on EGS or similar scheme cannot be considered for this purpose.

8. Hon'ble High Court (Nagpur Bench) has examined the entire issue in W.P. No. 2910/1997. By judgment

dated 29.11.2001, the provision in G.R. dated 19.10.1996 were examined and it was held that exclusion of those working in Employment Guarantee Scheme or similar scheme cannot amount to discrimination or unjustified classification.

9. Considering the fact that the Applicants in these OAs have failed to establish that they worked for 5 years continuously before 1.11.1994 for 240 days or more in a Plan/Non-Plan Scheme at the Social Forestry Department and work on EGS or Jawahar Rojgar Yojna or similar schemes cannot be counted for this purpose, the applicants are not entitled to any relief. The affidavits filed by the Respondents in these Original Applications clearly establish this fact.

10. Having regard to the aforesaid facts and circumstances of the case, these Original Applications are dismissed with no order as to costs.

MEMBER (J)

VICE CHAIRMAN (A)