

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13245 OF 2018

ULSHA SONU PAWAR

...PETITIONER

VERSUS

TAPI IRRIGATION DEVELOPMENT
CORPORATION JALGAON THROUGH
EXECUTIVE ENGINEER

...RESPONDENTS

Mr. G.J. Karne, Advocate for Petitioner
Mr. Gaurav Deshpande, Advocate holding for
Mr. D.R. Shelke and Smt. S.D. Shelke Advocates for Respondent

**CORAM : S. V. GANGAPURWALA AND
ANIL S. KILOR, JJ.**

DATE : 26th AUGUST, 2019

ORAL ORDER:

1. The petitioner assails the order dated 01.10.2018 passed by the Executive Engineer, Upper Godavari Prakalp Division, Nashik, whereby the respondent refused to take petitioner on Converted Regular Temporary Employment. (CRTE).
2. We have heard the learned Counsel for the petitioner and the respondents.
3. The petitioner was appointed in the year 1983 on daily wages. He was terminated in April, 1986. The petitioner filed Reference IDA No. 42/1992 before the Labour Court, Nashik. The

said complaint is partly allowed. The Award reads thus -

AWARD

Shri. Ulsha Sonu Pawar is entitled to be reinstated in his usual position with continuity of service from 21-04-86. He is also entitled to receive 30 % of the back wages with effect from 3-8-1992.

The Award be sent to the Government.

4. The Department filed Writ Petition before this Court challenging the aforesaid award bearing Writ Petition No. 3604/2003.

5. The learned Single Judge of this Court under order dated 09.11.2017 did not set aside the said Judgment, but only observed that the proposal has been submitted and decision shall be taken in accordance with the Government Resolution dated 24.04.2001. As per the said Government Resolution, the employees should have worked for five years.

6. The said argument may not be available now in view of the order passed by the Labour Court, Nashik wherein the petitioner is directed to be reinstated in service in his usual position with continuity from 21.04.1986 and is also granted 30 % of the back wages w.e.f. 03.08.1992. This would show that the petitioner would be deemed to be in continuous service. In view of that, the condition of five years at least notionally would stand satisfied. In view of that,

the petitioner would be entitled for the benefit of the Government Resolution dated 24th April, 2001 of having worked for five years and more continuously.

7. In light of the above, the impugned order is quashed and set aside. The respondent shall consider the claim of the petitioner. The respondent shall consider the petitioner has worked for more than five years continuously in view of the Judgment of the Labour Court.

8. Necessary action be taken within a period of three months and execute the order of the Labour Court.

9. The Writ Petition is disposed of. No costs.

[ANIL S.KILOR]
JUDGE

[S.V.GANGAPURWALA]
JUDGE

mta