

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**  
**BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 437 OF 2012**

DIST. : NANDED

Shivshankar s/o Tukaram Munde,  
Age. 25 years, Occu. : Education,  
R/o Islapur, Tq. Kinwat,  
Dist. Nanded.

-- APPLICANT

**V E R S U S**

1. The Director of Social Forestry,  
Maharashtra State,  
Central Building, Station Road,  
Pune.
2. The Joint Director of Social Forestry,  
Labour Square, N-4, CIDCO,  
Aurangabad.
3. The Deputy Director of Social Forestry,  
Visawa Nagar, Nanded, Dist. Nanded.
4. The Range Officer,  
Social Forestry, Range Kinwat,  
Tq. Kinwat, Dist. Nanded. --

RESPONDENTS

-----  
APPEARANCE :- Shri G.J. Karne, learned Advocate for the  
applicant.

: Smt. Deepali S. Deshpande, learned  
Presenting Officer for the respondents.

-----  
**CORAM** : **Hon'ble Shri Justice M.T. Joshi,**  
**Vice Chairman**

**DATE** : **26<sup>th</sup> April, 2017**  
-----

**ORDER**

1. Heard Shri G.J. Karne, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. By filing the present original application the applicant is seeking quashment and setting aside the order dated 2.4.2012 passed by the res. no. 3 – the Deputy Director of Social Forestry, Nanded – where under the application of the present applicant for appointment on compassionate ground was rejected.

The reason forwarded by the res. no. 3 in this regard was that father of the applicant late Tukaram Maroti Munde was merely a daily wage labourer working with the respondents. Said Tumaram died on 2.11.2010. According to the res. no. 3, as the deceased was working as daily wage labourer and not on regular appointment, as per rules, no compassionate appointment can be made upon death of such daily wage labourer.

3. The facts, however, cannot be denied that in complaint U.L.P. no. 200/1994 and the group of other complaints (paper book page 24 of the O.A.) the Member of the Industrial Court, Jalna vide order dated 10.4.1995 directed that all the daily

wage labourers working with the res. no. 3 shall be regularized and keeping them on daily wages would be unfair labour practice. The matter was persuaded by the respondents therein up to Hon'ble Bombay High Court, Bench at Aurangabad in the form of writ petition bearing no. 820/2011 (paper book page 100) and Hon'ble High Court vide its order dated 7.7.2014 refused to interfere in the order passed by the Industrial Court, Jalna.

4. The G.R. no. २०१०/प्र.क.७/क-९, dated 16.10.2012 would also show that the State of Maharashtra had taken a decision to regularize the services of the daily wage labourers of the Forest Corporation, who were working since 31.1.1996. The complaints filed before the Industrial Court are of the year 1994-95 and as such it would appear that the G.R. dated 16.10.2012 would be applicable to the complainants' organization therein or the members thereof.

5. The learned Advocate for the applicant submits that in view of the order dated 7.7.2014 of the Hon'ble High Court in the said writ petition 820/2011 all the daily wage labourers have become regular employees with the res. no. 3 and, therefore, the impugned decision of the res. no. 3 that since the deceased father of the present applicant was working merely on daily wage basis does not stand. The said impugned order was passed by the

res. no. 3 on 2.4.2012 on the basis of the stay granted by the Hon'ble High Court in the above referred writ petition to the execution and implementation of the order of Industrial Court, Jalna. However, thereafter the said writ petition came to be dismissed and in view of the said fact the impugned order cannot stand.

6. The impugned order was passed by the res. no. 3 on 2.4.2012 as at that particular point of time the writ petition against the order of Industrial Court, Jalna was pending and stay was granted by the Hon'ble High Court to the execution and implementation of the order of Industrial Court, Jalna was in force and, therefore, applicant could not have been appointed on compassionate ground since decision regarding the status of the services of the deceased father was yet to be decided by the Hon'ble High Court. Further in view of the stay granted to the order of Industrial Court the status of the deceased father of the applicant continued to be as that of daily wage labourer. However, in view of supervening circumstances the respondents should have reviewed their earlier order. In the circumstances, I pass following order :-

(A) The original application is allowed without any order as to costs and the impugned order dated 2.4.2012 issued by the res. no. 3 is hereby quashed and set aside.

(B) The respondents and particularly the res. no. 3 is directed to consider afresh the application of the applicant for appointment on compassionate ground in view of the circumstance that has arisen after passing of the impugned order dated 2.4.2012 like decision of the Hon'ble High Court. The said decision shall be taken by the concerned respondents within a period of 4 weeks from the date of this order.

**VICE CHAIRMAN**

ARJ-O.A. NO. 437-2012 JUS. MT JOSHI (COM. APPOINTMENT)