

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

WRIT PETITION NO. 1331 OF 2016

Kailas Govindrao Ghumre .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri D. K. Dagadkhair, Advocate for the Petitioner.

Shri S. B. Yawalkar, Addl.G.P. for the Respondent Nos. 1 to 3.

**CORAM : MANGESH S. PATIL AND
SANDEEP V. MARNE, JJ.**

DATE : 21.09.2022.

FINAL ORDER (Per Sandeep V. Marne, J.) :

1. By present petition, the petitioner challenges judgment and order dated 05.12.2014 passed by the Maharashtra Administrative Tribunal, Bench at Aurangabad in Original Application No. 227 of 2012. Before the Tribunal, the petitioner had sought the relief of regularization of services as well as enhancement of his wages. By the impugned order, the Tribunal proceeded to dismiss the original application on the ground that the petitioner was engaged as part time sweeper and was therefore not entitled to regularization of his services as per the judgment of the Apex Court in the case of **Secretary State of Karnataka and others Vs. Umadevi and others 2006(4) SCC 01.**

2. Mr. Dagadkhair, learned counsel appearing for the petitioner invited our attention to the muster roll of the year

1999 in support of his contention that the petitioner was not a part time employee. In the muster roll, part time sweepers were separately indicated in which the petitioner's name was not included. However, we find that the designation of the petitioner in that muster roll is shown as a gardener. This belies his contention that he was a full time sweeper. Therefore, reliance of Mr. Dagadkhair on the muster roll is clearly misplaced.

3. We have gone through the order dated 02.09.2011, by which thirty individuals were engaged as a part time sweepers and the name of the petitioner is included at Sr. No. 19 therein. We have also gone through the representation of the petitioner dated 10.08.2015, in which he admitted that he was working as a part time sweeper with effect from 02.09.2011. When we confronted Mr. Dagadkhair with these documents, he would submit that the petitioner had challenged the order dated 02.09.2011 in Original Application No. 227 of 2012. Even if this contention is correct, the same would not have any impact on the entitlement of the petitioner to seek regularization. Admittedly, from 02.09.2011 onwards, the petitioner continued to work as a part time sweeper. Prior to that he was apparently working as a gardener. The petitioner is not able to produce any document on record to indicate that he was ever engaged as a full time sweeper.

4. The law enunciated by the Apex Court in the case of **Secretary State of Karnataka and others Vs. Umadevi and others** (supra) is that temporary employees are not entitled to

seek regularization of their services. Only one time exception has been made by the Apex Court in para No. 53 of the judgment, whereby irregular appointees appointed after following due process of selection, eligibility criteria and appointed against sanctioned posts were to be regularized in service. We do not find any material to show that the petitioner is engaged (part time or full time) against a sanctioned post. There is nothing on record to indicate that process of selection was conducted at the time of initial engagement of the petitioner. No attempt is made to demonstrate that as to what were the essential qualifications of the post and whether the petitioner was fulfilling the same. Therefore, even if it was to be assumed that the petitioner did work on full time basis, he is not covered by the exception in para No. 53 of the judgment of the Apex Court in the case of **Secretary State of Karnataka and others Vs. Umadevi and others** (supra).

5. Consequently, we do not find any error being committed by the Tribunal while dismissing the original application of the petitioner. The petition is devoid of any merits. The same is dismissed, however, without any orders as to costs.

[SANDEEP V. MARNE, J.]

[MANGESH S. PATIL, J.]