

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

WRIT PETITION NO.3004 OF 2018

[Tajoddin Hamijoddin Khwaja .vs. The State of Maharashtra and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri N.R. Saboo, Advocate for the petitioner,
Ms. H.N. Jaipurkar, AGP for the respondents.
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CORAM : ANIL S. KILOR, J.
DATE : 18th JULY, 2023.

This matter pertains to grant of regularization and permanency to the petitioner as a Forest Labour as per the various Government Resolutions. The said benefit has been denied by the learned Industrial Court vide impugned judgment and order dated 29.07.2017, hence, this petition.

2. Shri Saboo, learned counsel for the petitioner, has drawn attention of this Court to the Government Resolution dated 16.10.2012 issued by the Revenue and Forest Department which makes certain employees in the forest department, who worked during the period from 01.11.1994 to 30.06.2004 continuously or with break at least for 240 days every year for five years and those who are eligible to be on duty on 01.06.2012, entitled for regularization. According to the petitioner, he complied the condition. As per the petitioner, he was working in the forest department since 1991 on temporary basis till 30.11.2000 and completed 240 days of service in every year.

3. The learned Industrial Court, while denying the said benefit of regularization and permanency, has held that the petitioner was not in employment since 30.11.2000 and to seek benefits under the above referred Government Resolution, it is necessary to be in service on 01.06.2012.

4. The learned Assistant Government Pleader, in addition to the said ground on which the Industrial Court has denied the relief to the petitioner, submits that the petitioner does not fulfill the condition of age as well as the condition that the employee must be a 'Van Majur'.

5. However, she fairly states that though these grounds were not raised before the Industrial Court, the same goes to the root of the matter and if a person, who is not otherwise entitled or eligible for permanency or regularization, if granted permanency, there would be financial burden on the public exchequer.

6. The learned counsel for the petitioner, however, opposed the same and submits that these grounds raised first time before this court. Learned counsel has further pointed out that the petitioner fulfills the condition of age. He has further points out that even the driver or cleaner are also entitled for permanency and regularization.

7. In the above referred documents, I have perused the record and the impugned judgment and order.

8. The Government Resolution dated 16.10.2012 does not say that the employee should be in service on 01.06.2012. The said Government Resolution says that an employee, who was in service in between the period 01.11.1994 to 30.06.2004, continuous or with breaks and completed 240 days in every year for five years and eligible to be in service on 01.06.2012, is entitled for the benefit under the said Government Resolution.

9. The said Government Resolution does not say that such employee must be in service on 01.06.2012. The date 01.06.2012 has been referred as a cut-off date of eligibility. Thus, I have no hesitation to hold that the Industrial Court has committed error in holding that the said Government Resolution stipulates that a person claiming any benefit under the said Government Resolution must be in service on 01.06.2012.

10. As far as the grounds in respect of age and whether the driver and cleaner are entitled to claim benefits under the said Government Resolution are concerned, admittedly the same were not raised before the Industrial Court. However, I find substance in the submission of the learned Assistant Government Pleader that if any person is not entitled to receive any benefits under the said Government Resolution and if such benefits are granted, there would be financial burden on the public exchequer.

11. In the circumstances, I am of the opinion that this matter needs to be remanded back to the Industrial Court for deciding the same afresh, after giving sufficient opportunity to

both the parties.

12. Accordingly, the writ petition is partly allowed. The judgment and order dated 29.07.2017 passed by the Industrial Court in Complaint ULP No.14/2016 is hereby quashed and set aside.

13. The matter is remanded back to the Industrial Court, Yavatmal to decide the same afresh, after giving sufficient opportunity to both the parties.

14. The Industrial Court is directed to decide the Complaint ULP No.14/2016 expeditiously and in any case before 31st October, 2023.

15. The parties shall appear before the Industrial Court on **28th July, 2023** at 11.00 am.

(ANIL S. KILOR, J.)

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