

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Misc. Civil Application No.605 of 2019 (for Review)

In

Letters Patent Appeal No.445 of 2009 (D)

In

Writ Petition No.860 of 2004 (D)

Arun S/o Jairam More, and others

Versus

Chief Conservator of Forests,

Government of Maharashtra, Nagpur, and others.

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Shri Kshitij Jain, Advocate, holding for Shri S.S. Dhengale,
Advocate for Applicants.

Ms Ritu Kaliya-Sharma, Assistant Government Pleader for
Respondents.

Coram : R.K. Deshpande & S.M. Modak, JJ.

Dated : 30th August, 2019

The petitioner was terminated from service as a Daily Wager on 29-8-2001. He claims to have worked as a Daily Wager from 1-11-1986 to 1-8-1988. It is after the termination of service, Complaint (ULP) No.653 of 2001 was filed before the Industrial Court invoking the jurisdiction under Sections 28 and 30 read with Items 5, 6 and 9 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 for regularization of service. In fact, the petitioner was terminated and, therefore, there was

no question of seeking regularization before the Industrial Court. The termination could have been challenged before the Labour Court. Be that as it may, this Court has accepted the finding recorded by the learned Single Judge that the petitioner has failed to establish continuation in service for 240 days. Apart from this, it is held by this Court that in view of the decision of the Division Bench of this Court in the case of *Municipal Council, Tirora and another v. Tulsidas Baliram Bindhade*, reported in *2016(6) Mh.L.J. 867*, it is held that in the absence of pleading and proof of existence of sanctioned post, the complainant was not entitled to regularization of service.

The petitioner has relied upon the Government Resolution dated 16-10-2012 for claiming regularization. The complaint was filed in the year 2001, when the said Government Resolution was not in existence. We do not find that the petitioner could have in this Letters Patent Appeal claimed the regularization on the basis of such Government Resolution.

Thus, no case is made out for review of the decision.

The Misc. Civil Application is dismissed.

(S.M. Modak, J.)

(R.K. Deshpande, J.)