

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1)

WP NO.5249/2015

28 WRIT PETITION NO. 5249 OF 2015

Shri Pralhad Balaji Khade,
Age 56 years, Occu: Service,
r/o Aamdar colony, Balsa Road, Jintur,
Tq. Jintur, Dist. Parbhani.

...PETITIONER

VERSUS

1. The State of Maharashtra
Through its Principal Secretary,
Rural Development and
Water Conservation Department,
Mantralaya, Mumbai 32.

AND 4 OTHERS.

...RESPONDENTS

...
Advocate for Petitioner : Mr.Shelke Shivaji T.
AGP for Respondent State:S.R.Yadav Lonikar
Advocate for respondent nos. 2 to 5: Mr.Patil Umakant K.

...
CORAM : S.S. SHINDE & P.R. BORA, JJ.
Dated: November 26, 2015

PER COURT :-

1. This petition takes exception to the impugned order dated 17th of January, 2015, at Exh.E of the compilation of the writ petition.

2. Heard the learned Counsel appearing for the petitioner and the learned Counsel appearing for the respondents and with their able assistance, perused the pleadings of the petition, annexures thereto and the affidavit in reply filed on behalf of

agp/-

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respondent nos. 1 to 5.

3. Learned Counsel appearing for the petitioner invited our attention to the order passed by the Division Bench of this Court in Writ Petition No.1125/2014 which was filed by the petitioner herein. Learned Counsel for the petitioner submits that the impugned order is passed on totally unsustainable grounds inasmuch as, so far as fulfilling the eligibility criteria of work for 240 days is concerned, it has been considered by this Court while disposing of the Writ Petition No.1125/2014 and, thereafter only, directions were issued to the respondents to take decision. Therefore, according to the learned Counsel appearing for the petitioner, when this Court has recorded specific finding of facts, it is not open either for the respondents, or this Court to take a different view.

4. On the other hand, learned Counsel appearing for respondent nos. 2 to 5, relying upon the affidavit in reply and annexures thereto, submits that, the service record of the petitioner un-equivocally indicates that the petitioner did not complete more than 240 days service in a calendar year, for three years, excluding the period under the Employment Guarantee Scheme. Therefore, according to the learned Counsel appearing for respondent nos. 2 to 5, the petition may be rejected.

5. We have perused the order dated 18th November, 2014 in Writ Petition No.1125/2014, passed by the Division Bench of this

agp/-

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Court (Coram: S.V.Gangapurwala & V.K.Jadhav, JJ.) This Court, in clause 5 of the said order has held thus:

"From the information placed before this Court, obtained under Right to Information Act, it is manifest that the petitioner No.1 complies necessary eligibility criteria of working for 240 days from 1994-95 till 2004.

If the reasons assigned in the impugned order are examined in the light of the afore mentioned observations, and the findings recorded by this Court, the reason given that the petitioner has not completed 240 days service, in three years, cannot sustain. In that view of the matter, the impugned order is quashed and set aside. The petition is allowed in terms of prayer clause B. So far as prayer clause C is concerned, we are not allowing the said prayer clause as it is, however, on the basis of afore mentioned portion from order dated 18th November, 2014, in Writ Petition No.1125/2014, we direct the respondents to take steps to regularize the services of the petitioner as has been done in the case of petitioner no.2 in Writ Petition No.1125/2014. (Vandana Yashwant Nage) as expeditiously as possible, however, within three months from today.

The petition is partly allowed and stands disposed of.

(P.R. BORA, J.)

(S.S. SHINDE, J.)

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