

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
25 WRIT PETITION NO. 14871 OF 2017**

NARAYAN INDARRAO CHAVAN

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. Avishkar S. Shelke, Advocate for the
Petitioner.

Mr. S. P. Sonpawale, AGP for Respondent-State.

...

**CORAM : S. V. GANGAPURWALA &
R. G. AVACHAT, JJ.**

DATED : 31st OCTOBER, 2018.

PER COURT:-

1. The petitioner seeks benefit of Government Resolution dated 31.01.1996 and seeks regularization of his service. The claim of the petitioner for regularization pursuant to the Government Resolution dated 31.01.1996 was not considered. The petitioner assailed the same by filing Original Application bearing No.427 of 2001, the same was rejected under judgment and order dated 07.06.2010. The petitioner filed the Review Application alongwith Application for Condonation of Delay, the same was dismissed. The petitioner filed Writ Petition bearing No.437 of 2013. This Court under order dated 15.12.2014 set aside the judgment of the Tribunal and remitted the matter to the Tribunal for reconsideration. The Tribunal again dismissed the Original Application on 17.02.2017. Aggrieved thereby, the present Writ

Petition.

2. Mr. Shelke, learned counsel for the petitioner submits that the petitioner worked for a continuous period of 240 days for five years prior to 1994 under the D.P.A.P. Scheme. The D.P.A.P. Scheme is not meant for generation of the employment nor is akin to E.G.C. Scheme. The petitioner was entitled for the benefit of regularization as per the Government Resolution dated 31.01.1996. Even the respondents admitted in their affidavit-in-reply filed before this Court that the petitioner has worked for 240 days continuous service in each year continuously for five years period. It was erroneous on the part of the Tribunal to negative the case of the petitioner.

3. Mr. Sonpawale, learned A.G.P. submits that the petitioner has been granted regularization in service and the benefits of regularization as per the Government Resolution dated 16.10.2012 and the petitioner has retired from service in the year 2015. This fact is not brought on record by the petitioner.

4. The learned A.G.P. submits that D.P.A.P. Scheme is akin to E.G.S. and as such petitioner is not entitled for benefit of regularization as per Government Resolution dated 31.01.1996. The petitioner has also not worked for a period of 240

days. In the year 1993-1994 he has worked only for 211 days, as such the petitioner is not entitled for the relief claimed. The Tribunal has not committed any error in passing the impugned order.

5. It is not disputed that the petitioner was working under the D.P.A.P. scheme (Drought Prone Area Programme). The objective of the programme is as under:

"The basic objective of the programme is to minimise the adverse effects of drought on production of crops and livestock and productivity of land, water and human resources ultimately leading to drought proofing of the affected areas. The programme also aims to promote overall economic development and improving the socio-economic conditions of the resource poor and disadvantage sections inhabiting the programme areas"

6. It is clear from the objective of the scheme that the D.P.A.P. is not meant for employment generation, but the basic objective of the programme is to minimise the adverse effects of drought on production of crops and livestock and productivity of land, water and human resources ultimately leading to drought proofing of the affected areas.

7. The Government Resolution dated 31.01.1996 provides that those daily wagers who have worked for 240 days continuously for five years prior to

year 1994 would be regularized. In the affidavit-in-reply filed in Writ Petition No.437 of 2013 it is averred thus:

"I say and submit that, the above Writ Petition is filed by the Petitioner above named challenging the judgment and order dated 7-6-2010 passed by the Hon'ble Division Bench of the Learned Maharashtra Administrative Tribunal, Bench at Aurangabad in Original Application No.427 of 2001 with further prayer to quash and set aside the order dated 10-2-2011 passed in Review Application St. No.1329 of 2010 and regularize the services of the Petitioner as per Government Resolution dated 31-1-1996. In this respect, I say and submit that an affidavit in reply is already filed on 20-3-2013 contents of which are reiterated by this deponent. It is submitted that the contentions of the Petitioner that the Petitioner has completed more than 240 days in a calendar year at various places and Petitioner further contended that he has completed 11 years of service on daily wages on planned and non planned scheme is denied as incorrect. The Petitioner has worked with the Respondent authorities on daily wages, however, it is submitted that the Petitioner has completed 240 days in five years continuously. It is further contended that the Petitioner has worked of DPAP scheme only (Draught Prone Area Programme) therefore, he is not eligible to be considered for his regularization as per condition of Government Resolution dated 31-1-1996."

8. The petitioner is also supplied the details of the days worked by the respondent pursuant to his application under Right to Information Act.

9. As per said information, in each year the petitioner has worked for more than 240 days for five years prior to 01.11.1994. The only ground for denial of the benefit to the petitioner by respondents is that the petitioner had worked under the D.P.A.P. Scheme and the same is akin to E.G.S. or the Scheme meant for generating employment.

10. As observed supra the D.P.A.P. Scheme is not meant for generation of employment. There was no bar for considering the petitioner for regularization as per Government Resolution dated 31.01.1996.

11. In light of the above, we pass following order:

ORDER

(i) The respondents are directed to give benefit of the regularization to the petitioner as per Government Resolution dated 31.01.1996.

12. Though we have granted the benefit of regularization to the petitioner since year 1996, however, we direct that the petitioner would not be entitled for actual financial benefits pursuant to this order. However, the period from 1996 shall be counted for notional increments and further retiral benefits, if any. The benefits which are already granted shall be adjusted. The respondents shall grant the benefits as per this order preferably within a period of six (06) months.

13. Writ Petition accordingly allowed in above terms. No costs.

(R. G. AVACHAT)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/October-18