

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**WRIT PETITION NO. 3361 OF 2002
WITH
CA/9769/2006 IN WP/3361/2002**

GODAVARI MARATHWADA IRRIGATION DIVL.COPN.
VERSUS
THE STATE OF MAH. & ANR.

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Mr. P.R.Tandale advocate for petitioner
AGP for Respondents: Mr. S.B.Pulkundwar

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CORAM : A.V. NIRGUDE & V.K. JADHAV, JJ.

Dated: January 9, 2015.

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PER COURT :-

1. This petition challenges the judgment and order dated 28.02.2002 passed by the learned Acting Chairman of the Maharashtra Administrative Tribunal, Mumbai, Bench at Aurangabad in TA No. 2551 of 1991. The facts are as under :

2. Respondent was taken on "Converted Regular Temporary" (C.R.T.) establishment as Driver vide order dated 04.10.1988. On 08.04.1991 he was served with retrenchment notice and offered compensation under Section 25(F) of the Industrial Disputes Act. The respondent challenged this action by filing writ petition No. 1458 of 1991. Vide an interim order, the petitioner's job was protected and he continued to work on C.R.T. establishment. In the meantime, this petition was transferred to Maharashtra

Administrative Tribunal, Bench at Aurangabad and on 28.02.2002, the learned Acting Chairman, without deciding as to whether the petition was maintainable before Maharashtra Administrative Tribunal or whether the retrenchment notice was lawful, took a view that since the Government of Maharashtra has announced the decision vide Government Resolution dated 24.11.2000, the respondent was entitled to benefits under such Government Resolution. This decision is challenged before us.

3. The learned counsel for the petitioner asserted that the main grievance of the respondent was his retrenchment. He pointed out that in the petition he challenged the legality and propriety of retrenchment. He mostly challenged the retrenchment on facts saying that work was not reduced and his services were still useful. Unfortunately, the question as to whether work was sufficient or not, was never decided. Because of the interim order passed by this Court in writ petition No. 1458 of 1991, the respondent's job was saved somehow. In the mean time, the respondent reached the age of superannuation and has now retired.

4. The question is whether this Court should decide the question as to whether the petition was maintainable in this Court or before the Maharashtra Administrative Tribunal, Bench at Aurangabad or whether such a complaint ought to have been filed before the Labour Court etc.

5. Second question is whether the learned Acting Chairman erred in taking a simplistic view on the facts of the case. Having considered the facts of the case and circumstances through which the respondent went, we are of the view that we would not disturb the impugned order. The submissions made at bar on behalf of petitioner are in a way quite pertinent but due to passage of time and the events that took place after 1999, we find that the conclusion drawn by the learned Acting Chairman was inevitable. Rightly or wrongly, the respondent's job was protected in 1991. He continued to work on C.R.T. establishment till 2000. On 24th November, 2000, the Government of Maharashtra issued a Government Resolution through which most of the employees working on C.R.T. establishment were regularized on certain condition. Such employees were more than 11,000 in number. The only condition was that such employee should have rendered continuous five years of service. The respondent had indeed rendered continuous

service of five years prior to 1991. Had he been terminated in the year 2000 or so, he would have certainly taken advantage of the Government Resolution. The Government Resolution would have protected his job. The only difference in this case is that the respondent was terminated way back in 1991 and the decision of termination was not set aside by any competent Court of law. So, in view of the facts mentioned above, we do not find it necessary to go into such question. It is more or less an academic one. We therefore, dismiss the petition.

6. Writ Petition stands dismissed. Civil Application also stands disposed of accordingly.

(V.K. JADHAV, J.)

(A.V. NIRGUDE, J.)

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