

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 605 of 2018**

Nandkishor S/o Sakhrum Sonone, aged 57 years,  
Occ. – Service, R/o. At/ Post : Sakhali (Bk.),  
Tahsil & District : Buldhana.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
through its Secretary,  
Department of Forest,  
Mantralaya, Mumbai- 32.
  
- 2) Deputy Conservator of Forest,  
Buldhana Division Buldhana.

**Respondents**

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**Shri S.U.Bhuyar, Id. Advocate for the applicant.**

**Shri A.M.Ghogre, Id. P.O. for the respondents.**

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**Coram :- Hon'ble Shri Shree Bhagwan,  
Vice-Chairman.**

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**Date of Reserving for Judgment : 16<sup>th</sup> July, 2020.**

**Date of Pronouncement of Judgment : 20<sup>th</sup> July, 2020.**

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**JUDGMENT**

**(Delivered on 20<sup>th</sup> day of July, 2020)**

Heard Shri S.U.Bhuyar, Id. counsel for the applicant and Shri  
A.M.Ghogre, Id. P.O. for the respondents.

2. The applicant Shri Nandkishor Sakhram Sonone was working as a daily wages labour and performing work of Driver from 01.09.1989 in Forest Department. The services of the applicant was terminated w.e.f. 15.05.1990 (reply para no. 3, P.B., Pg. No. 53 & 54). Aggrieved with this termination, the applicant approached to the Labour Court, Akola vide Complaint U.L.P. No.156/1990. The Labour Court passed the Interim order on 13.09.1990 and directed the respondents to reinstate the applicant on usual post on usual terms of the service condition within 15 days from the date of order till final disposal of the case.

3. I have perused the order delivered by Labour Court, Akola, in (U.L.P.) NO. 156/1990 on 13.09.1990 (P.B., Pg. Nos. 60 to 64) On page no. 64 following order has been passed :-

*"The application at Exh.U-2 is allowed as under:-*

*The respondent is hereby directed to reinstate the complainant on his usual post and on usual terms of service condition within 15 days from this order till the final disposal of this case."*

The above said order was complied by the respondent.

4. Again Industrial Court Akola passed order on 28.10.1998

(P.B., Pg. Nos. 65 to 68). On Pg. No. 68 in para no. 3 following order has been passed:-

*"3. The respondents are directed to continue the complainant with continuity of service **but without back wages.**"*

5. The applicant was continued by respondents as per the order of Labour Court, Akola and subsequently applicant was given permanent appointment vide order no. 359 dated 20.01.2012 (Annexure-R-7, P.B., Pg. No. 87) by respondent no. 2.

6. Respondents in their reply in para no. 11 (P.B., Pg. No. 58) have clarified following points:

*"It is pertinent to note that since the year 1998 to 2012, at no point of time the applicant claimed regularization against a sanctioned post nor such entitlement of regularization was granted by any of the court of competent jurisdiction. It is submitted that out of the blue, in the year 2012, the applicant came to be appointed as regular employee, against a sanctioned post and in regular pay scale. The respondent respectfully submits that the appointment of the applicant in the year 2012, in no case can be said to be an appointment in the light of the Judgment of the Hon'ble Labour Court, Akola. The appointment of the applicant to his present post was made without following the due recruitment process and therefore, amounts to back door entry. It is further clarified that, by the interim order in the year 1990, the applicant was reinstated as daily rated labour and was paid his wages accordingly, Therefore, since in the year 2012, the appointment is a fresh appointment, the applicant cannot claim any arrears on the basis of the order passed by the Hon'ble Labour Court, Akola in the year 1998. The order of reinstatement as daily rated labour is of no avail for the applicant to claim his regularization. Moreover, the regularization, in fact a back door entry, cannot be given retrospective effect and the applicant cannot take disadvantage of the wrong*

*committed by the then concerned officer. When the very question of the entry in service is doubtful, the applicant cannot claim arrears by claiming retrospective effect to his alleged regularization. In fact, the arrears of salary as claimed by the applicant is not tenable in accordance with the Judgment delivered by the Hon'ble Labour Court, Akola. It is settle position of law that the Labour Court has no jurisdiction to regularize the daily wager labour. So also the present applicant was filed his case on the ground of termination on 15.05.1990 before the Hon'ble Labour Court, Akola. During the course of litigation the present applicant did not file any case for regularization of his services for the post of Driver before any Court of law. Apart from this, the present applicant had paid wages as per the daily rated labour by the Forest Department. Therefore, the present applicant has no legal right to claim the arrears of salary for the period 28.10.1998 to 14.02.2012 along with 12% interest on the amount whatsoever."*

7. The Id. Counsel for the applicant has relied upon various Hon'ble Supreme Court Judgments:-

**Sabha Shaner Dube Vs. Divisional Fores Officer & Ors. With Civil Appeal Nos. \_ 10957-10963 of 2018 (Arising out of S.L.P. (civil) Nos. 1252-1258 of 2016) & Civil Appeal No. \_ 10964 of 2018 (Arising out of S.L.P. (Civil) No. 11108 of 2016) In Civil Appeal No. 10956 of 2018 (Arising out of S.L.P. (Civil) No. 1045 of 2016).**

8. I have gone through above Judgments relied by Id. Counsel for the applicant and with all due regards, I feel that facts and circumstances in those cases are different than present O.A..

9. In view of reply of the respondents and orders of Industrial Court Akola it appears that there is no injustice to the applicant and at

this stage, I do not find any reason to interfere in this matter. Hence, O.A. requires to be dismissed. Hence, following order:-

**ORDER**

1. The O.A. is dismissed.
2. No order as to costs.

**(Shri Shree Bhagwan)**  
**Vice-Chairman**

aps

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : A.P.Srivastava

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 20/07/2020.

and pronounced on

Uploaded on : 20/07/2020.