

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 6779 OF 2017

(Assistant Director of Horticulture, Horticulture Development Division, CPWD & Ors. vs. Dilip
s/o Ramrao Mankar)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
MRS. SWAPNA JOSHI, JJ.
OCTOBER 30, 2017.**

Heard Mrs. Mugdha R. Chandurkar, learned counsel for the petitioners.

2. The Central Administrative Tribunal (CAT) has found in para 35 of his judgment that juniors to the applicant before it i.e. present respondent were already regularized and hence benefit thereof could not have been declined to him.

3. The submission of the employer before this Court is, decision has been taken in terms of the directions contained in communication dated 14.03.2011. Our attention is invited to the fact that as per said decision and in terms of mandate contained in para 44 of the judgment of the Hon'ble Apex Court in the case of Secretary, State of Karnataka & Ors. vs. Umadevi & Ors., reported at (2006) 4 SCC 1, as the respondent continued due to Court orders, he could not have been treated as a person who has put in 10 years of service and hence the benefit of such a policy decision could not have been given to him.

4. We find the arguments erroneous. The Central Administrative Tribunal has found that he was terminated

from service on 13.09.1983 and was reinstated because of Award passed by the Central Government Industrial Tribunal (C.G.I.T.) on 27.02.2003. Thus, he is deemed to be in service from 13.09.1983 to 27.02.2003.

5. The interim orders contemplated by the Hon'ble Apex Court in para 44 of its judgment (supra) envisage continuation on the strength of interim orders without final adjudication. Here, there was actually a wrongful termination which has been so declared on 27.02.2003. Had there been no termination, the argument and contentions being raised now, would not have been available to the petitioners. In other words, the petitioners are trying to take advantage of their own wrong.

6. We do not find any jurisdiction error or perversity in the judgment delivered by the Central Administrative Tribunal. Hence, the present petition is rejected. However, there shall be no order as to costs.

JUDGE

JUDGE

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