



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

910 WRIT PETITION NO. 10477 OF 2021

BHAUSAHEB DATTATRAY PAWADE
VERSUS
STATE OF MAHARASHTRA AND OTHERS

AND
911 WRIT PETITION NO. 10492 OF 2021

ANNASAHEB KARBHARI DAREKAR
VERSUS
STATE OF MAHARASHTRA AND OTHERS

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Mr. Parikshit Mantri, Advocate h/f Mr. Parag Barde, Advocate for
Petitioners

Mr. S. K. Tambe, AGP for Respondent Nos. 1 to 5

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CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.

DATE : 14.12.2023

PER COURT :-

1. Both these Petitioners are identically placed as like the
Petitioners in *Writ Petition No.631 of 2023 (Mandabai Vitthal
Hingurde (deceased) through L.Rs. Vitthal Yadavrao Hingurde Vs.
The State of Maharashtra and others)* and connected matters,
which were decided by this Court vide order dated 01.09.2023.

2. We have heard the learned Advocate for the Petitioners and the learned AGP on behalf of the Respondents.

3. It is obvious that the Labour Court has arrived at a specific finding in the Reference Cases before it that these Petitioners were not working on EGS, they completed 240 days in continuous employment and they were entitled for reinstatement. In the ULP complaints filed before the Industrial Court seeking regularisation, the Industrial Court also concluded that they were not working on EGS. The Industrial Court directed their proposals to be forwarded for regularisation.

4. In an identical fact situation as in the case of ***Mandabai*** (supra), the Deputy Conservator of Forest, Division Ahmednagar, mischievously forwarded the proposal dated 02.07.2020 mentioning therein that these Petitioners were working on EGS and did not complete five years in normal working, and hence, they were not entitled for regularisation as per the Government Resolution dated 31.01.1996 and 16.10.2012.

5. It is obvious, as was visible in the case of ***Mandabai*** (supra), that this high ranking officer of the Forest Department,

assumed the jurisdiction of sitting over the orders of the Labour Courts and the Industrial Courts. In blatant violation of the conclusions of the Courts, he gave incorrect inputs to the Chief Conservator of Forest (Regional), Nashik, apparently deliberately to scuttle such proposals by mentioning that they were working on EGS. By our order dated 01.09.2023 (Writ Petition No.631 of 2023), we had directed the correction of the proposal in paragraph 17, which reads as under:-

“17. We direct the Chief Conservator of Forest (Regional), Nashik, to correct the proposal and mention that the Petitioner was working on daily wages and not under the EGS. Such corrected proposal would be tendered to the Additional Principal Chief Conservator of Forest within 15 days from today. Thereafter, the proposal of the present Petitioner would be considered along with all other similarly situated employees by taking into account their seniority as mentioned in the order of the learned Single Judge. The guidelines set out in this order, would be applicable to this case.”

6. Recently, the Hon'ble Supreme Court has concluded in ***Raman Kumar and others vs. Union of India and others – 2023 DGLS (SC) 742***, that in such cases, instead of relegating the litigants to the concerned authority, they could be granted regularisation. The only distinction that we find in the present cases is that, a proposal has to

be routed through the Chief Conservator of Forest by the Deputy Conservator of Forest, Ahmednagar so as to enable the government to grant regularisation from a particular date.

7. **These Petitions are, therefore, allowed.** We direct the Deputy Conservator of Forest, Ahmednagar, to correct the proposal by deleting the sentence regarding EGS, and forward it to the Chief Conservator of Forest (Regional), Nashik, within ten days from today. The Chief Conservator of Forest, Nashik, shall forward the proposal to the competent authority, which is the Additional Secretary, Revenue and Forest Department, Mantralaya, Mumbai, within fifteen days. Thereafter, the said authority shall pass an appropriate order within 45 days for granting approval to the regularisation of the Petitioners.

[Y. G. KHOBRAGADE, J.]

[RAVINDRA V. GHUGE, J.]

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