

(1)

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

905 CIVIL APPLICATION NO.9129 OF 2021
IN WP/15221/2017 WITH CA/9131/2021 IN WP/7426/2019

**SHETKARI SHETMAJUR PANCHAYAT, MAHARASHTRA
AFFILIATION HIND MAJDUR SABHA, THR. VICE PRESIDENT
AND ORS.
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Mr A. N. Sabnis, Advocate for applicants;
Mr S. B. Yawalkar, A.G.P. for respondents/State

CORAM : RAVINDRA V. GHUGE, J

DATE : 26th November, 2021

PER COURT:

1. By this civil application, the applicants pray that the direction below paragraph 12(d) of the order passed by this Court, dated 04/07/2019, be modified as the original petitioner – State and the Commissioner of Agriculture, are considering the seniority list of identical employees all over the entire State for absorption on permanent sanctioned posts. A list of 244 employees has been published in a State Publication, namely, “Daily Satyaprabha”, and considering the seniority list, the turn of the employees who had approached the Industrial Court, would lag behind. The contention of the learned Advocate for the applicants is based on the principle that a diligent litigant should get relief and a sleeping litigant should not be shown any sympathy.

(2)

2. By the judgment of the Industrial Court, dated 10/02/2017, a group of 57 employees was granted permanency by applying the parameters under the Model Standing Orders, 1946 read with Item 9 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. The employer then approached the Court in Writ Petition Nos.15221/2017 and 7426/2019.

3. This Court had taken a view in **Mukhyadhikari Nagar Parishad, Tuljapur Vs. Vishal Vijay Amrutrao and others, 2015 (5) Mh.L.J. 75** and **Chief Officer, Municipal Council, Tuljapur Vs. Baban Hussain Dhale in W.P. No.1843/2015 dated 26/02/2015** that, merely because an employee completes 240 days in employment with the State or the State Instrumentality, would not be entitled for regularization as the State cannot be compared with a private employer or a private industry. There has to be a sanctioned post with the State and recruitment has to be from the public at large since such recruitments are to public employments.

4. Subsequent to the delivery of the above two judgments at Aurangabad, the learned Division Bench at Nagpur Bench dealt with a Reference in **Municipal Council, Tirora Vs. Tulsidas Baliram Bindhade, 2016 (6) Mh.L.J. 867**, wherein the issue referred to the learned Division Bench was answered by concluding that mere completion of 240 days, cannot be a ground for granting permanency

(3)

to such employees by following Model Standing Orders 4-C and 4-D.

5. Taking the above legal situation into consideration, this Court had directed for absorption of the employees by treating all similarly situated employees at par over the State of Maharashtra because the Department of Agriculture had vacancies to be filled in from such employees from all over the State. Merely because some employees could afford to approach the Court and other employees who did not have the means to litigate and were silently suffering injustice, ought not to be ignored, lest it was amount to miscarriage of justice.

6. Keeping in view this principle, this Court had directed that all similarly situated employees would be considered as per their seniority for absorption, as and when posts become vacant.

7. I do not find that the applicants have made out a case of error apparent on the face of the order. These applications, being devoid of merits are, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)