

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

910 CIVIL APPLICATION NO.5306 OF 2018
IN RA/66/2018

BAPU SUPDU BALSANE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. A. D. Gadekar.
AGP for Respondent Nos.1 & 2 : Mr. S. G. Sangle.
...

AND
REVIEW APPLICATION (CIVIL) NO. 66 OF 2018
IN WP/4959/2016

BAPU SUPDU BALSANE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. A. D. Gadekar.
AGP for Respondent Nos.1 & 2 : Mr. S. G. Sangle.
...

CORAM : **RAVINDRA V. GHUGE &**
SANJAY A. DESHMUKH, JJ.

DATE : 06th January, 2023.

Per Court:

1. The learned advocate for the applicant submits that this file has been earmarked to him by the High Court Legal Services Sub-Committee, Aurangabad.
2. By consent of the parties, we have considered the submissions of the learned advocates on the civil application as well as the review application.

3. Considering the reasons set out in the civil application, the same is allowed. Delay is condoned. Heard the review petition by consent of the parties.

4. The learned advocate for the review applicant has strenuously canvassed the grounds set out in the review application (13 grounds). He submits that after the petition was disposed off by this Court vide order dated 27th July, 2016, the petitioner / review applicant received some information from the Dean of the Government Medical College at Dhule vide communication dated 22nd May, 2017. Based on new / additional information received, this review application has been filed.

5. It is undisputed that the petitioner was working as a daily wager, intermittently and as and when work was offered to him. The communication dated 22nd May, 2017 by the Dean of the Medical College indicates that the petitioner was working as a *Badli* worker on temporary basis for periods of 29 days, as follows:-

“26/11/99 ते 24/12/99	–	29 days
2/2/2000 ते 1/3/2000	–	// //
2/9/2000 ते 30/9/2000	–	// //
1/1/2002 ते 29/1/2002	–	// //
6/2/2002 ते 6/3/2002	–	// //”

6. On the basis of the record, the learned advocate for the petitioner submits that the above dates indicate the work performed by the petitioner. These are 5 spells of 29 days each, during which he has worked. He has nothing to show that he worked for any duration beyond the above periods.

7. It is well settled that in State Authorities / Instrumentalities / Public Sector Undertakings, unless a post is sanctioned and created and has fallen vacant, there cannot be an order of directing the employer to allocate work to a daily wager or direct absorption. The review applicant is around 52 years of age. He has worked for 29 days as noted above, in 5 spells. Thereafter, he has not been allocated any work for the last 21 years. In these circumstances, it would be inappropriate to direct the Government Medical College to allot work to the petitioner, since no right is created in him by law to be either reinstated or to be granted work under the orders of the Court. The direction of this Court expecting the Medical college to consider the case of the petitioner sympathetically, would not create equities in favour of the petitioner.

8. In view of the above, the grounds put forth are misconceived and do not make out a case of an error apparent on the face of the order on the record.

9. As such, the review application stands dismissed.

10. The fees of the learned advocate, who has represented the applicant through the High Court Legal Services Sub-Committee, Aurangabad, are quantified at Rs.2000/-, which shall be paid.

[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]

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