

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

935 WRIT PETITION NO. 2492 OF 2002

The State of Maharashtra & others. ...Petitioners.

Versus

Datta s/o Haribhau Sakhare. ...Respondent.

Mr. R.V.Dasalkar, A.G.P. for respondent No.1 to 3.

...

**CORAM : S.V. GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

DATED : 1st September, 2017.

PER COURT :-

. The present respondent had filed Original Application No.186/2001, challenging the Government Resolution dated 19/10/1996 and also sought permanency and all other consequential benefits. The tribunal under judgment and order dated 23/08/2001 observed that the present respondent has worked for a 150 days under the E.G.S. and as such has rendered the work for a total 364 days during 1993 – 1994. The tribunal has observed that, so far as preceding four years are concerned, the respondents have admitted that, the applicant has worked for 240 days in each those four years. As such, he is entitled for benefit

of the scheme set out under Government Resolution dated 19/10/1996. Accordingly, the respondents therein were directed to comply the said order. Aggrieved thereby, the State has filed this Writ Petition.

2. Mr.Dasalkar, the learned A.G.P. for the petitioners submits that the Government Resolution dated 19/10/1996 specifically set out that, the work done under the E.G.S. Scheme cannot be considered while bringing them on pay-scale. The order of the tribunal is against Clause No.07 of the G.R. dated 19/10/1996.

3. On previous dates, when the matter was called for final hearing, nobody appeared for the respondent. Today also, when the matter is called, nobody appears for the respondent.

4. Learned A.G.P. was specifically asked to take instructions, whether the respondent is in service or not. The learned AGP on instructions, states that the respondent is not working with the petitioners for more than 10 - 12 years.

5. Clause 1 of the G.R. dated 19/10/1996 categorically and specifically states that while calculating the period of five years service, the service rendered under E.G.S. is not to be considered. In the year 1993 - 1994

admittedly, the respondent had worked for 214 days under E.G.S. scheme and the Tribunal had considered the work done by the respondent under E.G.S. scheme. The said work is required to be excluded as per the Government Resolution dated 19/10/1996.

6. Considering the above, the Tribunal could not have passed the impugned order. The impugned order as such is quashed and set aside. Rule made absolute in above terms. No order as to costs.

7. In view of the order in Writ Petition, Civil Application is also disposed of.

[MANGESH S. PATIL, J]

[S.V. GANGAPURWALA, J]

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