

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 619/2023 (S.B.)

Shri Bharat Viswanath Mankar,
Aged about 55 years, Occupation : Service,
R/o Near Mata Mandir, Tadoba Andhari,
Vyagrhra Prakalp, Mul Road,
Chandrapur - 442 401.

Applicant.

Versus

- 1) The Secretary, Forest,
State of Maharashtra,
Through The Ministry of Forest,
Mantralaya, Mumbai- 400 032.
- 2) Additional Principal Chief Conservator,
of Forest (Administration),
State of Maharashtra, Nagpur.
- 3) Chief Conservator of Forest and Field Director,
Tadoba Andhari,
Tiger Reserve,
Dist. Chandrapur - 442 401.

Respondents

Shri M.K.Mishra, Id. Advocate for the applicant.

Shri S.A.Sainis, Id. P.O. for the respondents.

Coram :- Hon'ble Shri M.A.Lovekar, Member (J).

JUDGMENT

Judgment is reserved on 05th Jan., 2024.

Judgment is pronounced on 23rd Feb., 2024.

Heard Shri M.K.Mishra, ld. counsel for the applicant and Shri S.A.Sainis, ld. P.O. for the Respondents.

2. The applicant was appointed as Van Mazdoor. Details of his working days for first five years are as follows:-

01.11.1989 to 31.10.1990	01.11.1990 to 31.10.1991	01.11.1991 to 31.10.1992	01.11.1992 to 31.10.1993	01.11.1993 to 31.10.1994
290	349	333	362	363

He claims benefits of regularization as per G.R. dated 31.09.1996 (A-7) which *inter alia* stipulates:-

पाच वर्षांच्या सलग सेवेचा कालावधीची गणना करताना वन विभागातील योजनांतर्गत / योजनेत्तर योजनेवर रोजंदारी मजूरांनी प्रत्येक वर्षात कमीत कमी 240 दिवस काम केलेले असावे. याकरीता पाच वर्षांचा कालावधी मोजताना रोजगार हमी योजना किंवा रोजगार हमी देणाऱ्या तत्सम योजनेवर केलेल्या कामाचे दिवस विचारात घेण्यास येऊ नयेत.

According to him, similarly placed persons were extended benefits of such regularization. Instead services of the applicant were regularized as per G.R. dated 16.10.2012 (A-6) by order dated 07.11.2012 (A-1) w.e.f. 01.06.2012. This order stated that he had

completed continuous service of five years on 30.06.2004. Hence, this Original Application.

3. Stand of the respondents is that the applicant was working with them from 15.01.1990, thus, on 01.11.1994 he had not completed five years and hence he was not entitled to regularization as per G.R. dated 31.01.1996.

4. The applicant has *inter alia* relied on the judgment of this Bench dated 24.08.2023 in O.A. No. 309/2018. In the said case details of services rendered by the applicant (in the said case) during first five years were as follows:-

अ.क्र.	कालावधी		कोठे कार्यरत होते	वर्षनिहाय दिवस	शेरा
9	01.11.89 30.09.90	ते	01.01.90 ते 30.09.90 मुरबाड परिक्षेत्र ठाणे वनविभाग	240 दिवस	प्रमाणपत्र आहे
10	01.10.90 31.03.91	ते	वैद्यकीय कारणास्तव रजेवर	-	-
11	01.04.91 31.10.91	ते	01.04.91 ते 31.05.91, 20.07.91 ते 31.10.91 मध्य चांदा	161 दिवस	प्रमाणपत्र आहे
12	01.11.91 31.10.92	ते	01.11.91 ते 31.10.92 मध्य चांदा	240 दिवस	प्रमाणपत्र आहे
13	01.11.92 31.10.93	ते	पूर्ण कालावधी मध्य चांदा	240 दिवस	प्रमाणपत्र आहे
14	01.11.93 31.10.94	ते	पूर्ण कालावधी मध्य चांदा	240 दिवस	प्रमाणपत्र आहे

So far as deficiency in working days was concerned, it was observed:-

First contention raised by the applicant as above merits consideration. The applicant's attendance, during one year from the block of five years fell short because he had availed medical leave. It is not the case of the respondents that the applicant had remained absent without authorization. Viewed from this angle proposal made by respondents 4 & 3 to extend benefit of G.R. dated 31.01.1996 to the applicant was justified. View taken by respondents 2 & 1 to the contrary was hypertechnical and iniquitous, therefore, the impugned order deserves to be quashed and set aside.

Case of the applicant stands on a better footing since, there was no such deficiency in working days.

While allowing O.A. No. 309/2018 reliance was placed on:-

“A. Judgment of Principal Bench of M.A.T. in O.A. No. 263 of 2019 dated 30.09.2021 (Shri Dhondiram Vithoba Kodag Vs. State of Maharashtra & Another).

B. Judgment of Principal Bench of M.A.T. in O.A. Nos. 762 to 766 of 2017 with O.A. Nos. 1012 & 1013 of 2016 dated 08.11.2019 (Shri Subhash Sitaram Shete Vs. State of Maharashtra & 2 Ors).

C. Judgment of Hon'ble Bombay High Court in W.P. No. 7458 of 2010 dated 19.07.2011 (Shri Devidas Bhiku Borker & 2 Ors. Vs. State of Maharashtra & Another).

D. Judgment of Hon'ble Bombay High Court in W.P. No. 3690 of 2005 dated 19.12.2006 (Shri Anant S. Tambde & 7 Ors. Vs. State of Maharashtra & 3 Ors)."

It was then held:-

*In view of factual and legal position crystallised as above the O.A. is allowed in the following terms. The impugned orders dated 22.11.2017 and 24.11.2017 (A-14 and A-15) are quashed and set aside and it is held that the applicant is entitled to get his services regularized w.e.f. 01.11.1994 as per G.R. dated 31.01.1996. The respondents are directed to count previous service of the applicant for the purpose of pension and accordingly pensionary benefits be released **within three months from today**. No order as to costs.*

5. In view of aforestated factual and legal position, **the O.A. is allowed.** The applicant is held entitled to regularization w.e.f. 01.11.1994 as per G.R. dated 31.01.1996, and consequential benefits. Arrears of consequential benefits shall be paid within three months from today. No order as to costs.

Member (J)

Dated :- 23/02/2024

aps

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

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 23/02/2024
and pronounced on

Uploaded on : 26/02/2024