

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6215 OF 2015

Subhash Yamaji Dhanawe,
Age 46 years, Occ. Labour,
R/o Dongaon, Post Arangaon,
Tq. Jamkhd, Dist. Ahmednagar.

..Petitioner

Versus

1. State of Maharashtra
Through Secretary for the
Forest Department,
Mantralaya, Mumbai.

2. Chief Conservator of Forest,
Nashik Circle, Nashik,
Van Vibhag, Old Agra Road,
Nashik.

3. The Deputy Conservator
of Forest, Forest Department,
Van Vibhag, Nagar-Aurangabad
Road, Ahmednagar.

..Respondents

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Advocate for Petitioner : Shri Barde Parag Vijay
Advocate for Respondents : Shri Gaddime A.N., Special Counsel
with Smt. S.S.Raut, AGP

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CORAM : RAVINDRA V. GHUGE, J.
Dated: March 14, 2016

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ORAL JUDGMENT :-

1. Heard.

2. Rule.

3. By consent, Rule is made returnable forthwith and the petition is taken up for final disposal.
4. On 2.12.2015, the submission of Shri Barde, learned Advocate for the petitioner were recorded as under:-

"1 The Industrial Court while dismissing the complaint of the Petitioner vide the impugned judgment has come to a conclusion on page 39 of the petition paper book that the Complainant has not worked for more than 240 days in each and every year during the period of five years on daily wages.

2 The Petitioner relies upon the Government Resolution dated 16.10.2012 wherein it is provided in clause (1) that an employee who may have continuously worked for five years or who may have completed 240 days in each calendar year notwithstanding the intermittent breaks in service, would be entitled for regularization.

3 In the face of this finding, it is incumbent upon the Petitioner to establish before this Court on the basis of the record that the Petitioner had completed 240 days in each calendar year for the period of 05 years either in between 1995-2000 or 2012 onwards.

4 Shri Barde, learned Advocate for the Petitioner, seeks liberty to place on record the Government Resolutions dated 31.01.1994 and 16.10.2012. He also seeks liberty to prepare a statistical data to indicate actual number of days that the Petitioner had worked in between 1995-2012.

5 Both the learned Advocates pray that this matter be adjourned as a part heard matter.

6 *Stand over to 15.12.2015 at the request of Shri Barde, as part heard."*

5. Shri Gaddime, learned Advocate for the respondents has tendered across the Bar, the compilation of documents which are approximately 200 pages. I have perused the said documents. Shri Barde has also perused the same.

6. It is apparent that these documents pertain to the work done by the petitioner in the Employment Guarantee Scheme ("EGS"). The number of days that he has worked and the amount of remuneration that is to be paid to the petitioner is also evident from the said documents. I, therefore, find that the petitioner was working on EGS and as such, a claim for permanency would not be tenable in the light of the rulings of this Court.

7. In the light of the above, I do not find that this petition deserves to be entertained.

8. Shri Barde, however, makes a request that the petitioner has been working with the respondent from 1991. Even today, he is in employment. Considering the fact that he has been working with the respondents for the last about 24 years, the respondents may consider the claim of the petitioner on humanitarian grounds.

9. Shri Gaddime submits that no representation at the behest of the

petitioner is filed or pending before the respondents. Without offering any assurance, in the event the petitioner makes a representation, the respondents would consider the same on its own merits.

10. In the light of the above, the petitioner is at liberty to make a representation to the respondent and in the event, he so does, the respondent may consider the same on its own merits and in accordance with any scheme or Government Resolution, if applicable.

11. Needless to state, the dismissal of this petition shall not be a reason for the respondents to stop allotting work to the petitioner.

12. Rule is discharged with the above observation. No order as to costs.

(RAVINDRA V. GHUGE, J.)

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akl/d