

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 248 OF 2018

Shri Nilesh L. Gawas

Aged about 39 years, Married

R/o. H. No. 174, Deul Wada

Ibrampur, Assonora-Goa

.... Petitioner

V/s.

State of Goa,

By Chief Secretary,

Government of Goa,

Secretariat, Porvorim,

Bardez-Goa.

..... Respondent.

Mr. C. Padgaonkar, Advocate for the Petitioner.

Coram : N.M. Jamdar &

Prithviraj K. Chavan, JJ.

Date : 21 August 2018

Oral Judgment (Per N. M. Jamdar, J)

Rule. Rule made returnable forthwith. Respondent waives notice. Taken up for disposal.

2. We have heard the learned Counsel for the parties.

3. The Petitioner has challenged the order passed by the Government of Goa not to further extend the contractual appointment of the Petitioner as Security Guards and that the Petitioner has been relieved from his duty as a Security Guard. It is the case of the Petitioner that he has been working as Security Guard at the Secretariat continuously for about 14 years.

4. When the Petition was moved on 21 February 2018 we had passed the following Order:-

“The learned Additional Govt. Advocates seek time to file reply. S.O. to 5th March 2018.

2. The learned Counsel for the petitioner relies upon a decision in the case of State of Jammu and Kashmir and ors., vs. District Bar Association, Bandipora , (2017) 3 SCC 410, and contends that it is not impermissible for the Government, as an one time measure, to consider regularisation of the employees working on daily wages or on contract basis, more particularly, if the employees are working for a long period of time. The learned Counsel for the petitioner contends that the petitioners have been working since 2010 and their contractual appointments have been renewed from time to time.

3. Considering the fact that the hearing of the petition is deferred for filing of the reply by the

State, till further orders, services of the petitioners shall not be dispensed with by the Government, without taking leave from this Court.

4. To be tagged alongwith Writ Petition No.228 of 2018 and others.””

5. Thereafter, the Petition was adjourned from time to time at the request of the Government Advocate. On 5 June 2018, we had passed the following Order:-

“The affidavit-in-reply filed on behalf of the Respondent-State primarily deals with the prayer of the Petitioners regarding regularisation. It is, however, not made clear in the reply as to the further arrangement that the State would take after the contractual employment of the Petitioners-Security Guards is terminated, as to whether the State would be appointing some other Security Guards on contract basis or regular employment will be made.

2. To enable the State Government to file an additional affidavit, S.O. to 18 June 2018. Ad interim order to continue.”

6. On 18 June 2018, the Advocate for the Petitioner had sought time to consider, looking at the stand of the State whether to make representation to the State Government. On 26 June 2018, the

following order was passed:-

“The learned Counsel for the Petitioners submitted that the Petitioners will meet the concerned Officer with a representation. The learned Additional Govt. Advocate states that it is open to the Petitioners to do so to find out if any relief can be granted to the Petitioners within four corners of law.

2. S.O. to 16 July 2018.”

7. Thereafter, on 31 July 2018 we passed the following Order recording the statement of the learned Advocate General:

“The learned Advocate General submitted that if any representation is made to the Authorities, the Authorities are not averse for consideration of the representations as to whether the Petitioners can be accommodated in the Goa Human Resource Development Corporation. The Petitions could have been disposed of by directing the Petitioners to make representations, however the learned Counsel for the Petitioners is not present.

2. S.O. to 21 August 2018.”

8. Today, the Petition is placed on board. We have heard the learned Counsel for the parties.

9. Learned Counsel for the Petitioner states that the Petitioner will make representation within a period of two weeks before the appropriate authority. Learned Additional Government Advocate, on instructions states that the representation should be made to The Managing Director, Goa Human Resource Development Corporation, Near D.I.E.T Building, Alto Porvorim, Bardez, Goa-403 521.

10. The Petitioner will make representation within a period of two weeks as above. The representation of the Petitioner be decided as per law. If the representation is made within two weeks, till the representation is so decided, and if the decision on the representation is adverse to the Petitioner, for a period of four weeks from the communication of the decision to the Petitioner, the ad- interim order granted in this Petition to continue.

11. Rule made absolute in the above terms.

Prithviraj K. Chavan , J.

N.M. Jamdar, J.