

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 877 / 2017 (S.B.)**

Mordhwaj S/o Asaram Shimpolkar,  
Age : 48 yrs.,  
R/o Range Forest Office, Wadsa,  
Dist. Gadchiroli.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
Through its Chief Secretary,  
Department of Revenue & Forests,  
Mantralaya, Mumbai- 32,
- 2) The Principal Chief Conservator of Forests,  
Van Bhavan (M.S.),  
Civil Lines, Nagpur.
- 3) The Dy. Conservator of Forest,  
Divisional Forest Office, Wadsa,  
Dist. Gadchiroli.
- 4) The Range Forest Officer,  
Wadsa, Dist. Gadchiroli.

**Respondents**

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**Shri N.R.Saboo, the Id. Advocate for the applicant.**

**Shri P.N.Warjekar, the Id. P.O. for the Respondents.**

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**ORIGINAL APPLICATION NO. 880 / 2017 (S.B.)**

Gokuldas Shivram Khobragade,  
Aged : 59 yrs., R/o Bramhapuri,  
Dist. Chandrapur.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
Through its Chief Secretary,  
Department of Revenue & Forests,  
Mantralaya, Mumbai- 32,
- 2) The Principal Chief Conservator of Forests,  
Van Bhavan (M.S.),  
Civil Lines, Nagpur.
- 3) The Dy. Conservator of Forest,  
Divisional Forest Office, Bramhapuri,  
Dist. Chandrapur.
- 4) The Range Forest Officer,  
South Bramhapuri, Dist. Chandrapur.

**Respondents**

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**Shri N.R.Saboo, the Id. Advocate for the applicant.**

**Shri P.N.Warjekar, the Id. P.O. for the Respondents.**

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**ORIGINAL APPLICATION NO. 107 / 2018 (S.B.)**

- 1) Sambhu S/o Shripad Madavi,  
Aged about 48 yrs., Occu.  
R/o Mul, Dist. Chandrapur.
- 2) Patru S/o Tanu Kinake,  
Aged about 54 yrs., Occu. Vanmajdoor,  
R/o Mul, Dist. Chandrapur.
- 3) Suresh S/o Maroti Thakre,  
Aged about 51 yrs., Occu. Vanmajdoor,  
R/o Mul, Dist. Chandrapur.
- 4) Murlidhar S/o Dadaji Mohurle,  
Aged about 47 yrs., Occu. Vanmajdoor,  
R/o Mul, Dist. Chandrapur.
- 5) Ravikishor S/o Gulab Khobragade,  
Aged about 50 yrs., Occu. Vanmajdoor,  
R/o Mul, Dist. Chandrapur.

6) Giridhar S/o Namdeo Nagose,  
Aged about 49 yrs., Occu. Vanmajdoor,  
R/o Mul, Dist. Chandrapur.

7) Dhondu S/o Bhikaji Kulmethe,  
Aged about 62 yrs., Occu. Vanmajdoor,  
R/o Mul, Dist. Chandrapur.

8) Rafik S/o Mustaq Sheikh,  
Aged about 58 yrs., Occu. Vanmajdoor,  
R/o Chichpalli, Dist. Chandrapur.

9) Manohar S/o Sonba Soyam,  
Aged about 46 yrs., Occu. Vanmajdoor,  
R/o Chichpalli, Dist. Chandrapur.

10) Bhaiyyaji S/o Kanhu Maradkar,  
Aged about 48 yrs., Occu. Vanmajdoor,  
R/o Chichpalli, Dist. Chandrapur.

11) Purushottam S/o Rajeshwar Wadhai,  
Aged about 54 yrs., Occu. Vanmajdoor,  
R/o Chichpalli, Dist. Chandrapur.

12) Bundha S/o Lalaji Gandekar,  
Aged about 53 yrs., Occu. Vanmajdoor,  
R/o Chichpalli, Dist. Chandrapur.

**Applicants.**

**Versus**

- 1) The State of Maharashtra,  
Through its Chief Secretary (Forest),  
Department of Revenue & Forests,  
Mantralaya, Mumbai- 440001.
- 2) The Principal Chief Conservator of Forests (Head of Forest Force),  
Van Bhavan (M.S.),  
Civil Lines, Nagpur.
- 3) The Dy. Conservator of Forests,  
Divisional Forest Office, Chandrapur Forest Division,  
Tah. Chandrapur, Dist. Chandrapur.

- 4) The Range Forest Officer,  
Mul, Dist. Chandrapur.
- 5) The Range Forest Officer,  
Chichapalli, Tah. Chandrapur,  
Dist. Chandrapur.

**Respondents**

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**Shri M.R.Joharapurkar, the Id. Advocate for the applicant.**

**Shri P.N.Warjekar, the Id. P.O. for the Respondents.**

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**ORIGINAL APPLICATION NO. 108 / 2018 (S.B.)**

- 1) Gangadhar S/o Chirkuta Ingole,  
Aged about 58 yrs., Occu. Vanmajdoor,  
R/o Range Office, Dist. Sindewahi.
- 2) Bhimrao S/o Mahadeorao Jagazape,  
Aged about 61 yrs., Occu. Vanmajdoor,  
R/o Range Office, South Bramhapuri.
- 3) Umaji S/o Murhari Bagmare,  
Aged about 57 yrs., Occu. Vanmajdoor,  
R/o Range Office, North Bramhapuri.
- 4) Madhukar S/o Baliram Tupat,  
Aged about 51 yrs., Occu. Vanmajdoor,  
R/o Range Office, North Bramhapuri.

**Applicants.**

**Versus**

- 1) The State of Maharashtra,  
Through its Chief Secretary (Forest),  
Department of Revenue & Forests,  
Mantralaya, Mumbai- 440001,
- 2) The Principal Chief Conservator of Forests (Head of Forest Force),  
Van Bhavan (M.S.),  
Civil Lines, Nagpur.

- 3) The Dy. Conservator of Forest,  
Divisional Forest Office, Bramhapuri Forest Division,  
Tah. Bramhapuri, Dist. Chandrapur.
- 4) The Range Forest Officer,  
North Bramhapuri Range Office,  
Tah. Bramhapuri, Dist. Chandrapur.
- 5) The Range Forest Officer, Shindewahi, All of RFO,  
Tah. Sindewahi, Dist. Chandrapur.
- 6) The Range Forest Officer, Sawali,  
Tah. Sawali, Dist. Chandrapur.

**Respondents**

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**Shri M.R.Joharapurkar, the Id. Advocate for the applicant.**

**Shri P.N.Warjekar, the Id. P.O. for the Respondents.**

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

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**JUDGMENT**

**Judgment is reserved on 16<sup>th</sup> Dec., 2019.**

**Judgment is pronounced on 03<sup>rd</sup> January, 2020.**

Heard Shri N.R.Saboo and Shri M.R.Joharapurkar, Id. counsel for the applicants and Shri P.N.Warjekar, Id. P.O. for the respondents.

2. The applicant in O.A. No. 877/2017 is working as Van Majoor with Range Forest Officer, Wadsa, District Gadchiroli, Forest Department since 01.07.1992 continuously is entitled for regular absorption in Forest Department. Despite having worked for more than 25 years, applicant is deprived of his claim for regularization. This Tribunal vide order dated

14.02.2017 disposed earlier O.A. No. 616/13 filed by applicant with a direction to the respondents to reconsider the case of the applicant for regularization as Forest Labour in accordance with the GR dated 16.10.2012 by keeping in mind the observation as stated in the O.A.. By impugned communication dated 22.03.2017 issued by Deputy Conservator of Forest, Vadsa, claim of applicant for regularisation as per the G.R. dated 16.10.2.012 is rejected.

3. The applicant in O.A. No. 880/2017 is working as Van Majoor with Range Forest Officer, South Brahmपुरi Range, District Chandrapur, Forest Department since 16.01.1994 continuously is entitled for regular absorption in Forest Department. Despite having worked for more than 30 years, applicant is deprived of his claim for regularization. This Tribunal vide order dated 14.02.2017 disposed earlier OA 614/13 filed by applicant with a direction to the respondents to reconsider the case of the applicant for regularization as Forest Labour in accordance with the GR dated 16.10.2012 by keeping in mind the observation as stated in the O.A.. By impugned communication dated 22.03.2017 issued by Deputy Conservator of Forest, Bramhapuri, claim of applicant for regular absorption is rejected.

4. The applicants in O.A. No. 107/2018 were working as Van Majoor with the Range Forest Officer, Mul, District Chandrapur, Forest Department. They are entitled for regular absorption in Forest

Department. Despite having worked, applicants are deprived of his claim for regularization. This Tribunal vide order dated 14.02.2017 disposed earlier O.A. No. 615/13 filed by applicants with a direction to the respondents to reconsider the case of the applicant for regularization as Forest Labour in accordance with the GR dated 16.10.2012 by keeping in mind the observation as stated in the O.A.. By impugned communication dated 22.03.2017 issued by Deputy Conservator of Forest, Chandrapur, claimed of applicants for regular absorption is rejected.

5. The applicant no. 1 in O.A. No. 108/2018 was working as Van Majoor with the Range Forest Officer, Sindewahi, The applicant no. 2 in O.A. No. 108/2018 was working as Van Majoor with the Range Forest Officer, South Brahmapuri Range, The applicant nos. 3 & 4 in O.A. No. 108/2018 were working as Van Majoor with the Range Forest Officer, North Brahmapuri, Forest Department. They are entitled for regular absorption in Forest Department. Despite having worked, applicant are deprived of his claim for regularization. This Tribunal vide order dated 14.02.2017 disposed earlier O.A. NO. 614/13 filed by applicant with a direction to the respondents to reconsider the case of the applicant for regularization as Forest Labourers in accordance with the GR dated 16.10.2012 by keeping in mind the observation as stated in the O.A.. By impugned communication dated 22.03.2017 issued by Deputy

Conservator of Forest, Bramhapuri, claim of applicant for regular absorption is rejected.

6. As submitted by Id. P.O. in his reply the para nos. 3, 8 & 15 are below:-

3. *It is submitted that, the Applicant initially approached before this Hon'ble Tribunal vide O.A.No.616/2013 with his Union as Applicant No.1. It is false hence denied that in the said O.A., the Applicant sought direction to Respondents to regularize his services along with other similarly situated Forest Worker. It is submitted that, this Hon'ble Tribunal vide order dt.14.2.2017 disposed the O.A. with a direction to the Respondents to reconsider the case of the Applicant for regularization as Forest Labour in accordance with the G.R. dt.16.10.2012 by keeping in mind the observation as stated in the O.A. A copy of order dt.14.02.2017 is annexed herewith as **Annexure R-1**.*

8. *It is not disputed that, for engagement of employment under EGS, mandatory procedure laid down in Maharashtra Employment Guarantee Scheme Act, 1977 is required. As per Section-7 of the said Act, the State Government shall prepare scheme for provision employment to adult residing in the rural areas who volunteers through its skill manual work for the purpose of giving effect to the employment guarantee mentioned in Section-3 of the said Act. As per Sub-Cluse-3, however, Collector shall be asked to prepare master plan of the work taken up in the District. The worker who want to do the work have to register their name at the headquarter of the Gram Sevak or Talathi as the State Government may specify within whose the jurisdiction the village where the persons residence is situated . It is under this scheme the concerned Tahsildar has to refer the list of workers in Form No.7 to the concerned Department (Forest). Thus, it is apparent that Department cannot engage the workers under EGS directly but there is a special procedure as provided under the Act to engage the workers. It is not disputed that, the name of the Applicant was not registered in the office of Talathi or Tahsildar and was never referred in the Respondent Forest Department. It is submitted that, at the time when the Applicant was working under the EGS Scheme, this particular system was not developed, only the labours in the small villages used to gather, and on the demand the Forest Department used to provide work to them from the funds given by the Collector. However in recent times the Government in order to implement the system of online payment, developed the system as per the Act and also guidelines. Hence it is submitted that, when the Applicant was employed under the EGS by the Respondents, the said system was not followed by the Department. However, there is no hesitation to say that, the Applicant worked under EGS, since he had drawn the wages as per the rates of EGS only, and the details of days worked under the*



EGS was submitted to this Hon'ble Tribunal while submitting reply to the Application No.252/2017 in Contempt Petition (Civil) St.No.77/2016 in Original Application No.360/2014. It is false hence denied that even perusal of the information given by the Respondent Department, from the year 2015 it is apparent that the Respondent Department admitted that record pertaining to work as EGS of Applicant is not available with them. It is submitted that, the details of his working are maintained in the list of workers in which the details of scheme under the workers have worked.

15. The said Committee was held on 21.3.2017 and it considered the eligibility of the present Applicant Shri Mordhwaj Asaram Shimpolkar for regularization as per the G.R. dt.16.10.2012. The said Committee while examining the eligibility considered all the objects such as the number of worked days, and the scheme under he worked within the period of 1.11.1994 to 31.10.2004. The details observed and the days of work were noted as follows:-

Period of Work.	Total Days.	Plan/Non-Plan.	EGS.
1.11.1994 to 31.10.1995	358	0	120
1.11.1995 to 31.10.1996	356	0	356
1.11.1996 to 31.10.1997	350	203	147
1.11.1997 to 31.10.1998	356	319	37
1.11.1998 to 31.10.1999	356	267	89
1.11.1999 to 31.10.2000	356	28	328
1.11.2000 to 31.10.2001	363	0	363
1.11.2001 to 31.10.2002	354	0	354
1.11.2002 to 31.10.2003	323	0	323
1.11.2003 to 31.10.2004	204	0	204

With the above paras, respondents have justified condition mentioned in para no. 2 (P.B., Pg. No. 27) which is as follows of G.R. dated 16.10.2012:-

2- ikp o"kkp;k lyx l oB;k dkyko/khph x.kuk djrkuk ou foHkxkrhy ; kstukvaxi@; kstubrj ; kstusj jkstnkjh etjkuh iR; d o"kkR 240 fnol dke dsys vl kos ; kdjhrk 5 o"kkpk dkyko/kh ekst rkuk jkst xkj geh ; kst uk fdok jkst xkj geh nskk& ; k rRl e ; kstusj dsys ; k dkekpsfnol fopkjr ?ka ; kr ; omu ; r-

In view of the above conditions mentioned in the G.R. dated 16.10.2012, respondents have rejected the claim of regularization of the applicant.

7. Respondents have submitted that applicants were appointed under Employment Guarantee Scheme during certain period and in view of that they are not entitled for the benefits regularization. The Id. counsel for the applicant has placed on record provisions of E.G.S. and he has mainly relied upon Section 7 of the said Act which is reproduced below:-

*7. Provision of employment:- The samiti officer shall consider each letter asking for employment received by him or forwarded to him by the registering authorities and shall after satisfying himself that the applicant is registered for employment direct him immediately by a letter in form no. 7 to a work sanctioned under the scheme within the panchayat samiti area and if it is not possible to direct him to any work within the panchayat samiti area, to a work in any other panchayat samiti area within the same District. A copy of the same letter should be forwarded to the implementing officer-in-charge of the work, also. The implementing officer or his representative shall absorb the person on the above work if he presents himself for the work within 7 days of the receipt of the letter issued by the samiti officer. If, owing to reasons beyond his control, the implementing officer or his representative finds it impossible to absorb the person on the work, he shall record the same with reasons thereof on the copy of the letter brought by the person and shall inform the samiti officer separately. On receipt of this intimation from the implementing officer, the samiti officer shall immediately direct the person by a letter in the same form (form no. 7) to some other work.*

8. As submitted by Id. counsel for the applicant, no documents were produced by respondents either on record or under R.T.I. to show that

applicants were working under E.G.S. during said period as claimed by them.

9. The Id. counsel for the applicant has further placed on record Hon'ble Apex Court Judgment i.e. **Executive Engineer, Irrigation Division, Gondia and Ors. Vs. Anandrao Ramchandra Khobragade in w.p. no. 1586 of 1991** decided on November 13, 2003, where it is mentioned in the order as below:-

*"2.The Petitioners who are officers of the Irrigation Department have by this petition under Articles 226 and 227 of Constitution of India challenged challenged by the order dated 29.12.1990 by which the Id. Labour Court Bhandara has set aside the termination of the respondent dated 01.07.1986 and granted him reinstatement on payment of 15% of back wages. Before the Labour Court, the respondent was engaged by the petitioners in the Irrigation Department from 11.07.1980 to 30.06.1986. He was terminated with effect from 01.07.1986. For some time the respondent was engaged on regular muster roll of the department and for some time under the E.G.S. Having been terminated without compliance of Section 25-F of the Industrial Disputes Act, 1947, i.e. without having been given a notice and retrenchment compensation as contemplated by that section and in contravention of Section 25-G, since his juniors were retained, he raised an industrial dispute. It seems that conciliation having failed, the disputes was referred under Section 10 (1) read with section 12 of Industrial Disputes Act to the Labour Court. There appears to have been no dispute before the Labour Court whether the Irrigation Department is an industry.*

*6.It is clear from the aforesaid provisions that Sections 25-F and 25-G prescribe conditions precedent to retrenchment, where the workman has been in continuous service for a period of one year under the employer. Therefore, if the workman has been employed in service for not less than a year as contemplated by these provisions, he*

*cannot be retrenched without compliance of these provisions. The legislative scheme of the Industrial Disputes Act does not require that the wages received by the workman would have been from the same source while he was working under an employer for the purpose of reckoning continuous service. "*

This decision is not related to the O.A. in hand.

10. The Id. counsel for the applicant has further relied upon the decision of M.A.T., Nagpur Bench in O.A.Nos.614, 615 & 616 of 2013 decided on 14/02/2017 where in para no. 7 it has been mentioned that reconsidered the case of applicant in regularization as Forest labourers in accordance with the G.R. dated 16/10/2012 from the Revenue and Forest Department, which is reproduced below:-

*"For the foregoing, these O.As. are disposed of with a direction to the respondents to act in accordance herewith and to reconsider the case of the applicants for regularization as Forest Labourers in accordance with the G.R. of 16.10.2012 from Revenue and Forest Department bearing always in mind the observation here in above."*

11. However, reliance is placed by the Id. P.O. in the case of **Manik Guglaji Zine & Ors. Vs. Director of Social Forestry, Maharashtra State, Pune and Ors. in 2002 (2) Mh.L.J., 61, which is reproduced below:-**

*"The Government Resolution, dated 19<sup>th</sup> Oct, 1996 made a beneficial provision for certain daily-rated labourers working under the Director of Social Forestry, Maharashtra State. The Government Resolution stated that those daily rated workmen who had completed five years continuous service on 1<sup>st</sup> Nov., 1994, will be eligible to be regularized on some 1,164 supernumerary posts, which were created by the State. Clause (1) of the said Government Resolution stated that while calculating this period of*

*five years, the period put in by the employees on employment guarantee scheme or similar schemes guaranteeing employment will not be considered. The impugned resolution of 19/10/1996 conferred permanency on those employees who have put in continuous service of five years under respondent no. 1, the Director of Social Forestry. The resolution states that the work put in under the Departmental schemes or projects other than the employment guarantee scheme is to be considered. It specifically excludes the period put in under the employment guarantee scheme or such schemes when allotted to respondent no. 1. The idea is to confer the benefit only on those who have put in specified period in the departmental schemes or other projects taken by department. The work for the period of five years by the employees would indicate the requirement of the department over a sufficiently long period wherein the employees have worked continuously. The Government wanted to regularize them on the basis of this continuity. In that it does not want to include the period for which these persons have put in work for employment guarantee schemes. The purpose of those schemes is different and the funds are from a source other than of the department. If that period is excluded while assessing the continued requirement for the departmental work, no fault can be found in that restricting the conferment of permanency on only those engaged in departmental scheme or projects undertaken by department (other than employment guarantee scheme) cannot amount to discrimination or unjustified classification."*

12. The Id. P.O. has also relied upon the Hon'ble High Court Judgment in **Shirshal S/o Rajendra Potdukhe and Ors. Vs. State of Maharashtra & Ors., 2016 (6) Mh.L.J., 346** in which following observations have been made:-

*"(a) Regularization – Regularization in service - Claim for - appointment of petitioners was under scheme on temporary basis for eleven months – Petitioners had never challenged their appointment for eleven months – Merely because employees have worked in casual and temporary basis for certain*

*number of years does not entitle them to be regularise in service- petitioners not entitled for grant of relief of regularization. "*

13. The Id. Counsel for the applicant has further relied upon the decision of M.A.T., Nagpur Bench in O.A. No.614/2013 decided on 14/02/2017 were in para no. 7. It has been mentioned that reconsidered the case of applicant in regularization as forest labourers in accordance with the G.R. dated 16/10/2012 from the Revenue and Forest Department.

14. In view of discussions in foregoing paras, I pass the order:-

**ORDER**

1. All these O.As. are disposed of with a direction to the respondents to act in accordance herewith and to reconsider the case of the applicants for regularization as Forest Labourers in accordance with the G.R. of 16.10.2012 from Revenue and Forest Department within a period of four months from the date of this order by giving personal hearing to the applicants and showing them the relevant records.
2. No order as to costs.

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

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 Vice Chairman.

Judgment signed on : 03/01/2020.  
and pronounced on

Uploaded on : 04/01/2020.