

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

**WRIT PETITION NO.2775 OF 2002
WRIT PETITION NO.2776 OF 2002
WRIT PETITION NO.2780 OF 2002
WRIT PETITION NO.2781 OF 2002
WRIT PETITION NO.2782 OF 2002**

WRIT PETITION NO.2775 OF 2002

1. The State of Maharashtra .. PETITIONERS
Through its Secretary, Forest and
Revenue Deptt, Mantralaya, Mumbai.
2. The Conservator of Forest
Aurangabad Division, Aurangabad.
3. The Sub Divisional Forest Officer
Osmanabad.

VERSUS

- Sudhir S/o. Chandrakant Deshmukh .. RESPONDENTS
Age-33 years, Occu-Service,
R/o. At Post Yedshi,
Tq. & Dist. Osmanabad.

WRIT PETITION NO.2776 OF 2002

1. The State of Maharashtra .. PETITIONERS
Through its Secretary, Forest and
Revenue Deptt, Mantralaya, Mumbai.
2. The Conservator of Forest
Aurangabad Division, Aurangabad.

3. The Sub Divisional Forest Officer
Osmanabad.

Versus

Haribhau S/o. Rohidas Chavan .. RESPONDENT
Age-45 years, Occu-Service,
R/o. At Post Yedshi,
Tq. & Dist. Osmanabad.

WRIT PETITION NO.2780 OF 2002

1. The State of Maharashtra .. PETITIONERS
Through its Secretary, Forest and
Revenue Deptt, Mantralaya, Mumbai.
2. The Conservator of Forest
Aurangabad Division, Aurangabad.
3. The Sub Divisional Forest Officer
Osmanabad.

Versus

Dattatraya S/o. Jalinder Nalwade .. RESPONDENT
Age-36 years, Occu-Service,
R/o. At Post Yedshi,
Tq. & Dist. Osmanabad.

WRIT PETITION NO.2781 OF 2002

1. The State of Maharashtra .. PETITIONERS
Through its Secretary, Forest and
Revenue Deptt, Mantralaya, Mumbai.
2. The Conservator of Forest
Aurangabad Division, Aurangabad.

3. The Sub Divisional Forest Officer
Osmanabad.

Versus

Sharad S/o. Parsu Kamble .. RESPONDENT
Age-36 years, Occu-Service,
R/o. At Post Yedshi,
Tq. & Dist. Osmanabad.

WRIT PETITION NO.2782 OF 2002

1. The State of Maharashtra .. PETITIONERS
Through its Secretary, Forest and
Revenue Deptt, Mantralaya, Mumbai.
2. The Conservator of Forest
Aurangabad Division, Aurangabad.
3. The Sub Divisional Forest Officer
Osmanabad.

Versus

Sanjay S/o. Govind Sarde .. RESPONDENT
Age-33 years, Occu-Service,
R/o. At Post Apsinga,
Tq. Tuljapur, Dist. Osmanabad.

Mr.A.N.Gaddime, Spl.GP for petitioner/State.
Mr.A.S.Bayas, Advocate for respondents.

**CORAM : A.V. NIRGUDE &
V.K. JADHAV, JJ.
DATED : 21.01.2015**

ORAL JUDGMENT [PER: A.V.NIRGUDE,J.] :-

1. These petitions are filed by the State of Maharashtra against the orders passed by the Maharashtra Administrative Tribunal, Bench at Aurangabad dated 16th August, 2001 and 20th August, 2001 in the respective matters.

2. The facts leading to this litigation are as under :-

3. The respondents were daily wagers and working mainly in Forest Department. The respondents as well as number of other persons in similar positions were working as daily wagers in Forest Department for number of years. So, the Government of Maharashtra resolved on 31.01.1996 to provide permanency in service to the said workers. One of the main conditions for getting this benefit was that such daily wagers ought to have worked for 240 days in a year with the Department under their scheme for a period of five years. It is specifically mentioned that the services of daily wagers working under the Employment Guarantee Scheme (For Short EGS) will not be counted for this purpose. The respondents inter-alia challenged this part of the Government Resolution, when they approached the Tribunal with the grievance that despite 240 days service continuously for a period of five years, they

were not given benefit of permanency. The Tribunal took a view that a daily wager would not know as to whether he was working as a daily wager under the Department scheme or under the EGS. Therefore, in the whatever scheme he worked, if he completed 240 days in a year, he could fulfill the condition. However, the Division Bench of this Court in the case of Manik Guglaji Zine And Ors. vs Director Of Social Forestry, reported in 2002 (3) BomCR 703 took a different view and held that the services of a daily wager working under EGS cannot be counted for fulfilling the condition of 240 days. This judgment places reliance on Supreme Court judgment in the case of Delhi Development Horticulture Employees' Union Vs. Delhi Administration, Delhi & Ors. Reported in 1992 AIR 789.

4. The reason for taking this view is apparent. When the Forest Department gives work to daily wagers under EGS, it is because the Collector tells them to do so. Such work may not be a work as contemplated under a particular scheme of the department. No doubt, such work is done for the benefit of the department, but the department at that time did not need such work to be done. Other possibility is that the Government Resolution expected a particular daily wager to work for 240 days as a daily wager in the department scheme, remaining days of the year he could work as daily wager in EGS. So, the

classification made in the Government Resolution does not appear to be illogical, discriminatory or unjust.

5. The petitions should, therefore, succeed. The impugned orders of the Maharashtra Administrative Tribunal are set aside. It is made clear that though these petitions are allowed and the orders delivered by the Tribunal are set aside, if in the meantime any respondent is given permanency benefit by the department, same shall not get affected by this judgment.

6. The writ petitions are allowed in above terms. Rule made absolute accordingly. No costs.

[V.K. JADHAV, J.]

[A.V. NIRGUDE, J.]