

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 1239 of 2023 (S.B.)**

Hivraj s/o Lalaji Madavi,  
Aged about 43 years, Occu: Service, R/o Ward No.7,  
Behind Aftab Decoration, Civil Lines, Deori, District Gondia.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
Through its Principal Secretary,  
Tribal Development Department, Mantralaya,  
Mumbai-400 032.
- 2) The Commissioner,  
Tribal Development Department, Maharashtra State,  
Old Agra Road, Nashik-2.
- 3) The Additional Commissioner,  
Tribal Development, Giripeth, Opp. R.T.O., Nagpur.
- 4) Project Officer,  
Integrated Tribal Development Project,  
Deori, District Gondia.

**Respondents.**

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**Shri R.M. Fating, Advocate for the applicant.**  
**Shri A.M. Khadatkhar, learned P.O. for respondents.**

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**Coram :- Hon'ble Shri Justice M.G. Giratkar,  
Vice Chairman.**

**Dated :- 24/10/2024.**

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**J U D G M E N T**

Heard Shri R.M. Fating, learned counsel for the applicant  
and Shri A.M. Khadatkhar, learned P.O. for the respondents.

2. The case of the applicant in short is as under –

The applicant was appointed on the post of part-time Sweeper on fixed pay of Rs.140/- p.m., as per the order dated 15/02/2000. Thereafter, on 13/11/2000 respondent no.4 has issued appointment order whereby the applicant has been placed on the post of part-time Sweeper on fixed pay of Rs. 140/- p.m. w.e.f. 1/10/2000 till further orders. The applicant is continuously working with respondents on the post of part-time Sweeper uninterruptedly, without any break in service. The applicant is working in Integrated Tribal Development Project (ITDP), Deori Dist. Gondia. The respondents have not regularized the services of the applicant. The Government has issued the G.R. and direction was given to the respondent no.4, Project Officer to take decision in respect of regularization of the applicant at their level, but till date the respondents have not taken any decision to regularize the services of applicant. Hence, the applicant approached to this Tribunal for the following reliefs –

*“ (12) (i) Hold and declare that the Applicant is entitled for regularization of service on the post of "Part-time Sweeper" from the date of initial appointment.*

*ii) Direct the Respondents to regularize the services of Applicant on the post of "Part-time Sweeper" in the pay scale of Rs.4400-7400 Grade Pay of Rs.1300/- (Rs.950- 1500 old) in view of provision in Government Resolution dated 15.01.1992 & 18.06.2012 with effect from his initial date of appointment;*

*(iii) Direct the Respondents to grant all benefits of regularization along with other consequential benefits to the Applicant;*

3. The O.A. is strongly opposed by the respondents by filing affidavit-in-reply. Respondent nos.1 to 4 have submitted that the services of the applicant were temporary, he cannot seek for regularization. In view of the Judgment of the Hon'ble Supreme Court in the case of **Secretary, State of Karnataka & Ors. Vs. Uma Devi & Ors.**, the applicant cannot seek back door entry without following the due process of recruitment. Hence, the O.A. is liable to be dismissed.

4. During the course of submission, the learned counsel for applicant has submitted that some of the similarly situated employees, who were working in the Tribal Development Department approached to the Hon'ble Bombay High Court, Bench at Aurangabad by filing W.P.No.5867/2015 with connected W.Ps. All those W.Ps. were commonly decided by the Hon'ble Bombay High Court, Bench at Aurangabad on 31/10/2018.

5. The learned counsel for applicant has submitted that thereafter the Government has issued G.R. dated 12/04/2022 and taken the decision to regularize the services of the temporary employees who were working in the Tribal Development Department. As per the G.R. dated 15/01/1992, the posts are sanctioned. The applicant is continuously working since last 24 years, therefore,

prayed to regularize the services of the applicant on the establishment of respondents. In support of his submission, he has also pointed out the decision of the Hon'ble Supreme Court in the case of ***Vinod Kumar & Ors. etc. Vs. Union of India & Ors.***, dated 30/01/2024.

6. There is no dispute that the applicant was initially appointed as a part-time Sweeper on fixed pay of Rs.140/- p.m. as per order dated 15/2/2000. Thereafter, he was given another order dated 13/11/2000. By that order, the services of the applicant was continued until further order. Initial appointment of the applicant was for six months. Thereafter by order dated 13/11/2000, the services of the applicant is continued until further order. After this order, there is no another order to show that there was any break in service of the applicant. The applicant is continuously working in the Tribal Development Department since last more than 24 years. The same issue was raised before the Hon'ble Bombay High Court, Bench at Aurangabad in the above said Writ Petitions. The Hon'ble High Court has observed in para-17 as under –

*“(17) The following circumstances persuades us to consider the case of the petitioners for regularization of those who have completed ten years in service:*

*(1) The posts on which the petitioners are appointed are sanctioned posts.*

*(2) The work load is available.*

*(3) The petitioners have agreed to officiate at the time when the respondents were not getting the necessary teaching and non-teaching staff to work in remote tribal areas and more particularly when the means of communication and transportation were scarce.*

*(4) The respondents have not undertaken selection process for all these years to fill in the posts held by the petitioners.*

*(5) The petitioners are working continuously for ten years or more on meager honorarium.*

*(6) Asking the petitioners to continue to work on meager honorarium for such a long period would tantamount to their exploitation not expected from the welfare State. The State is expected to be a model litigant.”*

7. The Hon'ble Bombay High Court, Bench at Aurangabad has given following direction to the respondents –

*“(i) The respondents shall regularize the services of the petitioners who have completed ten years of service with effect from the date they have completed ten years or the date of filing of writ petition whichever is later.*

*(ii) Those petitioners who are terminated after completion of ten years of service during the pendency of the writ petition shall be reinstated and shall be granted regularization from the date they have filed the petition or after completion of ten years of service whichever is later.*

*(iii) For all practical purposes the services of the petitioners shall be considered regular from the date as observed above. However, we may not grant them actual financial benefit for the period prior to the present order. They will be entitled for the regular pay scale from 01.01.2018.*

*(iv) The respondents shall count the services of the petitioners from their date of appointment continuously for counting ten years of their service.*

*22. We have not considered the cases of those petitioners who have not completed ten years of their service. We leave it to the respondent-State to consider their case on its own merits and as per their policy.*

*23. Writ Petitions are allowed. Rule is made absolute on aforesaid terms. No costs."*

8. There is no dispute that the applicant is continuously working in the Tribal Development Department since 2000. As per the G.R. dated 15/01/1992 the posts of part-time Sweepers were sanctioned / created. as per G.R. dated 18/06/2012. Four posts of part-time Sweeper were created.

9. As per the Judgment of the Hon'ble High Court in above cited decision, the respondents are bound to regularize the services of the applicant. It was observed in the Judgment that the case of **Secretary, State of Karnataka & Ors. Vs. Uma Devi & Ors.** is not applicable, because, the Petitioners who were similarly situated employees like the applicant were working since last more than 10 years.

10. The Hon'ble High Court has given specific direction to the respondents / Tribal Development Department to regularize the services of the Petitioners who were similarly situated employees like

the applicant, who have completed 10 years of service with effect from the date they have completed 10 years or the date of filing of Writ Petition whichever is later.

11. The applicant was not the party in the said Writ Petition, but in operative part of the Judgment, the Hon'ble High Court has given following guidelines –

*“22. We have not considered the cases of those petitioners who have not completed ten years of their service. We leave it to the respondent-State to consider their case on its own merits and as per their policy.”*

12. The applicant is similarly situated employees like the petitioners in the above cited decision of the Hon'ble Bombay High Court, Bench at Aurangabad. All those Petitioners were working in the Tribal Development Department since years together and therefore direction was given by the Hon'ble High Court that those Petitioners who have completed 10 years of service, they should be regularized from the date on which they have completed 10 years of service. The said decision is applicable to the applicant also. Hence, the following order –

### **ORDER**

(i) The O.A. is allowed.

(ii) The respondents are directed to regularize the services of the applicant after completion of 10 years of his service from the date of

his initial appointment, as per the direction of the Hon'ble Bombay High Court, Bench at Aurangabad in Writ Petition No.5867/2015 with connected W.Ps., decided on 31/10/2018.

(iii) The respondents are directed to pay all consequential benefits to the applicant.

(iv) The respondents are directed to comply the order within a period of four months from the date of receipt of this order.

(v) No order as to costs.

**Dated** :- 24/10/2024.

**(Justice M.G. Giratkar)**  
**Vice Chairman.**

dnk.



I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 24/10/2024.