

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

**WRIT PETITION NO.4804 OF 2001**

- 1 The State of Maharashtra.
- 2 The District Superintending  
Agriculture Officer, Jilhapeth,  
Jalgaon, Dist.Jalgaon.
- 3 The Krushi Paryavekshak  
Taluka Bij Gunan Kendra,  
Chopda, District Jalgaon.

...PETITIONERS

-VERSUS-

Bharat Vana Patil,  
R/o At Akhatwade, Post Vele,  
Tq.Chopda, District Jalgaon.

...RESPONDENT

**WITH  
CIVIL APPLICATION NO. 9692 OF 2016  
IN WP/4804/2001**

**BHARAT VANA PATIL  
VERSUS  
THE STATE OF MAHARASHTRA AND ANOTHER.**

...

AGP for Petitioner / State : Shri S.W.Mundhe.  
Advocate for Respondent / Employee : Shri Shelke Avishkar S.

Shri Ashok Baburao Pandit, Agriculture Supervisor, Taluka Seed Farm,  
Taluka Chopda, District Jalgaon, is present in person.

...

**CORAM: RAVINDRA V. GHUGE, J.**

**DATE :- 04<sup>th</sup> August, 2016**

Oral Judgment :

1           This Writ Petition was admitted on 27.11.2001 and interim relief was granted thereby, staying the impugned judgment of the Industrial Court, Jalgaon dated 26.07.2001 in Complaint (ULP) No.905/1999 (Old No.209/1993).

2           I have heard the learned AGP on behalf of the Petitioners/ State and Shri Shelke, learned Advocate on behalf of the Respondent/ Employee at length.

3           Considering that the Writ Petition is pending for final hearing for about 15 years, by consent of the parties, the petition itself is taken up for adjudication along with the Civil Application.

4           There is no dispute that the Respondent-Employee had filed Complaint (ULP) No.209/1993 praying for regularization as a “Majoor” with the Petitioner-Establishment. By the impugned judgment, the complaint was allowed and the Petitioner- Establishment was directed to give status, privileges and emoluments of permanency to the Respondent-Employee and to pay the difference of wages after deducting the payment already made to the Respondent, from the date of the complaint, within a

period of two months from the date of the order. The Petitioner-Establishment was also directed to continue to pay the wages with allowance and other benefits of permanent employee to the Respondent-Employee.

5           On account of interim relief granted by this Court on 27.11.2001, the impugned judgment has been stayed. It is, however, undisputed that the Respondent is working with the Petitioner. As on date, he has put in more than 30 years in a continuous employment.

6           The Respondent had moved an application seeking information under the Right to Information Act, 2005. Pursuant thereto, the Information Officer of the Petitioner-Establishment informed the Respondent-Employee by letter dated 14.08.2012 that there are 19 posts of Grade-I Majoor in Jalgaon Region and 11 posts of Peon in the said region, which are vacant.

7           The learned AGP submits, on instructions from the concerned officer present in the Court, that though these posts are vacant, the Government has not sanctioned/ granted permission to fill in the said posts concerning Jalgaon region.

8           I have gone through the impugned judgment of the Industrial Court with the assistance of the learned Advocates. The Industrial Court has extensively dealt with the oral and documentary evidence adduced before it from paragraphs 15 till 19. It has been established before the Industrial Court that the Respondent- Employee was working as a Majoor in Class-IV category for years together. He has proved continuous service under Section 25(B) of the Industrial Disputes Act, 1947. Having worked continuously and in the light of the undisputed position that he has put in more than 30 years service as on date, I do not think that this matter needs to be taken any further. The right for regularization is, therefore, established.

9           Considering the communication of the Information Officer from the office of the District Superintending Agriculture Officer, Jalgaon dated 14.08.2012 placed on record with the Civil Application No.9692/2016 and considering the statement made by the representative in the Court, it is apparent that 19 posts of Grade-I Majoor are vacant only in Jalgaon region.

10          In the light of the above, the Respondent-Employee would be entitled for the benefits of regularization on the post of Majoor Grade-I from the date on which the first post out of the 19 posts has fallen vacant.

The learned AGP is unable to make a statement as to when did the first post out of these 19 posts has actually fallen vacant.

11           In the light of the above and considering the fact that the regularization in the State instrumentalities is to be ordered depending on the vacancy available, the impugned judgment of the Industrial Court needs to be modified.

12           Accordingly, this Writ Petition is partly allowed by modifying clause (iii) of the operative part of the impugned judgment as under:-

“The Petitioners-Establishment herein are directed to give the status, privileges and emoluments of permanent employee to the Respondent-Employee (Complainant) on the post of Grade-I Majoor with effect from the date on which the first post of Grade-I Majoor out of the 19 posts has fallen vacant in the light of the communication dated 14.08.2012 and to pay the difference of wages to the Respondent (Complainant) within a period of TWELVE WEEKS from today.”

13           Rest of the impugned judgment is sustained. It is expected that the Petitioner-Establishment shall truthfully take into account the date on which the first post out of the said 19 posts of Grade-I Majoor has fallen vacant, while giving the benefits to the Respondent-Employee.

14 Rule is made partly absolute in the above terms.

15 In the light of the above, the pending Civil Application does not survive and is, therefore, disposed of.

*kps*

(RAVINDRA V. GHUGE, J.)