

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

WRIT PETITION NO. 9821 OF 2023

CHANDRAKALA KACHARU NAVGHIRE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

....
Advocate for Petitioner : Mr. Naseem R. Shaikh
Addl. GP for Respondents : Mr. P.S. Patil

....
**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATED : 10 AUGUST, 2023

PER COURT (PER : SHAILESH P. BRAHME, J) :

1. Rule. Rule is made returnable forthwith. By the consent of both parties, matter is heard finally at the stage of admission.
2. The petitioner is challenging judgment and order dated 02.05.2023, passed by learned Members of Maharashtra Administrative Tribunal, dismissing her application bearing TA No. 07 of 2016. She is also claiming relief of regularization in view of Government Resolution dated 31.10.2013.
3. The petitioner was working as the daily wager in the Latur Division from 01.01.1993. She continuously worked with the respondents for more than 30 years. She was placed in the seniority list dated 05.10.1999. She was entitled to be regularized in view of

Government Resolution dated 31.01.1996 and 31.10.2013. On 06.10.2012, a list of the workmen to be regularized was prepared by the respondents but the petitioner was excluded. The petitioner was discriminated and junior workmen were included in the list.

4. It is further contention of the petitioner that she made representation for conferring the benefit of regularization. She was required to file Writ Petition No. 1955 of 2014. By order dated 18.06.2014, the direction was given to the respondents to decide the representation dated 06.01.2014 within three months. In pursuance of the directions, the claim of the petitioner was considered and rejected on 02.08.2014. That was the cause to approach the High Court by filing Writ Petition No. 1533 of 2015 which was transferred to the Tribunal and registered as Transfer Application No. 7 of 2016.

5. The claim of the petitioner was founded on Government Resolution dated 31.10.2013. Despite rendering services for five years including more than 240 days in a year, she was not regularized. The action of respondents was stated to be discriminatory and unfair. The reliance was placed upon a chart showing the services of the petitioner which is presently at exhibit 'B'.

6. The respondents support impugned judgment and order.

The learned AGP would submit that the petitioner is unable to satisfy the conditions of Government Resolution dated 31.10.1993. As per the directions issued by High Court in Writ Petition No. 1955 of 2014, the Deputy Director of Social Forestry, decided the claim of the petitioner by reasoned order dated 04.08.2014. As the petitioner did not qualify the conditions of Government Resolution dated 19.10.1996 and 31.10.2013, it was not possible to grant her benefit of regularization. The respondents placed on record a chart at exhibit 'R-3' showing working days of the petitioner. The learned AGP would, therefore, pray to dismiss the application.

7. The learned Members of the Tribunal held that the document produced by the petitioner would show that she rendered less than five years of services comprising more than 240 days in a year from 1993-1994 to 1997-1998. No document was placed on record to show that she had rendered the service of minimum of 240 days in an year for the requisite period of five years during further period 1998-1999 to 2003-2004. The chart which was produced by respondents at exhibit 'R-3' was relied upon to record that the petitioner worked for four years having more than 240 days in a year, which was not in accordance with Government Resolution dated 31.10.2013. Therefore, the application of the petitioner was rejected.

8. Learned counsel for the petitioner would submit that the petitioner has rendered service as a daily wagger from 01.01.1993 continuously for thirty years. Her name was included in the seniority list dated 05.10.1999. However, she was discriminated and excluded from the list of the workmen to be regularized. The junior workmen were included in the list. It is the legitimate expectation of the petitioner to get the benefits of regularization as per Government Resolution dated 31.10.2013. Thus the order rejecting her claim passed on 04.08.2014, is patently illegal and against evidence on record.

9. We have perused the chart which is at exhibit 'B' produced by the petitioner. From 1993-1994 to 1997-1998, the number of working days of the petitioner are shown. The requirement of Government Resolution dated 31.10.2013, is that an incumbent should have completed five years of service comprising of 240 days in a year. The petitioner is unable to point out such five years of services having worked for more than 240 days in a year from the chart. No material is produced by the petitioner showing that the petitioner worked for more than 240 days in a year during further period of 1998-1999 till 2003-2004.

10. The petitioner is under obligation to bring on record convincing evidence to show the compliance of the conditions of

Government Resolution dated 31.01.1993. We do not find any fault in the finding recorded by the Tribunal that the document at exhibit 'B' does not satisfy the requirement under the Government resolution. The petitioner failed to rebut the contention that the chart which was produced by the respondents at exhibit 'R-3' showed only four years of services comprising of more than 240 days in a year. We find that the Tribunal has arrived at these conclusions after considering material on record. The conclusions are plausible and reasonable. The Tribunal is further justified in holding that the chart produced by the petitioner at exhibit 'B' and the chart produced by the respondents at exhibit 'R-3' are inconsistent.

11. The submission of the petitioner that she has worked for 30 years with the respondents, is not sufficient to qualify her for the regularization as per Government Resolution dated 31.10.2013. The principles of legitimate exceptions cannot be invoked when the regularization is regulated by Government Resolution dated 31.10.2013. The strict compliance to the parameters laid down in the Government Resolution is warranted. In that view of the matter, the theory of legitimate expectation is misconceived. We do not find any perversity or patent illegality in the impugned judgment and order passed by the Tribunal.

12. The reliance placed by the petitioner on the judgment of the Supreme Court in the matter of *Ram Parvesh Singh and others Versus State of Bihar and others*, **2006(8) SCC 381**, has no application to the facts and circumstances. The Supreme Court has laid down a concept of legitimate expectation. We have already recorded that the theory of legitimate expectation cannot be made applicable when the compliance of the government policy is *sine qua non* for the relief of regularization.

13. Considering over all conspectus of the matter, we are of the considered view that the petition fails.

14. The petition is dismissed. Rule is discharged.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)