

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

WRIT PETITION NO. 26 OF 2015

NARSINGH LAXMAN BHALERAO
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. V.D. Patnurkar
AGP for Respondents: Mr. G.K. Naik-Thigle

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CORAM : S V GANGAPURWALA & V.K. JADHAV, JJ.
Dated: July 09, 2015

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PER COURT :-

1. Mr. Patnoorkar, learned counsel for the petitioner states that, petitioner was appointed on daily wages in the year 1980. On 24.10.1991, the respondent No.3 issued office order by virtue of which more than 65 employees were continued in service who have completed more than five years of service. Name of the applicant is at serial No.36. Learned counsel submits that petitioner is in continuous service from 4.1.1981 and is continued even after 1.7.1989. His services be treated as class three category. Said representation is not decided. Pay scale of the petitioner is also revised as he has completed more than 12 years of service. Learned counsel submits that respondent No.4 issued a letter to the respondent No.3 wherein proposal was forwarded for getting dues of the salary from July, 1983 to February, 2002. Petitioner is entitled for the said amount.

2. Learned counsel submits that in similarly situated matters, the employees of the Dairy Development have been granted

regularization. Even the Apex Court has upheld the said regularization.

3. Mr. Thigle, learned AGP for Respondent State submits that, petitioners were paid pay scale, however, it is only on the basis of availability of post. Tribunal has considered said aspect of the matter and has rightly dismissed the Original Application. Learned AGP relies on the order passed in Letters Patent Appeal No.14 of 2008.

4. We have considered submissions canvassed by the learned counsel for respective parties. It is not disputed that petitioner was given time bound promotion and pay scale on completing 12 years of service. Petitioner was treated as confirmed employee for all purposes.

5. This Court vide judgment dated 27.8.1998 in Writ Petition No.4544/1998 with connected writ petitions had observed that those who had completed 240 days of service in the employment of respondents No.2 and 3 are entitled for regularization in service. Said order was upheld by the Apex Court in Civil Appeal No.3070/1999 vide order dated 24.7.2001.

6. In the present case, petitioner, on attaining age of superannuation has retired. The petitioner was getting pay scale as per revised pay scale from 1.7.2001 also. This would show that

petitioner for all purposes was shown as confirmed and regular employee. There is no impediment for the respondents to treat the petitioner as regular employee for the purposes of revision of pay scale. Even revised pay scale was given to petitioner on completion of 12 years of service.

7. In light of the above, we pass following order.

O R D E R

- I] Impugned order is quashed and set aside.
- ii] Petitioner shall be treated as regular employee on completion of five years of his service.
- iii] The petitioner be paid pensionary benefits considering the petitioner as a regular and confirmed employee on completion of five years of his service.

8. Writ Petition stands disposed of. No costs.

(V.K. JADHAV, J.)

(S V GANGAPURWALA, J.)

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aaa/-