

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.40/2015. **(D.B.)**

1) Maharashtra Rajya Van Rakshak,
Van Karmachari va Van Kamgar Union,
Through its Secretary / President,
R/o C/o Shri Shiraj Patel Mohammad Chowk,
Bhaldarpura, Nagpur.

(Deleted)

2) Ashwaque Siraj Patel,
Aged about 43 years,
Occ-Service,
R/o Mohammad Ali Chowk, New Library,
Bhaldarpura, Nagpur.

Applicant.

Legal Representatives:-

(1) Rizwana Parveen Ashfaque Ahmed,
Aged about 38 years,

(2) Fatema Parveen Ashfaque Ahmed,
Aged about 14 years,

(3) Zoya Parveen Ashfaque Ahmed,
Aged about 11 years,

-Versus-

1) The State of Maharashtra,
Through its Secretary,
Department of Revenue & Forests,
Mantralaya, Mumbai-400 032.

2) The Additional Principal Chief Conservator of Forests,
(Administration), Van Bhavan, Ramgiri Road,
Civil Lines, Nagpur.

3) The Chief Conservator of Forests,
(Territorial), Zero Miles,
Civil Lines, Nagpur.

4) The Deputy Conservator of Forests,
Zero Miles, Civil Lines, Nagpur.

Respondents

Miss K.K. Pathak , the learned counsel for the applicants.
Shri P.N. Warjekar, the learned P.O. for the respondents.

Coram:-Shri Shree Bhagwan, Vice-Chairman
and
Shri A.D. Karanjkar, Member (J)

Judgment is reserved on 17th July 2019.

Judgment is pronounced on 30th July 2019.

JUDGMENT

Per: Vice-Chairman

(Delivered on this 30th day of July 2019)

1. Heard Miss K.K. Pathak, the Ld. counsel for the applicants and Shri P.N. Warjekar, the learned P.O. for the respondents.

2. The deceased applicant No.2 was appointed in service as Van Majur on 22.2.1990. It is the case of the deceased applicant No.2 that the G.R. dated 31.1.1996 was issued by the Government and as per that G.R., daily rated labourers who had completed five years continuous service till 1.11.1994 and had

worked for a period more than 240 days in every year were entitled for regularization of their service. It is submitted that the benefit of this G.R. was not given to the deceased applicant No.2, though he was fulfilling the requirement. Therefore in the year 2005, the deceased applicant No.2 lodged U.L.P. Complaint in the Industrial Court bearing No. 174/2006, the complaint was pending. In the meantime, G.R. dated 16.10.2012 was issued by the Government.

3. It is submission of the deceased applicant No.2 that condition Nos. 1, 2 and 5 of the said G.R. are illegal as being suppressive of the rights of the employees. It is submitted that the deceased applicant No.2 was compelled to withdraw his U.L.P. Complaint case for his regularization in view of G.R. dated 16.10.2012, consequently approach of the Govt. was illegal. It is submitted that by allowing this O.A., condition Nos. 1, 2 and 5 in G.R. dated 16.10.2012 be declared *ultra vires* and direction be given to the Govt. to regularise the services of the deceased applicant No.2 w.e.f. 1.11.1994.

4. Application is opposed by the respondents vide their reply. It is contended by the respondents that the deceased applicant No.2 joined the service on 12.2.1990 and he had not completed five years continuous service on 1.11.1994, therefore, the

deceased applicant No.2 was not eligible to be regularized in view of G.R. dated 31.1.1996. It is submitted that the authority has rightly examined the case of the deceased applicant No.2 and not given benefit of the G.R. dated 31.1.1996 and there is no illegality in the action.

5. So far as subsequent G.R. dated 16.10.2012 is concerned, it is submitted that the policy decision was taken by the Govt. to regularize the services of Van Majurs, who had completed five years service as mentioned in the G.R. It is submitted that the terms and conditions were laid down by the Govt. in the G.R. dated 16.10.2012 and this decision was taken to safeguard the interest of the labourers. It is submitted that there is no substance in the application that the deceased applicant No.2 was compelled to withdraw the U.L.P. Complaint. According to the respondents, the deceased applicant No.2 was not entitled for the benefit of the G.R. dated 31.1.1996 and, therefore, second G.R. dated 16.10.2012 was rightly interpreted and service of the deceased applicant No.2 was regularized. According to the respondents, there is no illegality in regularising the services of deceased applicant No.2 in terms of the G.R. dated 16.10.2012, therefore, there is no substance in this application and it is liable to be dismissed.

6. We have perused both the G.Rs. G.R. dated 31.1.1996 is at Annexure A-7, page 49 BD. By this G.R., decision was taken by the Govt. to regularise the services of 8038 Van Majurs who had completed five years continuous service on 1.11.1994 and who had worked in each year for more than 240 days. On perusal of the application, it seems that the deceased applicant No.2 joined service as Van Majur in the year 1990. In para 4.2 of the application, it is mentioned that the deceased applicant No.2 was appointed in service on 12.2.1990. Therefore, it is not possible to accept that the deceased applicant No.2 had completed five years continuous service on 1.11.1994. The Ld. counsel for the applicants submitted that in some years, the deceased applicant No.2 had worked for more than 240 days and, therefore, that period must be considered, but in our opinion it is not permissible to cause any damage to the plain language of the G.R. As per G.R. dated 31.1.1996, the deceased applicant No.2 was bound to fulfil two requirements: First is completion of five years service till 1.11.1994 and second requirement was that he must have worked for 240 and more days in every year. Under these circumstances, as the deceased applicant No.2 was not fulfilling the material requirement in the G.R. dated

31.1.1996, therefore, he was not entitled to regularise w.e.f. 1.11.1994.

7. So far as the contention of the deceased applicant No.2 that the Clauses 1, 2 and 5 in the G.R. dated 16.10.2012 is concerned, we would like to point out that it was a policy decision taken by the Govt. and legal position is settled that the Courts or Tribunals cannot decide the policy which should be followed by the Government. In view of this matter, we do not see any merit in this O.A. Hence, the following order:-

ORDER

- (i) The O.A. stands dismissed.
- (ii) No order as to costs.

(A.D. Karanjkar)
Member (J)

(Shree Bhagwan)
Vice-Chairman

Dt. 30th July 2019
pdg

