

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

WRIT PETITION NO. 1317 OF 2021

1. Sambhu s/o Shripad Madavi,
aged about 50 years, Occ. Vanmajdoor,
R/o Mul, District Chandrapur.
2. Patru s/o Tinu Kinake (Dead) through LR's.
- 2(i) Satyawati Wd/o Patru Kinnake,
Aged about 45 years, Occu.:- Housewife.
- 2(ii) Suraj S/o Patru Kinnake,
Aged about 17 years, Occu.:- Labour.
Through Applicant No.1, mother guardian.
- 2(iii) Karishma D/o Patru Kinnake,
Aged 19 years, Occu: Household.

All R/o Ward No.3, Karvan, Post Maroda,
Tahsil Mul, Karvan, District Chandrapur.
3. Suresh s/o Maroti Thakre,
aged about 53 years, Occ. Vanmajdoor,
R/o Mul, District Chandrapur.
4. Murlidhar s/o Dadaji Mohurle,
aged about 49 years, Occ. Vanmajdoor,
R/o Mul, District Chandrapur.
5. Ravikishor s/o Gulab Khobragade,
aged about 52 years, Occ. Vanmajdoor,
R/o Mul, District Chandrapur.
6. Giridhar s/o Namdeo Nagose,
aged about 51 years, Occ. Vanmajdoor,
R/o Mul, District Chandrapur.
7. Rafik s/o Mustaq Sheikh,
aged about 60 years, Occ. Vanmajdoor,
R/o Mul, District Chandrapur.
8. Manohar s/o Sonba Soyam,
aged about 48 years, Occ. Vanmajdoor,
R/o Chichpalli, District Chandrapur.

Corrected as per
Hon'ble Court's order
dated 01/07/2022.

9. Purushottam s/o Rajeshwar Wadhai,
aged about 56 years, Occ. Vanmajdoor,
R/o Chichapalli, District Chandrapur.

PETITIONERS

.....VERSUS.....

1. State of Maharashtra,
through its Chief Secretary (Forest),
Department of Revenue & Forests,
Mantralaya, Mumbai – 440001.
2. Principal Chief Conservator of Forests
(Head of Forest Forest),
Van Bhawan (M.S.), Civil Lines, Nagpur.
3. Deputy Conservator of Forests,
Divisional Forest Office, Chandrapur,
Forest Division, Tahsil Chandrapur,
District Chandrapur.
4. Range Forest Officer,
Mul, Tahsil Mul, District Chandrapur.
5. Range Forest Officer,
Chichapalli, Tahsil & District Chandrapur.

RESPONDENTS

Shri M.R. Johrapurkar, Advocate for the petitioners.
Ms. K.R. Deshpande, A.G.P. for the respondents/ State.

CORAM : A.S. CHANDURKAR AND URMILA JOSHI - PHALKE, JJ.

DATE : 22nd JUNE, 2022.

ORAL JUDGMENT (PER : A.S. CHANDURKAR, J.)

CIVIL APPLICATION (W) NO. 382/2022.

The prayer made in the application is granted. The names of the applicants are permitted to be substituted in place of petitioner No.2, who has expired. The amendment be carried out forthwith.

The Civil Application is disposed of.

WRIT PETITION NO. 1317/2021.

RULE. Rule made returnable forthwith and heard the learned Counsel for the parties.

2. The challenge raised in this Writ Petition is to the judgment passed by the Maharashtra Administrative Tribunal on 03/01/2020 in Original Application Nos. 877/2017, 880/2017, 107/2018 and 108/2018. In these Original Applications, the orders dated 22/03/2017 passed by the Deputy Conservator of Forest, Chandrapur refusing the regularized services of the petitioners came to be passed.

3. It is an undisputed position that the present petitioners had earlier approached the Maharashtra Administrative Tribunal by filing Original Application Nos. 614/2013, 615/2013 and 616/2013. By order dated 14/02/2017, the learned Member while deciding these Original Applications passed the following operative order :

“7. For the foregoing, these O.As are disposed of with a direction to the respondents to act in accordance herewith and to reconsider the case of the applicants for regularization as Forest Labourers in accordance with the G.R. of 16.10.2012 from Revenue and Forest Department bearing always in mind the observation hereinabove. If the time limit is not kept and appropriate decision in accordance herewith is not taken within six weeks, then the applicants shall stand regularised and the respondents shall take appropriate action in that behalf. No order as to costs.”

4. Pursuant to that order, the respondents considered the cases of the petitioners – original applicants and on 22/03/2017 passed an order holding therein that since the original applicants did not fulfill the criteria prescribed by the Government Resolution dated 16/10/2012, they were not entitled to relief of regularization of their services.

5. The petitioners being aggrieved by that order again filed Original Applications before the Tribunal. The petitioners sought setting aside of the orders dated 22/03/2017 passed by the respondents refusing to regularize their services. By the impugned judgment, the Tribunal proceeded to pass the following operative order :

“1. All these O.As. Are disposed of with a direction to the respondents to act in accordance herewith and to reconsider the case of the applicants for regularization as Forest Labourers in accordance with the G.R. of 16.10.2012 from Revenue and Forest Department within a period of four months from the date of this order by giving personal hearing to the applicants and showing them the relevant records.

2. No order as to costs.”

The said judgment is impugned in the present Writ Petition.

6. We have heard the learned Counsel for the petitioners as well as the learned Assistant Government Pleader.

7. According to the petitioners, there was no justification on part of the Tribunal in directing the respondents to reconsider the cases of the petitioners for regularization by taking into consideration the Government Resolution dated 16/10/2012. This exercise was already conducted while deciding the earlier Original Applications. Since, the petitioners had discharged duties for more than 20 years, they were entitled for the relief of regularization.

The learned Assistant Government Pleader for the respondents on the other hand submitted that the relief as prayed for could be sought before the Industrial Court, the Tribunal was justified in not granting the relief as prayed for. Hence, no interference in the impugned judgment is warranted.

8. On hearing the learned Counsel, we find that in the earlier round of litigation, the Tribunal had directed the respondents to consider the claim of the petitioners for grant of regularization in light of the Government Resolution dated 16/10/2012. That exercise was undertaken by the respondents after which the orders dated 22/03/2017 came to be passed. In the subsequent Original Applications challenging the orders dated 22/03/2017, the Tribunal ought to have considered the Original Applications on merits of the challenge as raised. Perusal of the judgment

of the Tribunal indicates that except for referring to the rival submissions, it has not considered the challenge to the orders dated 22/03/2017. Instead, the proceedings have again been remanded with a direction to the respondents to reconsider the case for regularization in terms of Government Resolution dated 16/10/2012. This exercise having already been undertaken, it was not necessary to further direct the same exercise to be undertaken. The Tribunal ought to have gone into the challenge to the orders dated 22/03/2017 and ought to have decided the Original Applications accordingly. Since the same has not been done, the impugned judgment is rendered unsustainable.

9. For the aforesaid reasons, the judgment dated 03/01/2020 passed in Original Application Nos. 877/2017, 880/2017, 107/2018 and 108/2018 is set aside. The Original Applications are restored before the Tribunal for deciding the same in accordance with the prayers made therein and especially, the challenge to the orders dated 22/03/2017. All grounds of challenge as well as the grounds of defence are kept open before the Tribunal. It is clarified that this Court has not examined the correctness of the orders dated 22/03/2017 and the Tribunal shall decide the proceedings on their own merits. The proceedings before the Tribunal are expedited.

10. Rule is made absolute in the aforesaid terms. No costs.

(URMILA JOSHI – PHALKE, J.)

(A.S. CHANDURKAR, J.)

SUMIT