

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

WRIT PETITION NO. 8394 OF 2012

The State of Maharashtra and others .. Petitioners

Versus

Siraj Nizamoddin and others .. Respondents

Shri K. G. Patil, Addl. G. P. for Petitioners.

Shri A. V. Sakolkar, Advocate h/f Shri V. G. Sakolkar, Advocate
for Respondent Nos. 2 to 5.

**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATE : 07TH AUGUST, 2015.

PER COURT :

. Mr. Patil, the learned Additional Government Pleader submits that, the Tribunal while allowing the original application filed by present respondents has failed to consider factual matrix in its correct perspective. The present respondents have been brought on C.R.T.E. after five years. The contention of respondents that, from the date of absorption they are brought on C.R.T.E. and got the benefit of Government Resolution dated 29.09.2003 is incorrect. The respondents were appointed as Majoor/Mukadam, as such could not have been treated as Road Karkuns. The respondents had not completed the condition of getting the benefit of Road Karkun. The

employees who have completed 240 days on the post of Road Karkun i. e. Class - III category, only their proposals have been accepted by the Government and given benefit as per Kalelkar Settlement. In the present case, respondents were working as Labourers/Mukadams in Class - IV cadre. As per Government Resolution dated 29.09.2003 by which benefit is given to the employees to give post as per their work. Considering the said Government Resolution the respondents have been given benefit with effect from 29.09.2003 and not from the date, on which they were absorbed on C.R.T.E. However, this aspect has been misread by the Tribunal. Only on the basis of service, the Tribunal could not have arrived at conclusion. The certificates could not have been relied upon.

2. Mr. Sakolkar, the learned counsel for respondents submits that, the respondents were working as Road Karkuns since their date of appointment and they have worked as Road Karkun prior to five years before they were brought on C.R.T.E. According to the learned counsel, the record shows that, they were paid wages of Road Karkun. The certificates are issued to that effect. The Tribunal has considered individual case of each and every applicant before it and after verifying the record has arrived at correct conclusion. No error has been committed by the Tribunal while passing the impugned order.

3. We have considered the submissions canvassed by learned counsel for respective parties.

4. The present respondents had approached the Tribunal with following prayers :

- "A) This Original Application may kindly be allowed.
- B) To direct the Respondent authorities to draft the applicants on the post of Road Karkoons with effect from the date of completion of their initial 5 years of continuous service.
- C) To quash and set aside the letter dated 19.07.2003 issued by the Respondent No. 2 and communication letter dated 21.07.2003, issued by the Respondent No. 4 rejecting the claim of the applicants.
- D) To direct the Respondents to take decision on the proposal dated 31.08.2002 bearing Outward No. Estb.2/5798/02, taking into consideration the earlier corrigendum issued in favour of other employees by issuing necessary directions.
- E) Any other relief deemed fit may please be granted in favour of the present applicants."

5. The Tribunal has accepted the claim of respondents and has allowed the original application in terms of prayer clauses "B" and "C". The Tribunal has considered the factual matrix

with regard to each and every applicant before it. It has also considered the certificate issued by the Officers from time to time certifying that the present respondents/applicants before it were working as Road Karkun. They were also paid the wages at the rate as payable to Road Karkuns. Even the enquiry was made by the Sub Divisional Engineer, which also indicates that the respondents/original applicants were working as Road Karkuns. The respondents were working as Road Karkuns, even prior to they being brought on C.R.T.E. All these aspects have been considered by the Tribunal in its correct perspective. The appreciation of facts has been done by the Tribunal by verifying each and every document vis-a-vis the individual applicants.

6. We do not find any error committed by the Tribunal while passing the impugned order. The writ petition as such is dismissed. Rule discharged. No costs.

[V. K. JADHAV, J.]

[S. V. GANGAPURWALA, J.]

bsb/Aug. 15