

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

WRIT PETITION NO. 8879 OF 2019

Ambadas Namdeorao Paikrao and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Mr. K. M. Nagarkar h/f Mr. Rohidas S. Shejule, Advocate for the
Petitioners.

Mrs. V. N. Patil-Jadhav, AGP for Respondent No. 1.

**CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATED : 25th FEBRUARY, 2020.

PER COURT:-

1. The petitioners assail the order of the Maharashtra Administrative Tribunal dismissing the original application. The petitioners have challenged the impugned letters rejecting the claim of the petitioners for regularization of their services with the respondent authority.

2. Mr. Nagarkar, learned counsel for the petitioners submits that the decision of the Tribunal in earlier original applications filed by the petitioners would not come in the way of petitioners. The said order is challenged before this Court. This Court in Writ Petition No. 7729 of 2010 under order dated 27.04.2011 had directed that proposal be

decided by the department. The learned counsel submits that it is for the respondent No. 4 to prove that the petitioners did not discharge the work for 240 days in a year. The petitioners worked for continuous period of five years prior to 1998. The respondents did not produce any record. The letter was also given by the Sub Divisional Engineer asking the petitioners to withdraw the writ petitions so as to consider the case of the petitioners for bringing them in CRT. All these aspects ought to have been considered by the Tribunal.

3. We have also heard the learned Assistant Government Pleader.
4. The petitioners had filed earlier original application before the Tribunal. The same was disposed of. While deciding the original application the Tribunal observed as under :

“Although it is admitted by the respondents that some of the applicants were working on daily wages with the respondents for some time the detailed account is given in para 4 of the Civil Application, which indicates that except applicants at Sr. Nos. 1, 4, 7 and 9 other five applicants were never serving as Daily Wagers. Sr. No. 9 has served only for 65 working days in the year 1984. Sr. no. 7 has served in the years 1978 to 1981 for 14, 194, 07, 07 working days. Sr. No. 4 has served only in the years 1979 & 1981 for 151 and 39 working days. Applicant no. 1 has served for all the years between 1978 to 1985 except 1979 and 1982 but

he has served for 26, 26, 116, 110, 42 and 09 working days in the respective years. It is thus evident that none of the applicants have served for 240 days in any calendar year. (This table gives account of working days of Applicant Nos. 1 to 7 & 10, 11 respectively)."

5. In the instant original application the Tribunal has considered the earlier findings. The Tribunal has observed that none of the service book would show that the applicants have served continuously for five years prior to 31.12.1998. In absence of any evidence to conclude that the petitioners have worked for continuous period of five years prior to 31.12.1998 and for the number of days required, it would not be possible to accede to the claim of the petitioners.

6. Writ petition, as such is disposed of. No costs.

(SHRIKANT D. KULKARNI)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

P.S.B.