

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

**COMMON ORDER IN O.A. NOS. 740, 741, 742, 743, 745, 746 ALL
OF 2019, O.A. NO. 1/2021 AND O.A. NO. 45/2021**

1. ORIGINAL APPLICATION No. 740/2019

District : Hingoli

Natharao s/o. Ramrao Hodbe,
Age 50 years, Occu. : At present Nil,
R/o. At Tandulwadi, Tq. Sengaoon,
Dist. Hingoli. --

Applicant

VERSUS

- 1) The State of Maharashtra,
Through Principal Secretary,
Department of Forest,
Government of Maharashtra,
Mantralaya, Mumbai.
- 2) Additional Principal Chief Conservator
of Forest (Administration Subordinate Cadre),
Vanbhavan, Nagpur.
- 3) Conservator of Forest,
Aurangabad Division,
Station Road,
Aurangabad.
- 4) Divisional Forest Officer,
Parbhani Division,
Karegaon Road,
Parbhani.
- 5) Range Forest Officer,
(Territorial), Jintur,
Dist. Parbhani. --

Respondents

WITH

(2) ORIGINAL APPLICATION No. 741/2019

District : Hingoli

Ankush s/o. Lalsing Jadhav,
Age 41 years, Occu. : At present Nil,
R/o. At Limbala, Tq. Sengaon,
Dist. Hingoli. --

Applicant

VERSUS

- 1) The State of Maharashtra,
Through Principal Secretary,
Department of Forest,
Government of Maharashtra,
Mantralaya, Mumbai.
- 2) Additional Principal Chief Conservator
of Forest (Administration Subordinate Cadre),
Vanbhavan, Nagpur.
- 3) Conservator of Forest,
Aurangabad Division,
Station Road,
Aurangabad.
- 4) Divisional Forest Officer,
Parbhani Division,
Karegaon Road,
Parbhani.
- 5) Range Forest Officer,
(Territorial), Jintur,
Dist. Parbhani. --

Respondents

WITH

(3) ORIGINAL APPLICATION No. 742/2019

District : Hingoli

Mohan s/o. Fakira Jadhav,
Age 55 years, Occu. : At present Nil,
R/o. At Limbala, Tq. Sengaon,
Dist. Hingoli. --

Applicant

VERSUS

- 1) The State of Maharashtra,
Through Principal Secretary,
Department of Forest,
Government of Maharashtra,
Mantralaya, Mumbai.
- 2) Additional Principal Chief Conservator
of Forest (Administration Subordinate Cadre),
Vanbhavan, Nagpur.
- 3) Conservator of Forest,
Aurangabad Division,
Station Road,
Aurangabad.
- 4) Divisional Forest Officer,
Parbhani Division,
Karegaon Road,
Parbhani.
- 5) Range Forest Officer,
(Territorial), Jintur,
Dist. Parbhani. -- **Respondents**

WITH**(4) ORIGINAL APPLICATION No. 743/2019**

District : Parbhani

Mubsaroddin s/o. Shabbiroddin Siddiqui,
Age 50 years, Occu. : At present Nil,
R/o. At Bhogaon, Tq. Jintur,
Dist. Parbhani. --

ApplicantVERSUS

- 1) The State of Maharashtra,
Through Principal Secretary,
Department of Forest,
Government of Maharashtra,
Mantralaya, Mumbai.
- 2) Additional Principal Chief Conservator
of Forest (Administration Subordinate Cadre),
Vanbhavan, Nagpur.

3) Conservator of Forest,
Aurangabad Division,
Station Road,
Aurangabad.

4) Divisional Forest Officer,
Parbhani Division,
Karegaon Road,
Parbhani.

5) Range Forest Officer,
(Territorial), Jintur,
Dist. Parbhani. --

Respondents

WITH

(5) **ORIGINAL APPLICATION No. 745/2018**

District : Hingoli

Kishor s/o. Uddhavrao Bhusari,
Age 51 years, Occu. : Daily Wage Employee,
R/o. Forest Colony, Shivaji Nagar,
Hingoli, Tq. & Dist. Hingoli. --

Applicant

VERSUS

1) The State of Maharashtra,
Through Principal Secretary,
Department of Forest,
Government of Maharashtra,
Mantralaya, Mumbai.

2) Additional Principal Chief Conservator
of Forest (Administration Subordinate Cadre),
Vanbhavan, Nagpur.

3) Conservator of Forest,
Aurangabad Division,
Station Road,
Aurangabad.

4) Dy. Conservator of Forest,
Parbhani Division,
Karegaon Road,
Parbhani.

- 5) Range Forest Officer,
MAP, Hingoli,
Dist. Hingoli. -- **Respondents**

WITH

(6) ORIGINAL APPLICATION No. 746 2018

District : Hingoli

Vilas s/o. Waghoji Chavhan,
Age 52 years, Occu. : Daily Wage Employee,
R/o. At Galandi, Post Aundha,
Tq. Aundha, Dist. Hingoli. --

Applicant

VERSUS

- 1) The State of Maharashtra,
Through Principal Secretary,
Department of Forest,
Government of Maharashtra,
Mantralaya, Mumbai.
- 2) Additional Principal Chief Conservator
of Forest (Administration Subordinate Cadre),
Vanbhavan, Nagpur.
- 3) Conservator of Forest,
Aurangabad Division,
Station Road,
Aurangabad.
- 4) Dy. Conservator of Forest,
Parbhani Division,
Karegaon Road,
Parbhani.
- 5) Range Forest Officer,
MAP, Hingoli,
Dist. Hingoli. -- **Respondents**

*WITH***(7) ORIGINAL APPLICATION No. 1/2021**

District : Hiingoli

Prasad s/o. Satwarao Bhise,
Age 43 years, Occu. : At presenet Nil,
R/o. At Post Ghoda, Tq. Kalamnuri,
Dist. Hingoli. --

ApplicantVERSUS

- 1) The State of Maharashtra,
Through Principal Secretary,
Department of Forest,
Government of Maharashtra,
Mantralaya, Mumbai.
- 2) Additional Principal Chief Conservator
of Forest (Administration Subordinate Cadre),
Vanbhavan, Nagpur.
- 3) Conservator of Forest,
Aurangabad Division,
Station Road,
Aurangabad.
- 4) Divisional Forest Officer,
Parbhani Division,
Karegaon Road,
Parbhani.
- 5) Range Forest Officer,
(Territorial), Jintur,
Dist. Parbhani. --

Respondents*WITH***(8) ORIGINAL APPLICATION No. 45/2021**

District : Parbhani

Akhilujjamakha Shafiujjamakha Pathan
Age 60 years, Occu. : At presenet Nil,
R/o. C/o. Moin Kirana Stores,
Nanalpeth, Parbhani,
Tq. & Dist, Parbhani. --

Applicant

V E R S U S

- 1) The State of Maharashtra,
Through Principal Secretary,
Department of Forest,
Government of Maharashtra,
Mantralaya, Mumbai.
- 2) Additional Principal Chief Conservator
of Forest (Administration Subordinate Cadre),
Vanbhavan, Nagpur.
- 3) Conservator of Forest,
Aurangabad Division,
Station Road,
Aurangabad.
- 4) Divisional Forest Officer,
Parbhani Division,
Karegaon Road,
Parbhani.
- 5) Range Forest Officer,
Near jaykwadi guest house,
Super market
parbhni
Dist. Parbhani. -- **Respondents**

 APPEARANCE :- Shri M.B. Bharaswadkar, learned
 Advocate for the applicants in all these
 matters.

: Shri I.S. Thorat, learned Presenting
 Officer for the respondent authorities in
 all these matters.

CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman

DATE : 20th APRIL, 2023

ORAL - ORDER

1. Heard Shri M.B. Bharaswadkar, learned counsel for the applicants in all these matters and Shri I.S. Thorat, learned Presenting Officer for the respondent authorities in all these matters.

2. Since in all these Original Applications the issues are common, as well as, prayers are identical, I have heard all these matters together and deem it appropriate to decide all these applications by this common reasoning.

3. All these applicants are Vanmajoor and claimed to be working as Vanmajoor on daily wages since prior to year 1994. It is the further contention of these applicants that during the period between 1.11.1994 to 30.6.2004 each of them has rendered the services for more than 240 days in 5 years and are thus entitled to be absorbed as a regular Vanmajoor on the strength of Government Resolution dated 16.10.2012. The applicants have placed on record the details of work done by them in the period between 1994 to 2004 evidencing that in the aforesaid period in more than 5 years each of the applicant has rendered the services for more than 240 days in each of the said particular year. It is the contention of the applicants that

majority of their co-employees have already been granted the benefit of regularization of their services, however, since the proposal in regard to the present applicants was not forwarded that they are still not getting the benefit of G.R. dated 16.10.2012.

4. The contentions raised on behalf of the applicants are resisted by the respondents. It is the contention of the respondents that none of the applicant has fulfilled the criteria as prescribed in G.R. dated 16.10.2012 and hence the applicants are not entitled for the relief claimed. It is further contended that the Committee was appointed by the Government to verify the period of service rendered by the present applicants by visiting the offices concerned and by examining the concerned record. It is contended that the said Committee Members visited the office of respondent no. 4 and verified the record of Cash Book and Muster Roll and it is noticed by the said Committee that none of the applicant has worked for more than 240 days in that 5 years. On the basis of fact-finding report submitted by the said Committee the respondents have submitted the affidavit in reply in the present matters. It is further contended that some of the applicants did not work in the year 1994 and as such they are not entitled for

the benefit of G.R. dated 16.10.2012. It is also contended that the applicants are also not fulfilling the criteria prescribed in the G.R. dated 16.10.2012 to the effect that on the date of issuance of G.R. the candidate concerned must be in the employment. Insofar as O.A. No. 1/2021 and O.A. No. 45/2021 are concerned, it is the contention of the respondents that the applicants were retrenched way back in the year 2004 and were duly paid the retrenchment compensation. According to the respondents, since these applicants were retrenched in the year 2004 and did not work thereafter and obviously therefore were not in the employment on the date of issuance of G.R. dated 16.10.2012, are not entitled for any relief as are prayed by them.

5. Shri Bharaswadkar, learned counsel appearing for the applicants submitted that the applicants have produced on record sufficient evidence showing that in the period between 1.11.1994 to 30.6.2004 each of the applicant has worked for more than 240 days each in at least five years and hence are entitled for their absorption in the Government services and are entitled to be given appointment on the supernumerary posts created by the Government. The learned counsel pointed out that the applicants have placed on record the information

obtained by them from the offices concerned under the seal of the said office and signature of the officer concerned. The learned counsel further submitted that one consolidated chart is submitted on record by the applicants showing the number of working days of each of the applicant in the span of 1.11.1994 to 30.6.2004, obtained by them under Right to Information Act. The learned counsel further submitted that in spite of the fact that all the applicants were fulfilling the criteria as prescribed for absorption their proposals were not forwarded along with other employees and as such the applicants have not received the benefit of the G.R. dated 16.10.2012 and have not been absorbed. The learned counsel further submitted that perusal of the report of the fact finding Committee reveals that very limited record was made available for perusal of the said Committee and from the record, which was made available the said Committee has certified the dates of attendance of the applicants. The learned counsel submitted that the said Committee in its report has specifically stated that the cash books of the period 1994 to 2004 pertaining to Parbhani Forest Division were not made available for its perusal or scrutiny. The learned counsel submitted that the aforesaid is the crucial period, wherein the applicants have worked with the respondents for more than 240 days in each of the said year.

6. The learned counsel for the applicants submitted that the information, which has been placed by the applicants on record received to them under RTI, in fact, could not have been denied or disputed by the respondents. The learned counsel submitted that the information so received to the applicants was officially received and must be held as authentic information. The learned counsel submitted that the retrenchment of the applicants in O.A. No. 1/20221 and O.A. No. 45/2021 will also not come in the way of these applicants for grant of relief of absorption even in their favour for the reason that both the said applicants also have satisfied the criteria of working for 240 days for 5 years in the period between 1994 to 2004. In the circumstances, the learned counsel for the applicants submitted that all the applicants are entitled for the relief as has been claimed in the Original Applications.

7. Shri Thorat, learned Presenting Officer resisted the contentions raised on behalf of the applicants and prayers made by them. The learned Presenting Officer submitted that without there being any concrete information produced on record by the applicants evidencing that in the period between 1994 to 2004 each of them had worked for more than 240 days in at least 5 years during the aforesaid period cannot be held entitled for any

relief. The learned Presenting Officer further submitted that for the relief of absorption on the strength of G.R. dated 16.10.2012 the employee was under an obligation to prove that on the date of issuance of said G.R. he was working with the respondents may be as daily wager. The learned Presenting Officer submitted that the said aspect has not been proved by the applicants. The learned Presenting Officer further submitted that insofar as the applicants in O.A. No. 1/2021 and O.A. no. 45/2021 are concerned, their services were terminated way back in the year 1999 and the retrenchment compensation was paid to them and was also accepted by the said applicants. The learned counsel for the applicants has promptly brought to my notice that the retrenchment was effected in the year 2004 meaning thereby that till 2004 both the applicants were serving with the respondents. The learned counsel has placed his reliance on the document at Annex. A-1 dated 18.11.2020 in this regard. On perusal of said document it is apparent that in the year 2004 the retrenchment compensation was paid. It is thus evident that both the applicants were in the services of the respondents till year 2004. The learned Presenting Officer further submitted that the report of the fact finding Committee is vital document in the present matters and if the findings recorded by the said Committee are considered it will come to

the notice of the Tribunal that the applicants have not worked for more than 240 days for 5 years. In the circumstances, according to the learned Presenting Officer, the applicants are not entitled for any relief. The learned Presenting Officer has, therefore, prayed for rejecting the applications.

8. I have duly considered the submissions advanced on behalf of the applicants and the learned Presenting Officer. I have also perused the documents filed on record. The applicants are claiming the relief on the basis of Government Resolution dated 16.10.2012. I deem it appropriate to reproduce the entire said Resolution as it is in vernacular, which reads thus:-

“वनविभाग, सामाजिक वनीकरण व वनविकास
महामंडळातील योजना/योजनेत्तर फंडातून वेतन
मिळणा-या रोजंदारी मजुरांना नियमित करण्याबाबत.

..

महाराष्ट्र शासन
महसूल व वन विभाग,
शासन निर्णय क्र. बैठक -२०१०/प्र.क्र.-७/फ-९,
मंत्रालय, मंबई ४०० ०३२
दिनांक - १६ ऑक्टोबर, २०१२

वाचा :-

१. महसूल व वन विभाग शासन निर्णय क्र. एलएबी १०९४/प्र.क्र.२५२/क्र.९, दिनांक ३१.१.१९९६.
२. महसूल व वन विभाग शासन निर्णय क्र. एलएबी १०९४/प्र.क्र.२५२/फ.९, दिनांक १६.३.१९९८.

३. महसूल व वन विभाग शासन निर्णय क्रं. एलएबी १०९७/२३४६/प्र.क्र.३५/फ ९, दिनांक २९.१.२०००.
४. प्रधान मुख्य वनसंरक्षण (वनबल प्रमुख) महाराष्ट्र राज्य नागपूर यांचे पत्र क्रं. कक्ष१०/(२)/आस्था/दोन/प्र.क्र.६/१८७/२०११-१२, दिनांक २४.१०.२०११.

प्रस्तावना :

रोजंदारी मजुरांच्या सेवेचा प्रदिर्घ कालावधी विचारात घेऊन काही अटी व शर्तीच्या अधीन राहून दिनांक ३१.१.१९९६ च्या शासन निर्णयान्वये १०,२६४ अधिसंख्य वनमजुरांची पदे निर्माण करण्यात आली. वनविभागामध्ये योजनांतर्गत/योजनेत्तर निधीतून ज्या रोजंदारी मजुरांनी दिनांक १.११.१९९४ रोजी दिनांक १.११.१९८९ ते दिनांक ३१.१०.१९९४ पर्यंत प्रत्येक वर्षी २४० दिवस अशी ५ वर्षांची सलग सेवा पूर्ण केली आहे, अशा मजुरांना शासन निर्णय दिनांक ३१.१.१९९६ मधील काही अटी व शर्तीनुसार नियमित करण्यात आले. त्यानंतर सदर शासन निर्णयातील अटी व शर्तीनुसार पात्र असून राहून गेलेल्या रोजंदारी मजुरांना दिनांक १६.३.१९९८ व दिनांक २९.१.२००० च्या शासन निर्णयान्वये नियमित करण्यास मंजुरी देण्यात आली. तथापि शासनाच्या दिनांक २९.१.२००० च्या शासन निर्णयानंतर वन विभागामध्ये न्यायालयीन आदेशाच्या व्यतिरिक्त मजुरांना कायम करण्यात आलेले नाही.

वन विभागात वनसंवर्धन, वनसंरक्षण व विकासाची कामे उपलब्ध अनुदानाप्रमाणे राबविली जातात. वनीकरण, रोपवाटिकेमध्ये रोपे तयार करणे, रोपवनाची देखभाल करणे, जंगलातून माल निष्कासीत करणे, विश्रामगृहातील कामे करणे इत्यादी विविध प्रकारच्या विभागातील कामावर आवश्यकतेनुसार रोजंदारीवर मजूर लावण्यात येतात. रोजंदारी मंजुरांना किमान वेतन दराप्रमाणे मजुरी व राहणीमान भत्ता देण्यात येतो. अशा प्रकारे रोजंदारीवर लावण्यात आलेले मजूर वर्षानुवर्षे सतत कार्यरत आहेत. अशा मजुरांना कायम करून नियमितपणाचे फायदे देण्याचा विचार शासनाच्या विचाराधीन होता.

शासन निर्णय :-

याबाबत सविस्तर अभ्यास करून शासनास शिपफारस करण्यासाठी अपर प्रधान मुख्य वनसंरक्षक (प्रशासन दुय्यम संवर्ग), महाराष्ट्र राज्य, नागपूर यांच्या अध्यक्षतेखाली एका अभ्यास गटाची नियुक्ती करण्यात आली. सदर अभ्यास गटाने दिलेल्या अहवालानुसार वन विभागातील रोजंदारीवर काम करणा-या वनमजुरांची ५ वर्षांपेक्षा जास्त सेवा झालेल्या अशा वनविभागाचे ५०८९, सामाजिक वनीकरण विभागाचे ४५१ व वन विकास महामंडळाचे १००६ अशा योजना/ योजनेत्तर निधीतून दैनंदिन मजुरी घेणा-या व दिनांक १.११.१९९४ पासून दिनांक ३०.६.२००४ पर्यंत सलग पध्दतीने अथवा तूटक तुटकरित्या प्रतिवर्ष किमान २४० दिवस या प्रमाणे किमान ५ वर्षे काम केलेल्या, दि. १.११.१९९४ पासून दि. ३०.६.२००४ पर्यंत कार्यरत असणा-या एकूण ६,५४६ रोजंदारी मजुरांना दिनांक १.६.२०१२ पासून शासन सेवेत कायम करण्याचा निर्णय घेण्यात येत आहे. या निर्णयाच्या अनुषंगाने वन विभागातील ५,०८९

रोजंदारी मजूरांना शासन सेवेत कायम करण्यासाठी ५,०८९ अधिसंख्य पदे निर्माण करण्यास शासन मंजूरी देण्यात येत आहे.

१. वन विभागातील दि. १.११.१९९४ ते दि. ३०.६.२००४ पर्यंत सलग पध्दतीने किंवा तुटक तुटकरित्या प्रतिवर्षी किमान २४० दिवस याप्रमाणे किमान पाच वर्ष काम केलेल्या ५०८९ रोजंदारी कामगारांपैकी दि. १.६.२०१२ ला कामावर असण्यास पात्र ठरणा-या कामगारांना मंत्रीमंडळाच्या निर्णया प्रमाणे खालील अटी व शर्तीच्या अधिन राहून कायम करण्यात यावे.

i. त्यांना पूर्वीचे वेतन व तदअनुषंगीक लाभ देय होणार नाही.

ii. त्यांना दि. १.६.२०१२ रोजी प्रचलित सेवानिवृत्ती वेतन व महाराष्ट्र नागरी सेवेच्या तरतुदी लागू राहतील.

iii. उपरोक्त ५०८९ रोजंदारी कामगारांना वरीष्ठता व पात्रतेचे निकष लावून कायम करण्यात यावे.

iv. उपरोक्त ५०८९ रोजंदारी कामगारांना कायम करण्यात यावे तथापी कुठलाही अर्थिक लाभ देण्यापूर्वी कायम करावयाचे सदर ५०८९ कामगारांची नावनिहाय व विभागनिहाय अंतिम यादी शासनास सादर करण्यात यावी.

२. पाच वर्षांच्या सलग सेवांच्या कालावधीची गणना करतांना वन विभागातील योजनाअंतर्गत/योजनेत्तर योजनेवर रोजंदारी मजूरांनी प्रत्येक वर्षात २४० दिवस काम केलेले असावे. याकरिता ५ वर्षांचा कालावधी मोजतांना रोजगार हमी योजना किंवा रोजगार हमी देणा-या तत्सम योजनेवर केलेल्या कामाचे दिवस विचारात घेण्यात येवू नयेत.

३) दिनांक ३१/१/१९९६ च्या निर्णयाप्रमाणे त्याचवेळी पात्र असलेले तथापी काही कारणाने नियमित न झालेले रोजंदारी मजूरांची सेवा नियमित करण्यात याव्यात.

४) वनमजूरांना गट-ड मध्ये नेमणूक करण्याकरिता वयोमर्यादे संबंधीची अट शिथिल करण्यात यावी, तथापि, दि. १.६.२०१२ रोजी त्यांच वय सेवानिवृत्तीसाठी विहित वयोमर्यादेपेक्षा जास्त नसावे. तसेच गट-ड करिता आवश्यक असलेली विहित शैक्षणिक पत्रतेची अट देखील शिथिल करण्यात येत आहे.

५) काही वनमजूरांनी त्यांच्या रोजंदारी कामगारासंबंधी नियमित करण्याबाबत प्रकरण विविध स्तरावर न्यायप्रविष्ट केली असल्यास, अशा प्रकरणात न्यायप्रविष्ट असताना सेवा नियमित करणे शक्य होणार नसल्यामुळे अशा प्रकरणात संबंधितांनी न्यायप्रविष्ट सर्व प्रकरणी परत घेतल्यानंतरच त्यांच्या सेवा नियमित करण्यात याव्यात.

६) सदर पदे गट-ड मध्ये निर्माण करण्यात येत असल्यामुळे या मजुरांना वनमजूर संबोधण्यात यावे व ही पदे गट-ड अधिसंख्य पदे मजूर संवर्गात समय वेतनश्रेणी रु. ४,४४०-७४४० श्रेणी ग्रेड वेतन १३०० मध्ये निर्माण करण्यात येत आहेत.

७) सदर वनमजुरांना प्रचलीत महाराष्ट्र नागरी सेवा नियम लागू राहतील.

८) ज्यांची वन विभागातील सलग पध्दतीने अथवा तुटक-तुटकरीत्या सेवा पाच वर्षांपेक्षा जास्त झालेली आहे, त्यांचा वन विभागातील गट क व गट ड मधील रिक्त पदे भरतांना नेमणुकीसाठी खालीलप्रमाणे विचार करण्यांत यावा -

अ) सेवायोजन कार्यालयामार्फत ज्या पदांवर भरती करण्यांत येते त्याच पदावर भरती करण्यांत यावी. त्या पदांवर भरती करण्यांस सेवायोजन कार्यालयाची अट शिथिल करण्यांत येत आहे.

ब) वेळोवेळी शासन निर्देशानुसार परवानगी देण्यांत आलेल्या निवड मंडळामार्फत ज्या पदावर भरती करण्यांत येते त्याच पदावर भरती करण्यांत यावी. शासनाचे भरती नियमातील संबंधित पदांकरीता असणा-या आवश्यक अर्हता व अटी शर्ती लागू राहतील.

क) गट क किंवा गट ड साठी नेमणूक करतांना फक्त वयोमर्यादा संबंधीची अट खालीलप्रमाणे शिथिल करण्यांत यावी.

१. वयाच्या ३३ वर्षांनंतर (संबंधित) मजूर जेवढी वर्षे वन विभागात कार्यरत आहेत तेवढ्या वर्षांनी वयाची अट शिथिल करण्यांत यावी. उदाहरणार्थ ज्यांनी ५ वर्षे सेवा केलेली असेल त्यांना वयाच्या ३८ वर्षे पर्यंत व ज्यांनी १२ वर्षे सेवा केलेली असेल त्यांना वयाच्या ४५ वर्षांपर्यंत वयाची अट शिथिल करण्यात यावी.

ड) शासनाने अंशकालीन कर्मचा-यांबाबत निर्गमित केलेल्या शासन निर्णयानुसार त्यांच्याकरीता शासनात सरळ सेवा भरतीमध्ये समांतर आरक्षण ठेवून त्यांच्या करीता पदे आरक्षित केली आहेत. त्याप्रमाणे वन विभागात सरळसेवा भरतीवेळी पात्रता पूर्ण करित असणा-या रोजंदारी मजुरांना गट क व गट ड मध्ये १० टक्के आरक्षित ठेविण्यात यावीत. अंशकालिन कर्मचा-यांना वयाच्या संदर्भात देण्यात आलेली सुट (४६ वर्ष) यांनाही देण्यात यावी.

९) निर्माण करण्यात येणारी पदे संबंधित मजूर सेवेत असे पर्यंत चालू राहतील व कोणत्याही कारणाने मजूर सेवेतून कमी झाल्यास ते आपोआपच रद्द होईल त्यांच्या रिक्त पदावर दुस-या मजुराची नेमणूक करण्यात येऊ नये.

१०) या वनमजुरांना सध्याच्या वनमजुरीमध्ये समाविष्ट असलेले कोणतेही काम तसेच आवश्यकतेनुसार वनविभागात उपलब्ध असलेली गट ड ची समकक्ष कामे देण्यात यावीत.

११) यापुढे वनविभागातील हंगामी कामासाठी रोजंदारी मजुरांची आवश्यकता भासल्यास हंगामी कामाशिवाय इतर कोणत्याही बारमाही कामावर मजूर घेण्यात येवू नये. हंगामी कामासाठी घ्यावयाच्या मजुराच्या सेवा कोणत्याही परिस्थितीत ३ महिन्यापेक्षा जास्त कालावधीसाठी लागू करण्यात येवू नये.

१२) दिनांक ३०.६.२००४ रोजी पाच वर्ष पूर्ण न केलेल्या परंतू रोजंदारी मजूर म्हणून कार्यरत असलेल्या मजुरांच्या आवश्यकतेबाबत आढावा घेण्यात यावा व त्याची आवश्यकता नसल्यास त्यांना विहित पध्दतीने कामावरून कमी करण्यात यावे.

१३) सदर मजुरांच्या आस्थापनेवरील खर्चासाठी प्रत्येक वर्षात आवश्यकतेनुसार अर्थसंकल्पीत तरतुद करण्यात यावी.

१४) सामाजिक वनीकरण विभाग, ग्राम विकास व जलसंधारण विभागाच्या अधिपत्याखाली येत असल्याकारणाने आवश्यक तेवढी वनमजुरांची अधिसंख्य पदे निर्मितीबाबतची आवश्यक कार्यवाही ग्राम विकास व जलसंधारण विभागाकडून करण्यात यावी.

१५) वन विकास महामंडळाच्या बाबतीतही १,००६ पदे त्यांच्या महामंडळात त्यांच्याकडूनच निर्माण करावी लागतील. निर्णयानुसार त्यांच्या मजुरावरील दिनांक १.६.२०१२ पासून अदा करावयाची वेतन त्यांच्या स्त्रोतातून भागविण्यात येणार आहे. त्याअनुषंगाने याबाबतची आवश्यक ती कार्यवाही वनविकास महामंडळाने करावी.

१६. सदर पदांचा खर्च मागणी क्र. सी-७-२४०६ वनीकरण व वन्यजीवन १०१ वनसंधारण व विकास १०१(१२) वनमजुरांच्या अधिसंख्य पदांची निर्मिती (२४०६-१८९-८) या लेखाशिर्षाखाली सन २०१२-१३ च्या मंजूर अनुदानातून भागविण्यात यावा.

१७. सदर शासन निर्णय वित्त विभागाच्या सहमतीने निर्गमित करण्यात येत आहे.
महाराष्ट्र राज्याचे राज्यपाल यांच्या आदेशानुसार व नावाने.

स्वाक्षरीत /-
(विवेक खाडेकर)
सह-सचिव (वने)
महसुल व वन विभाग”

9. On perusal of the said G.R. it reveals that the Government has resolved to absorb Vanmajors, who had worked for more than 240 days in a year at least 5 years during the period between 1.11.1994 to 30.6.2004. As has been submitted on behalf of the applicants many of their co-employees have

already got the relief, however, since proposal in respect of the present applicants could not be forwarded or was not forwarded that they have not yet got the benefit of the G.R. 16.10.2012. For holding the employee entitled for his absorption only aspect which has to be examined is whether the said employee has placed on record any cogent evidence showing that in the period between 1.11.1994 to 30.6.2004 he had worked for more than 240 days in at least 5 years. The applicants have produced on record the information received under R.T.I., which has been annexed along with their respective applications as annexure 'B'. The learned counsel for the ready reference has provided a consolidated chart showing details of the applicants. I deem it appropriate to incorporate the said chart as it is, which reads thus :-

Name of Applicant	O.A. No.	Appointed on	Terminated on	Details of service received under Right to Information Act from RFO Parbhani	Proforma B - Details of service prepared by respondent	Whether continued in Service
Nathrao Hodbe Aged : 50 years (2019)	740/2 019	1993	2004	Information received on 01/03/2013 Served for 240 days or more in - the year - 1997-98 1998-99, 1999-2000, 2000-2001 2001-2002, 2002-2003 Page no. -18-24 of O.A.	Served for 240 days or more in - the year - 1993-94 1994-95 1995-96 1996-97 1997-98 Col-7 Sr.No.34 Page no. -29 of O.A.	Yes

Ankush Jadhav Aged : 41 years (2019)	741/2 019	1986	2004	Served for 240 days or more in - the year - 1997-98 1998-99, 1999-2000, 2000-2001 2001-2002, 2002-2003 Page No.-18-25 of O.A.	--	Yes
Mohan Jadhav Aged : 55 years (2019)	742/2 019	1991	2004	Information received on 01/03/2013 Served for 240 days or more in - the year - 1997- 98 1998-99, 1999- 2000, 2001-2002, 2002-2003 Page No. - 16-22 of O.A.	Served for 240 days or more in - the year - 1993- 94 1994- 95 1995- 96 1996- 97 1997- 98 Col.- 7 Sr.No.35 Pa ge no. -23- 25 of O.A.	Yes
Mobasarud din Siddiqui Aged : 50 years (2019)	743/2 019	1995	2004	Information received on 28/12/2018 Served for 240 days or more in - the year - 1995-96 1996-97 1997-98 1998-99, 1999-2000, Col-7 Sr.No.59 Page no. - 20-22 of O.A.	Served for 240 days or more in - the year - 1995-96 1996-97 1997-98 1998-99, 1999-2000, Col-7 Sr.No.59 Page no. - 20-22 of O.A.	Yes
Kishor Bhusari Aged : 51 years (2019)	745/2 019	1988	2004	Information received on 04/09/2004 Served for 240 days or more in - the year - 1998- 99, 1999-2000 2000- 2001 2001- 2002 2002- 2003 Page no. -16-17 of O.A.	Served for 240 days or more in - the year - 1998- 99, 1999- 2000 2000- 2001 2001- 2002 2002- 2003 Col- 7 Sr.No.76 Pa ge no. -20 of O.A.	Yes

Vilas Chavan Aged : 52 years (2019)	746/2019	1986	2004	Information received on 04/09/2004 Served for 240 days or more in - the year - 1996-97, 1997-98, 1998-99, 1999-2000, 2000-2001, Page no. -16-18 of O.A.	Served for 240 days or more in - the year - 1996-97, 1997-98, 1998-99, 1999-2000, 2000-2001, Col-7 Sr.No.64 Page no. -19 of O.A.	Yes
Prasad Bhise Aged : 47 years (2019)	1/2021	1986	2004	Information received on 07/09/2017 Served for 240 days or more in - the year - 1994-95, 1995-96, 1996-97, 1997-98, 1998-99 Page no. -21 of O.A.	Served for 240 days or more in - the year - 1993-94, 1994-95, 1995-96, 1996-97, 1997-98, 1998-99 Col-7 Sr.No.25 Page no. -18 of O.A.	Yes
Akhilujjam akha S. Pathan Aged : 56 years (2019)	45/2021	1986	2004		Served for 240 days or more in - the year - 1994-95, 1995-96, 1996-97, 1997-98, 1998-99 Col-7 Sr.No.45 Page no. -28 of O.A.	Yes

10. If the evidence as has been produced by the applicants is seen there remains no doubt that each of the applicant has fulfilled criteria as prescribed in the G.R. dated 16.10.2012. An objection has been raised on behalf of the respondents that the applicants have not produced on record any evidence showing that on 16.10.2012 they were in the employment of the respondents and that is one of the criteria prescribed in the

G.R. dated 16.10.2012. The contention so raised is difficult to be accepted. If the said G.R. is perused, there is no such condition incorporated therein and as I have noted above the only condition which makes Vanmajoor eligible for his absorption is his 240 days working in a year in at least 5 years during the period between 1.11.1994 to 30.6.2004. All these applicants are fulfilling the said condition and as such are entitled for their absorption as per G.R. dated 16.10.2012. Insofar as the applicants in O.A. No. 1/2021 and O.A. No. 45/2021 are concerned, the objection raised against them are also liable to be rejected and their retrenchment will not come in their way for grant of relief for their absorption in view of the judgment of the Division Bench of the Hon'ble Bombay High Court, Bench at Aurangabad in the case of **Shrinivas Ramakant Rajurkar Vs. the State of Maharashtra & Ors, Writ Petition No. 10724/2016** delivered on 27.6.2017.

11. In the aforesaid matter also it was the contention of the Government that the petitioner was not in service/not working as Labour on 1.6.2004 and therefore he was disentitled for the regularization. The Hon'ble High Court, however, rejected the said contention observing that "whosoever worked during the prescribed period as per resolution, from 1st October, 1994 to

30th June, 2015 continuously and/or in piecemeal and completed 240 days in each year for five years, is entitled for regularization, provided he is otherwise eligible” and thus held the said petitioner entitled for regularization of his services.

12. Another contention raised on behalf of the respondents is in regard to report of the fact finding Committee. It is true that the said Committee visited the concerned offices and also scrutinized the relevant documents i.e. muster roll, cash book, vouchers etc. It is also true that if the report of the said Committee is seen, the working days as are mentioned in the said report are much less than claimed by the applicants in O.As. However the fact-finding Committee, in the preamble itself has disclosed that the entire material or record was not made available for its perusal. The Committee has specifically noted that so far as Parbhani Forest Division is concerned, the muster roll and pay sheets of the period 1994 to 2004 were not made available to the said Committee. In the circumstances, no much weightage can be attached to the report of the said Committee. Further, I see no reason to disbelieve the evidence produced on record which the applicants have received under R.T.I. In absence of any contrary evidence produced on record by the respondents or any such evidence falsifying the evidence

produced on record by the applicants, I see no reason to disbelieve the said evidence.

13. After having considered the entire material on record I am convinced that the applicants have sufficiently proved their eligibility for their absorption. I am, therefore, inclined to allow all these applications. Hence, the following order :-

ORDER

- (i) All these applicants are held entitled for their absorption w.e.f. 16.10.2012 and consequently for the difference in wages of the period during which they had worked.
- (ii) The respondents shall pay the difference of wages of the applicants according to their working days from 16.10.2012 onwards.
- (iii) The entire exercise shall be completed within 4 months from the date of this order.
- (iv) All the Original Applications stand allowed in the aforesaid terms without any order as to costs.

VICE CHAIRMAN

Place : Aurangabad

Date : 20.4.2023

ORIGINAL APPLICATION NO. 740/2019
(Shri Natharao Dodabe Vs. the state of Maharashtra & Ors.)

CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman

DATE : 20.4.2023

ORAL ORDER :

Heard Shri M.B. Bharaswadkar, learned counsel for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondent authorities.

2. The learned counsel seeks leave to correct the surname of the applicant. The learned counsel submitted that surname of the applicant has been incorrectly typed as 'Dodabe' and it should be 'Hodbe'. Leave granted. The necessary amendment be carried out in the O.A. forthwith.

VICE CHAIRMAN