

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.1028/2023

DISTRICT :- NANDURBAR

Chetan Bhatulal Mali,
Age : 37 years, Occ. Service as Kamathi,
R/o. Khandeshi Galli, Taloda,
Tq. Taloda, Dist. Nandurbar.

...APPLICANT

V E R S U S

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.
2. The Commissioner,
Tribal Development Department,
Adivasi Bhavan, Old Agra Road,
Nashik, Dist. Nashik.
3. The Assistant Commissioner,
Tribal Development Department,
Adivasi Bhavan, Old Agra Road,
Nashik, Dist. Nashik.
4. The Project Officer,
Integrated Tribal Development Project,
Tq. Taloda, Dist. Nandurbar.
5. The Project Officer,
Integrated Tribal Development Project,
Tq. Taloda, Dist. Nandurbar.

...RESPONDENTS

APPEARANCE : Shri Jitendra V. Patil, Counsel for
applicant.

: Shri V.R.Bhumkar, Presenting
Officer for respondents.

**CORAM : JUSTICE SHRI P.R.BORA, VICE CHAIRMAN
AND
SHRI VINAY KARGAONKAR, MEMBER (A)**

Date : 05-08-2024

ORAL ORDER

1. Heard Shri Jitendra V. Patil, learned Counsel for the applicant and Shri V.R.Bhumkar, learned Presenting Officer for the respondent authorities.

2. By filing the present O.A. applicant is claiming following reliefs:

“B. This Hon'ble Tribunal may kindly by issuing appropriate orders direct the respondents to issue appointment order in favor of present applicant for the post of Warden (Gruhpal S-14) (Group-C) in view of Judgement and Order passed by Hon'ble High Court of Bombay bench at Aurangabad in Writ Petition No. 1170 of 2021 as well as in view of Government Resolution dated 06/02/2023 issued by Tribal Development Department of State of Maharashtra.

C. This Hon'ble Tribunal may kindly by issuing appropriate orders direct the respondents to issue appointment order in favor of present applicant for the post of Warden (Gruhpal S-14) (Group-C) in view of Judgement and Order passed by Hon'ble High Court of Bombay bench at Aurangabad in Writ Petition No. 1170 of 2021 as well as in view of Government Resolution dated 06/02/2023 issued by Tribal Development Department of State of Maharashtra with appropriate back wages.”

3. The aforesaid relief is claimed by the applicant on two grounds; on the basis of the judgment passed by the Hon'ble Bombay High Court Bench at Aurangabad on 21-01-2021 in Writ Petition No.1170/2021 and in view of

G.R. dated 06-02-2023. Applicant has been working with the respondents from the year 2007. Initially, for two years, he worked on the post of Sweeper. Thereafter, he worked as Kamathi. He also worked as Laboratory Attendant, Clerk-cum-Typist and at some point of time he worked as Superintendent. A chart is placed on record by the learned Counsel for ready reference showing the posts on which the applicant worked with designations. It is the contention of the learned Counsel appearing for the applicant that according to G.R. dated 06-02-2023, applicant was liable to be regularized on the post of Superintendent/Warden since he possessed the prescribed qualification for the said post.

4. Respondents have resisted the contentions raised in the O.A. and the prayers made therein. Respondent nos.1 to 5 have filed their joint affidavit in reply wherein it is contended that the applicant most of the time has worked on Group-D post and completed 4 years' service in Group-D. As such, in the Writ Petition filed by the applicant which was decided along with other Writ Petitions, Hon'ble High Court directed for regularization of the services of all such employees who have worked for more than 10 years. Hon'ble High Court has delivered the

said order on 21-01-2021. Record further reveals that applicant has thereafter worked as Superintendent on two occasions that has in fact given rise for filing the O.A. by the applicant. Learned P.O., however, has placed on record application submitted by the applicant himself on 25-09-2023 wherein he has prayed for his regularization on Group-D post. In regard to the said application, it is the contention of learned Counsel for the applicant that date on which such application was submitted by the applicant list of Group-D employees to be confirmed was published by respondents and the name of the applicant was missing in the said list. In that circumstance, aforesaid application was submitted by the applicant. Learned Counsel further submitted that after two months applicant had filed another application for getting appointment on Group-C post.

5. We have carefully considered the submissions advanced by the learned Counsel for the applicant as well as the learned Presenting Officer. If the order passed by the Hon'ble High Court on 21-01-2021 in Writ Petition No.1170/2021 along with other Writ Petitions is perused, no other meaning can be attributed or drawn from the said order except that the petitioners before the Hon'ble High

Court were directed to be regularized on the post on which they were working. Applicant is not disputing that when he had filed the Writ Petition before the Hon'ble High Court, he was working on Group-D post. Now, the applicant has come out with the case that in the G.R. dated 06-02-2023, more particularly, in clause 3 thereof it is specifically stated that services of all these employees are to be regularized according to their educational qualification. As such, it is the contention of the applicant that services of the applicant deserve to be regularized on the post of Group-C and not Group-D.

6. We are unable to accept the contention so raised by the learned Counsel for the applicant. From the documents on record it is evident that, the applicant though has been working with the respondents from 2007, for most of the time he has worked on Group-D post i.e. the reason that in the Writ Petition filed his request was for his regularization on the said post and accordingly the order has been passed.

7. Apart from the said fact when the order has been issued in favour of the applicant for the post of Superintendent, from the contents of the said order it is

quite clear that the said appointment has been issued in favour of the applicant for a temporary period. From the documents, it is quite evident that the regularization of the applicant has not been directed except on the Group-D post. So, two options were there for the applicant. First that, he can accept the order of regular employment and get benefit of said post by accepting the order of Group-D post or he may prefer to continue on the job of Group-C post on temporary basis. It therefore appears that the applicant has taken a decision to get permanent appointment on Group-D post and accordingly preferred the application dated 25-09-2023 seeking regular appointment on Group-D post.

8. Having considered the aforesaid facts, it does not appear to us that any case is made out by the applicant. O.A., therefore, deserves to be dismissed and is accordingly dismissed. However, it is clarified that, dismissal of O.A. shall not come in the way of the applicant if the respondents prefer to give him appointment on Group-C post on the basis of his educational qualification. There shall be no order as to costs.

(VINAY KARGAONKAR)
MEMBER (A)

(P.R.BORA)
VICE CHAIRMAN

Place : Aurangabad
Date : 05-08-2024.