

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.1739 OF 2023**

**BALU SHRIDHAR MISAL
VERSUS
THE DIVISIONAL FOREST OFFICER**

...

Mr. Rajesh K. Khandelwal, Advocate for the Petitioners.
Mr. S. N. Morampalle, AGP for Respondents-State.

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**CORAM : SHARMILA U. DESHMUKH, J.
DATED : 17th FEBRUARY, 2023.**

PER COURT:-

1. Heard.
2. The challenge in the petition is to the order dated 11.04.2022, whereby the petitioner's application below Exhibit-U-2 in Complaint (ULP) No.124/2021 came to be rejected.
3. It is the case of the petitioner in the Complaint (ULP) No.124/2021 that the petitioner was working as "vanmajur" on daily wages since 01.11.2018 and was getting less wages. It is also his case that the work performed by the petitioner is perennial in nature and available through out the year and the petitioner has completed more than 240 days in the previous year and as such, is entitled to payment in par with the regular employees. The relief sought in the complaint is of permanency and a direction to the respondents not to change the service conditions pending the final adjudication of the Complaint.
4. The written statement came to be filed by the respondents-Divisional Forest Officer, wherein a chart showing the service details of the petitioner was produced, which shows that from the period 01.11.2018 to 07.11.2018, the petitioner had

worked for 6 days, from 16.11.2018 to 23.11.2018 worked for 6 days, from 22.12.2018 to 30.12.2018 worked for 7 days, from 01.06.2020 to 30.06.202 worked for 26 days and from 01.12.2020 to 31.12.2020 worked for 26 days.

5. On the basis of material produced on record, the Industrial Court observed that there are no details which are provided by the petitioner nor any documents furnished by the petitioner to prove the case of partiality or favoritism to particular set of workers. It was also observed that, there are no details given of the workman, who are doing the job of the similar nature and have been made permanent. The Industrial Court came to a *prima facie* finding that the petitioners are not found to have completed 240 days in the previous year nor have been *prima facie* able to show as to which other workers have been made permanent or have been paid more wages than that of the petitioner and as such, rejected the application.

6. Learned counsel for the petitioner submits that all these issues will have to be decided at the time of the trial and as all the documents are in possession of the respondents, there is no material available with the petitioner to make out *prima facie* case.

7. Considered the submission and perused the material on record. The respondent-Divisional Forest Officer has come with a specific case setting out the chart showing the service details of the petitioner, which shows that the petitioner has not completed more than 240 days in the previous year.

8. Learned counsel for the petitioner has not been able to demonstrate from the material produced on record that any work of permanent nature is being carried out. The admitted position is that the petitioner was a daily wager and was appointed as such. There is no appointment order, which have been produced on record and reliance has been placed only on certain vouchers.

9. For the consideration of the interim relief of not to change the service conditions, there has to be sufficient material on record to demonstrate the service conditions, that work of the petitioner was of the permanent nature and that he was working for more than 240 days in the previous year. There is no *prima facie* case which has been made out, which would entitle the petitioner to the interim relief sought. The findings of the Trial Court are based on the material on record and there is no perversity in the said findings.

10. For the reasons above, there is no merit in the writ petition. Writ Petition stands dismissed.

(SHARMILA U. DESHMUKH)
JUDGE