

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

973 CIVIL APPLICATION NO.8648 OF 2019
IN RAST/21219/2019

THE MAHARASHTRA STATE
THROUGH PRINCIPAL SECRETARY
RURAL WATER SUPPLY AND SANITATIO DEPARTMENT
VERSUS
ZILLA PARISHAD NANDED

...
AGP for Applicants : Mr. S.P. Tiwari

...
CORAM : **RAVINDRA V. GHUGE, J.**

Date: July 26, 2019
...

PER COURT :-

1 The learned advocate for the respondent - original petitioner is not present though copy is served.

2 Delay caused in filing the Restoration Application is of 419 days. Learned AGP submits that, he is ready to address the Court today itself on the review application.

3 Considering the reasons cited in the application and the readiness and willingness of the learned AGP to canvass the review application, the delay is condoned. Since it is the State Government, costs are not imposed.

4 I have heard the learned AGP on the review application at length.

5 Perused the ' Good grounds Certificate' dated 11.07.2019 issued by Mr. S.P. Sonpawale, Additional Government Pleader.

6 The learned AGP has canvassed four grounds:-

- (a) The observations of this Court in paragraph No.14 of the Judgment dated 8.5.2018 delivered in Writ Petition No.2617/2008, need to be modified.
- (b) No proposal is received from the Zilha Parishad to the State Government.
- (c) The State Government was not a party to the proceeding before the Industrial Court,
- (d) Some of the candidates were not possessing requisite qualifications.

7 In so far as the first ground is concerned, the answer is found in paragraph No.13 of the Judgment, wherein, the learned Advocate for the petitioner pointed out the communication dated 11.1.2018 issued by the Desk Officer, Government of Maharashtra to several Zilha Parishads and the Divisional Commissioners in the State, calling for the data regarding bringing the daily rated employees on converted regular temporary establishment (CRTE). He had also pointed out the communication by the Zilha Parishad, Nanded, the petitioner in the present proceedings, dated 13.2.2017 addressed to the Principal Secretary, Rural Development & Water Conservation Department, which indicates the details about the pending cases and proposals of daily rated workmen having been submitted. As such, the first ground is without merit.

8 In so far as second ground is concerned, it is inconsequential that the State was not a party to the proceeding before the Industrial Court. The State was respondent No.1 in the writ petition, before this Court. The second ground is also without merit.

9 In so far as the third ground is concerned, it is submitted that some of the daily rated workmen do not bear requisite qualifications. It appears from the Judgment at issue that such daily rated workers were working for years together. In similar circumstances, this Court had delivered a Judgment in Writ Petition No.2883/1992. Said Judgment was carried before the Honourable Apex Court and by order dated 19.1.2015, it was sustained. So also, the Honourable Apex Court has held in the matter of ***Secretary, State of Karnataka versus Umadevi (2006) SCC 44*** that, daily wagers working for years together need to be considered for regularization in the event, they are not ineligible. This Court has recorded that, as such daily wagers rendered services for decades, their proposal for regularization be considered and at that time, no objection about their qualification was raised.

10 In view of the above, this review petition is without any merit and stands dismissed.

(RAVINDRA V. GHUGE, J)