

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

909 WRIT PETITION NO. 6440 OF 2009

Kaduba S/o. Shankar Kasare, **...PETITIONER**
Age-54 yrs, R/o. At Naigaon,
Post Savangi,
Tq. & Dist. Aurangabad

VERSUS

1. The Divisional Forest Officer, **...RESPONDENTS**
& Dy. Conservator Forest,
Vanvibhag Karyalaya,
Osmanpura, Aurangabad
2. The Forest Range Officer (EGS),
Naigaon, Forest Department,
Osmanpura, Aurangabad

Mr. A. A. Joshi, Advocate h/f Mr. S. V. Natu,
Advocate for the petitioner
Mr. S. R. Yadav, AGP for the respondent/State

CORAM : RAVINDRA V. GHUGE, J.

DATE : 17-03-2022

ORAL JUDGMENT:

1. By this petition, the petitioner seeks to challenge the judgment of the Industrial Court, dated 14-02-2007, vide which revision (ULP) No. 6 of 2004 has been allowed and the judgment of the Labour Court dated 22-09-2003, allowing complaint (ULP)

No.200 of 1990, is quashed and set aside.

2. I have considered the strenuous submissions of the learned Advocate for the petitioner- original complainant. He has relied upon a judgment delivered by this court in Divisional Manager, Forest Development Corporation of Maharashtra Limited, Nashik Vs Chimna Arjun Jadhav reported in 2001 (4) LLN 233.

3. By an order dated 10-12-2009, this court admitted the petition.

4. It is well settled in the following judgments that a daily wager working on EGS has no rights and cannot claim reinstatement, regularization or continued work:-

Sr. No.	Party Name	Reported in
1.	Arvind G. Chaudhari and Another Vs Dhanraj Nathu Patil and another	2008(6)Mh.L.J. 746
2.	State of Maharashtra Vs Bhausahab Nathu Falke, ETC.	2002 (1) Mah L. R. 74 (SC)
3.	Subhash Narayan Ahirrao Vs Dy. Engineer PWD, Sub Division and anr	1993 FLR (Vol-66) 353
4.	Manubhau Damu Khairnar and ors Vs State of Maharashtra and ors	1995 II CLR 649

5.	Chief Executive Officer, Zilla Parishad, Ahmednagar Vs Daulat Narsingrao Deshmukh and another	2001(2)Mh.L.J.543
6.	Zilla Parishad Ahmednagar through its Chief Executive Officer Vs Namdeo Natha Pawar	Writ Petition No. 703 of 1997 dated 15-10-1999 [Coram: J. A. Patil, J.]
7.	Sheshrao Patloba Waybase Vs The State of Maharashtra and another	Writ Petition No. 2589 of 2012 with connected petitions dated 13-08-2015 [Coram: S. V. Gangapurwala and V. K. Jadhav, JJ.]
8.	Chief Executive Officer, Zilla Parishad, Ahmednagar Vs Daulat Narsingrao Deshmukh & another	2001(2) Bom.C.R. 728
9.	Shri Ramchandra Kondiba Mahajan Vs The State of Maharashtra and others	Writ Petition No. 2946 of 1997 dated 19-07-2012 [Coram: A. s. Oka and Shrihari P. Davare, JJ]
10.	Asaram Vitthal Shitre and another Vs The State of Maharashtra and another	Writ Petition No.8359 of 2013 with connected Petitions dated 13-08-2015 [Coram: S. V. Gangapurwala and V. K. Jadhav, JJ.]

5. The Labour Court had granted reinstatement in service with continuity and 50% backwages to the petitioner with effect from 01-04-1990. It is an admitted position that the petitioner joined the respondent on 01-08-1983 and worked till 31-03-1990. He claims to be orally terminated on 01-04-1990.

6. The Industrial Court has considered the entire record and proceeding received from the

Labour Court and has noticed as under:-

- a] The extract of service details below Exh. C-7 has not been looked into by the Labour Court.
- b] The extract at C-7 indicates that the petitioner worked for 86 days under EGS in 1991.
- c] Earlier, he had worked for 239 days on normal roll in 1990.
- d] The chart indicates that he had put in 239 days under EGS preceding his date of alleged oral termination.
- e] The petitioner has arrayed the forest range officer (EGS), Naigaon in the array of respondents in his complaint.
- f] The letter dated 23-05-1990, placed before the Industrial Court, which is not denied by the petitioner, indicates that he was called upon to join duties under EGS and the petitioner did not report for duties.
- g] Documents at Exh.C/7D, C/7F and C/7G indicate that the petitioner was not interested in working under EGS.

7. In the case of Divisional Manager, Forest Development Corporation of Maharashtra, Ltd., Nashik (Supra), this court held that Chimna Jadhav had approached the Industrial court for seeking regularization in employment. This court relied upon the judgment delivered by the Hon'ble Apex Court in Chief Conservator of Forests and another Vs Jagannath Maruti Kondhare reported in 1996 (1) SCC LLN 475, wherein it was held that if regular work is being done by a daily wager which is identical to the work being done by a regular employee and there are no posts to absorb him, parity in pay scale has to be maintained by the Forest Department.

8. In view of the above and as it was established that the petitioner was working on EGS, I do not find that the impugned judgment could be termed as perverse and erroneous, this petition is therefore, dismissed.

9. Rule is discharged.

[RAVINDRA V. GHUGE, J.]