

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

Writ Petition No. 8581 of 2022

Foresh Development Corporation and another

Vs.

Duryodhan Nathu Meshram and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr.V.P.Maldhure, counsel for the Petitioners.

Mrs.H.N.Jaipurkar, AGP for respondent No.2.

CORAM : ANIL S. KILOR, J.

DATED : 09.01.2023.

Heard the learned counsel for the petitioners.

2. The judgment and order dated 25/08/2022, passed by the Industrial Court in Complaint (ULP) No.199 of 2014, granting permanency to respondent No.1, is questioned in the present writ petition.

3. After going through the record, the undisputed facts emerge are that respondent No.1 was appointed as Chowkidar on 27/06/1994 and on 05/07/2003, he was terminated. Thereupon, a complaint was filed by respondent No.1, which was decided in his favour on 03/04/2010, thereby directing the petitioners to reinstate the respondent No.1 with

full back wages and continuity of service. A revision was filed against the said judgment and order, which came to be dismissed vide judgment and order dated 14/06/2012, which was later on carried in Writ Petition No.992 of 2013 and in the writ petition stay to the back wages was granted, but no stay was granted to the reinstatement and continuity in service and in that view of the matter, the respondent No.1 joined the duties on 12/03/2014 and since then he is in service.

4. The Government Resolution dated 16/10/2012, discloses the policy of the Government that whoever in the Forest Department as well as in the Forest Development Corporation were working during the period from 01/11/1994 to 30/06/2004 to make them as permanent. In pursuance to the said Government Resolution, the respondent No.1 filed the complaint and sought relief of permanency which is granted vide impugned judgment and order dated 25/08/2022. The learned Industrial Court after recording the reasons in detailed in light of the above referred admitted facts, has held that the respondent No.1 is entitled for grant of permanency.

5. Shri Maldhure, learned counsel for the petitioners, submits that the writ petition challenging the judgment and order granting reinstatement and continuity of service is pending and, therefore, till the

decision of the said writ petition, grant of permanency is illegal and unsustainable in the eyes of law.

6. I am not convinced with the submission of the learned counsel for the petitioners, as there is no dispute that in the said writ petition the stay was not granted to the reinstatement and continuity of service. In that view of the matter, it can be safely said that the respondent No.1 is in continuous service from 27/06/1994 and the Government Resolution dated 16/10/2012 would apply to him and the natural consequences, therefore, would be that the benefits, which are awarded under the said Government Resolution, to the similarly circumstanced employees, the respondent No.1 is also entitled for the same.

7. In the circumstances, I do not find any error or perversity in the impugned judgment and order passed by the Industrial Court. Accordingly, the writ petition is dismissed. No order as to costs.

8. It is made clear that in case the petitioners succeed in the pending writ petition on the issue of continuity of service of the respondent-employee, the consequences of the same will be followed.

[ANIL S. KILOR, J.]