

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

WRIT PETITION NO.1245 OF 2003

1. The State of Maharashtra,
Through the Deputy Director,
Social Forestry, Jalgaon Division,
Jalgaon.
2. The Plantation Officer,
Social Forestry, Range Office,
Raver, Tq. Raver, Dist. Jalgaon **PETITIONERS**
(Ori. Respondents)

VERSUS

Rajendra Waman Patil,
Age : 32 years, Occu. Labour
R/o : at Thorgavan Post. Manvel,
Tq. Yawal, Dist. : Jalgaon.

... **RESPONDENT**

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AGP for the Petitioners : Shri N. T. Bhagat
Advocates for Respondent Nos. 1 and 2 : Shri V. Y. Patil

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 08th MAY, 2019.

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ORAL JUDGMENT :

1. The petitioners - State of Maharashtra and the Social Forestry Department are aggrieved by the judgment and order dated 17/12/2002 delivered by the Industrial Court, Jalgaon,

vide which, complaint (ULP) No. 904/1999 (old No. 219/1993) has been partly allowed. ULP under Items 6 and 9 of Schedule IV of the MRTU and PULP Act 1971 has been declared against the petitioners and they are directed to pay monetary benefits and privileges of permanency to the respondent from the date of the filing of the complaint i.e. 11/06/1993 till his retrenchment dated 16/09/1999, after deducting the payment already made to him.

2. I have heard the learned AGP on behalf of the State and the petitioners and the learned Advocate on behalf of the respondent – original complainant. After considering their submissions and the record available, I find that the respondent had claimed to be in employment with the petitioners on daily wages as a watchman from June-1985. He worked on the plantation at Pathrad, Thorgavhan. The Industrial Court has considered the law laid down by the Honourable Apex Court in the matter of *Chief Conservator of Forests Vs. Jagannath Maruti Kondhare, 1996 AIR SC 289*. The respondent was earlier terminated and after he succeeded before the Labour Court, he moved the Industrial Court for

seeking regularization. The Industrial Court rightly applied the law in the case of Chief Conservator of Forests (*supra*), concluding that parity for payment of wages can be directed, but regularization cannot be directed until the permanent posts are vacant and available.

3. This Court passed a detailed order on 26/08/2003 and concluded, *prima-facie*, that the Industrial Court has considered the entire evidence on record and as the respondent was continued on daily wages for 8 years, no interim relief was granted to the petitioner.

4. It is pointed out that the Government of Maharashtra has introduced G.R. dated 31/01/1996, 16/10/2012 and 10/05/2018. I find from these resolutions issued by the Government, exclusively with regard to the daily wagers working in the Forest Departments as well as those who were working under some schemes or who were being paid their wages from the consolidated fund, that it has decided to consider such employees for regularization.

5. The learned Advocate for the respondent submits that he is not aware as to whether the respondent was continued in employment and whether he still is in employment.

6. Notwithstanding the above, it is obvious that the respondent was working for more than 8 years when this Court passed an order on 26/08/2003. In this backdrop, ends of justice would be made by disposing of this petition with the direction to the petitioners to consider the case of the respondent within the ambit of the above referred three Government Resolutions. As the Industrial Court has declined to grant regularization and has granted parity in wages in the light of Chief Conservator of Forests (*supra*) , such directions would take care of the interest of the respondent if he is continued in employment even after this Court passed its order on 26/08/2003.

7. As such, this petition is partly allowed. As the petitioner did not have the jurisdiction of creating posts, the declaration of ULP under Items 6 and 9 of Schedule IV against both the petitioners is quashed and set aside. The direction of the

Industrial Court to pay monetary benefits at par with the permanent employees for the period mentioned, is sustained.

8. Petitioner No.2 shall prepare the proposal of the respondent for regularization within a period of 60 days from today after verifying his entire length of service on daily wages and forward the same to the Principal Chief Conservator, Social Forestry Department, Maharashtra State, Pune which would consider such proposal in the light of the above referred G.R's. of 1996, 2012 and 2018. This Department would decide the fate of the respondent within 4 months from the date of the receipt of the said proposal.

9. Rule is made partly absolute in the abovesaid terms.

10. In the event the respondent is aggrieved by the decision of the petitioners pursuant to the above directions, he would be at liberty to seek a remedy as may be permissible in law.

11. It is made clear that if the respondent is continued in employment and has not attained the age of superannuation,

he would be continued as such and his services as a daily wager would not be dispensed with, save and except in the event of disciplinary action.

12. In the event either of the litigating parties in this proceeding notice any significant development that may have occurred in the interregnum/during the pendency of this petition, which was not brought to their notice earlier, they may approach this Court by filing a Civil Application in this disposed off petition.

(RAVINDRA V. GHUGE, J.)

shp/-