

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

WRIT PETITION NO. 2629 OF 2010

1. Zilla Parishad, Gadchiroli,
through its Chief Executive Officer
 2. Executive Engineer (Irrigation), Zilla
Parishad, Gadchiroli
- ...Petitioners

// VERSUS //

- Baban S/o Laxman Ramteke (dead)
1. Smt. Kalpana Wd/o Baban Ramteke
 2. Smt. Adnya W/o Jayant Sahare
 3. Smt. Mala W/o Sanjay Shende
 4. Ku. Varsha D/o Baban Ramteke
 5. Ku. Nisha D/o Baban Ramteke
- All C/o Smt. Kalpana Wd/o Baban
Ramteke, Gokul Nagar, Ward No.14,
Gadchiroli
- ... Respondents

Shri J.S.Mokadam, Advocate for the petitioners.

Shri J.L.Bhoot, Advocate for the respondents.

CORAM : ANIL S. KILOR, J.

DATED : 20th APRIL, 2023.

ORAL JUDGMENT :

This writ petition takes exception to the judgment and order dated 20th July, 2009 passed by the Industrial Court, Chandrapur in complaint No. 62 of 2003 (Old No. 575 of 2003) allowing the complaint filed by the respondent and thereby directing the petitioners to give all consequential benefits including arrears of salary along with

allowances etc for which the complainant is entitled by treating him at par with regular employees with effect from 1st December, 1980.

2. The respondent was appointed as a driver in Zilla Parishad, Chandrapur through Social Welfare Department with effect from 6th December, 1980 vide order dated 1st December, 1980. After the bifurcation of District Chandrapur and creation of District Gadchiroli in the year 1982, the respondent was transferred to Zilla Parishad Gadchiroli where he was brought on Converted Regular Temporary Establishment w.e.f 1st April, 1986.

3. As the respondent was denied the benefits of regular employee, by not granting regularisation, the respondent filed a complaint under Section 28 and 30 read with Schedule IV Item 5, 6 and 9 of the Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practice Act, 1971 (hereinafter referred as "Act of 1972) to regularize his services. The Industrial Court after scrutinizing oral as well as documentary evidence allowed the complaint and granted benefits to the respondent as regular employee with direction to the petitioners to treat him as regular employee.

4. After going through the record and impugned judgment, it is evident that there is no dispute as regards the initial appointment of the respondent w.e.f 6th December, 1980. There is also no dispute that the respondent was brought on Converted Regular Temporary Establishment on 1st April, 1986. Nothing has been pointed out by the petitioners that

the respondent did not work for 240 days in preceding year. In fact from the record it is evident that in every year after his appointment the respondent completed 240 days.

5. Thus, considering the evidence available on record, the Court below has held in favour of the respondent.

6. The fact that the work was continuously available for all the years after the appointment of the respondent and he worked for 240 days, is sufficient to hold that the industrial court has rightly granted regularization to the respondent.

7. Learned counsel for the petitioners though argued that the impugned order is erroneous, he has not pointed out any contrary evidence brought by the petitioners on record to deny the regularization to the respondent.

8. In the circumstances, as there is no legal infirmity or perversity committed by the learned Industrial Court, hence, I do not find any merit in the present writ petition. Accordingly, it is dismissed.

9. At this stage, Shri Bhoot learned counsel for the legal heirs of respondent points out that, the respondent died in the year 2012, while he was in service and his wife is old aged. He, therefore, prays for direction to the petitioners to release the benefits at the earliest.

10. In the circumstances, I am of the opinion that the request made by the learned counsel of the respondent is reasonable and considering the age of wife of the deceased employee, the petitioners are directed to release the pensionary benefits at the earliest, in any case, within three months from today.

[ANIL S. KILOR, J.]

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