

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.427/2001

DISTRICT – BEED

1. Janardhan s/o Eknath Chavan,
Age : 33 years, Occ : Daily Wages,
R/o. At Tippatwadi,
Post – Rajuri (Navgaon),
Tq. & Dist. Beed.

2. Sarvashramik Sanghatna,
Through its Joint Secretary,
Udhav s/o. Ganpatrao Mahanor,
Age : 35 years, Occ : Social Service,
R/o. C/o. Trade Union Centre,
Shriramnagar, Nagar Road, Beed,
Tq. & Dist. Beed.

3. Narayan s/o Indarrao Chavan,
Age : 60 years, Occ : Nil,
R/o. Dharur,
Tq. Dharur, Dist. Beed.

...APPLICANTS

V E R S U S

1. The State of Maharashtra,
(Copy to be served on the C.P.O.
M.A.T. Mumbai Bench at Aurangabad)
2. The Secretary,
Revenue & Forest Department,
Maharashtra State,
Mantralaya, Mumbai.
3. The Chief Conservator of Forest,
Maharashtra State, Nagpur.
4. The Conservator of Forest,
Aurangabad Division, Van Vrutta,
Osmanpura, Aurangabad.

5. The Deputy Conservator of Forest,
Osmanpura, Aurangabad. ...RESPONDENTS
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APPEARANCE :Shri G.R.Jadhav learned Advocate holding
for Shri A.S.Shelke learned Advocate for
the applicants.

Shri I.S.Thorat, learned Presenting Officer
for the respondents.

CORAM: Hon'ble Shri Rajiv Agarwal, Vice-Chairman (A)
A N D
Hon'ble Shri B. P. Patil, Member (J)

DATE: 17th February, 2017.

ORDER

[PER: VICE-CHAIRMAN (A)]

Heard learned Advocate Shri G.R.Jadhav holding for
learned Advocate Shri A.S.Shelke for the Applicants and
Shri I.S.Thorat learned Presenting Officer (PO) for the
Respondents.

2. This O.A. has been filed by the Applicants seeking
regularization in service as Forest Labourer in terms of G.R.
dated 31-01-1996 with effect from 01-11-1994. This O.A.
was dismissed by this Tribunal by order dated 07-06-2010.

The Applicant no.3, with others filed W.P.No.437 of 2013 before Hon'ble High Court who by judgment dated 15-12-2014 remitted the case to this Tribunal observing that:

“It will be for the Tribunal to consider the evidence for both the sides as to whether the Petitioner No.3 herein has worked for 240 days as required.”

3. Learned Counsel for the Applicants argued that the Petitioner No.3 before Hon'ble High Court is the Applicant No.3 in the present O.A. He was not a party in this O.A. originally. This O.A. was filed on behalf of the union of the workers (the Applicant no.2), which has labourers working in Forest Department as members of the Union and Shri J.E.Chavan, who was a Labourer (the Applicant No.1) who was seeking relief for himself. In the O.A., in paragraph 3 of the affidavit in reply dated 05-12-2001, information was provided about five labourers including the Applicant no.3, who were said to have fulfilled condition of G.R. dated 31-01-1996 that they have worked for 5 years continuously and for 240 days or more in each year on Plan Works of Forest Department. For the present Applicant No.3, the following information was provided, viz:

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		<u>Working day & year</u>				
37.	<i>Narayan Indrarao Chavan</i>	<i>1989-90</i>	<i>1990-91</i>	<i>1991-92</i>	<i>1992-93</i>	<i>1993-94</i>
		<i>328</i>	<i>244</i>	<i>334</i>	<i>299</i>	<i>211</i>

”

However, in paragraph 3 it was also stated that 5 persons fulfill the criteria including the present Applicant No.3. Learned Counsel for the Applicants argued that the Applicant No.3 had fulfilled criteria for regularization in service as per G.R. dated 31-01-1996 as admitted by the Respondents.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that after the matter was remitted back to this Tribunal by Hon'ble High Court, this Tribunal by order dated 24-08-2016 in M.A.No.333/2016 permitted the present Applicant No.3 to be added as a party to the present O.A. He was earlier represented by the Respondent No.2 and the details of his service were given in the affidavit in reply dated 05-12-2001. From paragraph 3 details, it is clear that the Applicant had worked only for 211 days in the year 1993-94 and he was, therefore, not eligible for regularization in service as per G.R. dated 31-01-1996. However, there was some ambiguity in affidavit in reply

dated 05-12-2001, which was noted by Hon'ble High Court in judgment dated 15-12-2014. Accordingly, as directed by this Tribunal, the Respondent nos.2 to 5 have filed additional affidavit in reply on 14-12-2016. It is clarified that in the affidavit dated 31-01-1996 the Applicant No.3 had not worked under any Plan or Non-Plan Scheme of the Forest Department but on Employment Guarantee Scheme or Drought Prone Area Programme (DPAP), which are not plan schemes of the Forest Department. He had worked for 211 days only in 1993-94 on these schemes. As such, the Applicant No.3 was not eligible to be regularized in service as per G.R. dated 31-01-1996. Learned P.O. argued that the services of the Forest Labourers were once again regularized in terms of G.R. dated 16-10-2012. Under paragraph 5 of that G.R., services of a Forest Labourer could not be regularized unless he withdrew all the pending court cases in that regard. The Applicant gave an undertaking on 31-10-2012 that he has fulfilled all conditions of G.R. dated 16-10-2012. However, he filed Writ Petition No.437/2013 before Hon'ble High Court as Petitioner No.3 in violation of solemn affirmation given by him. On this ground, this O.A. is not maintainable.

5. We find that the fact that the Applicant No.3 had filed Writ Petition No.437/2013 before Hon'ble High Court though he had given an undertaking to withdraw pending court cases for regularization on 31-10-2012 was mentioned in the affidavit in reply filed by the present Respondent on 15-10-2013 in the aforesaid Writ Petition. However, Hon'ble High Court has remitted the case back to this Tribunal. In any case, this O.A. can be decided without considering this fact.

6. Hon'ble High Court by judgment dated 15-12-2014 in Writ Petition No.437/2013 has clearly held that those who had worked for five years for 240 days in each year in Plan/Non-Plan scheme of Forest Department, alone were eligible to be regularized. The Applicant No.3 had worked only on DPAP, which is not a plan (or non-plan) scheme of the Forest Department. This comes out clearly from the Affidavit in reply of the Respondents dated 14-12-2016. Copies of attendance register of DPAP are also enclosed. On that ground, the Applicant No.3 is not eligible for regularization of his service in terms of G.R. dated 31-01-1996. Even if, it is admitted for the sake of arguments that the Applicant was working on Plan/Non-Plan Scheme of the

Forest Department, it is clear that he worked for less than 240 days (211 days actually) in the year 1993-94. He is clearly ineligible for regularization of service on that ground also and this is a defect which cannot be cured.

7. Having regard to the aforesaid facts and circumstances of the case, this O.A. is dismissed with no order as to costs.

(B. P. Patil)
MEMBER (J)

(Rajiv Agarwal)
Vice-Chairman (A)

Place : Aurangabad
Date : 17-02-2017.